

Cheltenham Borough Council

Licensing Committee – 31 May 2017

Application for a Hackney Carriage Driver's Licence

Mr Adel Ahmadi – ref 17/00127/HCD3YA

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Adel Ahmadi has applied for a Hackney Carriage Driver's licence in Cheltenham.
- 1.2 Mr Ahmadi declared a number of convictions on his application form which are contained in the enclosed background papers along with interview notes and a copy of a letter that Mr Ahmadi has provided in support of his application.
- 1.3 **The Committee can resolve to:**
- 1.3.1 **Grant a Hackney Carriage driver's licence to Mr Ahmadi because the Committee is satisfied that he is a fit and proper person to hold such a licence; or**
- 1.3.2 **Refuse to grant a Hackney Carriage driver's licence to Mr Ahmadi because the Committee considers him not to be a fit and proper person to hold such a licence.**

1.4 Implications

- 1.4.1 Legal There is a right of appeal against a refusal of a licence which in the first instance is to the Magistrates' Court.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee/applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

- 3.3 The overriding consideration is the safety of the public. The council has a duty to ensure so far as possible that those licensed to drive Hackney Carriage and private hire vehicles are fit and proper persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

3.5 **Fit and Proper Person**

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry - for example elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors - the Council will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Council are:

- a. Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- b. Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will not be expected to have any convictions or cautions for offences of a violent or threatening nature.
- c. Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d. Good knowledge of the area that they are working in.
- e. Good physical and mental health.
- f. Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

3.6 **Violence**

New applicants

Drivers of Hackney Carriage and private hire vehicles are often entrusted with the care of vulnerable persons.

It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

- 3.7 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 10 years old, is unlikely to be granted a licence.
- a. Arson
 - b. Malicious wounding or grievous bodily harm
 - c. Actual bodily harm

- d. Grievous bodily harm with intent
- e. Robbery
- f. Possession of firearm
- g. Riot
- h. Assault Police
- i. Racially aggravated common assault
- j. Violent disorder
- k. Resisting arrest

- 3.9 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 8 years old, is unlikely to be granted a licence:
- a. Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
 - b. Any racially-aggravated offence against a person or property.
 - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 3.10 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 5 years old, is unlikely to be granted a licence:
- a. Common assault
 - b. Affray
 - c. Obstruction
 - d. Possession of offensive weapon
 - e. Criminal damage

4. Licensing Comments

- 4.1 The council is under a statutory obligation to ensure that all its licensed drivers are and remain fit and proper people.
- 4.2 Mr Ahmadi has convictions that bring into question whether or not he is a fit and proper person. The council's adopted policy on the relevance of convictions states that, in general, an application will be refused where the applicant has been convicted within the last 10 years of the offences shown on Mr Ahmadi's disclosure certificate.
- 4.3 Each application must be determined on its own merits and, whilst the Committee's discretion should not be fettered by the adopted policy, the Committee should not depart from the policy unless they are satisfied that there are sufficient reasons in each particular case to do so. Any such departure from the policy should be supported by clear and defensible reasons.
- 4.4 Mr Ahmadi has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer Members' questions or to be represented.
- 4.5 In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Background Papers

Service Records

Report Author

Contact officer: Mr Philip Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200