

16 JANUARY 2012

NEW FOREST DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

Minutes of a meeting of the Licensing Sub-Committee held at Appletree Court, Lyndhurst on Monday, 16 January 2012.

Councillors:

p W H Dow
p S J Clarke

Councillors:

p Mrs A Hickman

Officers Attending

Ms L Clark, Ms M Stephens and P Weston.

Also Attending:

Mr De Grey - Applicant (Report B).
Mr Hunt – Witness in support of Applicant
Mr Munroe – Applicant’s Legal Representative

1. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr W H Dow be elected Chairman of the Sub-Committee for this meeting.

(Cllr Dow in the Chair).

2. DECLARATIONS OF INTEREST.

No declarations of interest were made by members in connection with any agenda items.

3. PUBLIC PARTICIPATION.

No members of the public addressed the Sub-Committee during the public participation period.

4. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 25 November 2011 be approved.

5. TO CONSIDER THE APPLICATION FOR A RENEWAL OF A COMBINED HACKNEY AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE (REPORT B).

The legal advisor informed the Sub-Committee that she needed to give members advice in private session that was relevant to the determination of whether the applicant was a fit and proper person to hold a licence.

Following this advice the Chairman of the Sub-Committee proposed that the Sub-Committee move into private session:

RESOLVED:

That, under Section 100 (A)(4) of the Local Government Act 1972, the public and the Press be excluded from the meeting for the following item(s) of business on the grounds that it(they) involve(s) the likely disclosure of exempt information as defined in paragraph 1 & 3 of Part 1 of Schedule 12A of the Act and the public interest in maintaining the exception outweighs the public interest in disclosing it.

After receiving advice from the Legal Advisor the Sub-Committee moved back into public session.

The Sub-Committee admitted as evidence all of the Applicant's spent convictions dating from April 1997. These included one conviction and one caution for offences of dishonesty and one conviction for battery, one conviction for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence and a caution for common assault. The Sub-Committee concluded that justice could not be done in the process of deciding whether the Applicant was a fit and proper person in respect of the application except by admitting the spent convictions as evidence because they included a number of convictions and a caution for violent offences and because the unspent conviction before the Sub-Committee was also for a violent offence.

Having made this decision, the Sub-Committee was then provided with details of the spent convictions and heard representations from the Applicant and the Applicant's representative regarding those convictions.

The Applicant also had an unspent conviction for assaulting a constable on 26 May 2011 the sentence for which was 120 hours community order, £150 compensation and £620 costs. The Sub-Committee heard representations from the Applicant and his representative regarding the circumstances surrounding the offence.

The Sub-Committee also considered the Council's guidelines relating to violence. These guidelines stated a firm line would be taken with applicants who had convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should normally be shown before an application was entertained and even then a strict warning might be administered.

The Sub-Committee considered that the unspent conviction and the earlier convictions and caution for violent offences demonstrated that the Applicant had on a number of occasions shown a tendency to lose his temper and to commit violent offences.

The oral statements made by the Applicant during the course of the hearing regarding the various convictions (spent and unspent) and police cautions did not satisfy the concerns of the Sub-Committee. In particular, the Sub-Committee was concerned, given that a taxi driver would be expected to carry female passengers,

that two of the incidents involved female members of the Applicant's family and that the assault was on a female police officer.

In coming to their decision, the Sub-Committee whilst mindful of the representations made by the Applicant and the Applicant's representative, were of the view that in light of the serious nature and recentness of the unspent conviction and given the history of violent incidents demonstrated by the spent convictions, the Applicant was not a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Drivers Licence.

As such it was,

RESOLVED:

That the Application for renewal of a combined Hackney Carriage and Private Hire Vehicle Driver Licence be refused.

CHAIRMAN