

Runnymede Borough CouncilREGULATORY COMMITTEE2 November 2017 at 11am

Members of the Committee present: Councillors Mrs J Gracey (Chairman), D W Parr (Vice-Chairman), Miss E G Bancroft and P S Sohi.

Members of the Committee Absent: Mrs M T Harnden

327 FIRE PRECAUTIONS

The Chairman read out the fire precautions.

328 NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

The Group mentioned below had notified the Chief Executive of its wish that the change listed below would be made to the membership of the Committee. The change was for a fixed period ending on the day after the meeting and thereafter the Councillor removed would be reappointed.

| Group | Remove from Membership | Appoint Instead |
|--------------|---------------------------|------------------------------|
| Conservative | Councillor Mrs D V Clarke | Councillor Miss E G Bancroft |

The Chief Executive had given effect to this request in accordance with Section 16(2) of the Local Government and Housing Act 1989.

329 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs M T Harnden.

330 PRIVATE HIRE DRIVER'S LICENCE – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

By resolution of the Committee, the press and public were excluded from the meeting during the consideration of this application under Section 100A(4) of the Local Government Act 1972 on the grounds that the application would be likely to involve disclosure of exempt information of the description specified in paragraphs 1, 2 and 3 of Part I of Schedule 12A of the Act.

The Chairman introduced those present to the applicant and confirmed that in accordance with procedure there would be no time limit placed on the proceedings to ensure proper consideration of the facts and cases presented.

The Committee considered whether the applicant, Mr S, was a 'fit and proper' person to hold a Private Hire Drivers Licence, for which he had applied on 22 August 2017.

Mr S attended the meeting to provide supporting information and answer Members questions on his case.

The Council's Senior Licensing Officer, Mr Smith, presented his report to the Committee.

The Committee was informed that the term 'fit and proper' was not defined in the Local Government (Miscellaneous Provisions) Act 1976. Instead, Members were directed to the Council's own policy and guidance and to apply that to the facts, individual merits and mitigating circumstances of the case. The Council's Convictions Policy was also explained in the context of the conviction for fraud which had been disclosed by the applicant as required in the application process. Members were reminded that their overall consideration should be the protection of the public.

Mr Smith explained that although Officers had delegated authority to determine the application, on this occasion because the applicant had been prosecuted by Runnymede Borough Council (an Officer decision), it was more appropriate that elected Members determine the application. This was accepted by the Committee.

Members were advised of the need to be mindful of Article 6 of the Human Rights Act concerning the right to a fair hearing.

The Chairman invited Mr S to comment on why he was appearing before the Committee and to provide any background to explain his case.

Mr S thanked the Committee for giving him the opportunity to explain the circumstances of his conviction. He had chosen not to be represented but to appeal to the Committee to understand the events which led to his prosecution for failure to disclose information and making false representations concerning an application for re-housing.

Mr S stressed that he was an honest person. At the time he and his wife originally applied for re-housing their circumstances merited larger accommodation. Unfortunately, by the time they came to view and accept a property, some five years later, they were no longer eligible because one of the family had moved out temporarily, the year before and they had not notified the Council. However, in his defence, Mr S had continued to hope for a reconciliation with the family member which would mean they would need the bigger accommodation applied for after all. When the prospect of this looked unlikely, Mr S did contact the Council to revise his application but it was too late to avoid prosecution.

Mr S admitted his actions were a personal failure but not calculated fraud. He did not gain from the action and the Council suffered no financial loss. He stressed the relationship with the family member in question had been strained and he was greatly concerned for their welfare. In the end they did return to the family home when they had realised their mistake but it was a very distressing period of time for all concerned and he regretted that his actions had led to prosecution with lasting implications for finding employment. He stated that in hindsight he should have appealed the prosecution at the time but lacked the legal assistance and knowledge to do so.

The Committee's attention was drawn to the DBS certificate provided by the applicant at the Hearing and the letter he had written in support of his case as well as the Council Press release made at the time of the applicant's prosecution. A point of clarification was raised with regard to the wording on the DBS certificate which Mr Smith confirmed was standard wording and in order. It was also confirmed that the DBS showed two offences for fraud in 2014 and 2015 and that both related to the re-housing application.

In his supporting letter which was appended to the agenda paperwork, Mr S had referred to an operation that had affected his ability to work. However, he confirmed, when asked, that he was now medically fit. Mr Smith also confirmed that he had passed the medical for prospective private hire drivers.

Mr S also submitted a reference from a previous employer which the Committee noted pre-dated the conviction. Therefore, the Committee was not minded to attach significant weight to it in support of his application.

Mr Smith was invited to make a closing statement. In doing so, he urged the Committee to apply common sense and good judgement in their consideration of whether the applicant was fit and proper in the context of the Council's policy and guidance, taking into account the mitigating circumstances of the case.

The Chairman invited Mr S to provide a closing statement. Mr S made a short statement reiterating his previous comments and assertions of his good character.

The Committee adjourned at 11.20am to determine the matter and those present were duly excluded from the meeting but invited to remain at the offices if they wished or await written confirmation of the decision.

The Committee reconvened at 11.48am and the Chairman thanked Mr S for waiting.

The Chairman informed Mr S that the Committee had concluded, on the basis of the information provided, that he had not sufficiently demonstrated that he was 'fit and proper' in accordance with section 5.12 of the Council's Hackney Carriage and Private Hire Policy. Therefore, they were not minded to grant his application at this time. Mr S was advised to speak to Mr Smith regarding his next steps for example when he could re-apply for a private hire driver's licence.

Mr S was advised that written confirmation of the decision would be sent to him in accordance with the provisions of the Act and he was also advised of his right to appeal the decision to the Magistrates' Court, within 21 days of the date of the notice of refusal.

Mr S thanked the Committee for their time, expressing regret that he had not challenged the Council's previous prosecution which had resulted in his current position.

RESOLVED that -

under the powers of section 51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 the application for a private hire driver's licence by Mr S be refused and he be notified of the decision and grounds thereof within 5 working days of the meeting together with his right of appeal to the Magistrates' Court within 21 days of the date of the notification of the refusal

Chairman

(The meeting ended at 11.50am)