

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 27th February, 2013

Present: Cllr A W Allison (Chairman), Cllr Mrs J A Anderson and Cllr Mrs
C J Woodger.

Cllr C Brown was also present as an observer.

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

**LA
13/004** **DECLARATIONS OF INTEREST**

There were no declarations of interest made.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
13/005** **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

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE
CONSTITUTION**

**LA
13/006** **APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE -
CASE NO 01/2013
(Reason: LGA 1972 Sch 12A Paragraph 1 - Information relating to
an individual)**

The Panel gave consideration to the report of the Director of Central Services and Monitoring Officer (formerly the Chief Solicitor and Monitoring Officer) regarding an application for the renewal of a Hackney Carriage Driver's Licence. The Panel noted that the current licence had been issued on 1 July 2012 and would expire on 30 June 2015.

The Panel noted that information received from the Criminal Records Bureau (CRB) via the Disclosure and Barring Service (DBS) had revealed that the applicant had failed to disclose a conviction dated 1

October 2010 for an offence of destroying or damaging property (value of damage £5000 or less) on the application form for renewal of his hackney carriage driver's licence dated 14 June 2012. The Driver contended that he had made the Council aware of this conviction at the time, but there was no evidence of this on the Council's files and no documentary evidence of notification had been produced by the Driver following an earlier Panel hearing.

It was noted that a further six convictions had been revealed in the extract from the disclosure supplied by the Disclosure and Barring Service at Annex 2 to the report of the Director of Central Services. The Panel regarded the Driver's conviction dated 16 November 2004 as relevant for consideration. Whilst the conviction was spent, it was for an offence of using, threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence. The driver received a community punishment order of 40 hours for this offence. The Panel felt that the category of offence was serious and one that was relevant to their considerations. The Panel did not have regard to the other five convictions in their considerations.

It was noted that the Driver had been licensed to drive hackney carriages by Tonbridge and Malling Borough Council since 1 July 2009.

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 paragraphs 1.3 and 1.4 of the report of the Director of Central Services. The Panel's attention was drawn to paragraphs 3.1 to 3.4 of Appendix E to the Policy which dealt with convictions for violence. In particular, the Panel noted that an applicant would normally be refused a licence where the applicant had a conviction for criminal damage and the conviction was less than 4 years prior to the date of the application. In respect of the 2004 conviction, paragraph 3.1 of Appendix E indicated that, in general, a period of 4-10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) would be required before an application was considered favourably.

The Panel also noted paragraph 4.4 of Appendix D to the Policy, which provided that 'A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This will lead to consideration of the applicant as not being a 'fit and proper person' and probable refusal of the application'.

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 hackney carriage 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 an offence of destroying or damaging property and had also been convicted of a previous offence in 2004. This brought into question whether he was a 'fit and proper person' to continue to hold a hackney carriage driver's licence.

For these reasons, the Panel therefore

RESOLVED: That the Hackney Carriage Driver's Licence (12/00655/HCDL) be revoked under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 1340 hours
having commenced at 1230 hours