

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 8 January 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10 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. 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 Applicant had failed to appear at the Hearing, therefore the Panel noted a verbal report from the Legal Representative whereby a previous Hearing on 11 December 2013 had been deferred as it was not clear whether the Applicant had received the correct service of the papers. The deferment would give him the opportunity to attend the Hearing. The Licensing Enforcement Officer confirmed that she had re-served the papers on 18 December by hand-delivering them and that follow-up telephone messages had been left on 2 and 6 January 2014. No contact had been received from the Applicant. Therefore the options for the Panel Hearing were either to continue in the Applicant's absence or defer the Hearing again. Councillor Richard Gell moved that the Hearing continue and this was seconded by Councillor Bob Nightingale.

The Licensing Enforcement Officer reported that an application, received on 1 October 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.

It was noted that the applicant had changed his name in January 1994.

The Applicant had made reference to a Disclosure & Barring Service (DBS) certificate which revealed that on 25 April 1985 at North Bedfordshire Magistrates he was found guilty of two offences: obtaining property by deception on the Theft Act 1968 S. 15 and Handling on Theft Act 1968 S.22. He received a conditional discharge of 12 months for each offence, paid compensation of £136 and costs of £15.

The DBS document also revealed that on 20 April 1988 at North Bedfordshire Magistrates, the Applicant was convicted of two further offences; assault occasioning actual bodily harm on Offences Against the Person Act 1861 S.47 for which he received a fine of £100 and costs of £50. The Applicant was also charged with grievous bodily harm on Offences Against the Person Act 1861 S.20 where he received a fine of £250 and paid compensation of £250.

The DBS document also revealed that on 23 January 2001 at Bedfordshire and Mid Bedfordshire Magistrates, the Applicant was convicted of two further offences: common assault on Criminal Justice Act 1988 S.39 for which he received a conditional discharge of 9 months and destroy or damage property at a value unknown on Criminal Damage Act 1971 S.1(1), for which he received a conditional discharge of 9 months.

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

It was noted that the Applicant currently held a Private Hire Driver's Licence holder issued through Bedfordshire Council which expired in March 2014.

The Panel asked questions about the difference between a Hackney Carriage Licence and a Private Hire Driver's Licence and whether the Applicant had applied for a Hackney Carriage Licence through Bedfordshire Council. The Licensing Enforcement Officer had no information which would assist the Panel but did explain that a holder of a Private Hire Driver's Licence was able to travel into other Districts provided the journey was pre-booked from out of the area.

Having considered all the circumstances the Panel adjourned at 10.10am to reach a decision.

The Panel returned at 10.30am 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 DBS Report.

These were serious offences including offences of grievous bodily harm, and obtaining property by deception in 1985/88. There was then a thirteen year gap to 2001 when there were offences of common assault and damage to property.

The Panel were unable to question the applicant about the circumstances of these offences as he did not attend the hearing. The Panel had previously deferred the application on 11

December 2013 to give the Applicant a chance to appear. However, the Panel were satisfied that the papers had been served properly and all efforts made to contact the applicant.

Therefore the Panel decided unanimously that the Applicant was on a balance of probability not a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle due to the offences on the CRB check.

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: 21 January 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00 am

Present: Councillors: -

Tony Boto
Andy Mercer

Glenvil Greenwood-Smith

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 13 November 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 noted on the application form that he had received a caution for Domestic Violence. A Disclose & Barring Service (DBS) document revealed that on 21 October 2009 the Applicant had received a Caution for the Offence of Common Assault under the Criminal Justice Act 1988 S. 39 from Northamptonshire Police.

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 at the time of the domestic violence incident he and his partner had been together 8 years and were going through a difficult time. The split second it had happened, he sincerely regretted his actions and indicated his remorse when interviewed by the Police. He had since attended counselling and a 'Free to Talk' course, which was completed just before Christmas, to help him understand why the incident had taken place.

Currently he worked part-time for a small company in Raunds on Reception and also assisted the Manager with the accounts. The reason for applying for a Hackney Carriage licence was that it would provide him with the flexibility to attend College to study for accountancy qualifications, which would in turn enhance family life. The Applicant also noted that he was a Scout Leader with the Ringstead and Thrapston Scout Group.

Following a question from the Chairman, the Applicant confirmed that the owner of Blue Corner Cabs in Rushden had a car available for him to drive.

Following a question from the Panel, the Applicant confirmed that he had not been in trouble with the Police previously; the incident in question had lasted a matter of seconds following an argument.

The Applicant's partner, who had accompanied him to the Hearing, confirmed that the incident had happened as explained and that the Applicant had worked to improve things and it was now a lot better. The Applicant confirmed that he had been completely honest with the Panel.

Following a further question from the Panel, the Applicant confirmed that the Police became involved following a report from a family member of his partner.

The Panel had no further questions of the Applicant and retired to reach a decision at 10.12 am.

The Panel returned at 10.29 am 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)
- Oral evidence given by the Applicant to the Panel
- Oral evidence given by the Applicant's partner to the Panel
- The Disclosure and Barring Service Enhanced Certificate

The Panel received legal advice in terms of the relevant test to be applied i.e. the issues of balance of probability and fitness test.

The Panel considered the caution that was declared on the application form. The Panel felt that the explanations provided by the Applicant and his partner in relation to this caution 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.

Councillor A Mercer
Chairman
21 January 2014

Chairman