

NORTHAMPTON BOROUGH COUNCIL

TAXI & GENERAL LICENSING COMMITTEE

Tuesday, 12 March 2019

PRESENT: Councillor Flavell (Chair); Councillor Sargeant (Deputy Chair); Councillors Beardsworth, Davenport, Duffy and Haque

APOLOGIES: Councillor G Eales and Councillor Larratt

OFFICERS: Ian Ellis (Senior Licensing Enforcement Officer), Clive Tobin (Litigation & Licensing Solicitor), Eleanor Flannery (Senior Licensing Enforcement Officer), Jason Toyne (Senior Licensing Enforcement Officer), Ed Bostock (Democratic Services Officer)

2. MINUTES

The minutes of the meeting held on 16th October 2018 were agreed and signed by the Chair.

3. DEPUTATIONS/PUBLIC ADDRESSES

There were none.

4. DECLARATIONS OF INTEREST

Councillor Haque declared a personal interest in Agenda Item 9; and a disclosable interest in Agenda Item 11 and will withdraw from the meeting for this item.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100I of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12A to such Act.

The Motion was carried and the public and press were excluded on the basis that information relating to an individual and information which is likely to identify an individual were contained in the report.

7. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. The Licence Applicant explained his personal circumstances to the Committee. After having arrived in the country at a young age from Afghanistan, the Applicant explained that he made mistakes. He further stated that he has recently become engaged.

In response to questions, the Licence Applicant explained that on the night of the incident in 2016 he was approached by two men. The two men approached him and asked for a cigarette to which he refused their request. The two men used foul language and commented to him to return to his country of origin. The Applicant was offended by this and swung a blow at one of the two men, as a result.

Responding to a question about his anger management and interacting with Members of the Public, the Applicant explained that he has a network of friends who have helped him to overcome his anger problems. Members further questioned why the Applicant failed to declare his conviction on his completed application form (Page 6 of the Agenda Pack). The Applicant explained that this was a genuine mistake and did not know his conviction dates when completing his application form.

The Solicitor explained to Members their options and the relevant test to be applied; whether the Applicant is deemed to be a “fit and proper person” to be granted a licence as a Private Hire Driver and the relevant provisions of the Council’s policy on convictions.

Members retired at 18:17 to make a decision.

The meeting reconvened at 18:23.

RESOLVED:

The Committee has carefully considered the written report together with the officer’s verbal report at the meeting. They have also listened carefully to the explanation given by the Applicant in relation to the offence.

Although the Committee consider all offences of violence to be serious they note that this was an offence committed in the face of provocation and that no actual injury was caused. They accepted that this was one incident which occurred when he was young and that he has matured.

Taking account of all matters together, the Committee considers that the Applicant is a fit and proper person to be licensed.

Accordingly, the Committee **GRANT** the Applicant’s application for a private hire driver’s licence.

8. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. The Licence Applicant explained that he had brought the owner of the Private Hire Firm he was employed by to support him.

The Licence Applicant explained that he received four speeding convictions in the space of 2 weeks in July 2018 and was not recorded having exceeded 39 miles per hour in all cases. The Applicant’s Supporter explained that the Applicant had not kept records of everything received from the court and that upon having received 12 points had to attend the Magistrates’ Court and was banned from driving for a period of six months.

In response to questions from Members, the Applicant explained that he did not drive a vehicle for the six month period between 10th July 2018 and 10th January 2019. He had spent part of this six month period abroad due to a bereavement.

Members stated that the Applicant should not have proceeded to pick up a couple who were ill and should have instead called the Emergency Services. The Applicant’s Supporter also advised against taking such action as it may risk invalidating his insurance. Members further commented that any drivers who receive penalty points or speeding convictions must report them to the Council. To not report these to the Council, could result in the revoking of his licence.

Responding to a question from the Chair, the Applicant explained that there were no passengers in the car at the times of the speeding convictions.

The Solicitor explained to Members their options and the relevant test to be applied; whether the Applicant is deemed to be a "fit and proper person" to be granted a licence as a Private Hire Driver and the relevant provisions of the Council's policy on convictions.

Members retired at 18:50 to make a decision.

The meeting reconvened at 19:05.

RESOLVED:

The Committee has carefully considered the written report together with the officer's verbal report at the meeting. They have also listened carefully to the explanation given by the Applicant in relation to the offences and the comments made by his Supporter, including in relation to the requirements in the licence conditions.

Although the Committee consider speeding offences to be serious they note that these were committed in a short period of time and that, save for the plying for hire issue, he had a clean record. They also noted that there were no passengers in the vehicle at the time and that no harm or injury was caused.

Taking account of all matters together, the Committee considers that the Applicant is fit and proper person to be licensed.

Accordingly, the Committee **GRANT** the Applicant's application for a private hire driver's licence.

The Committee do however, wish to warn him that he should be careful in relation to his future conduct and that the standards expected of a licensed private hire driver are high and he should drive with the utmost care. They also suggested that he took advantage of the assistance being offered by his Supporter in relation to those standards and reads the conditions of the licence.

9. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report.

The Licence Applicant explained that he had experienced family problems and formed a gambling habit while residing in Oldham. The Chair requested the Applicant to explain the circumstances concerning the offences of assault of battery in April 2014. The Applicant stated that he had argument with his wife concerning his gambling problem where he proceeded to push her. The Applicant's wife fell backward and subsequently contacted the police. In relation to the second incident he indicated that he had slapped her.

In response to questions, the Applicant explained that he was subject to a Restraining Order and that he lives separately from his wife. The Applicant further stated that he has 4 children who he has access to all of whom are residing with his wife.

Responding to a question about the conviction for assault, the Applicant explained that he no longer gets angry and has resolved his gambling habit. The Applicant explained that he is currently working part-time and renting a house in Northampton.

The Solicitor explained to Members their options and the relevant test to be applied; whether

the Applicant is deemed to be a “fit and proper person” to be granted a licence as a Private Hire Driver, that although toward the lower end of the range of violent offences, the fact that custodial sentences were imposed is a consideration, and the relevant provisions of the Council’s policy on convictions.

Members retired at 19:22 to make a decision.

The meeting reconvened at 20:00.

RESOLVED:

The Committee has carefully considered the written report together with the officer’s verbal report at the meeting. They have also listened carefully to the explanation given by the Applicant in relation to the offences. The Committee made the following findings:

1. They consider all violent offences to be serious, no matter who the victim is.
2. They note that there were two violent offences committed in a period of just 8 months.
3. They also note that, although the offences are toward the lower end of the spectrum of violent offences, a sentence of imprisonment was imposed for both offences, the earlier offence being punished by imprisonment as a result of the commission of the second offence.
4. They are also concerned that the Court determined that it was necessary to impose a restraining order to protect the victim, meaning that they had concerns about the risk he posed.
5. The Council’s policy is that usually there should be a period of at least three years free of conviction for violent offences before a licence will be granted however, where there are more than one such offence the Council may consider that a longer period is justified.

Taking account of all matters together, the Committee is not satisfied that the Applicant is a fit and proper person to be licensed as he poses a risk to the public.

Accordingly, the Committee **REFUSE** the Applicant’s application for a private hire driver’s licence.

10. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report.

The Licence Applicant advised that on making his application he was unaware of making a false declaration. The information on the conviction was later set out in the Disclosure and Barring Service (DBS) check. The Applicant stated that he was not intentionally trying to hide any information. He was unaware what was on his DBS Certificate and did not know what to disclose. He subsequently failed the taxi driving test. At this point, the Applicant explained that after passing the taxi driving test he required a new DBS check as the original had expired. The Applicant further explained that his business was accused of not keeping its accounts for the financial year 2008/09.

The Applicant explained that he had run a large company employing in excess of 150 people which was based in Northampton. After moving to Wellingborough, they lost the back up to the accounts records and the accountant removed the other copy. Having no accounts

to produce meant that the Applicant as the Company Director was prosecuted.

The Applicant stated that he had defended the prosecution but was convicted. He later found the original accounts to prove the accounts were kept. In response to questions from Members, the Applicant stated he had accounts from previous years and in response to further questions he stated he was the only director prosecuted. He further stated that he did not defend the charges on the basis of Section 387 of the Companies Act since the records had been kept and the provisions of that Section would not have been an appropriate defence.

In response to questions, the Applicant explained that he was prosecuted as a company director and did not have funds or resources available to clear his record. In reference to the Applicant's conviction for theft dated 1983, he explained that he was taking prescribed medicine which caused sleeplessness and convulsions. The Applicant further stated that the medication caused him to commit the theft from Woolworths and led to the conviction.

The Solicitor questioned the Applicant as to whether any further persons were prosecuted. The Applicant explained that he was the only person to be prosecuted as he was the only Director.

The Solicitor explained to Members their options and the relevant test to be applied; whether the Applicant is deemed to be a "fit and proper person" to be granted a licence as a Private Hire Driver. He also outlined the offence concerned, that conviction did not automatically mean the applicant was to be considered a dishonest person, and stated that the Council's policy on convictions did not expressly address such offences.

Members retired at 20:20 to make a decision.

The meeting reconvened at 20:35.

RESOLVED:

The Committee has carefully considered the written report together with the officer's verbal report at the meeting. They have also listened carefully to the explanation given by the Applicant in relation to the offences. The Committee made the following findings:

1. They consider any offence relating to financial matters to be serious.
2. They note however, the circumstances in which the offence was committed and the explanation provided, particularly the fact that the accounts had been located.
3. The shoplifting offence is so old that it is irrelevant as far as the Applicant's fitness to hold a licence is concerned.
4. The Council's policy is directed toward offences of dishonesty and they do not find that he is a dishonest person.

Taking account of all matters together, the Committee is satisfied that the Applicant is a fit and proper person to be licensed as he poses no risk to the public.

Accordingly, the Committee **GRANT** the Applicant's application for a private hire driver's licence.

11. REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE

At this juncture, Councillor Haque left the meeting having declared an interest.

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report.

The Licence Holder explained that he drives a nine-seater vehicle which normally operates during the daytime. He explained that he was very upset on the morning of Saturday 10th March 2018 as he had two bookings made via a Taxi App and the Customers did not show up. He then took the two police officers instead of his booked fare as he thought they were his customers. When asked, the Licence Holder states that he presented his name badge which was face down on his dashboard. The Licence Holder stated that this is his first licence and that this is his main source of income and that he had not breached his licence on any other occasion.

In response to questions, the Licence Holder explained that the Police Officers did not ask his name and did not take into account the time of the booking on the App. He knew it was illegal and would not do it again. The Licence Holder apologised to the Committee and also explained that in the future he will only work in the daytime and that he will respect the decision of the Committee.

The Solicitor explained to Members their options and the relevant test to be applied; whether there is reasonable cause to suspend or revoke his licence and whether a driver remained a “fit and proper person” to continue to be licensed as a Private Hire Driver. He also stated that there is no requirement for a licence holder to be convicted of the offence before the powers can be used.

Members retired at 20:48 to make a decision.

The meeting reconvened at 20:53.

RESOLVED:

The Committee has carefully considered the written report together with the officer’s verbal report at the meeting. They have also listened carefully to the explanation given by the Applicant in relation to the offences. The Committee made the following findings:

1. They consider offences of plying for hire to be serious, in particular that the vehicle may not be insured as a result, placing the passengers at risk.
2. Plying for hire is widespread amongst the town’s private hire drivers.
3. They note that he did have a job booked on the night concerned.
4. They believe that his conduct fell below the standard expected of a licensed driver on the night in question.
5. They note he has no other matters on his record.

Taking account of all matters together, the Committee is satisfied that action should be taken in relation to the Applicant’s licence to reflect the seriousness of the breaches and the risk posed to the public by such offences.

Accordingly, the Committee **SUSPEND** the private hire driver’s licence for a period of **Two (2)** weeks.

The meeting concluded at 8:58 pm