

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Thursday, 26th October, 2017

Present: Cllr Mrs J A Anderson (Chairman), Cllr Mrs S M Barker and
Cllr O C Baldock

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 17/62 DECLARATIONS OF INTEREST

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

LA 17/63 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 17/64 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER
LICENCE - CASE NO 15/2017**

**(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).

The Panel was advised that the DBS Certificate provided by the Applicant had disclosed a Conviction dated 8 December 2014 for Racially/Religiously aggravated harassment/alarm/distress by words/writing on 26 October 2014 – Crime and Disorder Act 1998 s.31(1)(c).

The Panel had regard to the report of the Director of Central Services and Monitoring Officer 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 Cautions and Endorsable Fixed Penalties, Section 12.12.1 required that formal cautions and endorsable fixed penalties be treated as though they were convictions and must be disclosed; and
- (4) that, with regard to previous convictions, Section 12.1.2 of the Policy stated that an application would normally be refused when it has been made within 4 years of the date of conviction for a racially aggravated s.5 Public Order Act 1986 offence (causing harassment, alarm or distress) under s.31(c) Crime and Disorder Act 1998.

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the conviction and took into account that it was a sole offence with no history of similar misconduct. The Panel noted that the Applicant had pleaded guilty to the offence and appeared contrite. Having taken into account the circumstances the Panel concluded that the Applicant was a 'Fit and Proper' person to hold a licence. For these reasons the Panel, therefore

RESOLVED: That the Applicant be GRANTED a Probationary Private Hire Driver's Licence.

The meeting ended at 9.50 am
having commenced at 9.30 am