

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 23 September 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Richard Gell
Barbara Jenney
Geoff Shacklock

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Geoff Shacklock 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 LICENCE

(The Applicant was present at the Hearing)

The Licensing Enforcement Officer reported that on 21 August 2019, an application had been received for a Hackney Carriage and Private Hire Driver's Licence. As the Applicant had a previous conviction, 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 ENC's Licensing Enforcement Officer
- Legal advice from the ENC's legal officer

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

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 also considered the Police's response to the Licensing Authority.

The Panel noted that at Section 7 of the application form where asked '*Please give details of all convictions and cautions no matter how old they are*' the applicant had not entered any information. The Applicant's DBS certificate showed details of a conviction. The Applicant had telephoned the Licensing enforcement Officer to say that he had received his DBS and there was a conviction on it.

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 licenced. 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 8.0.3, and Section 11.0.2. The Panel also considered the following key sections ENC's Taxi Licensing Policy:

- 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 dishonesty*".
- At Section 8.0.3 the policy states '*Any applicant or existing licence holder that is found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence*'.
- At Section 11.02 the policy states '*Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court rather than a fixed penalty), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least one year free of such convictions*'.
- At Section 4.5.1.it 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'.

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.

Having considered these key provisions the Panel were satisfied that the Applicant is a fit and proper person within the scope of the Licensing Policy.

The Panel would remind the Applicant that being a Taxi Driver is a highly responsible position and therefore, they wish to emphasise the importance of the East Northamptonshire Licensing Policy governing Hackney Carriage and Private Hire Drivers Licence. Further, the Panel would like to warn the applicant that any future breaches of the policy or misconduct would not be looked upon favourably and may result in the licence being suspended or 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

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 16 October 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Richard Gell
Helen Howell
Colin Wright

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Helen Howell be appointed Chairman of the Panel for the Hearing.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

Councillors Helen Howell and Colin Wright both declared that Councillor Nick Beck, who was accompanying the applicant, was known to them both.

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 LICENCE

(The Applicant was present at the Hearing)

The Licensing Enforcement Officer reported that on 6 September 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:

Agenda Item 8 a) iii)

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 East Northamptonshire Council's Licensing Enforcement Officer
- The application form for a Hackney Carriage/Private Hire Driver's Licence
- 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 ENC's Licensing Enforcement Officer
- Legal advice from the ENC's legal officer

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

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 noted that at Section 7 of the application form where asked '*Please give details of all convictions and cautions no matter how old they are*' the applicant had not entered all relevant information. The Applicant's DBS certificate showed details of the convictions. The Panel asked questions in relation to this item and others and felt that the Applicant answered the questions satisfactorily.

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 6.0.1, Section 8.0.1, and Section 9.0.3. The Panel also considered ENC's Taxi Licensing Policy in particular Section 4.5.1. and Section 4.5.2. The Panel noted that the applicant has been free of any further convictions since 1999.

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.

Having considered these key provisions the Panel were satisfied that the Applicant is a fit and proper person within the scope of the Licensing Policy.

The Panel would remind the Applicant that being a Taxi Driver is a highly responsible position and therefore, they wish to emphasise the importance of the East Northamptonshire Licensing Policy governing Hackney Carriage and Private Hire Drivers Licence. Further, the Panel would like to warn the applicant that any future breaches of the policy or misconduct would not be looked upon favourably and may result in the licence being suspended or revoked.

Agenda Item 8 a) iii)

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: 11 November 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00am

Present: Councillors: -

Helen Howell
Geoff Shacklock
Colin Wright

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Helen Howell be appointed Chairman of the Panel for the Hearing.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

No declarations of interest were made.

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 LICENCE

(The Applicant was present at the Hearing)

The Licensing Enforcement Officer reported that on 26 June 2019, an application had been received for a Hackney Carriage and Private Hire Driver's Licence. As the Applicant had received a previous caution, 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 East Northamptonshire Council's Licensing Enforcement Officer
- The application form for Hackney Carriage/Private Hire Driver's Licence
- 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 ENC's Licensing Enforcement Officer
- Legal advice from the ENC's legal officer

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

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 noted that at Section 4 of the application form where asked "*Have you ever received any Fixed Penalty Notices? If 'Yes', please give full details*", the Applicant wrote 'over 5 years ago', but did not give any indication of the offence. The Panel also noted that at Section 5 of the application form, where asked '*have you ever received a caution? If 'Yes', please give full details*': The applicant had written '4 June 2003 – Affray – Warwickshire Police'.

The Applicant's DBS certificate showed details of the caution. The Panel asked questions in relation to this item and others and felt that the Applicant answered the questions satisfactorily.

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 licenced. 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 6.0.1 and Section 6.0.3. The Panel also considered ENC's Taxi Licensing Policy in particular Section 4.5.1. and Section 4.5.2. The Panel noted that the applicant has been free of any further convictions since 2003.

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.

Having considered these key provisions the Panel were satisfied that the Applicant is a fit and proper person within the scope of the Licensing Policy.

The Panel would remind the Applicant that being a Taxi Driver is a highly responsible position and therefore, they wish to emphasise the importance of the East Northamptonshire Licensing Policy governing Hackney Carriage and Private Hire Drivers Licence. Further, the Panel would like to warn the applicant that any future breaches of the policy or misconduct would not be looked upon favourably and may result in the licence being suspended or 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

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 25 November 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.10am

Present: Councillors: -

Glenvil Greenwood-Smith
Helen Howell
Barbara Jenney

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 declarations of interest were made.

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 paragraph 1 of Schedule 12A of the Local Government Act 1972, may be disclosed.

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

(The Licence Holder was present at the Hearing)

The Licensing Enforcement Officer reported that she had a number of concerns regarding the fitness and propriety of the Licence Holder as a Hackney Carriage and Private Hire Driver. The Licence Holder had previously held an Operator's Licence which had now been surrendered.

Having heard from the Licence Holder 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 and propriety of the licence holder.

In reaching its decision, the Panel had regard to:

- The report from the East Northamptonshire Council's Licensing Enforcement Officer
- Local Government (Miscellaneous Provisions) Act 1976
- ENC Taxi Licensing Policy
- Verbal evidence from the Licence Holder
- Verbal evidence from ENC's Licensing Enforcement Officer
- Legal advice from the ENC's legal officer

The Panel have considered the issues raised in respect to the Licence Holders previous Operators Licence which have an automatic impact on any Licence he holds with ENC. Any breach of the policies is taken very seriously by the Panel. The Panel felt that the Licence Holder's conduct and behaviour as an Operator fell far below the standards required and has summarily called into question his suitability to hold a licence as a driver. However, the Panel accept that the issues raised were in respect to the Licence Holder's Operators Licence and not his personal Hackney Carriage and Private Hire Driver Licence.

The Panel has reached a unanimous decision that, on a balance of probability, the Licence Holder is considered to be a fit and proper person to continue being licensed as a Hackney Carriage and Private Hire Driver. The Panel do so on the basis of the Licence Holder's previous history as a Hackney Carriage and Private Hire Driver.

The reason for this decision is:-

- "When assessing applications it is generally accepted that a suitable test to consider whether an individual is a fit and proper person by effectively asking the following 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?"

In reaching this decision, the Panel have taken into consideration the Licence Holder's explanation.

The Panel would remind the Licence Holder that being a Taxi Driver is a highly responsible position and therefore, they wish to emphasise the importance of the East Northamptonshire Licensing Policy governing Hackney Carriage and Private Hire Drivers Licence. Further, the Panel would like to warn the Licence Holder that any breaches of ENC's Licensing Policies or misconduct may result in the licence being suspended or revoked.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Licence Holder 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