



Making Swale a better place

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

Applicant: [REDACTED]

Date of Determination: 31 August 2023

In accordance with the provisions of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, take notice that Swale Borough Council has decided to REFUSE your application for a dual hackney carriage / private hire drivers' licence.

The Licensing Sub Committee were asked to consider whether [REDACTED] is a fit and proper person for the purposes of compliance with hackney carriage and private hire legislation, published Standards and Guidance and Swale Borough Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.

The Licensing Sub Committee carefully considered the evidence included within the report and additional evidence provided at the hearing, including evidence from the applicant [REDACTED]. In particular, the Licensing Sub Committee considered the circumstances surrounding [REDACTED] convictions and cautions and the reasons for failure to initially declare these as part of his application.

The Licensing Sub Committee believed that [REDACTED] provided an honest account and accepted [REDACTED] had made positive changes. They welcomed the reference from [REDACTED] that [REDACTED] was genuine, responsible and on the right track.

The Licensing Sub Committee noted that [REDACTED] convictions contained elements of dishonesty and that, in [REDACTED] position on a club committee when [REDACTED] committed the offences [REDACTED] was in a position of trust. They noted it was unfortunate that there was a significant delay in [REDACTED] offences being brought to Court, likely due to the circumstances of the pandemic.

The Licensing Sub Committee noted the following parts of their policy in particular:-

- Paragraph 3.8.1 *The DfT Statutory Standards recommend that in considering an individual's criminal record authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty, drugs/alcohol and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.*
- Paragraph 11.1 *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.*
- The Fit and Proper test at Appendix D of the policy, and in particular 1.8 *In addition, the council will want to be satisfied that a licensed driver/operator will not defraud,*

discriminate against or otherwise act inappropriately towards or in front of their customers, i.e. the public.

The Licensing Sub Committee gave careful consideration as to whether it would be appropriate to depart from the Policy in the circumstances of the application. However they did not feel that the evidence provided justified a departure from the policy, given the seriousness and repeated nature of the offending and the fact it was well within the 7 years noted in the policy.

Accordingly, the decision of the Licensing Sub Committee was to refuse the application.

In recognition of the positive changes [REDACTED] is making and the significant delays in bringing the offences to Court, and without fettering the discretion of any future decisions, the Licensing Sub Committee would expect the Licensing Authority to look favourably on any application made by [REDACTED] at the elapse of 7 years from the date of the last offence, rather than the date of completion of any sentence as stipulated in the current policy. This is subject to the full circumstances and policy in place at the time of any future application and does not guarantee a licence will be granted at that time.

In accordance with the provisions of Section 52 of the Local Government (Miscellaneous Provisions) Act 1976, you have a right to appeal against the Council's decision to refuse your application. 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 any appeal.

Signed:

Date of Notice:



Councillor Derek Carnell
Chairman of the Licensing Sub-Committee