

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 10th June, 2016

Present: Cllr Mrs J A Anderson (Chairman), Cllr Mrs P A Bates and
Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 16/43 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

LA 16/44 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

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

PART 2 - PRIVATE

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

**LA 16/45 APPLICATION FOR A DUAL HACKNEY CARRIAGE AND PRIVATE
HIRE DRIVER'S LICENCE - CASE NO 12/2016**

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

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Dual Hackney Carriage and Private Hire Driver's Licence following the receipt of information from the Disclosure and Barring Service (DBS).

The Panel listened carefully to the information provided by the Applicant, had due regard to the evidence he provided regarding a Caution he had received on 9 January 2014 for an offence of common assault by beating. The Panel had regard to the report of the Director of Central Services and to the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Licensing Policy and made the following findings:-

1. The Panel noted that the Applicant had accepted a simple caution for an offence of common assault by beating on 9 January 2014. The Panel did not find the Applicant's explanation of the facts surrounding the caution to be particularly convincing.
2. The Applicant said that he had not assaulted the complainant but had still accepted the caution in order to avoid publicity. He further stated that the alleged victim of the alleged assault was the subject of a restraining order (an injunction) as a result of making suggestive remarks to his wife and threatening his children and had been convicted himself of assault on two teenagers in 2012 (this was confirmed by a newspaper report).
3. The Panel was advised that the Police could not administer a simple caution unless the defendant admitted his guilt.
4. Under paragraph 12.3.2 (iii) of the Council's Licensing Policy it stated that an application would normally be refused where the Applicant has a conviction for an offence of common assault and under paragraph 12.12.1 the Policy stated that formal cautions shall be treated as though they were convictions and must be disclosed.
5. In addition, the Applicant had failed to disclose his caution to the Licensing Authority immediately as required by paragraph 5.6.5 of the Policy.
6. The Applicant had also failed to disclose his caution on his renewal application form.

For these reasons the Panel therefore

RESOLVED: That the application for a Dual Hackney Carriage and Private Hire Driver's Licence be refused for "any other reasonable cause" under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 10.20 am
having commenced at 9.30 am