

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1976**

**APPLICATION FOR GRANT OF HACKNEY CARRIAGE/PRIVATE HIRE
VEHICLE DRIVERS LICENCE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Sub-Committee of an application for a Hackney Carriage/Private Hire Vehicle Drivers licence.
- 1.2 To request that the Sub-Committee determines whether to grant, refuse or restrict the application for a Hackney Carriage/Private Hire Vehicle Drivers licence in regard to Mr Ken Walter Smith.

2. BACKGROUND INFORMATION

- 2.1 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or review of current Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles.
- 2.2 An application for the grant of a Hackney Carriage/Private Hire Vehicle (HC/PHV) Drivers Licence was received from Mr Ken Walter Smith on 16 January 2008. Mr Smith has not held a HC/PHV Drivers Licence with this authority before.
- 2.3 Drivers of HC/PH Vehicles must be in possession of a valid current HC/PHV Drivers Licence and ID Badge and must comply with the Conditions attached to that licence. It is a requirement that on initial application, prior to the grant of a licence, and upon application to renew a licence every 3 years, that a check be made with the Criminal Records Bureau, for the existence and content of any criminal record held in the name of the applicant.
- 2.4 Information may also be received from the public, trade, police or in the local press in regard to current HC/PHV Drivers who have been found guilty of an offence by the courts and a further Criminal Records check can be requested by the Licensing Division at any time.

- 2.5 It is also a requirement that the applicant's DVLA licence be submitted with all applications.
- 2.6 On receipt of the disclosure there showed a trace. Mr Smith did not disclose all of the offences on his application form. The applicant is required to declare any convictions or cautions for criminal and/or motoring offences.
- 2.7 Where a Criminal Records Bureau check, for the grant of a driver's licence is positive, an Assessment Board of Officers of the Licensing Division considers the nature of any offences, when they were committed, the age of the applicant and any other relevant factors. In the event that the Assessment Board is not satisfied that the applicant is a "fit and proper" person, a recommendation is made to this Sub-Committee to determine the application.
- 2.8 Due to the content in the disclosure and the failure to declare all the offences, the Assessment Board of three Licensing Officers, who having regard to the facts, considered that the application for a HC/PHV Drivers Licence, be determined by the Licensing (Miscellaneous) Sub-Committee to ascertain if he is a fit and proper person in accordance with Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.9 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and Amendments Order 2002, exempts applicants for HC/PHV Driving Licences from the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.

3. OPTIONS FOR CONSIDERATION

- 3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such applications are as follows:
 - To grant the licence as applied for with no additional conditions or restrictions other than those normally applied to such licences.
 - To grant the licence subject to additional conditions or restrictions.
 - To refuse to grant the licence.
- 3.2 Should the Licensing (Miscellaneous) Sub-Committee refuse the application or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

4. ANALYSIS OF OPTIONS

- 4.1 A criminal record does not debar an applicant from gaining or renewing a licence unless the authority considers the conviction(s) render the person unsuitable. In the first instance criminal records are checked against guidelines in respect of the Rehabilitation of Offenders Act 1974 and guidance produced in line with the Department of Transport Circular 2/92 and Home Office Circular 13/92. A Copy of the guidance is attached for Members information as **Appendix A (attached at the rear of the agenda)**.
- 4.2 The legislation also allows the Licensing Authority to attach Conditions to a Private Hire Vehicle Drivers Licence and in the event that the licensed driver has breached any of the Conditions during the period of their licence this may result in them being put before an Assessment Board of Officers of the Licensing Division to consider it. In the event that the Assessment Board is not satisfied that the applicant is a “fit and proper” person, a recommendation is made to this Sub-Committee to determine the licence or the renewal application.
- 4.3 Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication.
- 4.4 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 4.5 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

5. RESOURCE AND OTHER IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial
 - 5.1.1 There are no cost implications arising from this report.
- 5.2 Staffing
 - 5.2.1 There are no staffing implications arising from this report.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY)

- 6.1 Statutory
 - 6.1.1 Local Government (Miscellaneous) Provisions Act 1976
 - 6.1.2 Town Police Clauses Act 1847

6.2 Environmental and Other

6.2.1 There are no environmental or other implications arising from this report.

7. **OUTCOMES OF CONSULTATION**

7.1 Not necessary.

8. **RECOMMENDATIONS**

8.1 That the licence be determined in accordance with the options outlined in paragraph 3 above, taking into account the contents on Mr Ken Walter Smith's disclosure.

SERVICE DIRECTOR NEIGHBOURHOOD AND ENVIRONMENT

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Background Papers used in preparation of this report – **Original Application file, except information protected by the Data protection Act.**