

NORTHAMPTON BOROUGH COUNCIL

TAXI & GENERAL LICENSING COMMITTEE

Tuesday, 12 November 2019

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

OFFICERS: Louise Faulkner (Licensing Team Leader), Jason Toyne (Senior Licensing Enforcement Officer), Clive Tobin (Licensing & Litigation Solicitor), Ed Bostock (Democratic Services Officer)

1. APOLOGIES

Apologies for absence were received from Councillor G Eales.

2. MINUTES

The minutes of the meeting held on 10th September 2019 were agreed and signed by the Chair.

3. DEPUTATIONS/PUBLIC ADDRESSES

None.

4. DECLARATIONS OF INTEREST

Councillor Haque declared a personal interest in respect of items 8 and 9 by reason of knowing the applicant. He advised that he would leave the room whilst these items were discussed.

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

None.

7. 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 was likely to identify an individual.

6. HOUSE TO HOUSE APPLICATION

The Licensing Team Leader submitted a report to the Committee and explained that the application had previously come to the Licensing Committee on 9th July 2019; Members resolved to defer the application to allow the applicant time to supply additional information. Details of the company's finances had been duly supplied and it was noted that the applicant had confirmed via email that they would be willing to give the charity up to 80% of the sums realised from their collections.

Members asked questions, including why the charity did not qualify for a National Exemption Order and how many contributors the charity had; The Licensing Team Leader was unable

to answer these and explained that the Charity were best positioned to answer them.

The Licensing Team Leader explained that House to House Collection licences were usually granted for a period of 3 months, to avoid the risk of residents becoming inundated with charity collectors.

A motion was proposed by Councillor Beardsworth to grant the house to house collections licence for a period of 3 months.

Councillor Birch seconded the motion.

Upon a vote, the motion was lost.

A motion was proposed by Councillor Larratt to adjourn the meeting until the applicants or a representative could attend and answer questions from the Committee.

Councillor Sargeant seconded the motion.

Upon a vote, the motion was passed.

RESOLVED:

That the Committee **ADJOURNS** the application for a house to house collections licence to a date on which the applicant's representative can attend.

11. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The applicant advised that he had brought a solicitor to represent him. The Solicitor advised of some skeleton arguments that she had prepared; the Chair asked if these could be circulated once the Officer had presented the report.

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. He explained that the applicant had applied for a Private hire Driver's Licence on 19th July 2019. As part of the application process, he was required to declare any previous criminal convictions. Following the submission of a DBS certificate, several convictions (including driving a vehicle with excess alcohol) were identified that had not been declared on his application. Due to the nature of the offences, the applicant was informed that his application would be referred to the Licensing Committee.

In response to questions, the Senior Licensing Enforcement Officer stated that the applicant had been using his own vehicle when charged with drunk-driving.

The applicant addressed the Committee and explained that regarding a driving offence in 2012, he was driving with a friend, on his way to another friend. His friend had received a phone call to let him know that his father had had a stroke. The applicant then drove himself and his friend to hospital, collecting his brother on the way. He advised that he was 19 years old at the time. His conviction in August 2013 was the result of himself and his friends being the subject of racial abuse which led to an altercation and subsequent arrest. The applicant's arrest in March 2018 was related to an incident with his ex-partner; after an argument he threw a set of keys at her car which broke a door mirror; the Police were called, and the applicant was charged with criminal damage.

The applicant explained that he believed the first 2 convictions to be spent; he had not meant to deliberately mislead the Committee. Further, the criminal damage conviction resulted in a fine which the applicant did not believe needed disclosing.

At this juncture the applicant's representative handed documents to the Solicitor who advised that they were character references and a skeleton argument. Copies of these were made and distributed amongst Members.

In response to questions, the applicant stated that his alcohol levels were .37; the limit is .35. He advised that he had felt sorry for his friend and this was his reason for driving to the airport. The Police stopped him because he had been driving at 80mph and that was why he was charged with the offence of drink driving.

The applicant's representative explained that the fine had been left off the application form because the form did not specifically mention fines. She further advised that the domestic situation would be very unlikely to be replicated during work as a Private Hire Driver.

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

Members retired at 19:11 to make a decision.

The meeting reconvened at 19:27.

RESOLVED:

The Committee had carefully considered the information in the report, the representations made by and on behalf of the applicant at the hearing, the responses to the questions asked of him, the skeleton argument and the references received.

The Committee made the following **findings**:

- A. That there are a significant number of convictions recorded against the applicant.
- B. He had been disqualified from driving twice in a period of a little over 3 years.
- C. Any drink driving is a serious matter regardless of the amount of alcohol in a sample.
- D. The incident in 2013 must have been quite serious considering the sentence included a curfew with an electronic tag.
- E. The offence in 2018 suggested that he had an issue with his temper and reacted the wrong way to provocation of any type.
- F. Looking at his record as a whole and the fact that the offences had been committed within a relatively short period of time the Committee formed the view that he posed a risk to the public on two accounts:
 - a. His driving record showed that he drove carelessly, breached the speed limit and drove when under the influence of alcohol; and
 - b. He had twice been involved in incidents in which he reacted in the wrong way and caused fear of violence or damaged property.
- G. On that basis and having in mind the interests of the public, the Committee were not satisfied that he was a fit and proper person to hold a licence and there was no evidence which indicated that there was good reason to depart from the Council's Guidelines in Relation to Convictions.

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

10. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

Councillor Haque left the meeting at this juncture.

The applicant's solicitor advised that he had sold his vehicle and intended to withdraw the application. The Council had not received notification of the withdrawal however, members agreed to mark the application as withdrawn.

9. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Licensing Team Leader outlined the circumstances as set out in the report. The Committee were informed that the applicant had previously held a Private Hire Driver's Licence from 2009 and a combined driver's licence from 2011. The licence was revoked on 29th August 2017 following an arrest on suspicion of wounding or inflicting grievous bodily harm with intent during an incident on 27th August 2017. The applicant's family representative contacted the Licensing Department on 31st August 2017 to advise that the applicant was out of the country and enquired as to the process for appeals and was duly informed. The applicant's representatives subsequently contacted the Licensing Department a number of times to request the reinstatement of his licence. It was noted that at no time did the applicant or his representative lodge an appeal with the Magistrates' Court. An application for a Private Hire/Combined Driver's licence was submitted by the applicant on 15th November 2018. He had also submitted an application for a Hackney Carriage vehicle licence. The Licensing Department were not able to proceed with the Private Hire/Combined Driver's licence until an enhanced DBS certificate was received; a basic disclosure was received in December 2018 and the applicant was immediately notified that this did not meet the enhanced barring and disclosure criteria. An enhanced disclosure was received by the Licensing Department on 25th July 2019 which showed that the applicant was convicted on 21st March 2019 for the offence that took place on 27th August 2017. Due to the nature of the offence, the applicant was advised that his application would be referred to the Licensing Committee on the grounds that he may not be a "fit and proper person" to be granted a licence with Northampton Borough Council.

The applicant addressed the Committee and explained that other taxi drivers present on the night of 27th August 2017 had provided witness statements to the Police but were not comfortable giving evidence to the Licensing Committee. The incident occurred when a drunken individual walked along the taxi rank on Mercers Row striking the vehicles parked there. He was told by the applicant to move on and the man hit his vehicle's windows and shouted at him. The applicant then got out of the vehicle. He stated that he hit the man but used no more than reasonable force. He advised that since his conviction, he had experienced financial difficulties due, he had to sell his vehicle to pay off debts and had to share his daughter's vehicle to work part-time as a delivery driver.

In response to questions, the Committee heard that the applicant himself called the Police and an ambulance and stayed with the man until they arrived. They further heard that the applicant did not have the confidence to look for a new line of work due to a lack of other skills or education. The applicant advised that he and the other drivers were racially abused on the night of 27th August 2017. His representative explained that the applicant was a proud man who wanted to work and not live off the state. With regard to his caution in 2015, the applicant explained that he had intervened in a fight and was subsequently cautioned by the Police but was not aware that the document that he signed had been a caution.

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

Members retired at 20:21 to make a decision.

The meeting reconvened at 20:39.

RESOLVED:

The Committee had carefully considered the information in the report, the representations made by and on behalf of the applicant at the hearing, the responses to the questions asked of him, the statement and the references received.

The Committee made the following **findings**:

- H. They noted that there was a single incident which led to the conviction in March 2019.
- I. Nonetheless it resulted in a very serious consequence. The loss of an eye is a serious and life changing injury.
- J. They note that there is some dispute as to the number of times that he hit the victim: The applicant's version of events being that he hit him 2 or 3 times, the prosecution version being that he hit the victim 6 or 7 times. The outcome was however, the serious injury and loss of the sight in one eye.
- K. Clearly the Court saw that the number of punches went beyond what was reasonable force in defence of the applicant, any other person or property. The applicant had accepted this by entering his guilty plea.
- L. Whilst there was some element of provocation and the victim was extremely drunk, the applicant went too far.
- M. The earlier incident in 2015 which led to the caution is noted however, there is no material before the Committee relating to that offence and the details are not known. The committee have therefore disregarded it in making their decision.
- N. The Committee has considered its role in protecting the public in making its decision. The Committee were not satisfied that the applicant is a fit and proper person to hold a licence and there was no evidence which indicated that there was good reason to depart from the Council's Guidelines in Relation to Convictions. The Committee is concerned as to how the applicant would react to any other incident which may arise whilst he is driving a licensed vehicle and are not satisfied that he does not pose a risk to the public.

Accordingly, the Committee **REFUSES** the application for a hackney carriage driver's licence.

The meeting concluded at 8:42 pm