

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 14 January 2019

Present: Councillor Ludford (Chair) – in the Chair

Councillors: Jeavons and C Paul

LACHP/19/3. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the items of business.

Decision

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

LACHP/19/4. Application for a Review of a Hackney Carriage Driver Licence (AWSA)

The Committee were informed by the licensing officer that this was a renewal application and not a review as noted on the report. The driver's current hackney carriage licence expired on 18 December 2018.

The Committee accepted that the possession of the Class C drug, Khat, for which the applicant had received a simple caution was a technical offence as it was left in his car by some of the youths in the community he had been giving a lift to. He had also declared the caution at the time it was given. They accepted it has not been declared again on his renewal application, shortly afterwards, as it had already been declared and he had been informed it was spent by the police and would it not affect any job. It was confirmed to him that for taxi licensing purposes all cautions and convictions must be declared whether spent or not.

The Committee also accepted the comments that he had not fully understand the implications of accepting the caution and that as the Khat was in his car and he could not say exactly whose it was he was technically in possession of it. He did state that he did not know it was there but was not aware he could have challenged the offence on this basis.

The Committee noted that he was now 44 years of age and had no other convictions or cautions and had a clean licence. They also noted he has been licensed to drive a hackney carriage for over 4 years with no issues or complaints.

The Committee accepted that this was an isolated incident with mitigation and that it was appropriate to depart from the guidelines on this occasion. The Committee therefore considered that the applicant was a fit and proper person to hold a licence.

Decision

To renew the Licence with a warning as to the future conduct of the Driver.

LACHP/19/5. Application for a Review of a Hackney Carriage Driver Licence (MF)

The Committee were informed that there was only one set of convictions for possession with intent to supply a Class C controlled drug on 23 March 2012 and that these were inside the guidelines. The same conviction was also repeated in the section detailing convictions outside the guidelines and this was disregarded by committee. The applicant received a community order for this conviction.

The applicant's conviction history was concerning with a couple of offences for possession of cannabis and one for intent to supply cannabis. The Committee however accepted these were during the same period when the applicant was younger and he provided evidence he had now turned his life around. He had fully complied with the probation requirements from 2012 following his convictions and provided evidence of the same. He had voluntarily sought help to deal with his cannabis use and attended a drug programme. He has also been employed since that time and a reference from a colleague was provided.

The Committee heard from the Applicant that he was going through a tough time and got involved in the wrong crowd and very much regretted his actions however that he was now a different person who would not make the same mistakes again.

The Committee considered the guidelines and noted that they state that an application will normally be refused were an applicant has a conviction related to the supply of drugs and the conviction is within the last 5 to 10 years however that after 5 years careful consideration will be given to the circumstances of the offence and any evidence demonstrating the applicant is now fit and proper. The convictions were now nearly 7 years ago and there has been no further convictions since 2012.

The Committee considered all the evidence provided and were of the view that the applicant was very open with them and had fully declared any convictions and given them an honest account. He showed remorse for the offences and his previous behaviour.

The Committee therefore found that the applicant was a fit and proper person to hold a licence.

Decision

To grant the application with a warning as to the future conduct of the Driver.

LACHP/19/6. Application for a Review of a Private Hire Driver Licence (MR)

The applicant was convicted for conspiracy to supply class A drugs in 2012. The additional information from GMP showed the detail and seriousness of the offending with a number of matters relating to the possession and supply / conspiracy to supply Class A Drugs including heroin, cocaine and Cannabis Resin between August 2011 and January 2013 that had all been dealt with under one conspiracy offence. The lengthy prison sentence of 52 months (or 4 years 4 months) also showed how serious the offending was.

The applicant informed the Committee that his role in the offending had been as a driver after he got into debt over drugs he was buying for his own use. He denied having a role in all the supply matters mentioned in the report however did accept that he pleaded guilty to the offence and received a lengthy prison sentence. In the Committee's view the length of prison sentence showed he must have had significant involvement even if not one of the main offenders in the group that was imprisoned.

The Committee considered the guidelines and noted that they state that an application will normally be refused where an applicant has a conviction related to the supply of drugs and the conviction is within the last 5 to 10 years. The applicant therefore fell within the guidelines for a conviction that would normally be refused. This conviction was now 6 years ago however the prison sentence (including any licence period when realised after serving just under half in prison) only expired in 2017.

The Committee carefully considered what the applicant said about what work he had done during and after his prison sentence, of which they were provided with no supporting evidence, however given how extremely serious the offence was and the lengthy prison sentence given the committee did not consider that it was appropriate to depart from their guidelines and did not view that they had heard sufficient evidence the applicant was a fit and proper person to hold a licence.

Decision

To refuse to grant the application.

LACHP/19/7. Application for a Review of a Private Hire Driver Licence (AA)

Committee accepted that there may have been some confusion over declaring the immigration matters, from when the applicant was claiming asylum, as they were from 2006 and the applicant had since been given indefinite leave to remain in this country. The Committee expressed the importance of reporting any conviction no matter how old and accepted that the applicant now understood this.

They considered their guidelines in relation to the assault and public order offence, arising out of the same incident, and noted that the applicant now fell outside the guideline period of 3 years convictions free with the convictions being nearly 4 years ago. The Committee also carefully listened to the mitigation in relation to these offences and accepted that the applicant became involved in a dispute between the owner and a customer at the shop he was working in and was not the main aggressor.

On consideration of all the evidence the Committee found that the Applicant was a fit and proper person to hold a licence however that it was also appropriate to issue a warning as to his future conduct.

Decision

To grant the application with a warning as to the future conduct of the Driver.

LACHP/19/8. Application for a Review of a Hackney Carriage Driver Licence (IH)

The Committee listened to the explanation provided by the driver's representative and were informed that the prosecution under the byelaws for overcharging had been withdrawn and just the conduct byelaw matter proceeded with. The Committee also heard from the driver that he fully accepted that on reflection he should not have left the women at a roundabout whatever the reason as it was not a safe place. The Committee accepted he fully understood the effect of his actions on that night and Committee believed it was a one off matter and he will not repeat this behaviour.

The Committee also noted the driver has been driving with Manchester for over 8 years with no other issues or complaints during this time. As this was an isolated incident and the driver had shown genuine remorse and therefore the Committee were of the view that they could depart from their guidelines.

The Committee therefore found that the applicant was a fit and proper person to continue to hold a licence however that it was also appropriate to issue a warning as to his future conduct.

Decision

To allow the Licence to continue and to issue a warning as to the future conduct of the Driver.

LACHP/19/9. Application for a Review of a Private Hire Driver Licence (STT)

The Committee were informed that the driver was disqualified from driving until 16 February 2019 and therefore did not currently hold a driving licence. This 6 month disqualification followed two major traffic convictions of failing to give information as to the identity of a driver between November 2017 and August 2018 which had led to 12 points on his licence.

The driver had also been convicted of plying for hire in July 2018 after a full trial. When he was sentenced in August 2018 as he had already been disqualified the Magistrates therefore decided to put a further 6 penalty points on his licence. This means there are currently 18 penalty points on his licence.

The Committee took the offences of plying for hire and no insurance very seriously. The Committee considered the explanation provided by the driver as the fact he gave the girls a lift for free as they said they could not afford both chicken and a taxi and

were hungry and found this to be unconvincing. In any event he had now been convicted following a full consideration of all the evidence and the Committee could not go behind this conviction. He was also fully aware of the risks to the public of plying for hire and that this would have invalidated the insurance for his vehicle and put the passengers at risk.

The Committee were very concerned by the poor driving record of the driver in particular the fact he had 3 major traffic convictions within a year and is currently disqualified from driving.

The Committee considered their guidelines and noted that with more than one major traffic offence the driver is usually required to be 5 years conviction free. In this case the convictions were very recent meaning a licence would not normally be considered until July 2018. The Committee were of the view that they had not heard sufficient mitigation to take such a large departure from their guidelines.

The Committee concluded that the driver was no longer a fit and proper person and that his licence should be revoked with immediate effect in the interests of public safety.

Decision

To revoke the Licence with immediate effect on the grounds of public safety.

LACHP/19/10. Application for a Review of a Private Hire Driver Licence (FU)

The Committee were informed that the driver had very two recent convictions for plying for hire and no insurance. The driver denied these offences and stated that she had not picked anyone up at all.

The Committee took the offences of plying for hire and no insurance very seriously. The Committee considered the explanation provided by the applicant as to the fact she had just spoken with the officer and moved on as requested and did not then stop again and pick up any passengers at all. The driver had now been convicted following a full consideration of all the evidence including CCTV evidence, GPS tracking evidence and evidence from the Council licensing officers and the explanation from the Defendant to the Court. The Committee could not go behind this conviction. The driver was also fully aware of the risks to the public of plying for hire and that this would have invalidated the insurance for her vehicle and put the passengers at risk.

The Committee also noted that the driver had only held a licence for 6 months at the time of this offence. She provided no mitigation in relation to the offences other than to continue to deny them.

The Committee considered their guidelines which usually require 2 years conviction free for the offences of plying for hire and no insurance. In this case the convictions were both very recent being on 14 November 2018 meaning a licence would not normally be considered until November 2020. The Committee were of the view that they had not heard any mitigation to take such a large departure from the guidelines.

The Committee concluded that the applicant was no longer a fit and proper person and that her licence should be revoked.

Decision

To revoke the Licence.

LACHP/19/11. Application for a Review of a Private Hire Driver Licence (SS)

The Committee were very concerned by the number of violence allegations over a period of three years with three of them being within a recent three month period between June and August 2018. The Committee accepted that there were no convictions however noted this was mostly on the basis that the witness, being the applicant's wife, did not continue to support proceedings.

The applicant denied that any charges had been brought however the Committee noted from the letters from the CPS that the applicant has been charged for at least two offences of assault by beating in June and July 2018 and that these matters had been listed for trial. Bail conditions had also been imposed requiring no contact to be made with the applicant's wife and he had therefore had to move out of the marital home. He stated he had moved back in at the start of this year.

The applicant denied there has been any physical contact and that they were just arguments and there was no substance to any of the allegations. The Committee did however consider that there must have been some substance to the allegations for the CPS to bring charges and continue with the matter to trial on a number of the allegations and for the Court to impose bail conditions of no contact.

The Committee were concerned by the number of allegations of assaults and that the applicant may have issues with aggression. The Committee had to consider the safety of the public and protect the users of taxis.

The Committee were not satisfied that any evidence has been presented to them to support the fact that the applicant was a fit and proper person. There was no evidence from his wife that these allegations were all false as claimed by the applicant. He had also referred to the fact he was never aggressive with customers and dealt well with them in other employment however no references or supporting evidence was provided.

In considering all the evidence, in particular the five recent allegations of assault and witness intimidation, the Committee were not satisfied they had heard sufficient evidence that the applicant was a fit and proper person to hold a licence.

Decision

To refuse to grant the application.