

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 4 August 2011

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Pauline Bradberry
Brian Northall

Glenn Harwood (Chairman)

Delayed start of meeting until arrival of applicant.

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed chairman for this hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under paragraphs 1 and 7 of schedule 12A of the Local Government Act 1972, may be disclosed.

4. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Licensing Officer reported on an application for a Hackney Carriage and Private Hire Driver's Licence under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976. Reference was made to the council's Hackney Carriage and Private Hire Driver's Criminal Records Policy when considering this application.

The Criminal Records Bureau (CRB) disclosure revealed no convictions but additional information was included which confirmed information Mr Heera alluded to at his first meeting with East Northamptonshire Council officers. The applicant had two traffic signal offences, three incidents of not having appropriate insurance and had twice been found to be plying for hire illegally.

The applicant was present at the hearing where he spoke in support of his application. He

gave explanations of the reported incidents highlighted in the CRB disclosure and why he had been unable to take the knowledge test required for a Milton Keynes Council private hire licence.

The panel asked the applicant a number of questions about the offences, particularly illegally plying for hire and driving without correct insurance.

The applicant was fully aware of the council's Hackney Carriage and Private Hire Drivers Criminal Records Policy and understood that there were no "spent" convictions as far as taxi drivers were concerned.

After considering the officer's report and representations made by the applicant, including advice from the Solicitor to the Council, the panel retired to consider the application and evidence presented at the hearing, and it was

RESOLVED:

That the application for a Hackney Carriage and Private Hire Driver's Licence be refused.

The chairman then read out the following statement giving the reasons why the panel had refused the application:

"The panel has carefully considered your application for the issue of a Hackney Carriage and Private Hire Drivers Licence. In reaching its decision, the panel had regard to:

Government Guidance

ENC Hackney Carriage and Private Hire Drivers Criminal Records Policy

ENC Hackney Carriages / Byelaws (Terms and Conditions)

The panel has reached the decision to refuse to grant the licence.

The panel was most concerned to see the applicant, whilst operating as a taxi driver, had on three separate occasions in the past four years, driven a taxi whilst it was uninsured. The officer's report states the relevant dates as September 2008, February 2011 and June 2011. The panel felt this showed an unwelcome and unnecessary trend.

The implications of members of the public unknowingly travelling in an uninsured taxi were given considerable weight in the panel's deliberations. The panel confirmed with the applicant that he fully understood the insurance requirements of the taxi trade.

The panel was also concerned with the evidence that made it clear the applicant was prepared to illegally ply for trade on occasions. Again, the panel confirmed with the applicant that he fully understood the rules and regulations regarding plying for trade.

The panel noted that the applicant had, in October 2007 and more recently in May 2010, been convicted of failing to comply with traffic light signals which together resulted in 6 points being placed on his driving licence. Additionally, in February 2011 a further 6 points were added to his licence as the applicant had used an uninsured vehicle. This licensing authority insists on a review of an existing licence if the points total on a drivers licence reach 6 or more. This is a new application nonetheless the panel is concerned with the amount of points currently on the applicant's licence.

Overall, the extent of motoring offences, most occurring whilst the applicant was operating as a taxi driver, has demonstrated to the panel the applicant appears to have a disregard for all of the rules and regulations applicable to the trade.

In accordance with the Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, the panel's primary aim is to protect the public. The evidential test for the courts is to find "beyond reasonable doubt". A licensing authority evidential test allows for a decision to be made on "the balance of probabilities."

With that in mind, taking into account all the information contained at appendix HAP/78 of the officer's report, enough doubt was created in the panel's mind to conclude there was a potential risk to the public.

The panel finds the applicant not a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Drivers Licence.

Confirmation of this decision will be posted to you within 21 days. Should you have any grievance with the panel's decision you have the right to appeal to the Magistrates Court."

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 5 September 2011

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell (Chairman)
Gill Mercer

Andy Mercer

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Richard Gell be appointed chairman for this hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. APPLICATION FOR A HOUSE TO HOUSE COLLECTION LICENCE

The panel considered an application for a House to House Collection Licence made under the House to House Collections Act 1939, from Mark Fitzgerald on behalf of Local Community Recycling Services Ltd at 27 Birmingham Street, Oldbury in partnership with Care Leukaemia, to hold house to house collections throughout the district for a twelve month period. The application was dated 14 June 2011.

The applicant was not present at the hearing but the panel agreed that it should consider the application in his absence. The panel was informed that the applicant had failed to respond to requests from officers for further information.

The panel discussed its concerns about the large cost of sales given the description of the business and a lack of sufficient detail about the remuneration of the company's directors. It was considered that the applicant was estimating local amounts on the basis of national figures.

After considering the officer's report, including advice from the Solicitor to the Council, the panel retired to consider the application and evidence presented at the hearing, and it was

RESOLVED:

That the application from Mr Mark Fitzgerald on behalf of Local Community Recycling Services Ltd for a House to House Collections Licence be refused.

The chairman read out the following statement giving the reasons why the panel had refused to grant the licence:

“In their considerations of this application the panel had regard to the House to House Collections Act 1939 together with the House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684). The panel reached the following decision.

To refuse the grant of a licence

Reasons for Refusal

1. The applicant chose not to attend the hearing and had not responded to requests for additional and relevant information. Consequently the panel was not provided the opportunity to ask pertinent questions.

Without that requisite information the panel believes the applicant has failed to meet the requirements of Section 2 (3) (f) of the House to House Collection Act 1939 which states *“The applicant or holder of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs”*.

2. The total amount likely to be applied for charitable purposes as the result of the collection (including any amount so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received). East Northamptonshire Council’s policy sets a target of 80% to go to the charity on behalf of which the collection is to be made.

In reaching the decision the panel felt that it needed at minimum the following information:

1. A breakdown of the costs of collection, specifically the items in the accounts titled ‘purchases’ and ‘wages’.
2. How the figure of 50-75% had been reached as the panel was unable to ascertain how this assessment had been made.

The applicant is advised that if they are aggrieved with this decision they have the right to appeal to the Secretary of State within 14 days from the date on which notice is given.”

Chairman