

**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 16/115 DECLARATIONS OF INTEREST**

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

**LA 16/116 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 16/117 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 28/2016**

**(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 been Convicted under the Fraud Act 2006 on 24 June 2014 for offences committed on 22 October 2010, 10 July 2012 and 23 July 2012 for which he had received a custodial sentence of 12 weeks.

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 was reminded that the Applicant had attended a Hearing Panel on 18 February 2015 where his application for a Probationary Private Hire Driver's Licence had been refused.

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 12.2.4 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 Fraud if the conviction was less than 4 years prior to the date of the application. Between 4 and 5 years after conviction more weight would be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction;
- (4) with regard to Offences of Dishonesty, Paragraph 12.2.1 of the Policy stated that Drivers of hackney carriage and private hire vehicles were expected to be persons of trust; and
- (5) with regard to Offences of Dishonesty, Paragraph 12.2.2 of the Policy stated that members of the public entrusted themselves to the care of the drivers.

The Panel listened carefully to the Applicant's submission and had regard to the fact that it was 22 months since the previous application had been refused. The Panel found that the Council's Policy with regard to offences involving dishonesty, and specifically Benefit Fraud, required a period of 4 years from the date of conviction before an application was likely to be considered favourably. The Panel also noted that, in relation to repeat applications, an application would not normally be entertained until a period of 2 years had elapsed. The Panel had particular regard to the fact that the Applicant was able to continue to work for his employer under a People Carrying Vehicle (PCV) Licence and that this involved contact with the public and handling fares. However, the Panel took a particularly dim view of offences which defrauded the Public Purse, especially when they were sufficiently serious to attract custodial sentences. In all these circumstances 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 4.37 pm  
having commenced at 3.53 pm