



Swale Borough Council

Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847

NOTICE OF DETERMINATION OF DUAL HACKNEY CARRIAGE / PRIVATE HIRE DRIVER'S LICENCE

And

NOTICE OF DETERMINATION OF PENALTY POINTS APPEAL

Licence Holder: [REDACTED]

Licence Number: [REDACTED]

Date of Determination: 06 July 2023

A Licensing Sub Committee was convened to consider whether [REDACTED] remained a fit and proper person for the purposes of holding a Hackney Carriage and Private Hire Vehicle dual drivers' licence, and to consider whether to take any enforcement action in accordance with the Council's policy. Additionally, the Licensing Sub Committee were asked to determine the appeal [REDACTED] had made in respect of the 10 penalty points endorsed against his Hackney Carriage and Private Hire Vehicle dual drivers' licence, in accordance with the Council's policy.

The Licensing Sub Committee carefully considered the report, all evidence provided and submissions made by [REDACTED] and [REDACTED] representative at the hearing. They gave careful consideration to the law, the Council's Policy and relevant guidance.

The Licensing Sub Committee noted in particular:

- [REDACTED] acknowledged that [REDACTED] had provided false information to the Kent County Council passenger transport inspector, the Licensing Authority, [REDACTED] employer and to the Licensing Sub Committee. The Licensing Sub Committee considered [REDACTED]

Reason for providing false information and were not satisfied that the evidence was credible, given the pattern of providing dishonest information and the lateness of the explanation, coming halfway through the meeting, along with a lack of any evidence in support of his claim. They noted that although [REDACTED] had not been convicted of any offences, their policy regarding dishonesty was relevant. This states that *where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.*

- [REDACTED] acknowledged that [REDACTED] had contravened traffic regulations in driving the wrong way down a one way street. The evidence also showed that [REDACTED] had been driving in excess of the speed limit on a number of occasions, including at over 36 miles per hour in a 20 mile per hour zone. The Licensing Sub Committee noted their Policy that says: *it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.*
- The Licensing Sub Committee noted that whilst none of the offending had resulted in criminal charges, their policy at Appendix D states: *Simply remaining free of offence, conviction, prosecution or caution will not generally be regarded as sufficient evidence of good character. For example, a continuous course of conduct which shows cause for concern.*
- The Licensing Sub Committee also noted their policy at Appendix D which says: *multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.* The Licensing Sub Committee noted that the traffic violations and dishonesty had occurred over time and on multiple occasions.
- The Licensing Sub Committee considered the fit and proper test set out in their policy and guidance and believed that the evidence gave doubt as to [REDACTED] fit and propriety to hold a dual hackney carriage and private hire vehicle drivers' licence. They noted that the guidance and policy were clear that [REDACTED] could not be given the benefit of the doubt, and their primary consideration was safety of the public in particular vulnerable persons.

The Licensing Sub Committee recognised that [REDACTED] had no record of complaints made against [REDACTED] and had received a good character reference from his representative. However, these are the minimum standards the authority would expect of their drivers and do not constitute exceptional circumstances, such as to depart from the policies detailed above.

Under s.61(1) of the Local Government (Miscellaneous Provisions) Act 1976, the Authority may revoke the licence for any reasonable cause. Their policy at Appendix D explains that accumulating 12 or more penalty points can be justification for revocation, depending on the facts. The Licensing Sub Committee carefully considered all options available to them. However they considered the pattern of dishonesty and the repeated traffic offending to be of such seriousness that they did not consider [REDACTED] remained fit and proper for the purpose of holding a dual hackney carriage and private hire vehicle licence and they were not satisfied that any other step would be sufficient to ensure public safety.

The decision of the Licensing Sub Committee is to REVOKE the dual hackney carriage and private hire driver's licence.

In accordance with the provisions of Section 61(3) of the Local Government (Miscellaneous Provisions) Act 1976, there is a right to appeal against the Council's decision to revoke the licence. An appeal must be lodged with the Magistrates' Court within 21 days of the date of this Notice. The Magistrates' Court may make an order as to costs.

In respect of the appeal against the penalty points imposed on 22 June 2023, the Licensing Sub Committee dismiss the appeal. [REDACTED] admitted during the course of the meeting that he had in fact provided false information to the Licensing Authority and the Licensing Sub Committee therefore felt the points had been appropriately issued. There is no further right of appeal against this part of the decision.

Signed:



Date of Notice: 6th July 2023

Councillor Derek Carnell

Chair of the Licensing Sub-Committee