

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 28th July, 2017

Present: Cllr Mrs J A Anderson (Chairman), Cllr O C Baldock and Cllr R V Roud

Councillors Mrs S M Barker and D Keers were also present pursuant to Council Procedure Rule No 15.21.

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 17/36 DECLARATIONS OF INTEREST

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

LA 17/37 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 17/38 APPLICATION FOR A HACKNEY CARRIAGE DRIVER LICENCE - CASE NO 08/2017

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

The Panel was asked to consider whether an application for a Hackney Carriage Driver's Licence should be granted following the receipt of information from the Disclosure and Barring Service (DBS).

The Panel was reminded that the Applicant had previously applied for a licence and had appeared before a Licensing and Appeals Panel on 24 September 2014, where his application had been refused.

The Panel had regard to the report of the Director of Central Services and to the Disclosure and Barring Service Certificate dated 11 April 2017

which disclosed that the Applicant had been convicted on 9 November 2012 for the offence of Wounding/Inflicting Grievous Bodily Harm on 4 May 2011 and had been sentenced to imprisonment for three years and given a restraining order – Protection from Harassment which would stay in force until 9 November 2022. The Panel also had regard to the following:-

- (1) that Section 1.5.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire 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 Section 5.7.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its own merits;
- (3) that a Disclosure and Barring Service check on a driver was seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence;
- (4) that, with regard to previous convictions, the overriding consideration was the safety of the public although some discretion may be appropriate if the offence was isolated and there were mitigating circumstances; and
- (5) that Section 12.3 of the Policy stated that an application would normally be refused when it had been made within 8 years of the date of conviction for an offence of Grievous Bodily Harm.

The Panel listened carefully to the Applicant's explanation. Whilst the Applicant had sought to convince the Panel that he was a 'changed man' and requested a 'second chance', the Panel found that there was no compelling evidence or explanation provided which gave the Panel a reason to set aside the usual policy considerations in this case.

For these reasons the Panel, therefore

RESOLVED: That the application for a Hackney Carriage Driver's Licence be REFUSED.

The meeting ended at 11.20 am
having commenced at 11.05 am