

## LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 12 October 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Tony Boto  
Dorothy Maxwell

Barbara Jenney

### 1. APPOINTMENT OF CHAIRMAN

#### RESOLVED:

That Councillor Barbara Jenney be appointed Chairman of the Panel for the Hearing.

### 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

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

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

*(The Applicant was present at the Hearing and was accompanied by a relative).*

The Interim Health Protection Manager reported that an application for a Hackney Carriage and Private Hire Driver's Licence had been received on 25 August 2015.

The Disclosure and Barring Service (DBS) document had revealed that on 22 December 2003, the applicant had been convicted of the offence of possessing an offensive weapon in a public place.

The DBS document also revealed that on 16 May 2011, the Applicant had been convicted of one offence of criminal damage; one offence of using a vehicle while uninsured and one offence of driving otherwise than in accordance with a licence. Accordingly, the application had been submitted to the Panel for determination.

The Applicant had also disclosed that he had received a caution for antisocial behaviour, although this was not shown on the DBS document.

The Panel did not ask any questions of the licensing officers present.

The Chairman invited the Applicant to address the Panel in support of the application. The Applicant did not make a statement at this stage and the Panel Members were invited to ask questions of the Applicant.

Following questions from the Panel, the Applicant provided an explanation of the events which had led to the convictions. The applicant stated that he had purchased a car and driven it home and during the journey, he had been stopped by the Police. The criminal damage conviction had resulted from him scratching his name into the cell door while being held in custody.

The earlier conviction for possessing an offensive weapon related to him carrying a penknife when he was stopped by the Police.

In response to further questions, it was confirmed that the Applicant was not currently working and would seek employment with an established operator should he be granted a licence. In the longer term, the relative attending the Hearing with the Applicant might apply for a PHV Operator's Licence and employ the Applicant in the business.

The Applicant confirmed that he had received the caution some 12 years previously while approximately 18 years of age.

The Panel invited the Applicant to make a final statement. The Applicant stated that he had nothing further to add.

The Panel adjourned at 10.17am to make a decision and re-convened at 11.06am to announce the decision as follows:.

**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 received on 25 August 2015.
- Verbal evidence given by the Applicant albeit limited in nature
- Enhanced DBS Report

The Panel noted that the completed application form made reference at question 6 to a verbal caution for unsocial behaviour when the Applicant was a teenager. The caution does not appear on the DBS form. The Applicant had made reference at question 8 that in June/July 2011 he was:

- Convicted of criminal damage and was conditionally discharged for 6 months

- Convicted of driving a vehicle without insurance and unsupervised on a provisional licence and was fined and given 6 penalty points

The Panel further noted that the actual DBS document revealed that on 22 December 2003 at Kettering Magistrates Court the Applicant was convicted of the following offence

- Possession of an Offensive Weapon in Public Place on 7 November 2003

Also, on 16 May 2011 at Wellingborough Magistrates Court, the applicant was convicted of the following three offences

1. Destroy or Damage Property – value of damage £5,000 or less
2. Using a vehicle while uninsured on 10 December 2010
3. Driving otherwise than in accordance with a licence on 10 December 2010.

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 4.1.6 "Convictions with regard to invalid or no insurance will always be relevant and all applications will be determined by the Licensing Panel".

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

The Panel have therefore decided by a majority 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 and ought therefore to be licenced

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 reasons for the decision are as follows:

- 1) The length of time that has passed since the convictions
- 2) The criminal damage was relatively trivial as it related to the cell door
- 3) The endorsements upon the applicants licence have now expired

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: 26 October 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Richard Gell  
Peter Wathen

Helen Howell

### 1. APPOINTMENT OF CHAIRMAN

#### RESOLVED:

That Councillor Richard Gell be appointed Chairman of the Panel for the Hearing.

### 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

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

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

*(The Applicant was present at the Hearing).*

The Licensing Enforcement Officer reported that an application for a Hackney Carriage and Private Hire Driver's Licence had been received on 7 September 2015.

The Disclosure and Barring Service (DBS) document had revealed that on 21 June 1984, the applicant had been convicted of three offences of possessing controlled drug on Misuse of Drugs Act 1971.

The DBS document also revealed that on 1 June 1985, the Applicant had been convicted of one offence of supplying controlled drug on Misuse of Drugs Act 1971. Accordingly, the application had been submitted to the Panel for determination.

The Applicant had also disclosed that he had received a Fixed Penalty Notice for speeding on 25 January 2015.

The Panel did not ask any questions of the licensing officer present.

The Chairman invited the Applicant to address the Panel in support of the application. The Applicant stated that for his conviction in June 1985, it was the other person in the car who had the drugs. He had lived and worked in Japan teaching English for 21 years and had returned to this country nine years ago. He considered himself to be a good person and extremely honest. He had smoked cannabis in the past but he did not now. He had driven a taxi for nine years in Huntingdonshire.

In response to a question from the Panel, the Applicant explained that the application form showed the date of his driving licence as 2014 as he had lost his licence and had to renew it from that date. The Licensing Enforcement Officer confirmed that the Applicant had commenced a full licence in 1977.

In response to further questions from the Panel, the Applicant explained the Fixed Penalty Notice for speeding and confirmed that whilst he was driving his taxi at the time, there were no passengers in the vehicle. It was also confirmed that the Applicant had been discussed with Huntingdonshire District Council who advised that they had no issues with him identified on their file. The Applicant also confirmed that his prospective employer was still intending to employ him if he was granted a licence.

The Panel adjourned at 10.14am to make a decision and re-convened at 10.37am to announce the decision as follows:

**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 (exceptions) (amendment) Order 2002
- 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 received on 7 September 2015
- Verbal evidence given by the Applicant
- Enhanced DBS Report

The Panel noted that the completed application form made reference at question 5 regarding Fixed Penalty Notices, that the Applicant had on 25 January 2015 received an SP30 – 3 points. The Panel also noted that at question 8 reference was made to an offence of conspiracy to supply cannabis in 1986.

The Panel further noted that the actual DBS document revealed that on 21 June 1984 at Carlisle Magistrates Court the Applicant was convicted of the following offences:

- Possessing Controlled Drug on Misuse of Drugs Act 1971 – fined £75.00
- Possessing Controlled Drug on Misuse of Drugs Act 1971 – fined £50:00
- Possessing Controlled Drug on Misuse of Drugs Act 1971 – fined £50.00

Also, on 4 June 1985 at Leeds Crown Court, the applicant was convicted of the following offence:

- Supplying Controlled Drug on Misuse of Drugs Act 1971

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

The Licensing Authority will consider all convictions with special attention given to offences involving drugs, to include cultivation, sale, supply or the recreational use thereof.

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

The Panel have therefore 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 and ought therefore to be licensed.

The reason for the decision is as follows:

- The length of time that has passed since the convictions

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 suspended/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**