

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 21 March 2016

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Richard Gell
Barbara Jenney

Helen Howell

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. However, it was noted that Councillor Anna Sauntson, an original member of the Panel, had been unable to attend the Hearing and had therefore been replaced by Councillor Richard Gell.

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 2 February 2016. The Applicant had previously held a Hackney Carriage and Private Hire Driver's Licence with East Northamptonshire Council.

The DBS document dated 22 February 2016 had revealed that on 24 April 2010, the Applicant had received a caution from Northamptonshire Police for Battery under the Criminal Justice Act 1988.

At a Review Panel Hearing on 13 May 2010, the Applicant's Hackney Carriage and Private Hire Driver's Licence was revoked.

On the Applicant's recent application, question 3 asked 'Have you ever been refused a licence to drive hackney carriage or private hire vehicles, or has a licence granted to you ever been suspended or withdrawn? The Applicant had ticked 'No' and had not stated that his previous licence had been revoked. In question 2, the Applicant stated that his previous Hackney Carriage and Private Hire Licence had 'expired'.

Question 5 of the application asked 'Have you ever received a caution?' The Applicant had stated 'No'. Question 7 of the application asked 'Please give details of all convictions and cautions, no matter how old they are'. The Applicant had stated 'N/A'.

The East Northamptonshire Council Licensing Policy for Hackney Carriage and Private Hire Drivers stated that cautions would be treated as convictions for the purposes of the policy as they were admission of guilt of an offence. The Licensing Authority would consider all convictions with special attention given to offences involving assault or battery.

Where an applicant had made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence would, in the absence of a reasonable explanation, be refused. The Applicant had given no indication of any issues with his previous licence on his application.

The Panel did not ask any questions of the Licensing Enforcement Officer.

The Chairman invited the Applicant to address the Panel in support of the application.

The Applicant stated that he was possibly aware that all cautions and convictions had to be declared but he had wanted to complete his application and submit it as quickly as possible. The event which had led to his caution had been a silly event which he wished had not happened.

In response to questions from the Panel, the Applicant confirmed that he lived with his parents and was currently out of work and needed to make an income. He missed taxi driving and had enjoyed doing it previously. He explained in greater detail the circumstances which had led to his caution. He was not sure that he had filled in the application form correctly but he did not mean to give a false impression. He confirmed that he had not received any help from his prospective employer in completing the application and as five years had passed since his caution he had wanted to complete the application as quickly as possible.

The Panel adjourned at 10.15am to make a decision and re-convened at 10.55am 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
- Local Government (Miscellaneous Provisions) Act 1976
- 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 2 February 2016
- Verbal evidence given by the Applicant
- Answers given by the Applicant to questions asked by the Panel
- Enhanced DBS Report
- The report from the East Northamptonshire Council Licensing Enforcement Officer

The Panel noted on the completed application form that the applicant had stated at question 2 that he had previously held a Hackney Carriage and Private Hire Drivers Licence and that it had expired.

The Panel also noted that at question 3 the applicant had failed to declare the revocation of his combined driver licence.

At question 5 of the application form the Panel noted that the applicant stated he had not received a caution.

The Panel further noted that at question 7 which states *“please give details of all convictions and cautions **no matter how old they are.**”* The applicant had stated N/A

The Panel wish to point out that the failure to declare this offence was a very serious omission as the East Northamptonshire Licensing Policy for Hackney Carriage and Private Hire Drivers states *“that for the purpose of licensing drivers there is no such thing as a spent conviction. The Policy also states that convictions relating to driving offences committed when the applicant was driving a Hackney Carriage or Private Hire vehicle will be considered more seriously.”* Also the Licensing Authority will consider all convictions with special attention given to offences involving assault.

The Panel were able to question the applicant about the circumstances of the failure to complete the application form correctly.

The Panel accepted the applicant’s explanation as to why the form did not take due account of his previous caution and his failure to complete the form accurately. The Panel also accepted the applicant’s explanation to the events leading up to the revocation of his previous licence.

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

The Panel have 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 and ought therefore to be licensed.

The reasons for the decision are as follows:

- The length of time that has passed since the caution is sufficient that the Panel felt it was no longer relevant, commensurate with East Northamptonshire Council’s Licensing Policy.
- The Panel noted that there had been no convictions for non-motoring offences for a period 6 years.

The Panel would remind the applicant of the importance attached to the East Northamptonshire Licensing Policy governing Hackney Carriage and Private Hire Drivers Licence

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