

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 4th August, 2017

Present: Cllr Mrs J A Anderson (Chairman), Cllr Mrs S M Barker and Cllr D Keers

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LA 17/45 DECLARATIONS OF INTEREST

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

LA 17/46 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 17/47 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 11/2017

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

The Panel was asked to consider whether an application for a Probationary Private Hire Driver's Licence should be granted following the receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had three convictions under the Social Security Administration Act 1992 S.111A and one conviction under the Fraud Act 2006 S.1(2)(B)+S.3 all dated 30 September 2014.

The Panel had regard to the report of the Director of Central Services and 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 merits;
- (3) 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;
- (4) that, with regard to Dishonesty, Drivers of Hackney Carriage and Private Hire vehicles were expected to be persons of trust. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.
- (5) that Section 12.2.4 of the Policy stated that an application would normally be refused when it had been made within 4 years of receipt of a Conviction for Dishonesty.

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the Convictions. The Panel stated that Private Hire drivers were entrusted to deal fairly and honestly with a broad section of the general public and that, in light of the previous convictions, it had no confidence that the Applicant would be able to do so.

The Panel was not convinced that the explanations given were sufficient to overturn the position set out in the Council's Policy and, having considered all the circumstances, the Panel was not satisfied that the Applicant was a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

RESOLVED: That the application for a Probationary Private Hire Driver's Licence be REFUSED.

The meeting ended at 11.40 am
having commenced at 11.00 am