

# TAXI PANEL

**Date:** 7 September 2009

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 10:00am

**Present:** Councillors: -

Richard Gell  
Glenn Harwood (Chairman)

Brian Northall

## **PART A ITEMS**

### **1. APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

### **2. MINUTES**

The minutes of the meetings held on 24 July and 14 August 2009 were approved and signed by the Chairman.

### **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. APPLICATION FOR A HACKNEY CARRIAGE PROPRIETOR'S LICENCE**

The Licensing Officer reported on an application for a Hackney Carriage Proprietor's Licence under the Local Government (Miscellaneous Provisions) Act 1976.

An application for a Hackney Carriage Proprietors Licence was submitted by the applicant on 3 July 2009. The original application was incomplete and a complete application was then made on 6 August 2009. The applicant had applied for a Licence Plate (for a non-wheelchair accessible vehicle) which she understood was available at that time.

The Council's existing policy on new Hackney Carriage Proprietor's Licences allows any suitable person who provides an acceptable wheelchair accessible vehicle to apply for a Proprietor's Licence. However when the policy was introduced in 2000, the existing thirty six vehicles were allowed to remain as saloon vehicles (i.e. non-wheelchair accessible) indefinitely.

At the end of June 2009, the proprietor of a Licence Plate (one of the original thirty six licensed non-wheelchair accessible vehicles) returned the Plate to the Council. The Council then wrote to the proprietor stating that the Plate would be made available to 'the trade' on a first come first served basis. The correspondence was with the proprietor only and no formal announcement or notification had been made to other proprietors in the district. The Council was then made aware of a sale that had taken place involving the vehicle and Plate.

To ensure that it had acted correctly in this matter, the Council sought external expert legal opinion, which stated that the action taken by the Council had been incorrect and that the transaction had been legal, effectively allowing the transfer of the Licence Plate to the new proprietor to take place. The Plate was then transferred to the new proprietor following this advice. No other Plate was available, or would be made available to the rest of the trade and this remains the case today.

On 5 August 2009 the applicant had attended a meeting with Mike Deacon, the Head of Environmental Services, to discuss her application. At this meeting, it was made clear that there was no other Licence Plate (for a non-wheelchair accessible vehicle) available for her or anyone else to apply for; that the statement made in the letter sent to the original proprietor of the Plate was, following legal advice, incorrect; and that the matters which led to the original suspension were being investigated and would be dealt with separately. These issues were confirmed in writing to the applicant after the meeting and she was also advised to consider whether to proceed with her application because the type of Licence she was applying for was not currently available and the matter of the accompanying fee. However, despite this advice, the applicant had confirmed her application on 6 August 2009 and requested that it should proceed.

At the Hearing, the applicant was represented by Brian Tompkins and he spoke in support of her application. He stated that the application had been submitted because the applicant had understood that a Licence Plate for a non wheelchair accessible vehicle was available to purchase at the time of the application on 3 July 2009. The application had been made in good faith after meeting Robert Rowland, Commercial Health Officer on 3 July 2009, who administered the Council's Hackney Carriage Proprietor's Licence applications.

The applicant also spoke in support of her application and answered questions from the Panel about her reasons for making the application. She stated that she thought that she had paid for a Licence and had submitted a complete application on 3 July. The Licensing Officer confirmed that the applicant had paid the standard fee for this type of Licence and that the application made on 3 July had been incomplete.

The Hearing was adjourned for a short period whilst Robert Rowland was summoned to clarify an issue before the Panel. He confirmed that he had offered advice and guidance to the applicant and that it was not within his remit to grant a Licence in this case.

The Licensing Officer requested that the Panel consider the:

- application for a Hackney Carriage Proprietor's Licence for a vehicle that did not comply with the specification for wheelchair accessibility and that no Proprietor's Licences were currently available
- Council's current policy which strictly limited the number of Hackney Carriage

Vehicles (to thirty six) which could operate without satisfying the wheelchair accessibility specification. This policy would be reviewed, together with the specification for vehicles, by the Policy and Resources Committee later this year after further guidance had been received from the Government

- applicant had been given the opportunity (at the meeting on 5 August 2009) of not proceeding with the application and incurring the costs of applying
- fees paid by the applicant and whether they should be refunded.

After considering the Officer's report and the representations made by the applicant, Brian Tompkins and Robert Rowland, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

#### **RESOLVED:**

That the application for a Hackney Carriage Proprietor's Licence be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused the application: -

"The Panel had reference to the East Northamptonshire District Council Policy for Limiting Non-wheelchair Accessible Hackney Carriages and the Department of Transport Best Practice Guidance on Disabled Accessibility for Hackney Carriages.

The reasons for refusing the application were as follows: -

The Council's current policy strictly limits the number of Hackney Carriage Vehicles that can operate without satisfying the wheelchair accessibility specification. This policy was to be reviewed, together with the specification for these vehicles, by the Council's Policy and Resources Committee in the future and after further guidance had been received from the Government.

The Council had a responsibility to work on proposals that would substantially improve Taxi provision for people with disabilities. With that in mind, the Panel saw no benefit in increasing the numbers of non-wheelchair accessible Hackney Carriage Vehicles.

The Panel was conscious that the Council had made some errors in the processing of this case but considered that there were no exceptional circumstances that would justify a departure from the existing policy.

The Panel was concerned that despite the applicant having received advice not to proceed further with the application, because there was no Licence Plate available, she chose to continue with the process and had incurred additional costs. Consequently, the Panel did not agree to a refund of the application charge."

The Chairman mentioned that the Panel's decision would be sent in writing to the applicant within 21 days and that she would also be advised about her right of appeal to the Crown Court if she did not agree with the Panel's decision.

**Chairman**

# TAXI PANEL

**Date:** 11 September 2009

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 9:30am

**Present:** Councillors: -

Brian Northall  
Andy Mercer

Anna Sauntson (Chairman)

## **PART A ITEMS**

### **1. APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor Anna Sauntson be appointed Chairman for this Hearing.

### **2. MINUTES**

The Minutes of the meetings held on 9 April and 15 June 2009 were approved and signed by the Chairman.

### **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. APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

The Licensing Officer reported on an application for the renewal of 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.

The Criminal Records Bureau disclosure revealed that the applicant had been convicted on 8 February 2001 of driving a motor vehicle with excess alcohol on 19 December 2000. He was fined £110 and disqualified from driving for 12 months. This matter had been previously

considered at a Licensing Panel Hearing on 12 July 2007, where a Hackney Carriage and Private Hire Driver's Licence was granted for two years with standard conditions.

A short term Licence was issued to the applicant on 12 July 2009 to enable him to keep working until the application had been considered by this Panel.

The applicant spoke in support of his application and answered questions from the Panel about the circumstances of the conviction.

After considering the Officer's report and the representations made by the applicant, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

**RESOLVED:**

That the application for the renewal of a Hackney Carriage and Private Hire Driver's Licence be granted for two years with standard conditions.

The Chairman read out the following statement giving the reasons why the Panel had granted the application with standard conditions: -

"The Panel had reference to the Government Guidance when making its decision and the reasons for granting the application were as follows:-

The Panel: -

- (a) noted the drink driving offence for which the applicant was convicted in February 2001 and whilst serious, considered that the conviction was sufficiently dated and therefore carried limited weight in the decision making process.
- (b) wished to emphasise the safety of the public was paramount and warned the applicant that, should he be convicted of any offence under the prescribed offences list in East Northamptonshire Council's Terms and Conditions for Hackney Carriage and Private Hire Drivers, this could result in a review of his Licence and it could be revoked.
- (c) wished to stress the importance it placed on individuals who drove members of the public, including young and vulnerable persons for a living, being fully compliant at all times with all aspects of the law."

The Chairman mentioned that the Panel's decision would be sent in writing to the applicant within 21 days and that he would also be advised about his right of appeal to the Magistrates Court if he was aggrieved with the Panel's decision.

**Chairman**

# PANEL OF THE POLICY AND RESOURCES COMMITTEE

Date: 3 November 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Glenn Harwood (Chairman)

Anna Sauntson

Andy Mercer

## PART A ITEMS

### 1. APPOINTMENT OF CHAIRMAN

#### RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

### 2. DECLARATIONS OF INTEREST

No interests were declared.

### 3. APPLICATION FOR A HOUSE TO HOUSE COLLECTIONS LICENCE – INTERSECOND LTD

The Licensing Officer reported on an application for a House to House Collections Licence made under the House to House Collections Act 1939.

The Licensing Officer reported on an application (received on 17 September 2009) to hold a house to house collection throughout the district between 9 and 14 November 2009. The applicant was Raimondas Biguzas, representing Intersecond Ltd., a clothes and footwear wholesaler based at Tilbury, Essex.

The applicant was not present at the Hearing but the Panel agreed that it should consider the application in his absence.

The application stated that an amount of the proceeds of the collections would be given to “Do Not Delay”, a breast cancer prevention programme, which was registered as a charity in Vilnius, Lithuania, under number 124013046. The charity was not registered in the UK by the Charities Commission.

Several anonymous complaints regarding unlicensed collections in East Northamptonshire had been received from the public about “Do Not Delay” over the past year, which could not be confirmed. A letter had been sent to Intersecond Ltd. on 4 June 2009 regarding the alleged unlicensed collections.

The application had not shown what had been collected or donated in previous collections within East Northamptonshire or nationally. A low percentage donation was shown on a bank statement submitted with the application. It was also not clear how much the private company (Intersecond Ltd) made when undertaking these collections.

The Panel noted that a further letter had been sent to the applicant requesting additional information but no reply had been received.

After considering the Officer's report, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

**RESOLVED:**

That the application for a House to House Collections Licence by Intersecond Ltd be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused the Licence: -

"The Applicant had chosen not to attend the Hearing and had not responded to letters requesting additional relevant information. Consequently the Panel had not been given an opportunity to ask relevant questions.

Without the required information the Panel believed that the applicant had failed to meet the requirements of Section 2(3)(f)' of the House to House Collection Act 1939 which states that *"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"*

In reaching this decision, the Panel considered that it needed the following information: -

1. Evidence of the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already applied) as it could be inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
2. Directors' remuneration, in relation to total amounts raised and total amounts donated to charity.

The Panel also had concerns that the applicant had answered "no" to question 15 on the application form which asked *"has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?"*

The Licensing Officer had advised that South Somerset and Forest Heath District Councils and Tewkesbury Borough Council had expressed doubts with similar applications from the same applicant and had subsequently refused them.

The Panel's decision would be sent in writing to the applicant within 14 days and he would be advised about his right of appeal to the Secretary of State if he was aggrieved with the Panel's decision".

**Chairman**