

TAXI PANEL

Date: 27 November 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 2:00pm

Present: Councillors: -

Albert Campbell
Richard Gell

Andy Mercer (Chairman)

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Andy Mercer be appointed Chairman for this Hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. MINUTES

The Minutes of the meeting held on 30 September 2009 were approved (up to Minute 4(a) only) and signed by the Chairman.

(Note: Minute 4(b) would need to be signed by Councillor Northall (who had been appointed Chairman for that item only) at a future meeting of the Taxi Panel.)

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 NEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Licensing Officer reported on an application for a new 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 and the DVLA Data Subject Report had revealed no offences. However, the applicant had admitted three offences of driving without insurance on the application form, which had not shown up on the DVLA Report. Members requested that letter be sent to the DVLA for an explanation as to why the offences had not appeared on the applicant's DVLA Report.

The applicant spoke in support of his application and answered questions from the Panel about the circumstances of the offences. He explained that he had been caught driving without insurance on three occasions in 2003 and 2004, when he was younger and less responsible. He had not offended since then and confirmed that he had had a full DVLA driving licence since 2002.

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 a new 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 had granted the application for the following reasons: -

The Panel:

1. Noted the three convictions for driving without insurance. However, whilst concerned, the Panel considered that they had occurred some time ago and there had been no subsequent convictions since 2004.
2. Wished to emphasise that the safety of the public was paramount and warned the applicant that should he be convicted of any offence under the prescribed offences list of East Northamptonshire Council's Terms and Conditions for Hackney Carriage and Private Hire Drivers, it could result in his Licence being revoked.
3. Wished to stress the importance it placed on individuals who drove members of the public for a living being fully compliant at all times with all aspects of the law.

The Panel appreciated the applicant being candid in his responses to their questions. It also noted that he had expressed regret for those actions resulting in the convictions."

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

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 29 June 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Glenn Harwood (Chairman)
Peter MacGovern

Brian Northall

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 8 June 2010 were approved and signed by the Chairman.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. ITEM BROUGHT FORWARD

The Panel agreed to bring forward the application for a Hackney Carriage and Private Hire Driver's Licence item on the agenda because the applicant was in attendance.

5. 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.

6. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

Further to Minute 5 of the Panel meeting held on 8 June 2010, the Licensing Officer reported on an application for 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 of three counts of criminal damage on 7 April 1986. He was given a conditional discharge of 12 months and had to pay compensation of £50, £6 and £40 respectively.

Members noted that the applicant had not provided any information about his conviction under question 8 of the application form.

The applicant spoke in support of his application and explained the circumstances of the offences to the Panel and apologised for not putting them on the application form. The convictions had been for an incident outside a pub on Christmas Eve in 1985, which had occurred twenty five years ago and he had not offended since then. He also mentioned that he had worked for the same company for twenty three years and intended to work part time as a taxi driver.

After considering the Officer's report and 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 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 Licence with standard conditions: -

"The Panel had reference to the Government Guidance and East Northamptonshire Council's Hackney Carriage and Private Hire Drivers Criminal Records Policy when making its decision and noted:

1. The convictions for criminal damage in April 1986, however, it considered that the convictions were sufficiently dated not to carry any significant weight in their decision making.
2. Various omissions in the information that should have been provided in the application form. Whilst it was satisfied with the applicant's candid responses to questions, the Panel reminded him of the importance taxi and private hire vehicle drivers should pay to providing full and accurate information to the Licensing Authority at all times."

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

7. RE-ADMISSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be re-admitted into the meeting during consideration of the following item of business because no exempt information, as defined under Paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, would be disclosed.

8. APPLICATION FOR A HOUSE TO HOUSE COLLECTION LICENCE

The Panel considered an application for a House to House Collection Licence made under the House to House Collections Act 1939, from Mr Collins for East London Textiles Limited; a textiles recycling company and exporter of used clothing, to hold house to house collections throughout the district during 2010. The application was dated 6 May 2010.

The applicant was not present at the Hearing but the Panel agreed that it should consider the application in his absence. The Panel was informed that the applicant had failed to respond to requests from Officers for further information and to confirm if he would be attending the Hearing.

The application stated that an amount from the proceeds of the collections would be donated to "Little Treasures Children Trust" a UK Registered Charity based in Romford. However, it did not show what had been collected or donated in previous collections within East Northamptonshire Council's area or nationally. A low percentage donation to the nominated charity appeared likely from the donation shown in a letter from the applicant dated 6 May 2010, and it was not clear how much profit the company would be making from the collections.

The Licensing Officer reported that Reigate and Banstead Borough Council and Kettering Borough Council had refused to grant Licences on 3 March and 26 May 2010 respectively. The Panel noted that the applicant had failed to mention the refusal from Reigate and Banstead Borough Council on his application form which was dated 6 May 2010.

The Panel noted that two Officers had recently received collection bags at their properties from the applicant's company on behalf of the Little Treasures Children Trust for collections in the District which had not been licensed.

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 from Mr D Collins on behalf of East London Textiles Limited for a House to House Collections Licence be refused.

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

"The Panel had reference to the House to House Collections Act 1939 together with the House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684), when it reached the following decision:

1. The Applicant chose not attend the Hearing and did not responded to letters and telephone calls requesting additional and relevant information. Therefore, the Panel was not given the opportunity to ask relevant questions.

Without that information the Panel believed 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 the decision to refuse the Licence, 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. In the Panel's view, the single page letter submitted by the applicant to support the application, dated 6 May 2010, provided a too simplistic explanation for the breakdown of the amounts involved.

Additional Comments and Observations made by the Panel (not material to the decision to refuse):

1. 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 advised the Panel that the following authorities had refused applications from the applicant:

- (i) 3 March 2010 – Reigate and Banstead Borough Council
- (ii) 26 May 2010 – Kettering Borough Council

The application had been submitted on 6 May 2010 and therefore the Reigate and Banstead refusal should have been declared under question 15 on the application.

2. The Panel was very concerned that two members of Council staff had reported that East London Textiles Little Treasures Children's Trust collection bags had been delivered to properties in the District.

That contravened Section 1(2) of the Act which stated that it was an offence to promote and make a house to house collection for a charitable purpose without a Licence authorising you to do so in that location from the licensing authority.

The Panel considered that this demonstrated an unacceptable disregard for the process of licensing and the Act itself."

The Chairman mentioned that the applicant would be advised that, if he was aggrieved with the decision, he had the right to appeal to the Secretary of State within 14 days from the date on which the Notice was given.

Chairman