

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING COMMITTEE

Tuesday, 6 February 2018

**PRESENT:** Councillor Flavell (Chair); Councillors Haque, Ansell, Culbard, Duffy and Walker

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

### 1. APOLOGIES

Apologies for absence were received from Councillors Beardsworth, Graystone and Sargeant.

### 2. MINUTES

A typographical error was noted in the minutes of the previous meeting under Item 3, which related to the spelling of the applicant's name.

The minutes of the previous meeting held on 5<sup>th</sup> December 2017 were agreed and signed by the Chair.

### 3. DEPUTATIONS / PUBLIC ADDRESSES

There were none.

### 4. DECLARATIONS OF INTEREST

Councillor Haque declared a personal and non-pecuniary interest in items 6, 7 and 8 by virtue of knowing the applicants and advised that he would leave the room whilst item 7 was considered.

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

There were none.

### 6. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Licensing Enforcement Officer outlined the circumstances as set out in the report. The Committee were informed that following an incident and subsequent arrest that occurred in October 2015, the Applicant's Private Hire Driver's licence was revoked and returned to the Council. In December 2016 the Applicant contacted the Licensing Department to confirm that he had been convicted of Common Assault and received a Community Service Order. The Applicant was advised that he would not be eligible to apply for another licence until at least 12 months after his Community Service Order had been completed, and that any application would have to go before the Licensing Committee. Despite this advice, the Applicant submitted an application for a Private Hire Driver's licence in 2016 and attended a Licensing Committee in 2016, where Members unanimously decided that on a balance of probabilities he was not a fit and proper person to be licensed as a Private Hire Driver. In August 2017 a further application for a Private Hire Driver's Licence was received and the Applicant was again informed that his application would not be accepted on the grounds of fitness and propriety, which he requested was placed before Committee.

It was noted that the Applicant had previously come to the attention of the Licensing Department:

- 1) In January 2013 he spoke with a Licensing Officer following an arrest for indecent assault in 2012. The Applicant produced a letter which indicated that due to insufficient evidence, no further action would be taken. The Applicant's Private Hire Driver's licence was returned to him.
- 2) In September 2013 a vehicle owned and driven by the Applicant was stopped during a Multi-Agency check and was found to have defective headlamps; Driver Vehicle Standards Agency officers issued an immediate prohibition to him.
- 3) In September 2013 the Applicant was spoken to by licensing officers regarding his arrest in September 2012 and was warned as to his future conduct.
- 4) In October 2013 the Applicant was spoken to by officers and warned regarding the display of the Private Hire Vehicle plate on his vehicle.
- 5) In September 2014 the Applicant attended a Safety Awareness Course at the Guildhall and signed a written caution as an admission of guilt for illegally plying for hire and having no insurance.

The Applicant brought a friend with him to assist with translation if needed.

The friend, on the Applicant's behalf, reported that the Applicant was very remorseful for his actions in October 2015, noting that he had been assessed by Social Services and was still living with his wife and that all parties were happy with the changes he had made to better himself. He stated that the Applicant's wife was no longer working for health reasons and that as working as a Private Hire Driver was his only profession, he asked for a further chance. Regarding the indecent assault charge, the friend stated that this was an unfounded allegation on the female's part, confirmed by the Police in that no further action was taken. He stated that the defective headlamp was a simple oversight on the Applicant's part and noted that he did not drive cars that exceeded 10 years of age and always kept his cars well maintained.

2 character references were then circulated among Members from a friend and the Applicant's wife.

His friend stated that the Applicant felt very guilty and embarrassed by his past actions and repeated his wish that he be given another chance.

In response to questions asked, it was explained that the Applicant felt motivated to illegally ply for hire by other Private Hire Drivers doing the same thing. Members noted that he had not been caught plying for hire in the time since his first offence.

The Solicitor explained to Members that whilst convictions were never spent when considering an application for a Private Hire Driver's Licence, consideration should be given to the Council's Guidelines on Convictions for violent crimes and an applicant should be clear of such convictions for at least 3 years. He also explained that personal circumstances were not a consideration for Members when making their decision.

The Members retired to make a decision.

The meeting reconvened at 18:56.

## **RESOLVED:**

The Committee decided that on a balance of probabilities, the Applicant was not a fit and proper person to be licensed as a Private Hire Driver and refused the application.

### **7. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

The Licensing Enforcement Officer outlined the circumstances as set out in the report. The Committee heard that on 16<sup>th</sup> June 2017 an application was received, however the Applicant had not disclosed any previous convictions. Following his submission of a DBS certificate several convictions were brought to light, including Common Assault and Breach of a Community Order. Given the nature of his conviction, the Licensing Department advised that the application would not be accepted. The Applicant contacted the Licensing Department on 29<sup>th</sup> November 2017 stating that he wished his application to be considered by the Licensing Committee.

The Applicant addressed the Committee and explained that an altercation between himself, his wife and his ex-partner had led him to pushing his ex-partner away from the front door of his property. He further explained that he had not denied the charges against him in court and accepted his punishment, including unpaid work and a Community Order. He stated that he omitted his convictions in his application as he did not believe them to still be on his record. He further stated that the breaches of his Community Order were due to him missing buses and being late to appointments; he accepted the additional hours of unpaid work he was ordered to carry out without complaint.

The Members retired to make a decision.

The meeting reconvened at 19:23.

## **RESOLVED:**

The Committee decided that on a balance of probabilities the applicant was a fit and proper person to be licensed as a Private Hire Driver and granted the licence, having regard to the circumstances of the offence and the time since it occurred.

### **8. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. The Committee heard that on 2<sup>nd</sup> November 2017 an application for a Private Hire Driver's licence was received. However, the Applicant had not disclosed any previous convictions. Following the submission of a DBS certificate, several convictions were disclosed which included assisting unlawful immigration to an EU member state and theft.

The Applicant addressed the Committee and stated that he misunderstood the application form, believing that he was supposed to disclose only motor offences. He maintained that he had nothing to hide and commented that handing over his DBS certificate without hesitation was evidence of this.

In response to questions, the Applicant confirmed that he had a clean driving licence and was currently employed as a bus driver. With regards to his conviction of assisting unlawful immigration, he explained that he had met a couple in a pub before a flight in France. It transpired that he and the couple were on the same flight so they shared a taxi to the airport. Once aboard the aeroplane the woman was detained and accused the Applicant of supplying her with fake documentation to allow her to enter another country, which led to his arrest. He was later convicted of the offence at a hearing when he could not understand what was being said to him.

The Members retired to make a decision.

The meeting reconvened at 20:08.

**RESOLVED:**

The Committee decided that on a balance of probabilities, the Applicant was a fit and proper person to be licensed as a Private Hire Driver and granted the licence, having regard to the circumstances of the offence and the time since it occurred.

The meeting concluded at 8:11 pm