

LICENSING APPLICATIONS SUB-COMMITTEE MEETING MINUTES - 21 SEPTEMBER 2023

Present: Councillors Woodward (Chair for all cases except Appendix 5), G Dennis (present for Appendix 5 only), Edwards (Vice Chair in the Chair for Appendix 5 only) and Keane

12. DECLARATIONS OF INTEREST

Councillor Woodward declared an interest in the case at Appendix 5 on the grounds that he had been consulted on the revocation of the applicant's previous Private Hire (School Transport) Operator's Licence and associated Private Hire (School Transport) Vehicle Licences. Cllr Woodward left the room and took no part in the discussion or decision making in relation to the case at Appendix 5. Cllr Woodward was replaced by Cllr G Dennis who was present for the determination of the case at Appendix 5 only. The Sub-Committee's Vice-Chair, Cllr Edwards, took the Chair for the determination of Appendix 5 only.

13. MINUTES

The Minutes of the meeting held on 10 August 2023 were confirmed as a correct record and signed by the Chair.

14. EXCLUSION OF PRESS AND PUBLIC

Resolved –

That, pursuant to Section 100A of the Local Government Act 1972 (as amended), members of the press and public be excluded during consideration of the following item of business as it was likely that there would be disclosures of exempt information as defined in paragraphs 1, 2, 3 and 5 specified in Part 1 of Schedule 12A (as amended) to that Act.

15. APPLICATION FOR THE GRANT OF PRIVATE HIRE AND SCHOOL TRANSPORT VEHICLE DRIVER'S LICENCES, A REPORT FOR THE CONSIDERATION OF THE SUSPENSION/REVOICATION OF A PRIVATE HIRE VEHICLE DRIVER'S LICENCE, AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE (SCHOOL TRANSPORT) OPERATOR'S LICENCE AND AN APPEAL AGAINST THE ALLOCATION OF PENALTY POINTS TO A PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Sub-Committee considered a report that set out applications for the grant of Private Hire Vehicle Drivers' Licences, an application for the grant of a three-year School Transport Vehicle Driver's Licence, an application for the grant of a Private Hire (School Transport) Operator's Licence and an appeal against the allocation of penalty points to a Private Hire Vehicle Driver's Licence. Summaries detailing the circumstances of each of the cases were attached to the report at Appendices 1 to 5.

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DK (Appendix 1) was present at the meeting with his representative, NK. Both addressed the Sub-Committee and responded to questions.

MGP (Appendix 2) was not present at the meeting. MGP had not responded to the Licensing's email of 28 July 2023 and had not provided any explanation for her absence. The Sub-Committee was satisfied that MGP had been made aware that the hearing would be taking place and decided to determine the application in her absence.

KMB (Appendix 3) was present at the meeting, with his representative, KS, from the Reading Private Hire Association. Both addressed the Sub-Committee and responded to questions.

SBM (Appendix 4) was not present at the meeting. SBM had sent an email to Licensing officers saying he wanted the Sub-Committee to decide the appeal in his absence. The Sub-Committee was satisfied that SBM was aware of the hearing and therefore agreed to hear the appeal against the allocation of penalty points in SBM's absence.

ZM (Appendix 5) was present at the meeting, addressed the Sub-Committee and responded to questions.

In reaching its decisions the Sub-Committee gave due consideration to the written evidence contained in the paperwork, the oral evidence provided at the meeting by the Licensing Officer and by the applicants who attended, and to relevant legislation and the policies of Reading Borough Council, namely:

- The Town Police Clauses Act 1847
- The Local Government Miscellaneous (Provisions Act) 1976;
- The Secretary of State's Guidance;
- Reading Borough Council's Private Hire Vehicle Conditions;
- Reading Borough Council's Taxi and Private Hire Vehicle Criminal Convictions Policy;
- The Equality Act 2010;
- The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.

In reaching its decisions the Sub-Committee endeavoured to strike a fair balance between the interests of the applicants and the concerns of officers.

Resolved –

- (1) That the application by DK for the grant of a Private Hire Vehicle Driver's Licence be refused on the basis that DK was not considered a fit and proper person by reason of:
 - a) The nature of the offences, as detailed in the report;
 - b) The failure to declare all offences, spent or not, on the application form, as detailed in the report.;

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- c) The Sub-Committee not being satisfied with DK's explanation for the two convictions he received in 2018.
- d) The Sub-Committee not being satisfied with DK's explanation for the conviction he received in 2019.
- e) DK not having shown an understanding of the enhanced level of scrutiny required for a Private Hire Vehicle driver's licence application;
- f) DK not being able to satisfy the Sub-Committee that he would be able to abide by the high standards required of a Private Hire Vehicle driver;
- g) DK not being able to satisfy the Sub-Committee that he was a fit and proper person to hold the licence applied for.

DK was advised of his right of appeal to the Magistrates' Court.

- (2) That the application by MGP for the grant of a three-year School Transport Vehicle Driver's Licence be refused on the basis that MGP was not considered a fit and proper person by reason of:
 - a) The nature of the offence, as detailed in the report;
 - b) The failure to declare or to provide any explanation for the motoring conviction during the application, as detailed in the report;
 - c) The seriousness of the motoring offence given the context of School Transport Vehicle driving.

The Sub-Committee noted that MGP had the right to appeal the decision to the Magistrates' Court.

- (3) That the application by KMB for grant of a Private Hire Vehicle Driver's Licence be refused on the basis that KMB was not considered a fit and proper person by reason of:
 - a) The nature of the offences, as detailed in the report. The Sub-Committee noted KMB's conviction in February 2019 and that KMB had declared that conviction on his application form. The Sub-Committee also noted that KMB had not declared his conviction for failing to comply with the sentence offence on his application form. The Sub-Committee felt that KMB was minimising his previous behaviour.
 - b) Insufficient time having elapsed since the conviction. The Sub-Committee noted that the statutory guidance stated that when an applicant had any conviction for drink driving or for driving whilst under the influence of drugs a licence would not be granted until at least 7 years had elapsed since the completion of any sentence or driving ban imposed. In the KMB's case the completion of the sentence could not have been earlier than September 2019, therefore by applying the statutory guidance the earliest date a Private Hire Vehicle Driver's Licence could be granted would be 2026. The Sub-Committee found no reason to deviate from the statutory guidance when determining KMB's application;

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- c) KMB not being able to satisfy the Sub-Committee that he was, yet, a fit and proper person to hold the licence applied for.

KMB was advised of his right of appeal to the Magistrates' Court.

- (4) That the appeal against the allocation of penalty points to the Private Hire Vehicle driver's licence in respect of SBM be refused due to the Sub-Committee's finding that SBM had breached the following Private Hire Driver Condition:

Condition 19.1 – You must notify the Council within 14 days in writing of any change of address from that shown on your licence. Failure to do so – 3 penalty points.

The Sub-Committee found no reason to uphold the appeal. As a consequence, the Sub-Committee decided that the addition of three penalty points to SBM's Private Hire Vehicle Driver's Licence should stand. The Sub-Committee also expressed its disappointment with the appellant's attitude towards his own appeal.

The Sub-Committee noted that SBM had the right to appeal the decision to the Magistrates' Court.

- (5) That the application by ZM for a Private Hire (School Transport) Vehicle Operator's Licence be refused on the grounds that ZM was not considered a fit and proper person.

The Sub-Committee determined that ZM had operated a company which had been compulsorily struck-off. On being struck-off the company was dissolved and ceased to exist as a legal entity and the Private Hire (School Transport) Vehicle Operator's Licence held by the company was voided.

The Sub Committee noted that ZM had not informed Licensing officers that his company had been compulsorily dissolved. ZM had setup up a new company, with a very similar name, in the place of the old company. The new company did not have a valid Private Hire (School Transport) Vehicle Operator's Licence.

The Sub-Committee noted that ZM had continued to operate a School Transport business without a valid Operator's Licence until this was discovered by Licensing Officers. Consequently, there was no valid insurance policy in place covering a period of two years and two months of school run work.

The Sub-Committee further noted that ZM had failed to show an understanding of the gravity of his actions and did not show an understanding of the nature of an Operator's Licence, even after acknowledging that the

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Operator's Licence was granted to a limited company and not to him as a person.

ZM was advised of his right of appeal to the Magistrates' Court.

(Exempt information as defined in paragraphs 1, 2, 3 and 5)

(The meeting started at 9.30 am and closed at 11.47 am)

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