

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 6 July 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10am

Present: Councillors: -

Tony Boto
Andy Mercer

Roger Glithero JP

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Andy 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. VOTE OF THANKS TO BARBARA WIGGINS

Prior to the commencement of business, the Chairman noted that this was the last Panel for which the Clerk to the Panel, Mrs Barbara Wiggins, who be taking notes as she would be retiring from her post as Democratic Services Officer and PA to the Chairman of the Council at the end of July after fourteen years service with the Council. The Panel members echoed the Chairman's sentiments and wished Mrs Wiggins a long and happy retirement.

5. TO REVIEW A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Interim Health Protection Manager (IHPM) advised that an application for a Hackney Carriage and Private Hire Driver's Licence had been received on 19 May 2015.

It was noted that the Applicant was currently an Operator and Private Hire Driver, licensed by the Borough Council of Wellingborough.

The applicant made reference to an “attached CRB” (now known as a DBS form) which revealed that on 19 November 1986 t Wellingborough Magistrates Court, the applicant was convicted of the following 3 offences:-

- Theft from a vehicle on Theft Act 1968 S.1 Disposal: Fine £60, Compensation £2 and Costs £19
- Theft from a vehicle on Theft Act 1968 S.1 Disposal: Fine £60, Compensation £3
- Theft from a vehicle on Theft Act 1968 S.1 Disposal: Fine £60

The DBS document also revealed that on 3 May 1988 at Wellingborough Magistrates Court, the Applicant was convicted of the following 2 offences:

- Fraudulently altering vehicle excise licence on Vehicles (Excise) Act 1972 S. 26(1)(C) Disposal: Fine £40
- Theft on Theft Act 1968 S.1 disposal: Fine £40, compensation £2, Costs £20

The DBS document also revealed that on 29 June 1988 at Wellingborough Magistrates Court, the Applicant was convicted of the following 2 offences:

- Fraudulently altering vehicle excise licence on Vehicles (excise) Act 1971 S.26(1)(C) Disposal: Fine £60
- Theft from vehicle on Theft Act 1968 S.1 Disposal: Fine £60

The DBS document also revealed that on 27 February 1989 at Wellingborough Magistrates Court, the Applicant was convicted of the following 6 offences:

- Theft from vehicle on Theft Act 1968 S.1 Disposal: Fine £100, costs £15
- Fraudulently altering vehicle excise licence on Vehicles (Excise) Act 1971 S.26(1)(C) Disposal: Fine £50
- Minor road traffic offence – not separately dealt with
- Minor road traffic offence – not separately dealt with
- Failing to surrender to bail on Bail Act 1976 S.6 Disposal: Conditional Discharge 12 months
- No insurance on Road Traffic Act 1972 S.143 Disposal: Fine £100, Driving licence endorsed

The DBS document also revealed that on 12 June 1990 at Wellingborough Magistrates Court, the Applicant was convicted of the following 3 offences:

- Theft from vehicle on Theft Act 1968 S.1 Disposal: Fine £100
- Minor road traffic offence – not separately dealt with Disposal:, Costs £20
- Fraudulently using vehicle excise licence on Vehicles (Excise) Act 1972 S.26 (1)(C) - not separately dealt with

The East Northamptonshire Council Licensing Policy for Hackney Carriage and Private Hire Drivers states that for the purposes of licensing drivers there is no such thing as a spent conviction. The Licensing Authority would consider all convictions with special attention given to offences connected with the driving of a motor vehicle.

In response to a question from the Panel, the Applicant stated that he had been running his own and operating since 2008. The reason he had applied for an ENC licence was because his landlord was selling the premises where he operated from. The Applicant stated that he planned to use his home address as his operating centre. He mainly provided chauffeur services and customer references were supplied to the Panel.

The Applicant stated that the offences listed were carried out when he was young and stupid: he had learnt his lesson. The Applicant confirmed that he did not have any outstanding Court hearings.

The Panel adjourned at 10.15am to make a decision and re-convened at 10.38pm 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 Licensing Policy for Hackney Carriage and Private Hire Drivers
- ENC Private Hire Operators/Drivers Private Hire Vehicles (Terms and Conditions)
- ENC Hackney Carriages/Byelaws (Terms and Conditions)
- Rehabilitation Of Offenders Act 1974
- Rehabilitation Of Offenders Act 1974 (exceptions) (amendment) Order 2002.
- The application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence dated 11 May 2015.
- Verbal evidence given by the Applicant
- Enhanced DBS Report
- References from Phil Crooks, Sabina Wallington of Anritsu A/S Ltd, Mrs Alison Newell of Unilever
- Letter from Philippa Bright, Licensing Officer of the Borough Council of Wellingborough

The Panel noted that the Applicant had made reference to his attached DBS report in regard to question 8 the application form.

The Panel questioned the Applicant concerning the answer to question 9 in his application form. The Applicant stated that the entry of "motoring" was an error. The Applicant stated that he has no outstanding charges or summons waiting for a court hearing.

The DBS report revealed:-

- That on 19 November 1986 at Wellingborough Magistrates Court the Applicant was convicted of three offences. All three offences were Theft from a vehicle on the Theft Act 1968 S.1
- That on 3 May 1988 at Wellingborough Magistrates Court the Applicant was convicted of:-
 1. Fraudulently altering vehicle excise licence on Vehicles (Excise) Act 1971 S.26(1)(C)
 2. Theft on Theft Act 1968 S.1
- That on 29 June 1988 at Wellingborough Magistrates Court the Applicant was convicted of the following 2 offences:-
 1. Fraudulently altering vehicle excise licence on Vehicles (Excise) Act 1971 S.26(1)(C)
 2. Theft from a vehicle on Theft Act 1968 S.1

- That on 27 February 1989 at Wellingborough Magistrates Court the Applicant was convicted of the following six offences
 1. Theft from a vehicle on Theft Act 1968 S.1
 2. Fraudulently altering vehicle excise licence on Vehicles (Excise) Act 1971 S.26(1)(C)
 3. Two Minor Road Traffic Offences
 4. Failing to surrender to bail on Bail Act 1976 S.6
 5. No insurance on Road Traffic Act 1972 S.143

- That on 12 June 1990 at Wellingborough Magistrates Court the Applicant was convicted of the following three offences
 1. Theft from a vehicle on Theft Act 1968 S.1
 2. Minor Road Traffic Offence
 3. Fraudulently using vehicle excise licence on Vehicles (Excise) Act 1971 S.26(1)(C)

The Panel were able to question the Applicant about the circumstances of the offences and his responses were noted

It is the duty of the Panel to determine the application on the balance of probabilities.

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 reasons for the decision:

- 1) Section 4.5.2 of the ENC Licensing Policy for Hackney Carriage and Private Hire Drivers states that "*Normally a period of 3 to 5 years free of convictions will be required before entertaining an application*" The most recent conviction for the Applicant is over 25 years ago.

- 2) The offences were sufficiently dated that they no longer carried much weight.

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: 17 August 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Tony Boto
Gill Mercer

Helen Howell

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Councillor Tony Boto be appointed Chairman for the 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 advised that an application for a Hackney Carriage and Private Hire Driver's Licence had been received on 16 June 2015.

The Disclosure and Barring Service (DBS) document had revealed that on 20 November 2010, the applicant had been cautioned by Northamptonshire Police for one offence of Affray; one offence of Battery and one offence of possessing an offensive weapon in a public place.

These had not been declared, as required, on the application form and the East Northamptonshire Council Licensing Policy for Hackney Carriage and Private Hire Drivers required that, normally, at least 5 years free of such convictions would be necessary in order to consider an application.

Following questions from the Panel, the Applicant provided an explanation of the events which had led to the cautions being issued. The applicant stated that an altercation had taken place at the front door of his home following him earlier questioning relatives of the other parties involved about abusive telephone calls

being made to the applicant's phone. The weapon in question had been produced by the other parties involved and in defending himself, the applicant had caused one of the other parties to be struck by the weapon.

The applicant was asked by the Panel to clarify why he had not declared the cautions on his application. The applicant responded that he had wiped the cautions from his mind and he had not realised that all convictions, which included cautions, needed to be declared. The relevant section of the application form covering this was pointed out to the applicant.

The applicant also informed the Panel that he had been given advice from a relative that the cautions lapsed after a period of 3 years had expired.

In response to questions asked by the Panel, the applicant outlined the reasons why he had ceased to be a licenced taxi driver in 2009 and why he had not re-applied to the Borough Council of Wellingborough where he had been licenced previously. The applicant also confirmed that he had a prospective employer should he be granted a licence.

The Panel adjourned at 10.22am to make a decision and re-convened at 11.08am 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 Licensing Policy for Hackney Carriage and Private Hire Drivers
- ENC Private Hire Operators/Drivers Private Hire Vehicles (Terms and Conditions)
- 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 16 June 2015
- Verbal evidence given by the Applicant
- Enhanced DBS Report

The Panel noted that the Applicant had declared on the application form that he had been a driver in the Borough Council of Wellingborough and his licence had expired on 31.07.2009. The Borough Council of Wellingborough could not give any further information as their records only go back five years.

The Panel further noted that the completed application form does not make any reference to any convictions or cautions at questions 6 or 8. The DBS document revealed that on 21 November 2010, the Applicant was cautioned by the Northamptonshire Police Force for the following three offences:

- Affray – on 20 November 2010 under the Public Order Act 1986 S.3
- Battery – on 20 November 2010 under the Criminal Justice Act 1988 S.39
- Possessing Offensive Weapon in Public Place on 20 November 2010 under Prevention of Crime Act 1953 S.1

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

The East Northamptonshire Council Licensing Policy for Hackney Carriage and Private Hire Drivers states at 3.6 "Cautions will be treated as convictions for the purposes of this policy as they are admissions of guilt of an offence".

The Licensing Authority considers all convictions with special attention given to offences involving assault (including battery). At least five free years of such convictions will normally be necessary before an application is entertained. This application was accepted as the Caution for three offences was not declared on the application form. The Panel were very unhappy that this was not declared by the Applicant. However after hearing the mitigating circumstances surrounding the incident and the nature of the offences, the Panel decided not to use this as a reason for rejecting the application. The Panel also took into account that the cautions were approaching the five year period.

It is the duty of the Panel to determine the application on the balance of probabilities.

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

The Panel would however, like to warn the Applicant that any future breaches of the application policy or misconduct would not be looked upon favourably and may result in the licence being reviewed/revoked.

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