

LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 24 April 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00 am

Present: Councillors: Tony Boto
Peter Wathen
Pam Whiting

Also present:

Frank Harrison
(Health Protection Manager)

Mr D Wheatley

Mr R Bradberry

Mrs J Ward

Mrs J Bates

Mr G Calder (also representing Ms J Livingstone, Mr M Simpson and Ms D Davenport)

Ruksana Munir

Louise Tyers

Representing

East Northamptonshire Council

Representing Easton on the Hill Cricket Club Committee (Applicant)

Resident of Easton on the Hill

Resident of Easton on the Hill

Resident of Easton on the Hill

Resident of Easton on the Hill

Legal Advisor to the Panel

Clerk to the Panel

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Tony Boto be appointed Chairman of the Panel for this hearing.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made.

4. APPLICATION FOR A PREMISES LICENCE FOR THE EASTON ON THE HILL CRICKET CLUB PAVILION, KETTON DRIFT, EASTON ON THE HILL, PE9 3LY

The Health Protection Manager reported on an application for a new Premises Licence for the Easton on the Hill Cricket Club Pavilion, Ketton Drift, Easton on the Hill under the

Licensing Act 2003. The application had been received on 10 March 2017 and the appropriate notices had been displayed and advertisements placed as required.

The matters for which a premises licence was sought were:

Provision of Recorded Music

Monday to Sunday 11:00 – 00:00 (Both indoors and outdoors)

Supply of Alcohol

Monday to Sunday 11:00 – 00:00 (The sale of alcohol would be for consumption on and off the premises.)

Additional timings for the supply of alcohol to include:

New Year's Eve 11:00 – 01:00

The Saturday and Sundays of the May and August Bank Holiday weekends 11:00 – 01:00

Opening Hours

Monday to Sunday 11:00 – 00:30

Additional timings to remain open include:

New Year's Eve 11:00 – 01:30

The Saturday and Sundays of the May and August Bank Holiday weekends 11:00 – 01:00

A number of representations had been received from members of the public both objecting to and supporting the application for a Premises Licence.

Following negotiations with the Police Licensing Officer, the applicant had now agreed to add conditions to their application, in addition to those originally submitted as part of the application.

Questions to the Health Protection Manager

In response to questions from the Panel, Mr Harrison explained the map which had been included within the papers and which highlighted the Pavilion and where it was located in relation to the village. He confirmed that access to the Pavilion was via a bridleway which was used for vehicular access.

Evidence from the Applicant

Mr David Wheatley attended the hearing and spoke on behalf of the Applicant. Mr Wheatley advised that he had been Chairman of the cricket club since September 2016. Prior to that he had no association with the club but he had previous experience of cricket club administration. On becoming Chairman, Mr Wheatley advised that he had become aware that the club had no formal structures in place including not having a committee or constitution and no formal agreement with the Parish Council to use the playing field. The club owned the pavilion but the playing field was administered by the Parish Council. He had thought that the existing licence was adequate for the club's needs but following a complaint to the Council's Licensing Enforcement Officer in late 2016, it had become apparent that the licence was inadequate. He therefore proceeded to make the application the Panel was considering today. The club had the support of a designated premises supervisor who lived close to the pavilion. He stated that this licence was needed to ensure the future sustainability of the club. The club needed around £4-5,000 each year to run, not including capital costs. The players did make a contribution to costs but there was currently only 18 players registered. The club wished to sell alcohol and rent out the pavilion for occasional events but no more than 6-10 events a year.

Questions to the Applicant

In response to questions from the Panel, Mr Wheatley explained that they had applied for the opening hours to midnight on advice from the Licensing Enforcement Officer, who had advised that if the club wanted to open late or rent out the building outside of their current licence, then they would need to apply for additional licences each time, which could be an administrative burden. It was not the club's intention to have somebody on site all day and the hours of opening would be limited. The club was looking for flexibility and would only be open when members were on site playing, training or coaching. This would usually be at the weekends but there may be the occasional mid-week game. A licence for the sale of alcohol for consumption on and off the premises was being requested so people could sit outside and have a drink whilst watching a game.

Mr Wheatley confirmed that a formal agreement with the Parish Council was being put in place and was expected to cover a full range of events. The site was a large area which did not preclude the public using it even while cricket matches were taking place. With regards to the access, Mr Wheatley understood that the current access via Ketton Drift had been used as an access route for a long time; however the status of the road needed to be clarified. Mr Wheatley confirmed that the main door to the pavilion was a double door which was locked and there was also a fire exit which could not be opened from the outside.

Mr Wheatley clarified that the Club was only looking for a licence for recorded music to be played indoors and not for outdoors.

In response to a question from Mr Harrison, Mr Wheatley confirmed that it was not the intention of the club to leave alcohol on site.

Evidence from other Representatives

Mr G Calder

Mr Calder attended the hearing and spoke as a resident of Easton on the Hill. He had no personal connection to the club and had been asked to represent the views of a number of people. The club had been struggling to develop players from the village and surrounding villages but since Mr Wheatley had become Chairman, the club was now trying to flourish again but it needed to be an attractive venue to watch sports and socialise and encourage young people in the village to get involved in sport. He was certain that the licence would be used responsibly to support the village.

Mr R Bradberry

Mr Bradberry attended the hearing and spoke as a resident of Easton on the Hill. He had concerns about ensuring that there was proper training for staff in regards to alcohol and drugs. He was particularly worried if the club sub-let the premises to other teams and the designated premises supervisor would not be present and suggested that the licence should just be for Easton on the Hill Cricket Club. He requested that the Panel consider shorter hours as the proposed hours were long for a cricket club. Villagers had not been made aware of the request for music in the club's advertisement. The club had stated that the sale of alcohol was essential but not all other clubs in the area felt it was necessary to sell it. It was a playing field not a sports complex.

Mrs J Ward

Mrs Ward attended the hearing and spoke as a resident of Easton on the Hill. The playing field had been given to the parish to benefit children and the village. The parish owned the

field but the Parish Council was responsible for its upkeep. The club had broken the conditions of their previous licence when, after being advised that they did not hold the appropriate licence, they still went ahead and held a function. Mrs Ward was concerned that young people would not be allowed to go to the field if alcohol was being sold as adults under the influence could be intimidating. Why was it necessary to sell alcohol when children were playing nearby? The field was for all of the village and not just the cricket club. She had contacted a car insurance company who had advised that if a vehicle was driving on a bridleway then it would not be covered by insurance. A licenced bar would generate more traffic which would be a danger to people walking.

In response to questions from the Panel, Mrs Ward advised that the deed for the land could not be found but it had been gifted for the benefit of the parish but was not owned by the Parish Council who only administered the land.

Mrs J Bates

Mrs Bates attended the hearing and spoke as a resident of Easton on the Hill. She stated that genuine letters of objection had been submitted against the application but the majority of the letters in support were copies of the same letter. The field was enjoyed by many people and all would be affected by the proposed hours. Mrs Bates believed that the current licence was adequate. How would the licensing objectives be policed by the club?

Final Statements

Mr Wheatley, Mr Calder, Mr Bradberry, Mrs Ward and Mrs Bates were all provided with an opportunity to sum up their case.

Mr D Wheatley

Mr Wheatley confirmed that the cricket club was happy for the training of staff to be a condition on the licence. He advised that the village pub, which played live music, was closer to the houses than the pavilion. The cricket club did not pay rent on the pavilion but it paid its own bills and cut the playing field in the summer. Whilst over 100 of the same letter had been sent in in support of the application, they had all been individually signed.

In response to a question from the Panel, Mr Wheatley confirmed that out of all the letters submitted in support of the application; approximately 20 were from club members. The club would be looking at possibly introducing a social membership but that would likely be limited to the village. The rest of the letters had predominantly been from residents of the village.

Mr G Calder

Mr Calder advised that the Government had encouraged villages to develop village plans and in the plan for Easton on the Hill, there was a section on recreation and leisure. In a survey of the village and in focus groups, there had been overwhelming support in developing the playing field and creating an asset. The cricket club was doing a lot of work and it was the wish of the villages to reinvigorate the playing field.

At 11.00am the Panel adjourned to make their decision.

The Panel reconvened at 11.58am to announce their decision.

RESOLVED:

The Licensing Panel has considered this application for a new Premises Licence for Easton on the Hill Cricket Club, Ketton Drift, Easton on the Hill; and has taken into account the Health Protection Manager's report and all relevant representations and documents submitted.

After careful deliberation and consideration of the Licensing Objectives, ENC's Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003, the Panel has reached a decision.

The Panel has unanimously decided to grant the Premises Licence as follows:

Provision of Recorded Music

Monday to Sunday from 11.00 hours to 00.00 hours. (Indoors only)

Supply of Alcohol

Monday to Sunday from 11.00 hours to 00.00 hours. (The sale of alcohol will be for consumption on and off the premises)

New Years Eve – 11.00 to 01.00 hours.

Opening Hours

Monday to Sunday from 11.00 hours to 00.30 hours.

Additional timings to remain open

The Saturday and Sundays of the May and August Bank Holiday weekends 11:00- 01.30 hours

The Panel have also decided to add the following conditions to the Licence as follows:

All staff involved in the retail of alcohol will be trained in relation to the law regarding its sale. This training must be completed prior to them being authorised to sell alcohol and refreshed every 12 months as a minimum. A record of this training must be kept and maintained with a copy of the syllabus attached. The recipient of the training must sign to state that they have received and understood the training and this should be dated. Training records must be kept on the premises at all times and made available to an officer from a responsible authority upon reasonable request.

Signs will be displayed at the exit points of the venue requesting that customers respect local residents by leaving and dispersing from the premises and immediate area quietly.

The premises will operate and adhere to an age verification scheme with the minimum standard of Challenge 21. Signs advertising the policy must be displayed in all areas where alcohol is for sale.

No persons under the age of 18 will be allowed to enter or remain on the premises after 22.00 unless for the purposes of attendance at a pre-booked private function and in which case under the supervision of a person aged no less than 21-year-old.

The reasons for this decision are as follows:-

1. The Panel noted that the Applicant had liaised with the Police Licensing Officer and had accepted the additional conditions to those originally submitted as part of the application. The Panel were reassured that this showed a responsible approach by the Applicant.

2. For avoidance of any confusion the Panel removed the figure 16 from the fourth paragraph of the additional conditions.
3. The Applicant accepted that the provision of Recorded Music both indoors and outdoors on his application was an error on his part and he confirmed to the Panel that this should be restricted to indoor recorded music only. The Panel noted this as a condition.

The Panel received legal advice in terms of:

1. The Licensing Objectives
2. The options available to the Panel – Under the Licensing Act 2003
3. The legal test to be applied
4. Section 182 Guidance.

The Panel considered the representations of the objectors. The Panel would like to state that the decision made is commensurate with the licensing objectives which, in their view, are proportionate and relevant.

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 receiving the Decision Notification letter.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 15 June 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Glenvil Greenwood-Smith
Barbara Jenney

Helen Howell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenvil Greenwood-Smith 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 PRIVATE HIRE OPERATOR LICENCE, PRIVATE HIRE VEHICLE LICENCE AND HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

(The Licence Holder was present at the Hearing)

The Licensing Enforcement Officer (LEO) presented a report which requested the Licensing Panel to consider the Private Hire Operator's Licence, Private Hire Vehicle Licence and the Hackney Carriage/Private Hire Driver's Licence of the Licence Holder following an investigation by East Northamptonshire Council.

A complaint had been made by a member of the public in October 2013, concerning the aggressive driving behaviour of the Licence Holder. The Licence Holder was subsequently interviewed by the LEO and the matter was not taken any further but the Licence Holder was

sent a letter.

In March 2016, the Licence Holder was again interviewed regarding an offence that had occurred at Wellingborough Train Station, when the Licence Holder had asked an East Northamptonshire Council Officer if she and her partner had wanted a taxi. The Private Hire Operators/Drivers/Private Hire Vehicles Terms and Conditions at the time stated at 2.5 *The licensed driver of a Private Hire Vehicle shall not ply the street for hire nor shall he or she use Hackney Carriage stands.* Eight points were issued to the Licence Holder for 'driver of a private hire vehicle plying the streets for hire'.

In December 2016, a complaint concerning the Licence Holder was received from Clopton Garage, where a number of issues had been raised with the Licence Holder's vehicle including rust to the bodywork, no driver check lists, no registration written on fire extinguisher or first aid kit. The Hackney Carriage/Private Hire Drivers Licence Conditions stated at 2.2 *The driver shall not at any time behave in an abusive, aggressive or threatening manner to any passenger, officer of the Council or contracted garage personnel.*

In April 2017, at the request of the LEO, the Licence Holder brought the vehicle to East Northamptonshire Council before the issuing of the renewal of the vehicle licence. The Licence Holder was warned about his aggressive behaviour and he was reminded that it was not the job of our garages to teach drivers the East Northamptonshire Council policy and conditions. The vehicle licence was issued.

In May 2017, a complaint was received from a member of the public about a booking that had not been fulfilled. The complainant had made the booking with the Licence Holder on the grounds that it was a local company and they wished to support local business. An internet search of the company had given an Irthlingborough address. Following the complaint, the LEO had visited the licensed operator address to speak with the Licence Holder and found it to be an Off Licence. There was no indication of any private hire business being run from the premises and there were no records, no public liability insurance displayed and no telephone for the private hire business at the premises. The owner of the shop told the LEO that he was not aware that the Licence Holder was still using his business address for his Operator's Licence after he had allowed him to use it for two weeks in early 2015. A close family friend of the shop owner was also present during the conversation to assist with translation.

The Licence Holder was interviewed under Caution in May 2017. He admitted that he did not use the Irthlingborough address as his operating base and admitted to using his home telephone number in Wellingborough which diverted to his mobile telephone. The Private Hire Operators Conditions that were in place when the Licence Holder changed his operator's licence address stated at 3.6 *The Operator will ensure that the Private Hire Bookings Register and the Private Hire Vehicles Register are available at all reasonable times for inspection by an Authorised Officer of the Council at an address within the District of East Northamptonshire which is notified in writing to the Chief Environmental Health Officer.* There had been a clear breach of this condition. It was the view of the LEO that the Licence Holder had deliberately sought to seek commercial gain by lying to obtain his Private Hire Operator's Licence.

At the request of the LEO, the Licence Holder had brought his bookings records to the interview under Caution. The records were in an A5 diary but were not adequate in relation to the Operator's Licence Conditions. The Operator's Licence Conditions stated clearly at 4.3 that the details needed to be recorded for each booking. The Licence Holder admitted to keeping his records at home in Wellingborough where he also took bookings. The Operator's Licence Conditions that came into force in September 2016 stated at 2.1 *The*

Operator must only conduct business from the Office at the address specified on the Licence.

2.2 The Operator must not cause or permit the business premises to be used by any other person(s) for any other purpose than that connected with the conduct or operation of the private hire business. This condition will not apply if the business premises is the residential address of the licensed operator.

2.3 The Operator must not conduct his business, nor employ or utilise any person to conduct his business in any premises, the use of which have not been approved by the Council.

The Licence Holder admitted to not having any public liability insurance. The Operators Licence Conditions stated at 4.13 *The Operator must ensure that Public Liability Insurance is in force throughout the validity of the licence for each and every operating base open to the public to a minimum cover of £5 million. Certification must be produced on demand to the Licensing Officer or any Authorised Officer.* There had been a clear breach of this condition.

The Licence Holder stated in the Interview under Caution that unnamed officers from East Northamptonshire Council had given him permission to run his business from his Wellingborough address. The Taxi Administrator for East Northamptonshire Council had given a witness statement stating that she would not have given permission for this, as it was against our policy.

Questions to the Licensing Enforcement Officer

In response to questions from the Panel, the LEO confirmed that after the lack of daily check sheets had been raised by Clopton Garage, no penalty points had been given to the Licence Holder but he was given a warning.

The Licence Holder had no questions for the Licensing Enforcement Officer.

The Chairman invited the Licence Holder to address the Panel in support of his licences.

The Licence Holder advised that he had made a number of complaints against Clopton Garage about their behaviour towards him and about how his MOT had been undertaken. He had also made complaints about the Licensing Department at ENC. He felt that the LEO did not like him, but he was a friendly person who was liked by his customers. He could not understand why the LEO was saying that he was a threat to East Northamptonshire just because he had failed the MOT due to the lack of a fire extinguisher and a sticker. When he had visited the Council, the LEO had been aggressive towards him but he had not been aggressive when he had brought his vehicle to ENC.

In relation to the complaint that he had tried to pick up a fare at Wellingborough Train Station, he stated that he had a fare pre-booked and he had only asked the couple if they had booked a taxi and they had said no. He was then accused of trying to pick them up.

The Licence Holder stated that when he moved to Wellingborough, he had come to the Council's offices and had asked for some advice. He was told that to hold an Operator's Licence he would have to operate from East Northamptonshire. With regards to the address in Irthlingborough, he confirmed that he had asked the shop owner if he could use the address and told him that he would not get many letters. The shop owner told him that this would not be a problem. The shop owner was very upset after the LEO's visit and had then told him that he would have to work from somewhere else. The Council had also told him that just using a telephone for his business would not be a problem. He stated that he had showed his passport to the LEO to prove that he had not been in the country at the time of the unfulfilled booking. He stated that he had reimbursed the complainant and he showed the Panel a copy of a receipt and letter explaining his version of events.

He stated that he was very upset at being told he had been lying to the Council as he was not a liar.

Questions to the Licence Holder

In response to questions from the LEO, the Licence Holder stated that the shop owner felt he had had to give a statement as she had put pressure on him by telling him it was his licence or the Licence Holder's licence. He stated that he had done nothing wrong and the advice he had been given by ENC was that using any address in East Northamptonshire was satisfactory. In response to the allegations made by the Licence Holder that the shop owner had been pressurised into giving a statement, the LEO confirmed that the shop owner had been happy to talk to her. The Senior Environmental Health Officer had also been present and could corroborate that no pressure had been applied.

After being requested to give the name of the officer who had given him the advice, he stated that it was the Council's Taxi Administrator. In response, the LEO highlighted a witness statement given by the Administrator, where she stated that she had not given advice to the Licence Holder.

The LEO asked the Licence Holder if he had received the letters about the consultation on the new policy and conditions which had been sent to all operators and drivers, and the same when the new conditions had been issued. The Licence Holder advised that he could have received the letters but he may not have read them, which was his mistake. The Licence Holder stated that he had read the policy in 2009 when he had got his licence but had probably not read it recently.

In response to questions from the Panel, the Licence Holder stated that he did not have a booking for the unfulfilled job. He stated that he was not in the country at the time but the customer was claiming that someone had answered his telephone and took a booking. He had left his telephone with a friend for emergencies only and his friend said that he did not take a booking. The vehicle had been kept in a garage in Wellingborough whilst he was out of the country and it had not been used. As to why he had reimbursed the complainant if he did not have a booking from her, the Licence Holder responded by saying that he knew the customer and her son and as she said that she had made a booking he just wanted to end the situation. The Licence Holder confirmed that he was a small business with only one car and he got business through word of mouth and recommendations. When asked whether he felt that the people complaining about his aggression were actually the aggressors, the Licence Holder responded by saying he did not know but he was not an aggressive person. The Licence Holder stated that he did have car insurance and public liability insurance for his vehicle but he did not have public liability insurance at the Irthlingborough address as he did not operate his business from there and it was an address just to receive mail. The LEO confirmed that public liability insurance should have been on the premises in Irthlingborough as that was his registered operators address. With regards to the incident at Wellingborough Train Station, the Licence Holder confirmed that when he approached the couple he had only asked if they had booked a taxi and not if they had wanted one.

The Licence Holder had also been asked to bring to the hearing copies of the receipt from the complainant for the reimbursement and three years of booking records. The Licence Holder had also brought a letter which gave his side of the story about the complaint. The Chairman of the Panel stated that the entries appeared to be made in the same ink and handwriting and he believed that they may have been constructed historically. This was refuted by the Licence Holder who advised that all entries had been written when the booking had been taken. The Licence Holder confirmed that he understood his responsibilities as an operator and driver. He had been asked to bring three years of

booking records but could only supply 1 ½ years as he had moved house and could not find all of the records.

The Chairman then invited the Licence Holder to make a final statement to the Panel in support of his licences.

The Licence Holder stated that he was sorry if he had upset anybody here today but no one had complained about him in Irthlingborough. He accepted that he had made genuine mistakes and asked for another chance.

The Panel adjourned at 10.55am to make a decision and re-convened at 12.07pm.

RESOLVED

The Panel has carefully considered the report by East Northamptonshire Council's Licensing Enforcement Officer to determine the fitness of the licence holder.

In reaching its decision, the Panel had regard to:

- 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)
- The report from the East Northamptonshire Council's Licensing Enforcement Officer

The Panel has unanimously reached the decision that, on a balance of probability, the Licence Holder is not a fit and proper person to continue to hold a Private Hire Operators Licence.

The Panel have, therefore, decided to revoke the applicant's operator's licence with immediate effect.

The reasons for this decision are:-

- The Panel noted that the Private Hire Operator's Licence is deemed to be invalid as Easy Cars do not have a base in the East Northamptonshire Council district from which to trade, this is a requirement of East Northamptonshire Council's policy.
- The Licence Holder admitted to not having any public liability insurance and admitted to keeping the records at home, in Wellingborough. The records produced at the hearing were not comprehensive and did not cover a period of three years as required by ENC's policy.

The Panel has unanimously reached the decision that, on a balance of probability, the Licence Holder is not a fit and proper person to continue being licenced as a Private Hire Driver.

The reasons for this decision are:-

From the representations made today the Panel have taken into consideration the following factors.

- The Panel noted serious inconsistencies between the Licence Holders statement during his PACE interview and his narrative at the hearing

today, which the Panel felt cast a shadow of doubt over the Licence Holders' integrity and honesty.

- The Panel are satisfied that the Licence Holder attempted to mislead East Northamptonshire Council during the application process and with the administration of the Licence throughout its duration.

On a balance of probability the Panel were satisfied that incidences of aggressive behaviour had taken place between October 2013 to present as specified in the Licensing Enforcement Officer's report to the Panel.

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