

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 12 August 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Richard Gell
Andy Mercer
Gill Mercer

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Andy Mercer 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 on 27 March 2019, an application had been received for a Hackney Carriage and Private Hire Driver's Licence. As the applicant had a number of previous convictions, the application was required to be considered by a Panel.

Having heard from the Applicant and carefully considered all of the information available, the Panel **RESOLVED** that:

The Panel has carefully considered the report by East Northamptonshire Council's Licensing Enforcement Officer to determine the fitness of the Applicant to hold a Hackney Carriage and Private Hire Drivers Licence.

In reaching its decision, the Panel had regard to:

- The report from the East Northamptonshire Council's Licensing Enforcement Officer
- The application form for Hackney Carriage/Private Hire Driver's Licence
- DVLA Licence Summary
- Supplementary Information on Criminal Records
- Local Government (Miscellaneous Provisions) Act 1976
- ENC Criminal Records Policy
- ENC Taxi Licensing Policy
- Verbal evidence from the applicant
- Verbal evidence from the Licensing Enforcement Officer
- Legal advice from the ENC's legal officer

The Panel have carefully considered the representations made by all Parties and also gave due regard to all of the above documents in reaching its decision.

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 Panel has therefore decided to grant the licence.

The reasons for this decision are the Panel considered ENC's Criminal Records Policy in particular Section 8.0.1, Section 8.0.2, Section 9.0.2 and Section 17.01.

- Section 8.0.1 clearly states "*A hackney carriage/private hire driver is expected to be trustworthy. During the course of their working duties they will deal with cash transactions and valuable property may be left in their vehicles. For these reasons, a serious view is taken of any conviction involving dishonestly*".
- At Section 8.0.2 the policy states '*In general, a minimum period of 5 years free of conviction or at least 5 years must have passed since the completion of sentence (whichever is longer) before granting a licence. Offences involving dishonestly include;*
 - *Theft*
 - *Or any similar offences (including attempted or conspiracy to commit) offences which replace the above*
- At Section 9.0.9 the policy states '*A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs and whether for personal use or supply will be considered carefully*'.
- In the summary of Section 17.0.1 it states "*in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (the period of time depending on the crime committed)*".

The Panel noted that the applicant has been free of any further convictions since 1995, except for a speeding offence in 2007.

The Panel also asked themselves the question "would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?" The answer to this was yes.

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: 22 August 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

**Glenvil Greenwood-Smith
Helen Howell
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.

3. CHARACTER WITNESS FOR THE APPLICANT

At the invitation of the Chairman, a witness to the character of the Applicant addressed the meeting.

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 PRIVATE HIRE OPERATOR'S LICENCE

(The Applicant was present at the Hearing)

The Licensing Enforcement Officer reported that on 20 May 2019, an application had been received for a Private Hire Operator's Licence. As the Applicant had previously been deemed not fit and proper, the application was required to be considered by a Panel.

Having heard from the Applicant and carefully considered all of the information
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available, the Panel **RESOLVED** that:

The Panel has carefully considered the report by East Northamptonshire Council's Licensing Enforcement Officer to determine the fitness of the Applicant to hold a Private Hire Operators Licence.

In reaching its decision, the Panel had regard to:

- The report from the East Northamptonshire Council's Licensing Enforcement Officer
- The application form for a Private Hire Operator's Licence
- Decision notice dated 18 January 2016
- ENC Taxi Licensing Policy
- Verbal evidence from the applicant.
- Character reference
- Verbal evidence from the Licensing Enforcement Officer
- Local Government (Miscellaneous Provisions) Act 1976
- Legal advice from the ENC's legal officer

The Panel have carefully considered the representations made by all Parties and also gave due regard to all of the above documents in reaching its decision.

The Panel have decided unanimously that the Applicant is not, on a balance of probability, a fit and proper person to be licenced to hold a Private Hire Operators Licence and ought therefore not to be licensed. The Panel has therefore decided not to grant the licence.

The reasons for this decision are the Panel considered ENC's Taxi Licensing Policy in particular Section 4.5.1, Section 4.5.5, and Section 11.3.1.

- Section 4.5.1 clearly states *'Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that all applicants and licence holders are and remain fit and proper to hold a licence. There is no legal definition of what constitutes a fit and proper person for the purposes of taxi licensing. However, taxi panel members must be satisfied that based on the information provided to them that the applicant or licence holder is suitable to hold a licence and that in holding the licence the public will be safe with that individual'*.
- At Section 4.5.5. of the policy the Panel considered the following factors when determining if the applicant is a fit and proper person.
 - *Criminality – through the Disclosure Barring Service checks*
 - *Standard of driving/driving ability*
 - *General conduct/standards of behaviour*
 - *The conduct of the applicant in making their application – have they been honest and acted with integrity throughout the application process*
 - *Previous licensing history of existing or former licence holders – within this authority or at other licensing authorities*
 - *Knowledge and understanding of requirements of a licensed driver*
- At Section 11.3.1 (Fitness and Propriety) the policy states *'Applications will only be granted where the council is satisfied that the applicant is a fit and proper person to hold a licence. In order to determine the applicant's fitness the consideration will included but not limited to the following:*
 - *Criminal record (including convictions, cautions, warnings and reprimands),*

- *Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity,*
- *Previous conduct (particularly in cases where the applicant holds or has previously held a licence issued by East Northamptonshire Council),*
- *Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.)'*

The reasons for the decision are as follows:

1. The Applicant's dishonesty, in so far as, not completing the application form accurately.
2. Failure by the Applicant to disclose the convictions and also any penalty points.
3. Evidence of blatant disregard for the law and ENC's Licensing Policy.
4. The Panel were of the view that the Applicant was evasive in his responses to questions posed by the Panel.
5. Following the decision reached at the Panel Hearing held on 18 January 2016, this Panel could not detect any improvement in the Applicant's approach, and thereby failed to demonstrate any regard to the reasons outlined in that decision notice. The Panel had grave concerns that the Applicant continues to show total disregard for the law, ENC's Policies and Procedures.

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