

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Thursday, 13th December, 2012

Present: Cllr C Brown (Chairman), Cllr Mrs J A Anderson and Cllr D J Trice.

Cllr Mrs C J Woodger was also present as an observer for training purposes.

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

**LA
12/110 DECLARATIONS OF INTEREST**

There were no declarations of interest made.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
12/111 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information the following matter be considered in private.

PART 2 - PRIVATE

**LA
12/112 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE –
CASE NO 19/2012**

(Reason: LGA 1972, Sch 12A Paragraph 1 - Information relating to an individual)

The Panel gave consideration to the report of the Chief Solicitor regarding an application for the renewal of a Private Hire Driver's Licence. The Panel noted that the current licence had been issued on 8 December 2011 but that the applicant had failed to produce his photocard driving licence at the time of renewal.

The Panel noted that information received from the Driver and Vehicle Licensing Agency (DVLA) had revealed that the applicant had failed to disclose full details of current motoring convictions and that his DVLA driving licence had been revoked on 20 January 2012. The Panel listened carefully to the representations made by the Driver and had regard to the report of the Chief Solicitor and found that

(1) The Driver had disclosed 1 driving conviction and 1 fixed penalty offence on his application for renewal of his Private Hire Driver's Licence dated 8 December 2011, namely an offence dated 9 May 2010 (Failing to comply with traffic light signals) and an offence dated 14 February 2011 (Exceeding statutory speed limit) for which he received a total of six penalty points on his DVLA driving licence.

(2) The Driver had been convicted of 2 further driving offences, namely an offence dated 9 April 2011 (Exceeding statutory speed limit) and an offence dated 24 August 2011 (Failing to comply with traffic sign). The Driver had received a further six penalty points for these offences. The Panel accepted that the Driver had not been convicted of either of these further offences until after the date of his renewal application.

(3) The Driver had failed to inform the Council of the two further driving offences. In accordance with the Council's penalty points scheme, a total of twelve points would have been imposed on the Driver's licence in respect of this breach.

(4) The Driver's DVLA licence had been revoked on 20 January 2012, which the Driver had also failed to notify to the Council.

(5) The Driver did not produce his DVLA photocard driving licence until September 2012, despite written requests dated 8 May 2012 and 18 June 2012 to do so.

(6) In accordance with the Council's penalty points scheme, a total of six points had been imposed on the Driver's licence for failing to notify the Council of any amendment to the details of his licence i.e. the revocation of his DVLA driving licence and failing to produce his licence upon request.

The Panel had regard to the Council's Hackney Carriage and Private Hire Licensing Policy ('the Policy'), the relevant provisions of which were set out at paragraph 1.3 of the report of the Chief Solicitor. The Chief Solicitor advised the Panel that, in accordance with paragraph 6.7 of Appendix E, endorsable fixed penalties should be treated as convictions and must be disclosed. The Chief Solicitor also drew the attention of the Panel to paragraphs 6.1 to 6.3 of Appendix E to the Policy, which dealt with motoring convictions. In particular, the Panel noted that an application would normally be refused where the applicant had six or more penalty points on his licence (relating to minor traffic offences) whether or not the applicant was convicted by a court for the offences for which the points were imposed, or where the applicant had more than one conviction for a minor traffic offence within the last six months. The Panel was advised that all the motoring convictions disclosed by the DVLA were 'minor traffic offences' for the purposes of the Policy. Whilst the Panel was not considering whether to renew the Driver's licence, it was considered that the provisions of Appendix E were nevertheless relevant in assessing whether the Driver

was fit and proper to continue to hold a Private Hire Driver's Licence.

The Panel was mindful that, in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may suspend or revoke or refuse to renew a Private Hire Driver's Licence on a number of specified grounds, including 'any other reasonable cause'.

The overriding consideration for the Panel was the safety of the public. By his actions the Driver had failed to advise the Council of two motoring convictions and the revocation of his DVLA driving licence. Furthermore, he had accumulated a total of twelve points on his driving licence within a period of less than 16 months. This brought into question whether he was a 'fit and proper person' to continue to hold a Private Hire Driver's Licence.

For these reasons, the Panel therefore

RESOLVED: That the Private Hire Driver's Licence be revoked under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 1358 hours
having commenced at 1300 hours