

**LICENSING SUB-COMMITTEE – 22 OCTOBER 2007****APPLICATION TO CONSIDER THE GRANT OF A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE****1. INTRODUCTION**

- 1.1 Mr Hayes has applied to the Council to grant him a Hackney Carriage and Private Hire Driver Licence. He is forty-seven years of age and lives at 4 Mandale Road, West Howe, Bournemouth.
- 1.2 Mr Hayes has previously held a hackney carriage and/or a private hire driver licence with Bournemouth Council between 1998 and 2005.
- 1.3 The reason Mr Hayes is appearing before the Licensing Sub-Committee is that during a personal records check with the Criminal Records Bureau, information was supplied to the Council showing that Mr Hayes has a history of criminal offences.
- # 1.4 Mr Hayes's application form is attached as Appendix 1.
- # 1.5 The New Forest District Council Guidelines Relating to the Relevance of Convictions is attached as Appendix 2.
- 1.6 Mr Hayes has supplied a satisfactory medical certificate and details of two referees who have vouched for his character. He has in force a full UK Driving Licence in all other regards fulfils the requirements of the Council in respect of a driver licence.
- 1.7 The Sub-Committee is requested to review this case and determine whether Mr Hayes is a fit and proper person to be licensed as a Hackney Carriage and Private Hire vehicle driver.

**2. BACKGROUND**

- # 2.1 Mr Hayes has supplied two referees who have known him for a period of twelve years. Both have indicated that they recommend him as a person who is fit to hold a Hackney Carriage and Private Hire Driver Licence and that they consider him to be capable of dealing honestly and in a civil manner with members of the public. Their responses are attached as Appendix 3.
- # 2.2 Mr Hayes has also supplied testimonies from three other people, a School Contracts Transport Operator, a past School Contracts Transport Operator and a Passenger Assistant with Dorset County Council who all attest to his good character whilst carrying out his duties driving school contract vehicles. The testimonies are attached as Appendix 4.
- 2.3 Mr Hayes holds a driving licence issued by the Driver and Vehicle Licensing Authority. This shows one current fixed penalty offence in November 2005 for exceeding the statutory speed limit on a public road (SP30) which, as well as the fine, resulted in 3 penalty points.

- 2.4 Mr Hayes' driving record also shows four earlier offences which are not current. The offences were all committed during 2002. Three of these were speeding offences (SP30) and the fourth a miscellaneous offence not covered by any other offence code (MS60). A copy of the paper counterpart is attached as  
# Appendix 5
- 2.5 Mr Hayes has a criminal record. The offences, although now spent, may be considered by members of the Sub-Committee to be relevant and warrant examination and consideration by the Licensing Sub-Committee.
- 2.6 If this application is successful, Mr Hayes intends to work as a driver for Zodiac Travel Ltd. A school contract vehicle supplier and private hire operator licensed by the Council for a number of years.

### **3 THE RELEVANCE OF SPENT CONVICTIONS**

- 3.1 "Spent" convictions are not generally to be taken into account or disclosed. However, Section 7(3) of the Rehabilitation of Offenders Act 1974 does allow for disclosure to a Licensing Committee should the authority be satisfied that the convictions are relevant and that justice cannot be done except by admitting them as evidence.
- 3.2 When considering an application for a licence, Councils sit in a quasi-judicial capacity. The High Court has held that because Local Authorities are exercising a quasi-judicial function, they are a judicial authority within the Rehabilitation of Offenders Act 1974. Consequently, Councils can take spent convictions into account, but before doing so, the Authority must decide:
- a) which spent convictions they consider are relevant to the application;
  - b) to ask the Police if they have any comments to make on the conviction(s)
  - c) to inform the applicant of their intention to look at the spent convictions and give that person the opportunity to make representations.

### **4. ENVIRONMENTAL IMPLICATIONS**

- 4.1 There are no environmental factors to be considered.

### **5. CRIME AND DISORDER**

- 5.1 There are no direct crime and disorder implications as a result of this report. However, the Council has a duty to ensure only "fit and proper" persons are licensed as Hackney Carriage and Private Hire drivers.

### **6. FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications for this Council as a result of this report.

### **7 FACTORS FOR CONSIDERATION**

- 7.1 Mr Hayes fulfils the driver licensing requirements on age, driving experience and medical fitness.

- 7.2 Mr Hayes has a criminal record going back over a number of years. If the Sub-Committee is satisfied that justice cannot be done except by admitting or requiring evidence of the applicant's spent convictions then they must consider, on the evidence to be given to them, which spent convictions are relevant.
- 7.3 The Licensing Officer will provide a matrix of offences for the Sub-Committee showing the class of the offence, the age of the offence and broadly the apparent seriousness (gauged by penalty) of the relevant spent conviction.
- 7.4 Hampshire Constabulary have been contacted regarding this application and have confirmed that they have no further comment to make.
- 7.5 Mr Hayes has been invited to attend this Licensing Sub-Committee and has been informed that he is entitled to bring a friend/advocate with him and any witnesses that he feels will help his application.
- 7.6 Mr Hayes has indicated that he will be attending the Licensing Sub-Committee.
- 7.7 The Local Government (Miscellaneous Provisions) Act 1976 Section 51 requires a Licensing Authority to be satisfied that an applicant is a "fit and proper person to hold a drivers' licence".

## **8. RECOMMENDATIONS**

- 8.1 That, after hearing from Mr Hayes, the merits of the case be considered and the Sub-Committee decide whether or not Mr Hayes is a fit and proper person to hold a drivers' licence; and
- 8.2 That the application for the grant of a Hackney Carriage and Private Hire Driver Licence be determined.

**For further information please contact**  
Tony Hetherington, Licensing Officer  
Appletree Court, Lyndhurst  
Tel 023 8028 5449  
Fax 023 8028 5127  
Email: [tony.hetherington@nfdc.gov.uk](mailto:tony.hetherington@nfdc.gov.uk)

**Background Papers**  
Exempt Works



# New Forest

DISTRICT COUNCIL

## APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE

FOR OFFICIAL USE ONLY		
POLICE CHECK		LICENCE NO
BIRTH CERT		DATE ISSUED
REFS		DATE EXPIRED
DVLA		EXPIRY
MEDICAL		EXPIRY
FEE		RECEIPT NO

I HEREBY APPLY to the New Forest District Council to grant me, subject to the provisions of the TOWN POLICE CLAUSES ACT 1847 and 1889, and the LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 Regulations and Conditions relating thereto, a Licence to drive a Hackney Carriage and a Private Hire Vehicle in the New Forest District Council area.

(Medical certificate as to fitness to drive is required on initial application, at the age of 46 years and at 6 year intervals thereafter. At the age of 65 years a medical is required and also annually thereafter.)

1. Surname MAIES First Names PHILIP ALAN
2. Date of Birth \_\_\_\_\_ Address \_\_\_\_\_  
 \_\_\_\_\_ Post Code \_\_\_\_\_
3. Daytime Tel No \_\_\_\_\_ Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

4. Particulars of other addresses during past five years

Previous Address	From	To
	1991	2002

(continue on separate sheet if necessary)

6. Have you previously held a similar Private Hire or Taxi Driver licence with this or any other Authority? If so state particulars

7. Licence No 254 Expiry Date MAY 05 Issuing Authority Bournemouth Council

7. I declare that I am, and for at least twelve months prior to the date of application, have been the holder of a DVLA licence, not being a provisional licence, under the RTA 1972, authorising me to drive a motor car.

The Number is \_\_\_\_\_ Expiry Date is \_\_\_\_\_

8. Details of present employment

Name & Address of Present Employer	Date from	Date to
ZODAC TRAVEL LTD TILE BARN LANE Brockenhurst	MARCH 06	Present

9. Name and Address of previous employers, during past 5 years, state period of employment in each case

Name & Address of Previous Employers	Date from	Date to
UNITED TAXIS MEDEWATER ROAD Springwood Bournemouth	1998	2005

(continue on separate sheet if necessary)

10. Have you ever been refused a Private Hire Vehicle/Hackney Carriage Drivers Licence or had one revoked? If so, name the Council and date.

NO

11. What driving experience do you have? 26 YEARS EXPERIENCE

12. Are you a British Citizen?  Yes  No (Please tick appropriate box)

If no, state nationality? \_\_\_\_\_

13. I understand that failure to disclose any conviction is an offence as is deliberately withholding and/or giving false information for the purpose of gaining this licence. If you commit any of these offences you leave yourself open to prosecution and exclusion from holding such licence for life.

(a) Have you ever been convicted of any criminal offences?  Yes  No (tick appropriate box)

(b) Have you ever been convicted of any motoring offences?  Yes  No (tick appropriate box)

(c) State all convictions, both criminal and motoring. In the case of motoring offences also show endorsements and penalty points

Date	Court	Offence of which Convicted	Sentence
		Several offences will show on CRB can + remember exact dates	

(continue on separate sheet if necessary)

(d) Are you aware of any Police enquiries being made at the present time involving yourself  Yes  No.  
(Please tick appropriate box) If yes, state nature of enquiries.

I hereby declare that the statements I make on this form are true and understand that should I make a misleading statement I shall be committing an offence for which I may be prosecuted.

Signed \_\_\_\_\_ Date 25<sup>th</sup> July 2007

The sum of £ \_\_\_\_\_ is enclosed, being the fee payable in respect of this application. (See current Scale of Fees and Charges) Cheques must be made payable to New Forest District Council.

#### CERTIFICATE OF EMPLOYMENT

I certify that should this Applicant be granted a Driver's Licence "he/she will be employed  
\*Full-Time/Part-Time by me." (\* Delete as necessary)

\* Part-time how many hours per day \_\_\_\_\_ per week APPROX 16

Signed \_\_\_\_\_ Company ZODIAC TRAVEL LTD

Date 01-08-2007 2007

The District Council is dependent upon other agencies supplying information in order to progress this application. A Police Records check must be made on all applicants and a response received before a licence is considered and this process is conducted by the Criminal Records Bureau (CRB). It can take several weeks and you are strongly advised to apply in good time.

**IMPORTANT! – PLEASE COMPLETE THE CHECKLIST BELOW TO ENSURE THAT ALL RELEVANT DOCUMENTATION IS ENCLOSED WITH YOUR APPLICATION:**

Tick	Documentation Enclosed:
	Criminal Records Bureau Disclosure Application Form and accompanying documents (see purple booklet)
	Original DVLA Driving Licence displaying the applicant's current address
	Referee Form
	Medical Certificate where appropriate (this may be sent direct to the Council by your doctor).
	Licence Fee and Criminal Record Bureau Fee

The data supplied on this application will be held electronically and may be used for cross system and cross authority comparison purposes for the prevention and detection of fraud.

## NEW FOREST DISTRICT COUNCIL GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

Each case will be decided on its own merits. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration will be the protection of the public. The following is a general guide where convictions are admitted.

(a) **Minor Traffic Offences**

Convictions for minor traffic offences, eg. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or PHV licence may be granted after its restoration but a warning will be issued as to future conduct.

(b) **Major Traffic Offences**

An isolated conviction for reckless driving without due care and attention etc., will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years will merit refusal and no further application will be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) **Drunkenness/Intoxication/Alcohol Abuse**

A serious view will be taken of convictions of driving a motor vehicle with excess alcohol or being in charge of a vehicle with excess alcohol or failing to provide a specimen of blood, breath or urine as required.

An applicant shall not normally be granted a licence if the applicant has been convicted of an offence of driving with excess alcohol or failing to provide a specimen of blood, breath or urine as required, unless three years have elapsed since the restoration to him/her of a full United Kingdom driving licence.

In the event of a conviction of being in charge of motor vehicle with excess alcohol:-

- (i) When the applicant has been disqualified for any period, an application shall not normally be granted until at least three years have elapsed from the restoration to him/her of a full United Kingdom driving licence;
- (ii) Alternatively, whether or not an applicant has been disqualified, a period of three years from the restoration to him/her of a full United Kingdom driving licence or from the date of conviction whichever is the greater, should normally elapse before an application may be granted.

Any alcohol related conviction may be deemed prima facie evidence of an alcohol problem and the Licensing Committee may require the applicant to provide medical or other evidence to enable the determination of whether or not it is appropriate to issue a licence.

If a Hackney Carriage or Private Hire Driver is convicted of an alcohol related offence, the Licensing Committee may suspend the Licensee and require the Licence Holder to provide medical or other evidence to enable the Committee to determine whether or not it is appropriate to restore the licence.

**(NOTE: Applicants who have been medically diagnosed as having an alcohol related problem cannot ordinarily expect to be licensed without medical evidence supporting their fitness)**

**(d) Drugs**

A serious view will be taken of convictions of driving a motor vehicle while under the influence of drugs. In the event of a conviction of being in charge of a motor vehicle while under the influence of drugs an applicant should be able to show a period of at least three years free from convictions before an application is granted.

Any drug related conviction may be deemed prima facie evidence of a drug problem and the Committee may require the applicant to provide medical or other evidence to enable the determination of whether or not it is appropriate to issue a licence.

**(NOTE: Applicants who have been medically diagnosed as addicts cannot ordinarily expect to be licensed within five years of completion of treatment).**

**(e) Indecency Offences**

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, any of the more serious sexual offences, will be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind will preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct will be issued.

**(f) Violence**

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning will be administered.

**(g) Dishonesty**

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction will be required before entertaining an application.

L:\letters\drivers\Guidelines to conv.



LICENSING SERVICES  
6 AUG 2007  
RECEIVED

CONFIDENTIAL

APPLICATION FOR REFERENCE

Local Government (Miscellaneous Provision) Act 1976  
Hackney Carriage/Private Hire Driver

Applicant : Philip Hayes

Address :

How long has the applicant been known to you?

11 YEARS

Can you state in your own words why you feel the applicant to be: (continue on a separate sheet if necessary)

(a) a fit and proper person to hold a hackney carriage/private hire drivers licence

HE IS A VERY CAREFUL DRIVER  
RESPECTS TRAFFIC LAWS + OTHER ROAD USERS AT ALL TIMES  
PHIL IS A RESPECTED FAMILY MAN + FRIEND

(b) capable of dealing honestly and in a civil manner towards members of the public whilst acting in that capacity

PHIL HAS HAD VAST EXPERIENCE OF DEALING WITH THE PUBLIC AS A TAXI DRIVER + BUS DRIVES FOR DISABLED CHILDREN HE IS AN HONEST PERSON + TREATS ALL PEOPLE/PUBLIC WITH RESPECT + HONESTY - A TRUE GENTLEMAN

Name : MARK HALLAM Title/Profession : WARRANT OFFICER

Address :

Signature : Date : 04/08/07



**TO WHOM IT MAY CONCERN**

I have known Phil Hayes since 1995 when he worked for me as a collections agent in my capacity as Manager of the London Scottish Bank Bournemouth branch.

To fulfil his duties, he had to be at all times disciplined, organised and courteous. He proved himself to be hard working, level headed and responsible, well liked by customers and colleagues.

Phil and I have since become close friends. I have always found him honest, trustworthy, and totally reliable.

I would have no hesitation in recommending him to any prospective employer.

Mark Hallam

11<sup>th</sup> June 2006

CONFIDENTIAL

APPLICATION FOR REFERENCE

Local Government (Miscellaneous Provision) Act 1976  
Hackney Carriage/Private Hire Driver

Applicant : Philip Hayes

Address :

How long has the applicant  
been known to you?

Approx. 14 YRS.

Can you state in your own words why you feel the applicant to be: (continue on a separate sheet of paper if necessary)

(a) a fit and proper  
person to hold a  
hackney carriage/  
private hire  
drivers licence

Phil has been driving professionally  
for a number of years and as far as  
I'm aware, has always carried out  
his duties without cause for complaint.

LICENSING SERVICES  
7 AUG 2007  
RECEIVED

(b) capable of dealing  
honestly and in a  
civil manner  
towards members of  
the public whilst  
acting in that  
capacity

Furthermore, I've sat in the passenger  
seat and felt safe with Phil - which  
is not the case with most people.  
Phil has an excellent sense of humour  
and gets on well with just about  
everyone and I have no reason to  
doubt his honesty towards members of  
the public.

Name : Ron Dyer

Title/Profession : MANAGER - SOUTH WEST TRAM L.

Address :

Signature :

Date :

03/08/07

# Zodiac Travel Ltd

Tel: [redacted] Fax: [redacted] E-mail: [redacted]

NFDC  
Appletree Court  
Lyndhurst

13<sup>th</sup> September 2007

Dear Tony

I would like to confirm to you that I have employed Philip Hayes for the last year and found him to be a very sincere and genuine man. I understand he has had some issues in the past which I believe him to be very regretful of and I feel that his remorse is genuine, that is why I have taken the unusual step of writing this letter. I do hope you our keeping well and I look forward to are next meeting.

Yours sincerely

Rob Byford

# KIMBERLEY HOUSE

## BED & BREAKFAST

To Zodiac Travel Ltd

June 6<sup>th</sup> 2006

To Whom it may concern

May I take this opportunity to state that Mr Phillip Hayes was employed as a school mini bus driver from 1993 to June 1999. I can recommend him as a good driver, good time keeper. During his time with my company Welfare Buses. I never received a complaint from passengers, parents, or schools. Should you need any further information please call me.

Yours sincerely

All major credit cards accepted

12 RINGWOOD ROAD, LONGHAM, FERNDOWN, DORSET

Tel:

Fax:

Mobile:

MRS. BERIL MORRIS

11.9.57

TEL

To Whom it May Concern

As a passenger Assistant with Dorset County Council - Mr Philip Hayes has been my driver for a year, and I have found that he has always proved to be a friendly honest, reliable and punctual man, and has performed his duties thoroughly and conscientiously, with children and parents at all times from my experience I am sure he will prove to be a satisfactory Employee

Yours Faithfully



The photocard and paper card should be kept together. Both must be produced.



PHILIP ALAN HAYES



045072071224

96081

Driver number

Issue number

84A

Provisional Entitlement

(see booklet INS57P for category details)

Entitlement category (see Section 3 overleaf)

Category	From	Until	Codes
A	29 04 81		
GH	29 04 81		

Category	From	Until	Codes

Category	From	Codes

Endorsements (as supplied by convicting Court) See booklet INS 57P for offence codes

Convicting Court code	Date of conviction			Offence code	Date of offence			Fine £	Disqual. period	Other	Penalty points
	Day	Month	Year		Day	Month	Year				
1522	19	06	02	NS60	12	02	02	100.00			03
1522	05	11	02	SF30	18	02	02	40.00			03
1522	17	02	03	SP30	06	01	02	200.00			00
1522	01	10	04	SP30	06	01	02	90.00			03
1522				SP30	20	11	05			fp	03

NOTE: < means "earlier than"

You may only drive the above if you hold current entitlement for a higher category.

Official Use

Changes to your permanent address, please write clearly in the boxes using CAPITAL LETTERS IN BLACK INK. (See Section 5 overleaf)

New house No. \_\_\_\_\_ New Post Code \_\_\_\_\_

New address \_\_\_\_\_

This document must not be used for change of name. For change of name please refer to the D1, which can be obtained from Post Office branches.

Send the completed form with your photocard licence to DVLA, Swansea, SA99 1BN

Sign in the white box to confirm changes

White box for signature

Date \_\_\_\_\_

An executive agency of the Department for Transport

# **NEW FOREST DISTRICT COUNCIL**

## **Procedure at the Licensing Sub-Committee Meeting**

### **1. INTRODUCTION**

A meeting of the Licensing Sub-Committee will be held to determine applications. The applicant will have an opportunity to be heard, together with any representatives they may wish to call. This hearing will be in public session.

### **2. PROCEDURES AT HEARING**

2.1 The application and all representations will be considered by the Licensing Sub-Committee.

2.2 At the commencement of the meeting, the Chairman of the Licensing Sub-Committee will:-

- (i) Introduce himself/herself and the other members of the Sub-Committee.
- (ii) State the purpose of the proceedings which are to be heard by the Sub-Committee and ensure that the Applicant and other parties understand the procedure to be followed.
- (iii) Read aloud from the agenda paper particulars of the application.
- (iv) Ask for the names and addresses of persons the Applicant wishes to be heard in support of his application and for the name and status of any person representing the Applicant. Likewise the names of other representatives will also be recorded.

#### **2.3 The Licensing Officer's Report**

- (i) The Licensing Officer or his representative will present a report on the details of the application and call witnesses if appropriate;
- (ii) The Applicant, and the Sub-Committee will be given an opportunity to question the Licensing Officer or his representative and witnesses, if any, on the details of their report.

#### **2.4 The Applicant's Case**

- (i) Opening remarks by the Applicant or his representative;
- (ii) The Applicant or his representative will then call any witnesses and/or give evidence in support of his case;
- (iii) The Licensing Officer or his representative, and the Sub-Committee will be given the opportunity to question the Applicant and any of his witnesses as they are called; and

- (iv) Other persons making representations will give evidence in support of his case;
- (v) The Licensing Officer or his representative, and the Sub-Committee will be given the opportunity to question those making representations; and
- (vi) The Applicant or his representative will be given an opportunity of asking any further questions of each witness after they have been questioned by the other parties in (ii) above.

**2.5 Concluding Remarks**

- (i) The Licensing Officer or his representative will be given the opportunity to sum up;
- (ii) The Applicant or his representative will be given the opportunity to sum up;
- (iii) Other persons making representations will be given the opportunity to sum up.

**2.6** The Chairman will then ask the applicant and Licensing Officer to leave the meeting whilst the Sub-Committee considers the application.

**2.7** The Sub-Committee's Legal Advisor and the Clerk will remain to give any procedural or legal advice and to record the decision.

**2.8** Once the Sub-Committee has reached a decision, the Applicant and Licensing Officer will be invited to re-enter the meeting to hear the decision. The Applicant and the Licensing Officer will be notified of the decision in writing as soon as possible following the meeting.