

Minutes of a meeting of the Licensing and Appeals Committee

Held at 10.00 am on Wednesday 2nd February, 2022 in the Committee Room,
Swanspool House, Wellingborough, Northants, NN8 1BP

Present:-

Members

Councillor Jonathan Ekins (Chair)

Councillor Jennie Bone

Councillor Clive Hallam

Officers

Amanda Wilcox, Interim Environmental Health Lead.

Louise Delavaloire, Legal Representative

Carol Mundy, Senior Democratic Services Officer (Committees/members)

14 Apologies for absence

There were no apologies.

15 Members' Declarations of Interest

The Chair invited those who wished to do so to declare interests in respect of items on the agenda.

There were no declarations made.

16 Notification to address the meeting

There were no notifications received.

17 Exclusion of the Press and Public

RESOLVED that the press and public be excluded from the meeting during the following items.

18 Application for a new Private Hire Driver's Licence - Mr J

The circulated report of the Assistant Director of Regulatory Services was received in relation to the receipt of an application for a new private hire driver's licence.

The Chair asked all present to introduce themselves to the applicant.

Appended to the report was a copy of the Disclosure and Barring Service Certificate (DBS) along with the completed application form.

The Interim Environmental Health Lead presented her report to the Licensing Panel and explained that the DBS had revealed two relevant convictions from May 2008 and October 2012, both had been of a violent nature.

The council's policy stipulates that 'a licence will not be granted if an applicant has more than one conviction for an offence of a violent nature'. The panel therefore needed to consider whether they believed there were sufficient grounds to depart from policy and grant a licence, with or without additional conditions, or whether the application should be refused.

The applicant was asked by the Chair to explain what had happened in 2008 and 2012 and what action he had subsequently taken to evidence that he was a fit and proper person to consider for a licence.

The applicant clarified that he had been very young and easily influenced when the incidents took place and had been mixing with the 'wrong crowd' and had behaved in a bad way. Since the convictions he had turned his life around and matured, he had a young family that he wished to provide for and had consistently been employed in various roles including working on building sites and for two taxi companies.

Councillors asked why he had only held a driving licence for two years?

The applicant clarified that he had lived and worked in the same vicinity and had not needed to drive until he moved to Wellingborough for work, he had, however, held a motorbike licence for some years.

The Chair asked the panel members if they had any further questions, there were none and he adjourned the meeting at 10.20am.

The meeting reconvened at 10.35am.

Decision:

Resolved that the granting of a licence to the applicant be approved, the panel having unanimously considered that the applicant, on the balance of probability, is a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle.

Reasons for Decision:

The panel took into consideration:

- Local Government (Miscellaneous Provisions) Act 1976
- The Council's Taxi and Private Hire Conditions of Licensing (Wellingborough Area)
- The Council's Criminal Records Policy
- The report from Amanda Wilcox on behalf of the Council
- The application form for Private Hire Driver's Licence
- Verbal evidence from the applicant

The duty of the panel was to determine the application on the balance of probabilities. The panel noted that the applicant was 17 at the time of the conviction and that he had been free of any further convictions or cautions since 2012. The panel requested further information regarding how long the applicant has held a driver's licence. The applicant explained that he had held a motorbike licence for a number of years but decided to get a car licence to be able to visit and take out his son.

The applicant also stated that he has been in full time employment for the past 10 years including management positions with taxi operator's firms.

The panel 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 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 and was sufficient to allow the panel to grant the licence.

19 Application for a new Private Hire Driver's Licence - Mr M

The circulated report of the Assistant Director of Regulatory Services was received in relation to an application for a new private hire driver's licence.

The Chair welcomed the applicant and all present introduced themselves.

The Interim Environmental Health Lead presented her report. Appended to the report was a copy of the Disclosure and Barring Service Certificate (DBS) and the completed application form.

The DBS revealed six convictions, with a total of eight offences, over a period from November 2001 to June 2012, which included offences such as Affray, Attempted robbery, two further offences of robbery, possession of crack cocaine with the intention to supply, the permitted use of premises for smoking cannabis and the commission of a further offence during the operational period of suspended sentence order and possession of cannabis.

The report detailed the council's policy, with a serious view being taken of any drug related offences. The applicant's integrity during the application process would also be taken into account. The applicant had failed to complete the application form correctly and had not detailed the convictions highlighted in the DBS.

The Chair asked the applicant why he had failed to complete the application form correctly.

The applicant explained that he thought the convictions were 'spent' and that he did not need to add them to the application form. He had been looking after his children when he completed the form and he felt that he had not been concentrating enough.

He considered that he was now a fit and proper person to hold a licence and the Chair asked him to explain why he felt that was the case.

He said he had not had any convictions for a number of years and was now a family man with four young children who he wished to provide for. He was married and wished to be a good role model for his children. He was young and under the influence of his peers when the convictions took place. He had moved away from the bad influences and now had a SIA Card which enabled him to work at venues and local pubs to ensure security and safety of the public. He considered he was a fit and proper person and wished to do a good job at all times.

The panel continued to ask further questions around:

- Why he had failed to complete the application form correctly.
- Why he failed to declare the convictions listed on the DBS.
- Why he considered that his convictions were not relevant enough to declare.

In response the applicant responded by saying his omission had been a genuine error as he thought he did not have to declare convictions from many years ago. He was distracted during the completion of the form by his young child. He also stated that the events had taken place when he was young and he had received no parental guidance growing up and had been involved with the wrong sort of people who had been a bad influence. He had moved away, married and had children now who he wished to bring up in a good moral way and had turned his life around.

The panel questioned the conviction for the supply of drugs.

The applicant said he had no intention of supplying drugs to anyone, he had just been asked to 'hold' the drugs for someone else and had been caught with it in his possession and had paid the price with a conviction.

The Chair reminded the applicant that the licensing policies were in place to protect the public from harm which was the primary concern of the panel and that the panel had to be sure he was a fit and proper person.

The applicant added that he no longer lived his life with bad people around him and that he really wanted to improve the life chances for his family and support them in everything they did. He admitted he had made previous mistakes but that was no longer him or his life.

The Chair adjourned the meeting at 11am.

The Chair reconvened the meeting at 11.30am.

Decision:

Resolved that the granting of a Private Hire Driver's Licence be refused.

Reason:

The panel took into consideration:

- Local Government (Miscellaneous Provisions) Act 1976
- The Council's Taxi and Private Hire Conditions of Licensing (Wellingborough Area)
- The Council's Criminal Records Policy
- The report from Amanda Wilcox on behalf of the Council
- The application form for Private Hire Driver's Licence
- Verbal evidence from the applicant

The panel has a duty to determine the application on the balance of probabilities and it duly considered the representations made by all parties in reaching its decision.

The panel particularly considered 8.3 of the Wellingborough Area Taxi and Private Hire Conditions of Licensing:

'Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the trafficking or supply of drugs.'

The applicant had a conviction dated October 2009 for possession of crack cocaine with the intention to supply.

The panel also considered paragraph 8.4 of the Wellingborough Area Taxi and Private Hire Conditions of Licensing Criminal Records Appendix:

'A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal/controlled drugs until at least 10 years have passed since the completion of any sentence and/or licence period, and only then after full consideration of the nature of the offence and the quantity/type of drugs involved.'

The applicant had a conviction in October 2010 to permit use of premises for smoking cannabis and a conviction in June 2012 for commission of a further offence during the operational period of a suspended sentence order and possession of cannabis.

The applicant was unable to recall clearly the details of the June 2012 conviction that stated the offences took place in September 2011. It was also noted that 10 years had not passed since the most recent conviction, that would not be until June 2023.

The panel considered that the applicant had failed to disclose any of his convictions on the application form and Council policy states that this will generally be considered dishonest and is not looked upon favourably in the application process. The applicant explained that he had misunderstood the wording on the application form.

The applicant was unaware that the Taxi profession is an exempt profession under the Rehabilitation of Offenders Act 1974 and that all convictions are never spent by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002.

The panel has not been able to satisfy themselves that there is sufficient evidence to depart from the Council's policies and therefore refused to grant a licence.

It was explained to the applicant that should he be aggrieved with the panel's decision, he and any party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision Notification letter.

20 Close of meeting

The Chair closed the meeting at 11.45am.

Chair

Date