

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON THURSDAY 5 JANUARY 2023**

MEMBERS

* Cllr D Brown - Chairman

* Cllr R Rose - Vice-Chairman

* Cllr J Hodgson

∅ Cllr T Holway

∅ Cllr K Kemp

* Cllr G Pannell

∅ Cllr K Pringle

* Cllr B Taylor (substituting Cllr K Pringle)

* Cllr H Reeve

* Cllr P Smerdon

* Cllr D Thomas

∅ Cllr D O'Callaghan

∅ Cllr J Sweett

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

All Agenda Items: Senior Specialist – Licensing; Licensing Specialist; Solicitor and Specialist – Democratic Services

L.11/22 MINUTES

The minutes of the meeting of the Licensing Committee held on 17 November 2022 were confirmed as a correct record.

L.12/22 DECLARATIONS OF INTEREST

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

L.13/22 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act”

L.14/22

DETERMINATION OF WHETHER TO GRANT A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE

Consideration was given to an exempt report that asked the Committee to determine whether an individual was a 'fit and proper person' to hold a Hackney Carriage/Private Hire Driver Licence in accordance with Section 59 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Specialist introduced the report and the individual was invited to make representations to the Committee. At the conclusion of his address, Members of the Committee asked a series of questions.

Once all parties were satisfied that they had no more questions or issues to raise, the Committee adjourned at 11.17 am in the presence of the Solicitor.

Having fully considered the matter, the meeting was then re-convened at 12:30pm and the Chairman read the decision as follows:

Members of the Licensing Committee have considered very carefully your application for a Hackney Carriage and Private Hire Driver Licence

- We have read the Licensing Officer's report, which you have had sight of and the SHDC taxi licensing policy
- We have listened very carefully to what you have told us today
- The main priority of the licensing regime is to ensure public safety. As this is a civil matter, the evidence of proof is based on the balance of probabilities, the onus being on yourself to satisfy the Authority that you are a 'fit and proper person' to drive a Hackney Carriage or Private Hire Vehicle.

The Committee have decided by a majority that on a balance of probability that you are not a fit and proper person to be licensed as private hire driver or hackney carriage driver.

The Committee considered Hackney Carriage and Private Hire Licensing Policy at para 6.7 and 9.3 for the reasons for the decision

The Committee have therefore decided to refuse your application.

The Committee received legal advice in terms of:

- 1) The legal test be applied – it being appropriate to regard as good reason anything which a reasonable and fair minded decision maker acting in good faith and with proper regard to the interests of both the public and the driver

- 2) The statutory provisions under which this fitness Committee made a decision namely SECTION 51 AND SECTION 59 Local Government (Miscellaneous Provisions) Act 1976
- 3) The option available to the committee
- 4) The burden of proof being upon you to prove that you on a balance of probability a fit and proper person, which in the Committee's opinion you did not discharge.

The reasons for the decision are as follows:

- A) Convictions for dishonesty
- B) Convictions for violent offences
- C) Failure to disclose all your convictions in the application form
- D) In the interests of public safety