

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 8 November 2013

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.30 am

Present: Councillors: -

Tony Boto
Gill Mercer

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. CONSIDERATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Health Protection Manager reported on an application, received on 16 September 2013, 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 the application.

The Applicant had detailed an offence of driving without insurance and the DVLA Data Subject report had revealed an offence dated 11 February 2011 for which the Applicant had received 6 penalty points a fine of £115 for using a vehicle uninsured against third party risks and a fine of £50 for driving otherwise than in accordance with a licence. The application had therefore been referred to the Licensing Panel for determination in accordance with the Council's policy.

In response to a question from the Panel, the Health Protection Manager confirmed that checks were made to confirm offers of employment with taxi firms operating in the District.

The Chairman provided the Applicant with an opportunity to make a statement in support of

his application. The Applicant informed the Panel that he had arrived in the country in October 2009 and had applied for a Residents' Visa to enable him to stay in the country and this had been granted in October 2010. The Applicant was aware that he was unable to work or drive on an International Driving Licence whilst waiting for a decision on his application for a Residents' Visa.

The Applicant had enquired of the Border Agency if he was entitled to drive on an International Driving Licence and had been informed that he could do so for one year from the date the Residents' Visa became effective. The Applicant had been stopped whilst driving in February 2011 and the Police had informed him that the one year driving entitlement had commenced upon his arrival in the country and this period had expired. The Applicant had subsequently been convicted of the offences listed in the report.

The Applicant stated that the car he was driving was not uninsured and he was a named driver on the insurance policy, but the issue with the driving entitlement had led to his conviction. The Applicant stated that he had also been stopped by the Police whilst driving in Wellingborough and no further action had been taken.

The Panel had no further questions of the Applicant and retired to reach a decision at 10.40am.

The Panel returned at 11.00am to announce their decision.

RESOLVED:

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 considered the offences which were declared on the DVLA Declaration date issued 24 September 2013 and the application form. The Panel felt that the explanations provided by the Applicant in relation to these offences were satisfactory. Therefore the Panel decided unanimously that the Applicant was on a balance of probability a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle

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

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 - Hearing 1

Date: 5 December 2013

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00 am

Present: Councillors: -

Pauline Bradberry
Andy Mercer

Barbara Jenney

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Andy 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. CONSIDERATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Health Protection Manager reported on an application, received on 25 September 2013, 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 the application.

The Applicant had detailed two offences; one committed on 23 May 2006 which entailed 'exceeding the statutory speed limit on a public road' for which 3 points and a £65 fine were issued. The second offence took place on 24 July 2009 which was 'driving without due care and attention' for which 5 points and a £267 fine were issued.

A Disclosure & Barring Service certificate had also indicated that the Applicant had received a caution on 12 January 2010 for 'Sending a letter or other article conveying a threat on 4 January 2010'.

The application had therefore been referred to the Licensing Panel for determination in accordance with the Council's policy.

The Chairman provided the Applicant with an opportunity to make a statement in support of his application. The Applicant informed the Panel that, whilst driving in Higham Ferrers, he was turning right from a main road and a car appeared and ran into the side of his car. There was no injury to anyone involved, but there was damage to the car and he had admitted liability in Court.

Following questioning from the Panel about the caution he had received, the Applicant explained that in 2007 he had lent money to a member of his family. When he had requested that the money be paid back, this request had been refused and in response to that the Applicant had threatened the life of another family member by text. The applicant stated that he fully appreciated the severity of his actions and that such actions within a family were accepted in his home country.

The Panel pointed out that the information about the caution had been omitted from the application form and that it was an offence to do so.

The Panel asked the Applicant for further details concerning his statement about being self employed. The Applicant advised that he was a Chartered Accountant in his home country. He was able to work as a bookkeeper in the UK, but he was not able to make a satisfactory living in the finance industry; therefore he needed a Taxi Licence to obtain additional work.

The Panel had no further questions of the Applicant and retired to reach a decision at 10.10am.

The Panel returned at 10.40am to announce their decision.

RESOLVED:

The Panel has carefully considered the 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)

Oral evidence given by the Applicant.

The Panel considered the two offences which were declared on the application form and shown on the Counterpart Driving Licence. The Panel also noted that the Applicant had failed to declare he had received a caution on 12 January 2010.

The Panel has unanimously reached the decision not to Grant a licence.

The Panel's reasons for refusing a licence were:

1. The caution dated 12 January 2010 was for an offence in the category of violence and abusive behaviour. The ENC Hackney Carriage and Private Hire Drivers Criminal Records Policy states in paragraph 4.4.2 *That at least 5 years free of such convictions will normally be necessary before an application is entertained.*

The Applicant admitted in representations that he had threatened in writing to kill his brother and sister-in-law over an unpaid debt of £8,000. He stated that it was a "family matter" and he therefore did not consider it to be very serious.

2. The Applicant had failed to declare the Caution dated 12 January 2010 in his application.

Paragraph 3.1 of the ENC Hackney Carriage and Private Hire Drivers Criminal Records Policy states that *applicants must declare any convictions, cautions, Anti social Behaviour Orders, Criminal Anti Social Behaviour Orders or Fixed Penalty Notices (FPN's) they may have, regardless of age.*

The Panel has taken into account the issues above and has decided that the Applicant is not on a balance of probability a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle Drivers licence.

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 being received.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL - Hearing 2

Date: 5 December 2013

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 11.00 am

Present: Councillors: -

Pauline Bradberry
Andy Mercer

Barbara Jenney

1. **APPOINTMENT OF CHAIRMAN**

RESOLVED:

That Councillor Andy 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. **CONSIDERATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

The Licensing Enforcement Officer reported on an application, received on 19 August 2013, 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 the application.

On the application form the Applicant had detailed an offence of driving without insurance for which he received 6 points. However, the Counterpart Driving Licence revealed two offences; one dated 22 December 2005 for which 6 points were awarded and a further offence on 25 June 2007 for which 6 points and a £200 fine were imposed.

The application had therefore been referred to the Licensing Panel for determination in accordance with the Council's policy.

The Chairman provided the Applicant with an opportunity to make a statement in support of his application. The Applicant declined this opportunity.

Following a question by the Panel, the Applicant then explained the circumstances surrounding the offences listed on his driving licence. The Police had stopped him on both

occasions and had found that he was not carrying the correct insurance for the vehicle he was driving. On the second occasion he had attended Court and explained that he needed his licence to be able to earn a living. The Court took a discretionary view and imposed a fine as well as further points. The Applicant was told that he would be unable to use that reason again in mitigation, if there was an occurrence of the offence.

Following a question from the Panel, the Licensing Officer confirmed that checks were made to ensure applicants' had insurance.

The Panel had no further questions of the Applicant and retired to reach a decision at 11.10am.

The Panel returned at 11.25am to announce their decision.

RESOLVED:

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 considered the offences which were declared on the application form and shown on the Counterpart Driving Licence. The Panel felt that the explanations provided by the Applicant in relation to these offences were satisfactory. Therefore the Panel decided unanimously that the Applicant was on a balance of probability a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle

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

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: 11 December 2013

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 11.30 am

Present: Councillors: -

**Richard Gell
Gill Mercer**

Bob Nightingale

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Gill Mercer be appointed Chairman for this hearing.

2. OPTIONS ON CONTINUING THE HEARING IN THE ABSENCE OF THE APPLICANT

After a delay of 5 minutes, the Applicant had failed to appear at the Hearing. The Legal Advisor to the Council then provided guidance in making a decision on the way to proceed.

The Panel had to decide:

- whether the Applicant had received the correct and timely service of the papers and go ahead with the Hearing,
- whether the Applicant had received the correct and timely service of the papers and defer the Hearing, or
- whether the papers were not served correctly and defer the Hearing.

The Licensing Enforcement Officer reported that the Hearing papers had been posted to the Applicant on 29 November 2013. Not having heard from the Applicant, she had tried to contact him and had left messages on the one available contact number. Unfortunately there had been no communication whatsoever from the Applicant.

The Panel then held a brief discussion and decided to defer consideration of the Application on this occasion because they could not be sure that the Applicant had received the papers or the telephone messages. This would then provide the Applicant with the opportunity to attend a further Hearing on a new date to be set in due course.

The meeting closed at 11.41.

Chairman