



AGENDA ITEM: 6

SUMMARY

Report for:	Licensing Health & Safety Enforcement Sub-Committee
Date of meeting:	26th November 2013
PART:	II
If Part II, reason:	Disclosure of exempt information relating to an individual which would be likely to reveal his identity

Title of report:	Application for Private Hire Driver's licence following motoring offences
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To detail an application for a Private Hire Driver's licence requiring determination, where the applicant has received one or more convictions for motoring offences
Recommendations	That the Sub-Committee consider the application and: a) Grant the application for the licence; or b) Refuse the application for the licence.
Corporate objectives:	Safe and Clean Environment <ul style="list-style-type: none"> • Public safety is the key aim of the vehicle/driver licensing system, and the Council must be satisfied that applicants are fit and proper to hold licences.
Implications:	This application is to be determined under existing policies. No new policy implications arise.
Consultees:	None
Background papers:	Guidelines on fitness of applicants for hackney carriage / private hire driver's licences (March 2013)
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. The Council is responsible for the regulation of hackney carriage and private hire services within the Borough of Dacorum, and issues licences for hackney carriage vehicles and drivers, and private hire operators, vehicles and drivers, in accordance with the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2. Before issuing a hackney carriage or private hire driver's licence, the Council must be satisfied that the applicant is a "fit and proper person" to hold such a licence. No statutory definition of this term is given, and the Council's discretion on what matters may be considered in reaching its determination on this point is wide-ranging. However, issues such as the existence of criminal convictions and/or motoring endorsements are considered to be key aspects of such consideration.
- 1.3. Guidelines on considering the fitness and propriety of applicants for drivers' licences, including the relevance of criminal convictions and motoring endorsements, were adopted by the Council in March 2013, and a copy of this document is appended to the report.

2. DETAILS OF APPLICATION

- 2.1. An application was received from Mr Stephen McNally for a private hire driver's licence on the 3rd September 2013.
- 2.2. Mr McNally was previously licensed by the Council as a private hire driver since 18th September 2001, with the most recent licence expiring on the 25th June 2013. As a renewal application was not made prior to the expiry of the previous licence, the current application is treated as a new grant application. No temporary licence has been issued.
- 2.3. Mr McNally is also licensed as a private hire operator, licence number PO023, under the trading name Corporate Car Service. He has previously been exempted from certain licensing requirements as a result of the executive nature of the business he runs.
- 2.4. The applicant's DVLA driving licence shows a number of motoring offences, as follows:

Date of offence	Date of conviction	Offence	Sentence
20/07/2010	FPN	SP30 – Exceeding statutory speed limit on public road	Fixed penalty, 3 penalty points
07/06/2011	FPN	SP30 – Exceeding statutory speed limit on public road	Fixed penalty, 3 penalty points
13/07/2011	06/12/2011	SP30 – Exceeding statutory speed limit on public road	£330 fine, Disqualification (35 days)

- 2.5. These endorsements have since been confirmed by the verification check of the applicant's DVLA driving licence. It has also been confirmed that the

disqualification arose from the single offence, and was not made under the 'totting-up' rules.

2.6. There is no record of Mr McNally declaring these offences prior to making his current application, contrary to condition 15 of the council's private hire driver licence conditions, as shown at Annex D.

2.7. The driving licence produced on the last application indicates a further 7 speeding offences committed between 2000 and 2008, 5 of which were dealt with by way of fixed penalty notice and 2 by court hearing.

2.8. Mr McNally attended an interview with licensing enforcement officers on Tuesday 5th November 2013 to discuss the circumstances of the offences. During this interview, he stated:

- When he attended the Council office to apply for a new licence he had completed all sections other than that as shown in the box after section 17 – "details of motoring offences convictions". He stated he brought with him a photocopy of his old DVLA driver licence as he had sent off for a new one which had not arrived. He was seen by a member of the licensing team who assisted him by completing this section of the form for him from the photocopy. The photocopy did not show his latest conviction on 6/12/11. He agreed the application form was inaccurate and it was entirely his fault for the mistake but it was not his intention to mislead or hide the offence. At a later date, when he brought his new DVLA driver licence in with him to be photocopied, he did not check the application form against his new DVLA licence which showed the additional offence.
- Mr McNally stated the offence dated 20/7/10 was when a Police mobile speed camera van that was parked in Leverstock Green, just inside the 30mph signs recorded his speed at 37 mph as he entered Hemel Hempstead from St Albans direction. He received a Fixed Penalty Ticket for £60 and 3 penalty points.
- He stated the offence on 7/6/11 was on the St Albans Road, dual carriageway, as he was travelling towards the M1 between the Bennetts End roundabout and prior to the fixed speed camera, whereby a Police mobile speed camera van was parked and recorded his speed at 43mph in the 40mph restriction. He received a Fixed Penalty Ticket for £60 and three penalty points.
- Mr McNally stated the third offence was when he appeared at Bicester Magistrates Court on 6/12/11 for an offence of speeding at 66mph in a 40mph restriction. He stated this was on a dual carriageway whereby having left the M40 he was approaching Bicester Village. Police Officers standing on a bridge above the road recorded him committing the offence. He stated the road had been altered, unknown to him, six weeks previously, from a 70 mph limit to a 40mph speed restriction. He was fined £330 and disqualified from driving for 35 days.

This interview was recorded on compact disc and a transcript will be supplied separately prior to the date of the meeting.

2.9. No concerns arise from other aspects of the application – Mr McNally has been certified as satisfying the Group 2 medical standards, and has no recent, relevant criminal convictions. No complaints have been recorded

against him since 2004 (when records on the current Council database begin).

- 2.10. The following documents are attached to this report in the annexes shown:

Annex A – previous private hire drivers' licence
Annex A – completed application form
Annex C – DVLA driving licence
Annex D – standard private hire driver licence conditions
Annex E - transcript of recorded interview – to follow separately.

3. GUIDELINES

- 3.1. Section 7 of the Guidelines covers motoring offences. That section states:

“7.13. An endorsement which was subject to the award of three or less penalty points shall be regarded, for licensing purposes, as a minor endorsement.

7.15. [A large] number of minor endorsements, particularly if incurred in a short period of time, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers.

7.17. Applicants with 9 or more penalty points from valid endorsements on their driving licence, or three or more valid endorsements, will generally have their applications referred to the Licensing Health and Safety Enforcement Sub-Committee for careful consideration of the facts. If the Sub-Committee are not satisfied that the applicant can be considered a fit and proper person by virtue of his endorsements, it shall be open to them to refuse the application.

7.20. Where an applicant has been disqualified from driving because of a serious traffic offence, a licence application will generally be refused unless a period of 2 years free of conviction or endorsement has elapsed from the restoration of the driving licence.”

- 3.2. Paragraph 3.7 of the Guidelines covers an applicant's failure to disclose information required under the licensing conditions, stating:

“3.7. Where an existing licence-holder is under an obligation to provide information to the Council (for example, details of any convictions or motoring endorsements received during the validity of the licence) and has failed to meet this obligation, it shall be open to the Council to investigate the reason for this failure, and to draw appropriate inferences. Where the failure related to a particularly serious matter, refusal of an application to renew the licence may be warranted.”

4. OPTIONS AVAILABLE TO THE SUB-COMMITTEE

- 4.1. In respect of the application for a private hire driver's licence, in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and having considered the application and the matter outlined in this report, and any representations made by the applicant, the Sub-Committee may:

- 4.1.1. Grant the application if satisfied that the applicant is a fit and proper person to hold a driver's licence; or

- 4.1.2. Refuse the application otherwise.
- 4.2. If the application is granted, it is also open to the Sub-Committee to administer a warning as to the conduct of the driver, or to suspend the granted licence for a specified period under section 61 of the 1976 Act, should the Sub-Committee be satisfied that there is reasonable cause to do so.
- 4.3. The Sub-Committee must give full reasons for their decision.
- 4.4. If the application is refused, or if a licence is suspended, the applicant will have a right of appeal against the decision to a magistrates' court.

Annex A – Previous Private Hire Driver's Licence



PD 133

PRIVATE HIRE DRIVER LICENCE

Licence holder: **Mr Stephen McNally 24 Benchleys Road Hemel Hempstead
Herts HP1 2AQ**

Licence valid from: **25 June 2010** To: **24 June 2013**

Signature of licence holder:



Date issued: **10 December 2010**

Signed

**On behalf of Steven Baker
Assistant Director
(Legal, Democratic and Regulatory)**

NOTES

This licence is issued subject to the provisions of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and Transport Act 1985.

This licence must be produced on request by any authorised Officer of the Council or Police Officer.

The holder must immediately notify any change of address or convictions to the Council's Licensing Officer

On expiry, revocation or suspension, this licence and the Council's badges must be returned within 7 days to the Council's Licensing Officer.

POSSESSION OF THIS DOCUMENT DOES NOT GUARANTEE THAT THE LICENCE IS IN FORCE. ITS VALIDITY MAY BE ESTABLISHED BY REFERENCE TO THE COUNCIL'S LICENSING OFFICER.

Annex B – Application form

MNO-033237



FOR OFFICE USE ONLY			
Application Rec'd 03/09/13	Know Test 1 —	Know Test 2 —	Know Test 3 —
DVA G check done 04/09/13	CRB Check done 04/09/13	Medical Check Received 03/09/13	Badge Fee £130 + £44 + £6
Receipt No T191/55576 55577 55578	Licence No New PD 921 previously PD133	Date Issued 04/09/13	Expiry Date

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
 APPLICATION FOR A PRIVATE HIRE DRIVER LICENCE - GRANT/RENEWAL
 PLEASE READ THE EXPLANATORY GUIDE BEFORE COMPLETING THIS FORM
 TO BE COMPLETED IN BLOCK LETTERS

1	Surname: (MR, MRS, MISS) M McNally	Address 26 BENCH LENS ROAD AENEL HEMPSTAD HERTFORDSHIRE HP12AA
	First Name(s): STEPHEN	
	Date of Birth: 18-11-53	
	Place of Birth: BARNET	Tel: Mob: 07799886690
	Previous address over past 5 years (Give dates of residence & use a separate sheet if necessary)	
Present Occupation	PRIVATE HIRE DRIVER	
2	Have you ever been refused any Hire Car Driver's Licence or Taxi Driver's Licence? If YES give details	YES/NO NO
3	Do you hold or have you previously held any type of Private Hire Car Driver's Licence or Taxi Driver's Licence by any licensing or local authority? If YES give details	YES/NO YES DACORUM

Applicants need not complete question 4 on renewal of Licence

4	Please give the name and address of two referees to whom reference can be made as to the applicant's character and suitability for a licence. Referees must have known you for at least three years, should be persons of some standing within the community to include your present or last employer and be other than relatives or future employers	
	Name: Capacity known to you:	Address:
	Name: Capacity known to you:	Address:

5	State name of Hire Car Operator in Dacorum Borough Council for whom you will be working.	CORPORATE CAR SERVICE
6	Will you be working as a full-time or part-time hire car driver?	YES
7	If your employment is to be full-time state name and address of your present employer, the nature of your work and your normal working hours.	S. MENTALL 24 BENCHFIELD ROAD
8	If your employment is to be part-time state name and address of your present employer, the nature of your work and your normal working hours.	_____
9	Have you ever suffered from epilepsy or from sudden attacks of disabling giddiness or fainting, or from any disease, mental or physical, or disability likely to interfere with the efficient discharge of your duties as a driver or to cause the driving of a taxi vehicle to be a source of danger to the public?	YES/NO (If YES give details) NO
10	Has a doctor ever advised you not to drive a motor vehicle?	YES/NO (If YES give details) NO
11	Have you ever had a driving licence revoked or refused for medical reason?	YES/NO (If YES give details) NO

Particulars of Driving Licence Issued under Road Traffic Acts

12	Date of expiry of current licence	17.11.23
13	For what groups do you hold a full licence?	A C4
14	How long have you held a full licence?	1970

Motoring Offences

15	Are you disqualified by a Court from holding or obtaining a driving licence? If yes, state date of period of disqualification.	YES/NO <i>No</i>
16	Have you been convicted of any motoring offences in the last 5 years?	YES/NO
17	Have you been convicted of any offences involving driving under the influence of drink or drugs; drinking or attempting to drive with an undue proportion of alcohol in the blood; failure to provide a specimen of blood or urine for a laboratory test after driving or attempting to drive a motor vehicle; aiding and abetting another in one of these offences during the last 11 years)?	YES/NO <i>No</i>

If yes to question 15, 16 and/or 17, give details	
Date: <i>06.12.11</i>	Court: <i>2995</i>
Offence: <i>SP30</i>	Sentence/fine: <i>F.P</i>
Date: <i>20-07-2010</i>	Court: <i>1888</i>
Offence: <i>SP30</i>	Sentence/fine: <i>Fixed 3 points</i>
Date:	Court:
Offence:	

Particulars of Offences other than Motoring Offences

- 18 Have you ever been convicted of any offence involving dishonesty, drugs, indecency or violence? If so, give below details of date, nature and sentence or order of the Court

No

The Secretary of State has made regulations amending the Rehabilitation of Offenders Act 1974. These mean that for certain professions/trades, convictions are never spent. Taxi and private hire drivers have been made an exception therefore, you must now list, with detail, all the convictions you have ever received regardless of how long ago they occurred. All convictions whether spent or unspent can be taken into account when deciding whether to grant, renew or revoke a licence.

I declare that * I have not been convicted for any such offences in Great Britain.

~~* I have been convicted of the following offences in Great Britain~~

Date:	Court:
Offence:	Sentence/fine:

Date:	Court:
Offence:	Sentence/fine:
Date:	Court:
Offence:	Sentence/fine:

- Delete whichever is not applicable

19 Are you aware of any charges pending against you at the date of this application? **YES/NO**
 If yes, please give details:

No

DECLARATION

I DECLARE that I have checked the answers given in this application, that to the best of my knowledge and belief they are correct, and that I am not disqualified by reason of age or otherwise from holding or obtaining the licence for which I am now applying.

I have read the Licence Conditions and I undertake, in the event of a licence being granted, to observe and perform such conditions at all times.

Signed:  (Applicant) Date: *19 June 2013*

It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required in this form.

Existing driver: This form should be completed and returned to the Licensing Division, Public Protection Department, Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, Herts HP1 1HH, together with current driving licence (NOT provisional) issued not less than 12 months previously, a medical certificate signed and completed by a medical practitioner and appropriate fee. You will also be required to complete a Criminal Record Bureau Disclosure application and a DVLA Mandate form to allow the Council to view your driving licence. You will need to make an appointment for your CRB and DVLA Mandate forms to be processed. **New applicants need to refer to their information pack for the procedure to apply for a Private Hire Driver Licence.**

Data Protection Act 1998 – PLEASE READ CAREFULLY

Dacorum Borough Council (the data controller) will process the information provided and will hold the information on a public register and internal database.

The information supplied to Dacorum Borough Council may be shared with other agencies, such as the Police and Inland Revenue under Data Protection Act 1984 and 1998, Sections 28(3) and 29(3) respectively and for the purpose of administration of Taxi driver license.

By returning this form you have indicated your agreement to these conditions.

Annex C – DVLA Driving Licence



KEEP THIS SAFE Counterpart Driving Licence

K 3748335

D740

Important document – The photocard and paper counterpart should be kept together. Both must be produced when required.

1547048112 / 0865

STEPHEN MCNALLY
24 BENCHLEYS ROAD
HEMEL HEMPSTEAD
HP1 2AQ

35800

113002



Document number

132411470229

Driver number

MCNAL 511183 S99VM

Issue number

25A

You can update, replace and renew your driving licence online at www.gov.uk/browse/driving

Provisional entitlement

Category	From	Until	Codes
A	01 02 74	17 11 23	
GH	01 02 74	17 11 23	

Entitlement history (see section 2 overleaf)

Category	From	Until	Codes

Category	From	Codes

NOTE: < means "earlier than"

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

Endorsements (as supplied by convicting court)

Convicting court code	Date of conviction			Offence code	Date of offence			Fine £	Disqual. period	Other	Penalty points
	Day	Month	Year		Day	Month	Year				
1888 FIXED PENALTY				SP30	20	07	10				03
1888 FIXED PENALTY				SP30	07	06	11				03
2775	06	12	11	SP30	13	07	11	330.00	35D		00

C



DRIVING LICENCE



1. MCNALLY
2. STEPHEN
3. 18.11.1953 ENGLAND
- 4a. 30.09.2013 4b. 29.09.2023 4c. DVLA
5. MCNAL511183999VM 25
- 7.
8. 24 BENCHLEYS ROAD, HEMEL HEMPSTEAD, HP1 2AQ
9. AM/A/B1/B/C1/D1/BE/C1E/D1E/N/K/L/m/pl/q

✓ AUG23

Use boxes using CAPITAL LETTERS IN BLACK INK. (See section 1 overleaf)

Th... range of name please fill in and send us a 'Application for a driving licence' (D1) form, which is available to order from www.direct.gov.uk/motoringforms and to pick up at Post Office® branches.

Send the filled in form with your photocard and counterpart licence to DVLA, Swansea, SA99 1BN

Sign in the white box to confirm changes

Date _____

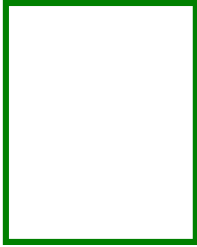
5/12

An executive agency of the
Department for
Transport

K 3748335

Annex D – Standard private hire driver licence conditions

DACORUM BOROUGH COUNCIL



**LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1976**

HIRE CAR DRIVERS' LICENCE CONDITIONS

Any requirements of legislation which effects the operations being carried out under the terms of the licence shall be regarded as if they are conditions of this licence.

1. Conduct of Driver

The driver shall:

- (a) At all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner;
- (b) Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle;
- (c) Not without the express consent of the hirer, smoke, drink or eat in the vehicle;
- (d) Not without the express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- (e) At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.

2. Passengers

The driver shall not:

- (a) Carry more passengers than the vehicle is licensed to carry;
NB: a one day old child is a passenger
- (b) Have more than one passenger in one seat belt;

- (c) Without consent of the hirer of the vehicle, convey or permit to be conveyed, any other person in that vehicle;
- (d) Place any passenger in danger regarding the use of seat belts or child restraints

3. Luggage

The driver shall:

- (a) Convey a reasonable quantity of luggage;
- (b) Afford reasonable assistance in loading and unloading;
- (c) Afford reasonable assistance in removing a reasonable amount of luggage to or from the entrance of any house, station or place.

4. Lost Property

- (a) The driver shall immediately after the termination of any hiring, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left.
- (b) If any property accidentally left in the hire car by any person who may have been conveyed therein is found by or handed to the driver, unless it be sooner claimed by or on behalf of its owner, shall be taken within 48 hours to the nearest police station and left in the custody of the officer in charge.

5. Receipt of Fare

The driver shall , if requested by the hirer, provide a written receipt for the fare paid.

6. Animals

- (a) The driver shall not convey in a hire car any animal belonging to or in the custody of himself/herself or the proprietor or operator of the vehicle;
- (b) Any animal in the custody of any passenger, which in the driver's discretion may be conveyed in the hire car shall only be conveyed in the rear of the vehicle.

7. Prompt Attendance

The driver of a hire car shall, when hired, punctually attend at that appointed time and place, unless delayed or prevented by sufficient cause.

8. Hire of Vehicle

The driver shall not, whilst in charge of a hire car:

- (a) Offer that vehicle for immediate hire whilst the driver of that vehicle is on a road or other place to which the public have access; or
- (b) Accept an offer for the immediate hire of that vehicle whilst the driver of that vehicle is on a road or other place to which the public have access, except where such an offer is first communicated to him/her by telephone or by radio from the operator's office to the vehicle. (In this condition "road" means any highway and any other road to which the public have access and includes bridges over which a road passes)

9. Touting and Soliciting

The driver **shall not**, whilst driving or in charge of the hire car;

- (a) Tout or solicit any person to hire or to be carried for hire in any hire car;
- (b) Cause or procure any other person to tout or solicit any person to hire or to be carried for hire in any hire car.

10. Deposit of Hire Car Driver Licence

The proprietor of the hire car shall retain the licence of any driver driving the proprietor's vehicle.

11. Taximeter

- (a) If a hire car is fitted with a taximeter, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and paid for the fare.
- (b) The driver of the hire car shall not tamper with or permit any person to tamper with any taximeter or with the seals affixed thereto.
- (c) Hire cars fitted with a taximeter may not operate unless the meter is in working condition and the position of the meter inside the vehicle has been approved by an Authorised Officer.

12. Fares to be Deemed

The driver shall not demand from the hirer a fare in excess of any previously agreed for the hiring between the hirer and the operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter is to be charged. Journeys shall be by the shortest route unless requested

otherwise by the hirer.

13. Change of Address

The driver shall immediately notify the Licensing Office in writing of any change of address during the period of the licence prior to such change taking place.

14. Change of Operator

The driver shall immediately notify the Council's Licensing Office in writing when he/she changes operators.

15. Convictions

The driver shall immediately disclose to the Council's Licensing Office in writing details of any conviction imposed on him/her during the period of the licence.

16. Expiry of Licence

The driver shall upon expiry (without immediate renewal), revocation or suspension of his/her licence forthwith return to the Council the driver's licence issued by the Council

17. Deceased Persons

A driver who has conveyed the dead body of any person in a hire car shall immediately notify the fact to the Council's Environmental Health Manager.

18. Tax and Insurance

The driver shall at all times when driving a hire car carry a copy of the licence and these conditions and shall make them available for inspection by an authorised officer or police officer.

19. Copy of Licence and Conditions

The driver shall at all times when driving a hire car carry a copy of the licence and these conditions and shall make them available for inspection by an authorised officer or police officer.

20. Badges

The driver must:

- (a) Wear his badge in a prominent position where it can be seen at all times.

- (b) The driver shall, upon the expiry (without immediate renewal), revocation or suspension of his/her licence, forthwith return to the Council the driver's badge issued by the Council, the badge remains the property of the Council at all times.

21. Consent of Proprietor

The driver shall not act as the driver of any hire car without the consent of the proprietor thereof.

22. Operators Licence

The driver should ensure that the Operator has a current licence.

23. Conditions

The Council reserves the right to vary, delete or waive any of the foregoing Conditions.

If you are aggrieved by any of the Conditions attached to this licence, you may appeal to a Magistrates' Court within 21 days of the service of this licence upon you (see S.52 and S.77 of the 1976 act and S.300 to 302 of the Public Health Act 1936)