

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 6 November 2012

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Gill Mercer (Chairman)
Richard Gell

Pauline Bradberry JP

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Gill Mercer be appointed chairman for this hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. HOUSE TO HOUSE COLLECTIONS - APPEAL AGAINST AN OFFICER DECISION TO REFUSE APPLICATION

The Commercial Health Manager reported that an application to operate house to house collections on behalf of Troop Aid had been made by Mr Albert Telford Sutton, using a sub-contractor, Midlands Textiles Limited. The application had been received by ENC in September 2012.

The panel heard that the application had been assessed by officers against ENC's House to House Collections Policy. A letter was subsequently sent to the applicant explaining that ENC were minded to refuse the application as they considered the total amount likely to be applied for charitable purposes as the result of the collection to be inadequate in proportion to the value of the proceeds likely to have been received. The main reason for that decision was the application of the 70%/30% rule within the collections policy. It was noted that the value paid to Midlands Textiles Ltd per tonne of clothes was £900, of which Troop Aid would receive £100 per tonne, or 11% of the total at the point of collection.

Members noted that the applicant had sent his apologies, and as such was absent from the meeting. The Commercial Health Manager advised the panel that accounts requested for Midlands Textiles Ltd had not been supplied, although the applicant had supplied all the relevant information required as part of his application.

The panel discussed the application at length before it was

RESOLVED:

That 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) and East Northamptonshire Council's House to House Collections Policy revised December 2011.

The Panel reached the following decision:-

To refuse the grant of a Licence

The Applicant chose not to attend the hearing; consequently the Panel was not provided the opportunity to ask pertinent questions.

Reasons for Refusal

1. The Panel considered the amount that would go to charity and found that it was against East Northamptonshire Council's House to House Collections Policy Section 3.2 (legal reasons for refusal A.). This section reads:-

The total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received)

This also fails to comply with Section 2 (3) (a) of the House to House Collections Act 1939.

2. Members noted that our Policy states that *refusal of the application should be given serious consideration when less than 70% of the value of the collection at the point of donation is being given to the charity.*

The Panel had taken into account that Troop Aid valued the contribution that they received from this contract however, this notwithstanding, the Panel felt that the discrepancy with our policy was too great. The information before the Panel indicated that the charity received 11% of the collection value at the point of donation.

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

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 13 December 2012

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9.30am

Present: Councillors: -

Gill Mercer (Chairman)
Richard Gell

Barbara Jenney

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Gill Mercer 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 item 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, received on 5 November 2012, 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 Drivers Criminal Records Policy when considering this application.

The original Criminal Records Bureau (CRB) disclosure received by ENC had been challenged by the applicant as being incorrect. Members noted that following investigation by the CRB, a revised and corrected version had been supplied to ENC and had been made available to members prior to the commencement of the hearing. The applicant had agreed that the revised record supplied was accurate. The disclosure detailed several convictions, with the latest being received in 1978.

The Licensing Officer advised members that convictions were never considered to be spent for Hackney Carriage and Private Hire drivers, under Part VI of Schedule 1, Rehabilitation of Offenders Act (?) 1974 (exceptions) (Amendment) Order 2002.

The applicant was present at the hearing where he spoke in support of his application and explained the circumstances of the offences to the Panel. He stated that he had been very young at the time of the offences and had been involved with a bad crowd. He felt, looking back, ashamed of the convictions he had received. He advised the panel that he had been offered a position with a local taxi firm and he was keen to accept that offer, subject to obtaining a licence. The applicant stated he had not been in any legal trouble since his final conviction and simply wished to gain employment.

The Panel asked for clarification regarding a conviction detailed on the application form, and were advised that this had been an error on the part of the CRB and the applicant had successfully requested that this be removed.

Further questions were asked by the panel regarding a speeding offence from 2009, and the final conviction received in 1978. The applicant was also asked to detail his employment history and the Panel noted his previous experience in the field of driving and that he had worked closely with disabled children and the elderly.

The applicant was provided with the opportunity to make a final statement to the panel and he responded by saying that he was simply looking for the opportunity to work as he was finding it increasingly difficult to obtain alternative employment.

After considering the officer's report and representations made by the applicant, 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 granted for two years with standard conditions.

The Chairman then read out the following statement giving the reasons why the Panel had granted the application: -

The Panel has carefully considered your application for the issue of a Hackney Carriage and Private Hire Driver's 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)
Rehabilitation of Offenders Act 1974

The Panel has reached the decision to grant the licence for a period of two years with standard conditions.

The Panel considered the past offences which were declared on the revised CRB Declaration date issued 28 November 2012 and the application form. The Panel felt that they were sufficiently dated not to be part of their considerations.

The Panel thanked the applicant for being so candid when responding to the Panel's questions. The Panel also took into account the applicant's previous work record.

The Panel would like to emphasise that the safety of the public is paramount and would take this opportunity to remind the applicant of his responsibilities in that respect.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the applicant and any party that has made representation has the right to appeal to the Magistrates' Court within 21 days of the Decision Notification letter.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 13 December 2012

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9.00am

Present: Councillors: -

Gill Mercer (Chairman)
Richard Gell

Barbara Jenney

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Gill Mercer be appointed as Chairman for this hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. HOUSE TO HOUSE COLLECTIONS - APPEAL AGAINST AN OFFICER DECISION TO REFUSE APPLICATION

The Licensing Enforcement Officer reported on an application to operate house to house collections on behalf of A Smile for a Child Charity that had been made by Mr Jeffrey Dowie of Fox Recycling Limited. The application had been received by ENC in November 2012.

The Panel heard that the application had been assessed by officers against ENC's House to House Collections Policy. A letter was subsequently sent to the applicant explaining that ENC were minded to refuse the application as they considered the total amount likely to be applied for charitable purposes as the result of the collection to be inadequate in proportion to the value of the proceeds likely to have been received. The main reason for that decision was the application of the 70%/30% rule within the collections policy. It was noted that the value paid to Fox Recycling Ltd per tonne of clothes was £1000, of which A Smile for A Child would receive £110 per tonne, or 11% of the total at the point of collection.

Members noted that the applicant had sent his apologies, and as such was absent from the meeting, although the Panel further noted the submission of an email statement from the applicant in lieu of attendance, received on 12 December. The Licensing Enforcement Officer advised the Panel that accounts for Fox Recycling Limited had not been supplied, although the applicant had supplied all other relevant information required as part of the application.

The Panel gave the application due consideration before it was

RESOLVED:

In their considerations of the 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) and East Northamptonshire Council's House to House Collections Policy revised December 2011. The Panel reached the following decision:

To refuse the grant of a Licence

The Applicant chose not to attend the hearing; consequently the Panel was not provided with the opportunity to ask pertinent questions. However the Panel acknowledge that the applicant had emailed a short statement and his apologies.

Reasons for Refusal

1. The Panel considered the amount that would go to charity and found that it was against East Northamptonshire Council's House to House Collections Policy Section 3.2 (legal reasons for refusal A.). This section reads:-

The total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received)

This also fails to comply with Section 2 (3) (a) of the House to House Collections Act 1939.

2. Members noted that our Policy states that *refusal of the application should be given serious consideration when less than 70% of the value of the collection at the point of donation is being given to the charity.*
3. Members also considered East Northamptonshire Council's House to House Collections Policy Section 3.2 (legal reasons for refusal F.). This section reads:- *The applicant had refused, or had 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.*

This also fails to comply with Section 2 (3) (f) of the House to House Collections Act 1939.

The Panel had taken into account that A Smile for a Child valued the contribution that they received from this contract however, this notwithstanding, the Panel felt that the discrepancy with our policy was too great. The information before the Panel indicated that the charity received 11% of the collection value at the point of donation.

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