

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 24 April 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9.30 am

Present: Councillors: -

Tony Boto
Andy Mercer

Richard Gell

Due to further information being presented prior to the Hearing, it was agreed to convene at 9.50am to allow an opportunity to read the information provided.

1. **APPOINTMENT OF CHAIRMAN**

RESOLVED:

That Councillor Andy Mercer be appointed Chairman for the Hearing.

2. **DECLARATIONS OF INTEREST**

Cllr. Andy Mercer declared a personal but not prejudicial interest in as much as he was a also a County Councillor for Northamptonshire. Parts of the information supplied to the Hearing was provided by the Northamptonshire County Council's Social Services department.

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 17 February 2014, 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.

At question 4 on the application which asked "Have you ever been refused a licence to drive a hackney carriage or private hire vehicles, or has a licence granted to you ever been suspended or withdrawn?" the applicant stated "No". However, the Council is aware that on 24 January 2014, the applicant was called to a Committee Hearing at the Borough Council of Wellingborough where, "due to information received", his renewal application was refused. The applicant did not state in question 3 that he had ever held a licence with the Borough Council of Wellingborough.

At question 6 the applicant detailed one other offence where it was stated that they had received a Caution on 21 December 1995 from Northamptonshire Police for Affray on the Public Order Act 1986 S.3.

At question 8 on the application the applicant also provided details of a conviction on 25 February 1992 at Luton Crown Court, of Kidnapping on Common Law. The Disposal was imprisonment of 18 months wholly suspended for 2 years with costs of £100.

The Disclosure and Barring Service (DBS) Certificate also revealed other relevant information disclosed at the Chief Police Officer's discretion. The information related to an alleged incident of a sexual nature. However, no further Police action was taken at the time but they felt that the information should be disclosed because the applicant was seeking employment in a position of trust and responsibility with vulnerable groups, which may involve lone situations with vulnerable females who will rely on the applicant to conduct himself in a professional manner. A copy of the DBS form was provided by the applicant at the Hearing.

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's representative apologised for omitting information from the application form explaining the circumstances around the incident which allegedly took place in August 2009. It was noted that the incident had come to light via information supplied by the Police and had not been disclosed on the original application form.

After concern was raised by the Panel about the refusal by the Borough Council of Wellingborough (BCW) for a licence, the Applicant's representative stated that a decision had been made on 24 January 2014 by BCW not to renew the licence. The Applicant's representative explained that the Applicant had been called to a Panel meeting by BCW following a complaint made by a teenager, who the Applicant was transporting on a school run. The Applicant's representative reported that BCW had been given information which they had found confusing and that they had not been given an opportunity to raise questions about the information. The Solicitor who was representing the applicant at that time did not raise any questions. The Applicant and his representative felt that the Hearing had been one sided.

Following a question by a member of the Panel about the amount of hours he worked as a taxi driver, the Applicant said that his normal business was that of a courier and he worked additional hours in the evenings and at weekends driving his taxi. The Applicant's representative stated that the Applicant was well known in Wellingborough.

Further information was sought by the Panel from the Applicant following papers received from BCW and Northamptonshire Police about a number of incidents which had allegedly taken place whilst he was carrying out his role as a taxi driver.

Following a question from the Panel about whether the Applicant required anything else to be taken into consideration when making a decision, the Applicant's representative stated that when a request was made for a DBS certificate, the Applicant was advised that consideration was being given to including the Applicant's name on a Barring Register, but soon afterwards confirmation was received that that would not be the case.

The Panel then gave the Applicant an opportunity to make a closing statement. The Applicant stated that he was a family man; he had a good reputation and had been carrying out taxi journeys for over 20 years and had worked for two different operators. He had never had difficulties like this before. It had only been in the last 3-4 years that these problems had arisen. He had always thought of passenger safety and well-being.

The Applicant's representative also made a closing statement in support of the Applicant. The Applicant's representative reiterated that the information given to the previous Hearing at BCW was hearsay; the Applicant was a caring man who had passenger safety in mind at all times.

The Panel adjourned at 11.45am to consider the Application.

The Panel returned at 12.22pm 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 application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence dated 8 February 2014.

Oral evidence given by the applicant and his representative

The report of the Head of Planning and Local Development at Borough Council of Wellingborough to the Licensing Sub Committee concerning the application by the applicant to renew his Hackney Carriage Drivers Licence.

The report of the meeting of the Licensing Sub Committee of the Borough Council of Wellingborough which took place on 24 January 2014 which was adjourned until 27 January 2014 and which was reported to the Borough Council of Wellingborough on 25 February

The Decision Notice by the Licensing Sub Committee of the Borough Council of Wellingborough, concerning the application by the applicant..).

A letter from the Transport Compliance Officer of Northamptonshire Highways dated 19 November 2013 referring to the applicant, and addressed to the

Principal Health Protection Manager at the Borough Council of Wellingborough.

A copy of the email from Northamptonshire Police to the Principal Health Protection Manager at the Borough Council of Wellingborough dated 20 December 2013, regarding information about incidents in Wellingborough during August and September 2012.

A letter from the applicant to East Northamptonshire Council dated 8 February 2014, received 17 April 2014

A letter from the applicant's representative dated 13 April 2014, received 17 April 2014.

The report of the Licensing Officer concerning the application for a Hackney Carriage and Private Hire Drivers Licence by the applicant.

The Panel was particularly concerned to ensure that the Applicant and his representative should have sufficient opportunity to fully state their case. The Applicant and his representative raised a number of issues, all of which were taken into consideration by the Panel.

The Panel were very concerned to note that the Applicant had failed to disclose under Section 4 on his application form that he had been refused a licence to drive hackney carriage and private hire vehicles by the Borough Council of Wellingborough. It was of particular concern that the refusal was dated 27 January 2014 and the application to East Northamptonshire Council for a Hackney Carriage and Private Hire Drivers Licence was on 8 February 2014. The explanation given by the applicant's representative for this failure was that she and the applicant:

- Had been advised by their legal representative that there was no need to declare the refusal.
- That failure to renew was not a refusal.

However, the Panel noted that paragraph 15 of the Decision Notice from the Borough Council of Wellingborough states "It follows that the application to renew the licence is refused". The Panel therefore concluded that the Decision Notice

clearly indicated that this was a refusal of a Hackney Carriage and Private Hire drivers licence application.

The Panel considered the offences which were declared on the application form, and the various allegations and incidents described in the other evidence.

The kidnapping conviction in 1992 is a very serious offence, but little weight was given to it by the Panel due to its age.

The caution for affray in 1995 was similarly given little weight owing to its age.

The Panel took note of the allegations of an incident of a sexual nature dated 31 August 2009. The Panel noted that both the Police and the Crown Prosecution Service felt it was sufficiently serious to arrest and charge the applicant. The applicant pleaded not guilty and subsequently no evidence was submitted in Court. The Panel noted that Taxi licensing decisions are made on the balance of probabilities unlike criminal cases which are decided by the question of whether the case is proven beyond reasonable doubt. The Panel questioned the Applicant and his representative concerning this incident and were not convinced by the explanation given.

The Panel took note of the allegations of an incident which took place at 04:30 on 11 August 2012. (The report of the Licensing Sub Committee referred to above incorrectly states in paragraph 1.4 that this incident took place on 11 August 2013). The Panel noted that the female described in the email from Northamptonshire Police had reported the incident to the Police but had declined to make a formal complaint. The Police gave "strong words of advice" to the applicant, but did not make charges.

The Panel took note of the allegations of an incident which took place in September 2012. In particular the Panel noted evidence submitted in the email from Northamptonshire Police.

The Panel noted the allegations of an incident on 8 October 2013. These allegations were particularly serious concerning a vulnerable minor aged 14. The Panel discussed this incident at some length. The Panel felt that they could give little weight to this incident as the evidence presented was inconsistent.

It is the duty of the Panel to determine the application on the balance of probabilities. The Panel felt that the allegations of misconduct were individually unproven but sufficiently numerous that they had to be given considerable weight. 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 reported and various allegations reported. Therefore the application for a Hackney Carriage and Private Hire Drivers Licence is **refused**.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant has the Right to Appeal to the Magistrates Court within 21 days of receipt of the Decision Notification letter.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 24 April 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 12.25pm

Present: Councillors: -

**Tony Boto
Andy Mercer**

Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

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

2. APOLOGIES

There were no apologies

3. DECLARATIONS OF INTEREST

No interests were declared.

4. HOUSE TO HOUSE COLLECTIONS – DECISION TO GRANT OR REFUSE APPLICATION

The Applicant had contacted the Council to advise that he was unable to attend the Hearing due to other work commitments.

The Legal Advisor to the Council then provided guidance on making a decision about how to proceed. The Panel either had to make a decision in the absence of the Applicant or they could adjourn and re-convene at a later date to give the Applicant an opportunity to attend.

The Panel then held a brief discussion and decided to adjourn the Hearing. 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 12.30pm.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 6 May 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10am

Present: Councillors: -

**Tony Boto
Andy Mercer**

Richard Gell

1. APPOINTMENT OF CHAIRMAN

It was confirmed that Councillor Andy Mercer continued as Chairman following the adjournment of the original Hearing on 24 April 2014.

2. APOLOGIES

There were no apologies

3. DECLARATIONS OF INTEREST

No interests were declared.

4. HOUSE TO HOUSE COLLECTIONS – DECISION TO GRANT OR REFUSE APPLICATION

The Licensing Enforcement Officer reported on an application made on 8 November 2013 from Mr Samir Gharbaoui of SOS Clothes Ltd. to operate house to house collections in 2014 on behalf of Tree of Hope.

The Panel heard that the application had been assessed by officers against East Northamptonshire Council's (ENC) House to House Collections Policy. A letter was subsequently sent to the applicant on 29 November 2013 asking for further information as the application did not show any salaries for staff or details of director's remuneration. No response was received and a refusal letter was sent on 3 January 2014.

On 31 January 2014, a new application was received which included a statement of accounts, however the financial information was still insufficient so a further letter was sent on 4 February 2014 pointing this out. On 6 March 2014 the Council received an e-mail from the applicant stating that none of the directors received a salary from SOS Clothes Ltd. and that all collectors were volunteers.

The Panel noted that the situation was unique in as much as it was unusual to have a limited company which did not pay any salaries or where directors received any sort of payment. Therefore the decision was made to refer the matter to the Licensing Panel for their consideration.

Following a question from the Chairman of the Panel, the Licensing Enforcement Officer confirmed that she had contacted Companies House for figures relating to SOS Clothing Ltd.

Unfortunately there was not a great deal of information available.

A member of the Panel had suggested that clothes would sell for between £900 and £1000 per ton.

The Panel then gave the Applicant an opportunity to speak. The Applicant confirmed that he did not receive a salary from SOS Clothes Ltd. as it was a small company. The Applicant confirmed that the company took 15% of the proceeds from the profit and the remaining 85% went to Tree of Hope, the charity which the business supported. The Applicant questioned the suggested amount of £900 per ton for clothes. The Applicant confirmed that it depended on the type of clothes donated. The Applicant suggested that an average figure would be more in the region of £200 per tonne. The Applicant also said that sometimes clothes could sell for as little as 1p per kilo.

Following questions about the accounts which had been submitted with the Application, the Applicant confirmed that an Accountant had been responsible for completing the accounts and that he did not have any input; he merely signed off the accounts when complete.

Following a question from the Panel, the Applicant confirmed that he had no convictions.

Following a question from the Panel about how the clothes were sold, the Applicant explained that the clothes were collected by volunteers working for a company called BN Distribution. The clothes were taken to a depot owned by that company and sorted according to the quality of each item. Some items were taken to landfill because they could not be sold on due to their bad condition.

The Panel questioned the Applicant about the involvement of BN Distribution and how many collections were carried out each year, and by whom.

The Panel then adjourned briefly at 10.36am to consider whether they needed to have specific extra information before a final decision could be made. The Panel returned at 10.55am, apologised for the delay and confirmed that they had decided it was more appropriate to continue with the Hearing.

Further discussion was held on the price per ton for the clothes, the distribution of the funds from the sale and the accounts submitted with the Application.

In summary, the Applicant confirmed that he would be happy to have his application granted but would provide any further information should be Panel decide to refuse the application.

The Panel then retired to make their decision at 11.04am.

The Panel reconvened at 12.11pm with their decision:

RESOLVED:

In their considerations of this application the Panel had regard to:-

- the House to House Collections Act 1939,
- the House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684),

- East Northamptonshire Council's House to House Collections Policy revised December 2011,
- the Charities Act (1992).
- Oral evidence given by the applicant during the Hearing.
- The report of the Licensing Enforcement Officer to the Panel dated 4 April 2014.
- The application by SOS Clothes Limited for a House to House Collection Licence dated 29 January 2014.
- The agreement between Tree of Hope, a registered charity, and SOS Clothes Limited, dated 1 February 2013.

The Panel has reached the following decision.

To refuse the grant of a Licence

The Applicant attended the hearing, and answered the detailed questions put by the Panel.

Reason for Refusal

The Panel Members noted 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).* .

The Panel noted that the collection scheme proposed by the Applicant was unusual. The Applicant has an arrangement with another company (believed to BN Distribution) who collect clothes on behalf of the applicant, providing both drivers and vehicles. The other company then pay the Applicant for the clothing. The Applicant then pays a proportion of those monies to the Charity.

On average, the Applicant stated that he received £200 per tonne for clothing collected. The Members of the Panel had concerns that at least 70% of this amount was not being distributed for charitable purposes. Indeed, the agreement between SOS and Tree Of Hope states that at least £60 per tonne of clothing recovered be distributed to the said charity. The Members of Panel were not satisfied that on a balance of probability the ENC Policy for House to House Collections was met, as £60 per tonne to the charity is equivalent to 30%.

The members were also not satisfied that the true value of clothing collected was being paid for at the correct market rate.

The Members of the Panel also noted an element of double counting regarding the costs of collection of the clothing by BN Distribution who charge overheads for collections but then also reduce the amount paid for clothing to take into account the collection process.

The Members of the Panel felt that this would provide an inadequate proportion of the value of the gross proceeds likely to be received. The Panel therefore felt that the application should be refused under Paragraph 3.2A of the East Northamptonshire Council's House to House Collection Policy December 2011.

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 (LIQUOR AND GAMBLING) PANEL

Date: 27 May 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 2pm

Present: Councillors: - Pauline Bradberry JP
Barbara Jenney
Andy Mercer

Also present:

Rita Groves
(Licensing Enforcement Officer)
Mr Robert Jeffs and Mrs Karen Jeffs
Mebs Kassam
Barbara Wiggins

Representing

East Northamptonshire Council

Applicants
Legal Advisor to the Panel
Democratic Services Officer

1. **APPOINTMENT OF CHAIRMAN**

RESOLVED:

That Councillor Andy Mercer be appointed Chairman of the Panel for this hearing.

2. **APOLOGIES FOR ABSENCE**

An apology for absence was received from Mr Marcus Mills, an objector to the application.

3. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

4. **APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT KRUMBS, 87-89 BROOK STREET, RAUNDS, NN9 6LL**

The Licensing Enforcement Officer reported on an application to vary a premises licence for Krumbs of 87-89 Brook Street, Raunds under the Licensing Act 2003.

Members noted the Applicant's request to vary the opening times of the premises as listed below:

Supply of Alcohol – On the premises

Monday to Saturday 08:00 hours to 23:00 hours (08:00 – 17:00 Mon to Sat)

Sunday 10:00 hours to 22:30 (10:00 – 17:00 Sun)

Recorded Music - Indoor

Monday to Saturday 08:00 hours to 23:00 hours (08:00 – 17:00 Mon to Sat)

Sunday 10:00 hours to 22:30 (10:00 – 17:00 Sun)

Live Music – Indoor (not previously licenced for live music)

Monday to Saturday 18:00 hours to 22:00 hours

Sunday 12:00 hours to 18:00 hours

Hours open to the public

Monday to Saturday 08:00 hours to 23:00 hours (08:00 – 17:00 Mon to Sat)

Sunday 10:00 hours to 22:30 (10:00 – 17:00 Sun)

All statutory bodies had been consulted. Two representations had been received from two members of the public, neither of whom were present at the Hearing. No other representations had been received.

Evidence from the applicants

Mr Robert Jeffs and Mrs Karen Jeffs attended the Hearing and advised the Panel that since opening their business they had been requested by customers to vary the licence to enhance the business. As well as running a café business during the day, they envisaged a bistro style business in the evening with the option of having selected music events. Mr Jeffs confirmed that there would be occasional entertainment whilst people were eating and he envisaged that events would take place at weekends. The venue was small, seating approximately 35 people.

Mr Jeffs confirmed that he was aware of the comments about noise emanating from the venue and stated that mainly acoustic music would be played and didn't believe amplification would be required. Any events would be well managed and the opening of doors and windows would be kept to a minimum. Mr Jeffs understood the comments from neighbours and would work with them to allay their fears. Mr Jeffs confirmed that the premises were air-conditioned.

Following a question regarding whether conditions on the licence would be acceptable, Mr Jeffs confirmed that he would agree to conditions.

Mr Jeffs also confirmed that drink would predominantly be served with food. There was no intention to use the premises as a bar only.

The Legal Adviser to the Council noted new regulations which had recently come into force regarding the playing of live music. There was now no need to hold a licence to play live music until 11pm, provided the amount of people present was less than 201. A licence would be required for amplified music.

The Chairman of the Panel asked if there had been any further communication from the objectors. The Licensing Enforcement Officer confirmed that nothing had been received.

The Chairman adjourned the hearing at 2.20pm for the Panel to reach its decision.

The Panel reconvened at 3.05pm to announce the decision.

RESOLVED:

The Licensing Panel has considered the application to vary a Premises Licence for Krumbs, 87- 89 Brook Street, Raunds and has taken into account the following issues:

- The Licensing Officers report
- The application submitted by the Applicants
- Two emails of objection from near neighbours
- The existing premises licence
- The four Licensing Objectives
- ENC's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003

The Panel took legal advice in relation to the licensing objectives and the correct legal test to be applied.

After careful deliberation and consideration of the issues listed above the Panel has reached the following decision.

The Panel notes that unamplified acoustic live music is not a licensable activity between the 8:00 am and 11:00 pm. The Panel also noted that amplified live music with an audience of less than 201 people where there is a licence for the sale of alcohol on the premises is also not licensable.

The Applicants had applied for a licence to play recorded music indoors as background music for customers. The Panel notes that music incidental to consumption of food or alcohol is also not licensable.

The Panel has unanimously decided to allow the variation application, subject to conditions. On the balance of probability the Panel decided that the variation would not infringe promoting the licensing objective of prevention of public nuisance given these conditions.

Supply of Alcohol – On the premises

Monday to Saturday 08:00 hours to 23:00 hours

Sunday 10:00 hours to 22:30

Recorded Music - Indoors

Since this is incidental music this is not licensable.

Live Music Amplified – Indoor

Since there are fewer than 201 customers and there is an alcohol licence then live amplified music is not licensable.

The Panel decided to apply the following conditions to the licence.

1. That windows and doors be kept shut when music is being performed.
Reason – to prevent public nuisance by noise spilling out onto the street.

2. That amplification of music be limited to a maximum of 25 watts of power
Reason – to prevent public nuisance by noise spilling out onto the street.

3. That adequate notice/signage be on display requesting customers to exercise due consideration for local residents when leaving the premises
Reason – to prevent public nuisance from the noise of customers leaving the premises.

The Objectors are reminded that there is a review procedure should matters in respect of public nuisance need further consideration.

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: 28 May 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 2pm

Present: Councillors: -

Glenvil Greenwood-Smith
Andy Mercer

Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Mercer be appointed Chairman for the Hearing.

2. DECLARATIONS OF INTEREST

No declarations of interest were noted.

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 March 2014, 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.

At question 8 on the application the Applicant made reference to a DBS document which revealed that on 6 July 1973 at St Neots Magistrates Court the Applicant was convicted of Theft from Dwelling on Theft Act 1968 S. 1 and was fined £15.

The DBS document also revealed that on 17 June 1975 at Huntingdon Magistrates Court, the applicant was convicted of two further offences. Both offences were Obtaining Property by Deception on Theft Act 1968 S.15. The Applicant was fined £10 for each offence and was ordered to pay £25 compensation.

The DBS document also revealed that on 29 January 1981 at Huntingdon Magistrates Court, the Applicant was convicted of Carrying a Loaded Shotgun in a Public Place on Firearms Act 1968 S.19. The disposal was imprisonment 6 months wholly suspended for 24 months. Legal Aid Contribution of £25 and forfeiture of Shotgun and Ammunition.

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

The Panel noted the offences which were listed on the Application form.

Following a question about why he wanted to work as a taxi driver, the Applicant confirmed that he no longer wanted to drive buses and coaches. He had been doing that for the past few years, and he would prefer to drive taxis to earn money to supplement his pension.

During questions it became apparent that there was a possible issue with the completion of the medical certificate as the Applicant stated that he had previously suffered a heart condition. The meeting adjourned for 10 minutes for the Health Protection Manager to clarify the exercise testing requirements for the Group 2 entitlement medical.

Following adjournment, the Health Protection Manager confirmed that applicants with some heart conditions should be tested to a Group 2 standard, which included time on a treadmill. The Doctor in this case had not undertaken this and therefore this posed an issue as to whether the Applicant was fit to drive a taxi. The Panel were advised that they should take this information into consideration when making their decision.

On the application form, the Applicant had noted two offences for which Fixed Penalty Notices (FPN) had been issued; SP30: 3 points and TS10: 3 points. Both offences had taken place in 2010. Following a question about the speeding offence, the Applicant explained that the speeding fine related to a roadside spot check. Regarding the traffic signal offence, the Applicant explained events when he had approached a set of traffic lights and had made a split second decision, which had resulted in him being issued with a FPN.

The Panel adjourned at 2.30pm to make a decision. The Panel re-convened at 3.01pm.

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)
- Rehabilitation Of Offenders Act 1974
- The application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence dated 13 March 2014.
- Verbal evidence given by the applicant

The Panel considered the offences which were declared on the DBS Report.

There were offences of theft and obtaining property by deception in 1969/75. In 1981 the applicant was convicted of carrying a loaded shotgun in a public place. However, the Panel felt that these offences were sufficiently dated that they no longer carried great weight.

The Panel also considered the driving offences from 2010.

The Panel were able to question the applicant about the circumstances of these offences and were grateful for the Applicant's candid answers

Therefore the Panel decided unanimously that the Applicant is on a balance of probability a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle, subject to confirmation from a medical practitioner that he is fit to drive in accordance with Group 2 DVLA requirements.

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: 28 May 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 3.30pm

Present: Councillors: -

Glenvil Greenwood-Smith
Andy Mercer

Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED

That Councillor Andy Mercer be appointed Chairman for the Hearing.

2. APOLOGIES

There were no apologies.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. 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, 2 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

4. HOUSE TO HOUSE COLLECTIONS – DECISION TO GRANT OR REFUSE APPLICATION

The Licensing Enforcement Officer reported on an application made on 22 April 2014 to operate 5 house to house collections per month from June 2014 to November 2014.

The Panel heard that the application had been assessed by officers against East Northamptonshire Council's (ENC) House to House Collections Policy. The Financial Statement was not clear on details of director's remuneration. The Council's accounts team had provided a report on the financial statement, as it was unusual to have a limited company that did not appear to pay director salaries and where the director is the main creditor.

Issues had arisen in the past with the applicant Company with regard to an illegal collection which had taken place in August 2013 in Rushden.

ENC Council officers had written to the Applicant on numerous occasions, and he had failed to attend a PACE interview when invited, to discuss the above offence.

It was noted that the recovered textile prices in April 2014 averaged from £630 to £680 per tonne for textiles at sorting plants.

With the above in mind, the application had therefore been referred to the Licensing Panel for determination in accordance with the Council's policy.

The Licensing Enforcement Officer confirmed that she was satisfied that the papers had been served correctly and on time, however the Applicant had not responded to any communication. The Panel noted the comments.

The Panel had a number of questions to ask the Applicant, but in his absence were unable to do so.

The Legal Adviser confirmed that the Panel should make a decision on Section F of the East Northamptonshire Council House to House Collections Policy.

The Panel then retired to make their decision at 3.35pm

The Panel reconvened at 3.55pm.

RESOLVED:

In their considerations of this application the Panel had regard to:-

- The House to House Collections Act 1939,
- The House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684),
- East Northamptonshire Council's House to House Collections Policy revised December 2011,
- The Charities Act (1992).
- The report of the Licensing Enforcement Officer.
- The application by Recycling & Management Services Limited for a House to House Collection Licence dated 16 April 2014.
- The agreement between Child & Teenage Cancer Leukaemia Foundation a registered charity, and Recycling & Management Services Limited, dated 1 April 2014.

The Panel has reached the following decision.

To refuse the grant of a Licence

The Applicant did not attend the hearing,

Reason for Refusal

The Panel Members noted East Northamptonshire Council's House to House Collections Policy Section 3.2 (legal reasons for refusal F.). This section reads: - *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.*

The Panel Members felt that they needed information from the Applicant to satisfy themselves that the application was suitable for the granting of a licence. The Applicant did not attend the hearing, despite being notified at the appropriate time by East Northamptonshire Council. Also, the Applicant failed to respond to communications from East Northamptonshire Council.

Specifically the Panel noted from the Officer's report that recovered textile prices in April 2014 averaged from £630 to £680 per tonne for textiles at sorting plants. However, in the application, the Applicant states that £300 per tonne is the current price. This discrepancy is significant and the Panel felt that it should be explained before they can consider granting a licence in accordance with Section 3.2, sub-sections A and F of the East Northamptonshire Council's House to House Collections Policy

As a consequence the Panel Members felt that they were unable to grant a licence as insufficient information was furnished to them.

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: 12 June 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9.00am

Present: Councillors: -

Pauline Bradberry JP
Barbara Jenney

Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Richard Gell be appointed Chairman for the Hearing.

2. DECLARATIONS OF INTEREST

No declarations of interest were noted.

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 30 April 2014, 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 DBS document had revealed a number of road traffic and dishonesty convictions dating from 1993 – 1995, details of which were reported to the Panel.

The DBS document also revealed that on 4 October 2001 the applicant had been convicted of Affray under Section 3 of the Public Order Act 1986 and that on 20 June 2003 the applicant had been convicted of Conspiracy/Fraudulent Evasion of Duty Prohibition or Provision under Section 170(2) of the Customs and Excise Management Act 1979.

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

The Panel noted the offences which were listed on the Application form and that the applicant was currently licenced as an Operator and Private Hire/Hackney Carriage Driver with the Borough Council of Wellingborough and had held the licences for approximately 8 years.

The applicant was requested to outline the circumstances of the convictions dating from 2001 and 2003 and the applicant provided a summary of the incidents.

The Panel adjourned at 9.11am to make a decision and re-convened at 9.45am to announce the 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)
- Rehabilitation Of Offenders Act 1974
- The application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence.
- Verbal evidence given by the applicant

The Panel gave serious consideration to the offences which were declared on the DBS Report. The Panel also took into consideration that the Applicant has had an operators licence for eight years granted by the Borough Council of Wellingborough, and also has a Private Hire and Taxi Drivers Licence for Borough Council of Wellingborough. The Panel noted that the Applicant now owns a further Taxi firm in the East Northamptonshire District and therefore wishes to have a Private Hire and Taxi Drivers Licence to operate in East Northamptonshire.

The Panel were able to question the Applicant about the circumstances of the offences and were grateful for the Applicant's candid answers

Therefore the Panel decided unanimously that the Applicant is on a balance of probability a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle.

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: 12 June 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 11.00am

Present: Councillors: -

Pauline Bradberry JP
Barbara Jenney

Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Richard Gell be appointed Chairman for the Hearing.

2. DECLARATIONS OF INTEREST

No declarations of interest were noted.

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 23 April 2014, 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.

At question 5 of the application form the applicant had made reference to a Speeding Workshop which he had attended in October 2013.

At question 6 of the application form the applicant had made reference to a Burglary conviction in 2004, which had not been referenced on the DBS document.

At question 8 of the application form, the applicant had put a line through the answer box indicating that he had received no cautions or convictions. However, the DBS document

revealed that on 22 August 2009 at Wellingborough Police Station, the applicant had accepted Conditional Cautions for two offences of Making Off Without Paying and one offence of Making/Supplying Article(s) for use in Fraud(s).

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

The Panel noted the offences which were listed on the Application form and the applicant was requested to provide clarification of the convictions and circumstances of the offences.

The Panel adjourned at 11.10am to make a decision and re-convened at 11.43 to announce the 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)
- Rehabilitation Of Offenders Act 1974
- The application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence dated 23 April 2014.
- Verbal evidence given by the applicant

The Panel noted that on the application form the applicant had not declared that he had received Conditional Cautions, but the applicant had made reference to "burglary in 04" The Panel heard detail regarding the circumstances for the burglary in 04. It is noted that this "offence" does not form part of the applicant's enhanced DBS check and is therefore not considered sufficient to question the applicant's suitability.

The Panel considered the offences which were declared on the DBS Report, which revealed that the applicant had accepted conditional cautions for the offences of Making Off Without Paying on two occasions. The Panel noted that on the second occasion the applicant voluntarily admitted to having committed a previous offence. However, the Panel felt that these offences were sufficiently dated that they no longer carried great weight.

The Panel noted that the applicant had attended a speeding workshop in October 2013.

The Panel heard from the applicant regarding why he had omitted his cautions within part 8 of the application form and the Panel were satisfied with the explanation provided.

The Panel were able to question the applicant about the circumstances of these offences and were grateful for the Applicant's candid answers

Therefore the Panel decided unanimously that the Applicant is on a balance of probability a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle.

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