

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1847**

**APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE
VEHICLE DRIVERS LICENCE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Sub-Committee of an application for a Hackney Carriage/Private Hire Vehicle Drivers licence.
- 1.2 To request that the Sub-Committee determines whether to grant, refuse or restrict the application for a Hackney Carriage/Private Hire Vehicle Drivers licence in regard to Mr Mohammed Shujon Miah.

2. BACKGROUND INFORMATION

- 2.1 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall not grant a Hackney Carriage/Private Hire Vehicle Drivers Licence unless they are satisfied that the applicant is a fit and proper person.
- 2.2 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or revocation of Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles.
- 2.3 An application for a Hackney Carriage/Private Hire Vehicle (HC/PHV) Drivers Licence has been received along with their DVLA Driving Licence from Mohammed Shujon Miah. Applicants are required to submit their original DVLA driving licence with all applications.
- 2.4 On application, prior to the grant of a licence, or on renewal, a check is made with the Disclosure and Barring Service (DBS) for a disclosure of the applicant's criminal history.
- 2.5 Mohammed Shujon Miah has held a Hackney Carriage/Private Hire Vehicle (HC/PHV) Drivers Licence since 31 August 2006, which has been renewed each time his licence is due to expire. His most recent licence expired on 30 August 2015.

- 2.6 Mohammed Shujon Miah has previously appeared before the Licensing (Miscellaneous) Sub-Committee on 1 November 2012 to review his Hackney Carriage/Private Hire Vehicles Drivers Licence. A copy of the decision record is attached at the Appendix.
- 2.7 On receipt of Mohammed Shujon Miah's Disclosure there showed a trace. A Board of 3 Licensing Officers having regard to all the facts, consider that the application of Mohammed Shujon Miah be determined by the Licensing (Miscellaneous) Sub-Committee, to ascertain if he is a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976.
- 2.8 Mohammed Shujon Miah attended the Licensing (Miscellaneous) Sub-Committee on 21 April 2016 to review his HC/PHV Drivers Licence. The decision at the hearing was that as a result of the late submission of supporting documentation, this agenda item be deferred to a future meeting date to allow all parties the opportunity to study the additional papers.
- 2.9 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and Amendments Order 2002, exempts applicants for HC/PHV Driving Licences from the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.
- 2.10 Information disclosed on the applicant's DBS check will be presented at the meeting as the said information cannot be reproduced. Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication.
- 2.11 Members should not allow themselves to pre-determine the application or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 2.12 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

3. OPTIONS FOR CONSIDERATION

- 3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such applications are as follows:

Option 1 – To grant the licence as applied for with no additional conditions or restrictions other than those normally applied to such licences.

Option 2 – To grant the licence for a subject to additional conditions or restrictions.

Option 3 – To refuse to grant the licence.

4. ANALYSIS OF OPTIONS

4.1 The analysis of the three options at paragraph 3.1 are as follows:

Option 1 – A criminal record does not debar an applicant from gaining or renewing a licence unless the authority considers the said conviction(s) render the person unsuitable and therefore not a fit and proper person. In the first instance criminal records are checked against guidelines in respect of the Rehabilitation of Offenders Act 1974 and guidance produced in line with the Department of Transport Circular 2/92 and Home Office Circular 13/92.

Option 2 – The legislation also allows the Licensing Authority to attach Conditions to a Private Hire Vehicle Drivers Licence only and in the event that the licensed driver has breached any of the Conditions during the period of their licence may result in them being put before an Assessment Board of Officers of the Licensing Division to consider it. In the event that the Assessment Board is not satisfied that the applicant is a “fit and proper” person, a recommendation is made to this Sub-Committee to determine the licence or the renewal application. The committee could also determine to issue the licence for a lesser period. Licences can be issued for a period up to a maximum of three years.

Option 3 – Should the Licensing (Miscellaneous) Sub-Committee refuse the application or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no resource implications.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Local Government (Miscellaneous Provisions) Act 1976.

6.2 Town Police Clauses Act 1847.

7. OUTCOMES OF CONSULTATION

7.1 Not applicable

8. RECOMMENDATIONS

8.1 That the application be determined in accordance with the options outlined at paragraph 3 above, taking into account the information on the DBS Certificate and other information provided at the hearing.

DIRECTOR OF PLACES

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Background Papers used in the preparation of this report: -

Application file - except information protected by the Data Protection Act.