

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 29 September 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Brian Northall (Chairman)

Robin Underwood

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 6 September 2010 were approved and signed by the Chairman.

3. 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.

4. APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

The Licensing Officer reported on two applications for Hackney Carriage and Private Hire Driver's Licences under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

Reference was made to the Council's Hackney Carriage and Private Hire Driver's Criminal Records Policy when considering these applications.

(i) Applicant One

The applicant attended the Hearing and the Criminal Records Bureau (CRB) disclosure revealed that he had received a number of convictions for various offences on the following dates:

- (a) 3 July 1990
- Burglary and theft – non - dwelling on – no date given. Supervision order. 12 months concurrent.
 - Burglary with intent to steal – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Theft – no date given Supervision order. 12 months concurrent.
 - Burglary and theft non – dwelling – no date given. Supervision order 12 months.
 - Burglary and theft – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Burglary and theft – non – dwelling – no date given. Supervision order 12 months concurrent.
- (b) 5 August 1994 - Attempted robbery – no date given. Imprisoned for 21 months.
- (c) 15 June 2000
- Using vehicle while uninsured – no date given. Fined £145.00. Driving licence endorsed.
 - Destroy or damage property or damage property at a value unknown – no date given. Conditional discharge 18 months. Compensation £100.00. Costs £50.00

The Panel noted that the applicant had only answered attempted robbery in 1994 under Question 8 on his application form.

The applicant spoke in support of his application and explained the circumstances of the offences to the Panel. He stated that:

- The offences in July 1990 had occurred whilst he was young and living in care. He had not included these offences under question 8 because he thought that, because these had occurred when he was a juvenile, he did not have to declare them
- The offences in June 2000 had occurred because he had swapped his car with his friend's car and was not insured to drive it. He had damaged this car when he realised it was defective and his friend then took him to Court for an insurance claim. He apologised for not declaring these offences under question 8.
- He had learnt from his past mistakes and considered that he was now a better person.
- He had had an LGV Licence for 6 years and wished to become a taxi driver because it would be a more flexible job and enable him to see more of this family.

The Panel asked the applicant a number of questions and after considering the Officer's report and representations made by the applicant, including advice from the Solicitor, 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 refused for the reasons stated below.

The Chairman read out the following statement giving the reasons why the Panel had refused the application: -

“The Panel:

1. Had reference to the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 when making

its decision.

2. Considered the various convictions revealed by the CRB check. It was particularly concerned about the convictions for attempted robbery, criminal damage and driving whilst uninsured.
3. Was also particularly concerned that the applicant had only declared one conviction in question 8 of his application form which clearly stated "Please give details of all convictions and cautions, no matter how old they are. If necessary, use a separate piece of paper". The applicant answered the questions from the Panel but failed to fully convince it about his reasons for the omission. In particular, the Panel had regard to the above Policy, at paragraph 4.6.5 where the Panel was entitled to take into account information provided to it by officers (in this case, the failure to disclose the criminal record), coupled with the general thrust of the section of the above Policy dealing with dishonesty (section 4.5) (although the Panel appreciated that this section of the Policy referred specifically to offences relating to dishonesty). The Panel also took into account section 4.4.1 which guided the Panel to be mindful of offences such as criminal damage.
4. Had concerns about how the applicant might react to fare paying members of the public having regard to the admission he made about the violent reaction resulting in criminal damage to a motor vehicle when the applicant discovered that he had acquired a defective vehicle.
5. Listened carefully to the applicant's explanation for the earlier offences, but was not fully convinced by his explanation for the serious offences committed some 10 years ago, additionally as a further offence 16 years ago resulted in a Crown Court appearance, conviction and imprisonment.
6. Appreciated the earlier circumstances and the present circumstances the applicant now found himself in and had sympathy for that situation. The Panel had strict guidance and the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 was quite clear that when considering convictions they were never spent for Hackney Carriage and Private Hire Drivers' Licences. A Hackney Carriage and Taxi Drivers' position was one of trust and honesty. The Licensing Authority's key objective was ensuring public safety and protection from criminal activity.
7. Considered that in the light of the Council's policy, the general legislation and the fact that the applicant did not reveal these convictions, the application should be denied.

The Decision Notice would be sent to the applicant and he had the right of appeal to the Magistrates Court within 21 days of receiving the Notice if he was aggrieved with the Panel's decision."

(ii) Applicant Two

The Licensing Officer reported that it had not been possible to contact the applicant about his attendance at this Hearing and it was agreed that the application be considered at another Hearing.

Chairman