

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/100 DECLARATIONS OF INTEREST**

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

**LA 16/101 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 16/102 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 21/2016**

**(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 Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had received a Conviction under S.3 of the Sexual Offences Act 2003 on 3 July 2013 for Sexual Assault on 8 February 2013 and that an Appeal against the Conviction had been dismissed on 23 January 2014.

The Panel listened carefully to the information provided by the Applicant and noted that he had declared the Conviction on the questionnaire which accompanied his application. The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (3) that Paragraph 12.5.1 of the Policy regarding the relevance of previous convictions stated that an application would normally be refused where an applicant had a conviction for an offence of Sexual Assault if the conviction was less than 10 years prior to the date of the application; and
- (4) with regard to Indecency Offences, Paragraph 12.5.1 of the Policy stated that as Drivers of hackney carriage and private hire vehicles often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence would normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.

The Panel found that Tonbridge and Malling Borough Council had a clear policy in relation to previous convictions and that the Applicant had been convicted of Sexual Assault on 3 July 2013, which was within the five year period. While the Panel had listened carefully to the Applicant's explanation of the circumstances surrounding the Conviction it could not discount the fact that the conviction by a Magistrates Court was confirmed at the Crown Court. In addition the Panel had regard to the Speeding offences and disqualification in July 2013 and found that, in these circumstances, the Council's Policy required a period of 2 years from restoration of a Driving Licence before an application was likely to be successful. The Panel noted that, while this period had passed, the fact of the disqualification was still relevant to the determination of the Application. The Panel, therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be REFUSED on the basis that the Applicant was not a fit and proper person to hold the licence.

The meeting ended at 11.03 am  
having commenced at 10.23 am