

LICENSING SUB COMMITTEE – 25 NOVEMBER 2011

APPLICATION FOR GRANT OF A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE

1. INTRODUCTION

- 1.1 Mr Stephen O'Connor has applied for the grant of a combined hackney carriage and private hire drivers' licence. He lives at 108 Cumberland Way, Dibden, SO45 5TW.
- 1.2 The application is being referred to the Sub-Committee because a personal records check with the Criminal Records Bureau (CRB) has shown that Mr O'Connor has a criminal offence history.
- 1.3 The Sub-Committee is invited to consider the application and to determine if Mr O'Connor is a fit and proper person to be licensed as a hackney carriage and private hire vehicle driver with this authority.

2. BACKGROUND

- # 2.1 Mr O'Connor's application form is attached as Appendix 1.
- 2.2 Mr O'Connor has completed the council's taxi driver Awareness Test.
- # 2.3 Mr O'Connor has supplied the details of two referees who have provided character references for him. These are attached as Appendix 2.
- 2.4 Mr O'Connor holds an appropriate DVLA driving licence.
- # 2.5 The Criminal Records Bureau disclosure reveals an 'unspent' conviction on 23 August 2010 for making a false statement representation to obtain benefit. The sentence for which was 50 hours Community Order. The Council's own guidelines relating to the relevance of convictions is stated in section 3 and is also attached as Appendix 3.

3. POLICY CONSIDERATION

- 3.1 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 for dishonesty.
- 3.2 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.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications associated with this report; however the applicant has a right of appeal to the Magistrates Court if the application is rejected.

5. ENVIRONMENTAL IMPLICATIONS

5.1 There are no environmental factors to consider.

6. CRIME AND DISORDER IMPLICATIONS

6.1 The Council has a duty to ensure that only 'fit and proper' persons are licensed as hackney carriage and private hire vehicle drivers in order to protect fare paying passengers from being the victim of any crime instigated by the vehicle's driver.

7. EQUALITY AND DIVERSITY IMPLICATIONS

7.1 There are no equality and diversity implications arising from this report.

8. CONCLUSION

8.1 All applicants for hackney carriage and private hire drivers' licence are required to apply to the Criminal Records Bureau for a disclosure of criminal history. Where matters of concern are disclosed, including both 'spent' and 'unspent' convictions, a Licensing Sub-Committee will determine the application.

8.2 The Council is entitled to take into account the information disclosed to determine whether the applicant is a suitable person to hold a licence. The relevant legislation states that the Council shall be satisfied that the applicant is a 'fit and proper' person to hold a licence.

8.3 The Licensing Sub-Committee may be asked to move into private session for legal advice regarding this matter.

9. RECOMMENDATIONS

9.1 That after considering all the evidence before the Licensing Sub-Committee the application for the licence is determined in accordance with the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

For Further Information Please Contact:

Paul Weston
Licensing Officer
Tel: (023) 8028 5505

Background Papers:

Application and associated documents

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New Forest

DISTRICT COUNCIL

LICENCE GRANT

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

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 O'CONNOR First Names STEPHEN
2. Date of Birth _____ Address 108 CUMBERLAND WAY
DIBDEN SOUTHAMPTON Post Code SO45 5TW
3. Daytime Tel No _____ Mobile _____ E-mail Address _____
4. Particulars of other addresses during past five years

Previous Address	From	To
1A LITTLE HOLBURY PARK HOMES LIMKILN LANE HOLBURY SOUTHAMPTON SO45 2JS	13-8-08	15-12-10
14 SCOTT PAINE DRIVE HYTHE SOUTHAMPTON SO45 6JY	25-1-04	13-08-08

(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

Licence No NO Expiry Date _____ Issuing Authority _____

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
UNEMPLOYED	2-11-08	21-9-11

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
SELF EMPLOYED CARPET FITTER	1-6-02	2-11-08

(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? 25 YEARS
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
23-07-10	1775	SP30	03 PENALTY POINTS

(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 21-9-11 20____

The sum of £147 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)

TOTTON & WATERSIDE
WHEN LICENCE ISSUED

If part-time how many hours per day _____ per week _____

Signed _____ Company _____

Date _____ 20____

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

Data Protection Act 1998

The information you provide will be held in accordance with the Data Protection Act 1998, and statutory requirements including the Licensing Act 2003 and the Gambling Act 2005. It will not be used for any purpose that is not compatible with the purpose for which it was collected.

New Forest District Council is under a duty to protect the public funds it administers, and to this end may share information collected internally, and with other councils and government agencies including other bodies responsible for auditing or administering public funds, for the prevention and detection of fraud.

For further information, see <http://www.newforest.gov.uk/index.cfm?articleid=7655> or contact the Council's Senior Investigations Officer

(023 8028 6790)



New Forest
DISTRICT COUNCIL

DETAILS OF TWO REFEREES

NAME OF APPLICANT _____

Date: _____ 20

PLEASE PRINT ALL DETAILS CLEARLY

(A referee should be known by the applicant for a minimum of two years and should not be a relative of the applicant)

NAME AND ADDRESS OF PERSON RECOMMENDING	PERIOD THAT THE REFEREE HAS BEEN KNOWN TO APPLICANT	
	From	To
Referee: 1		
Name: MR STEPHEN STARKEY	1985	2011
Address: 41B HYTHE PARK ROAD		
POOLEY GREEN EGHAM		
SURRY TW20 8BA		
Telephone:		

Referee: 2	From	To
	Name: MR JOHN SANDERS	1990
Address: 27 HEATHER CLOSE		
LANGMEY EASTBOUNE		
EAST SUSSEX		
BN23 8DF		
Telephone:		



APPLICATION FOR REFERENCE

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

Applicant : Stephen O'Connor

Address : 108 CUMBERLAND WAY DIBDEN SOUTHAMPTON SO45 5TW

How long has the applicant been known to you?

20 YEARS

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

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

I HAVE KNOWN STEVE O'CONNOR 20 YEARS I HAVE ALWAYS FOUND HIM TO BE TRUSTWORTHY & HONEST AM WILLING TO HELP IF NEEDED I WOULD NOT HESITATE TO RECOMMEND HIM

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

TO ANYBODY I FEEL HE WOULD BE SUITED TO THE JOB OF A TAXI DRIVER DEALING HONESTLY WITH THE PUBLIC.

Name : STEVE STARKY Title/Profession : TAXI DRIVER RENNEY B.C

Address : 118 THE PARK ROAD ERYHAM SURREY TW208JA

Signature : Date : 20-9-11

APPLICATION FOR REFERENCE

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

Applicant : Stephen O'Connor

Address : 108 CUMBERLAND WAY DIBDEN SOUTHAMPTON SO45 5TW

How long has the applicant
been known to you?

30 + Years

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

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

I have known Stephen for many years and he has always been trustworthy and reliable in work and socially. I have driven with him on numerous occasions and am sure his driving ability is up to the high standards required.

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

I have always found Stephen to be an even natured and friendly honest person. He would be ideally suited to work with the public day to day.

Name : John Sanders Title/Profession : Service Engineer

Address : 27 Heather Close

Laney Eastbourne BN238DF

Signature : [Signature] Date : 1st Oct 2011

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.

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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.

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