

## LICENSING SUB COMMITTEE – 17 FEBRUARY 2012

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

#### 1. INTRODUCTION

- 1.1 Mr Brian MARLOW is the holder of combined hackney carriage and private hire driver's licence number 2220. He lives at 8 Riverdale Close, Fordingbridge, SP6 1LJ.
- 1.2 As part of the renewal process a personal records check with the Criminal Records Bureau (CRB) is required. This application is being referred to the Sub-Committee because the personal records disclosure for Mr Marlow confirms a recent relevant criminal offence.
- 1.3 The Sub-Committee is invited to consider the renewal application and to determine if Mr Marlow remains 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 Marlow was initially issued with a taxi drivers' licence on 14 October 1984. His current renewal application is attached as **Appendix 1**.
- # 2.2 Mr Marlow has provided the details of the relevant conviction to the licensing office. This letter is attached as **Appendix 2**.
- 2.3 Mr Marlow holds an appropriate DVLA driving licence which has been inspected by Licensing Services.
- # 2.4 The Criminal Records Bureau disclosure confirms a conviction on 04 March 2011 for an offence of 'Driving a Motor Vehicle with Excess Alcohol' committed on the 17 February 2011, contrary to the Road Traffic Act 1988 Section 5(1)(A). The sentence imposed was; Disqualified from Driving – obligatory 16 months, subsequently varied and reduced by 4 months on 1 July 2011 due to course completed. Mr Marlow also had to pay a Fine of £125, Victim Surcharge of £15 and Costs of £85. The Council's own guidelines relating to the relevance of convictions is stated in section 3 and is also attached as **Appendix 3**.
- 2.5 There are no other criminal matters recorded against Mr Marlow and no other matters of interest or of concern held on file.

#### 3. POLICY CONSIDERATION

- 3.1 Each case will be decided on its own merits. 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 an extract from the NFDC guidance relating to the relevance of convictions for alcohol related traffic offences.

“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. “

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

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no financial implications to consider.

#### **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 ensure the public safety of fare paying passengers and other road users.

#### **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' licences 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 remains 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 Mr Marlow has been invited to attend this Licensing Sub-Committee and has been informed that he is entitled to be represented.
- 8.4 The applicant has a right of appeal to the Magistrates Court if the application is rejected.

## **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  
Licensing Services  
Tel: (023) 8028 5505

### **Background Papers:**

Renewal Application Form

Fordingbridge cars No. 002721



# New Forest DISTRICT COUNCIL

## APPLICATION TO RENEW A LICENCE TO DRIVE A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE

| FOR OFFICIAL USE ONLY |            |
|-----------------------|------------|
| LICENCE NO 2220       |            |
| DATE ISSUED           | 16/03/2009 |
| DATE EXPIRED          | 15/03/2012 |
|                       |            |
|                       |            |
|                       |            |

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, when the applicant reaches 46 years and at 6 year intervals thereafter. At the age of 65 years a medical is required and also annually thereafter.)

PLEASE AMEND IF INCORRECT

|   |         |  |         |
|---|---------|--|---------|
| 1. Title: Mr First Names: Brian Reginald  |         |  |         |
| 2. Surname: Marlow<br>Date of Birth:  |         | Surname:   | D.O.B.: |
| 3. Home Address: 8 Riverdale Close<br>Parsonage Park<br>Fordingbridge<br>Hampshire<br>SP6 1LJ   |         | <b>LICENSING SERVICES</b><br><b>19 DEC 2011</b><br><b>RECEIVED</b> |         |
| 4. National Insurance No:   |         |  |         |
| 5. Tel No:  | Fax No: | Tel:   | Fax:    |
| 6. Mobile:  | E-MAIL: | Mobile:  | E-Mail: |
| 7. I declare that I am, and for at least twelve months prior to the date of application, have been the holder of a licence, not being a provisional licence, under the RTA 1972, authorising me to drive a motor car.<br><br>The No is: |         | No:<br><br>Expiry Date:  |         |
| 8. Last Medical Carried Out: 29/07/2010   |         | Next Medical Required: 29 July 2011                                |         |

### NOW COMPLETE ALL OF THE FOLLOWING

9. Do you hold similar licences with any other Local Authority? If so, state particulars: Yes  No

Licence No: ..... Expiry Date: .....

Issuing Authority: .....

10. Present Employer:

Name: FORDINGBRIDGE CARS ..... Tel No: 01725 652676 .....

How Long Employed: 26 YEARS .....

11. Whilst your current licence is in force have you ever been refused a Private Hire Vehicle/Hackney Carriage Drivers Licence or had one revoked? Yes  No

If so, name the Council and give the date: .....

12. Have you now or have you ever had Epilepsy or attacks of disabling giddiness or fainting or any mental illness or defect or any other disability likely to cause danger to you or others if you drive?

Yes  No  If yes give details .....

13. Do you need to wear glasses to correct your vision for driving? Yes  No

14. 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

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

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

| Date   | Court     | Offence of which Convicted | Sentence     |
|--------|-----------|----------------------------|--------------|
| 4/3/11 | LYNDHURST | DRINK DRIVING              | 12 MONTH BAN |

(continue on separate sheet if necessary)

(d) Are you aware of any Police enquiries being made at the present time involving yourself -

Yes  No

If yes state nature of enquiries. ....

**CERTIFICATION**

I hereby certify that to the best of my knowledge and belief the answers given above are true.

Signed ..... Date 14/11/11

The sum of £ 81 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.

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

Signed ..... Company FARMING & TRADING Date 14/11/11

+ Current convictions: Certain convictions are deemed to be 'spent' under the Rehabilitation of Offenders Act 1974. You are under no obligation to disclose these.

The District Council are dependent upon other agencies supplying information in order to progress this application. The process (including renewals) can take approximately six weeks and you are strongly advised to apply in good time.

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.

The documentation which must accompany the completed application form is: (please tick box when including)

|  | Yes                                 |                                  | Yes                                 |
|--|-------------------------------------|----------------------------------|-------------------------------------|
| Criminal Records Bureau form, supporting documents and fee                                     | <input checked="" type="checkbox"/> | Medical Certificate as necessary | <input type="checkbox"/>            |
| Original DVLA Driving Licence displaying the applicant's current address, DVLA mandate and fee | <input type="checkbox"/>            | Passport photograph              | <input type="checkbox"/>            |
|  |                                     | Driving Assessment (if required) | <input type="checkbox"/>            |
|  |                                     | Licence fee                      | <input checked="" type="checkbox"/> |

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=7665> or contact the Council's Senior Investigations Officer (023 8028 6790)

**FORDINGBRIDGE CARS**

*BRIAN MARLOW*  
*8 RIVERDALE CLOSE*  
*PARSONAGE PARK*  
FORDINGBRIDGE  
HANTS  
SP6 1LJ

14/3/11

Licensing

This is to confirm that on the 4 march 2011 the Lyndhurst magistrates banned me from driving for 1 year. My licence no 2220.

Please accept my regret for any problems this may cause.

BRIAN MARLOW

## 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.

((t;d,1))

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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