

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 4th October, 2017

Present: Cllr Mrs F A Kemp (Chairman), Cllr Mrs P A Bates and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 17/56 DECLARATIONS OF INTEREST

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

LA 17/57 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 17/58 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 14/2017

(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 Applicant, in completing the questionnaire which accompanied the application, had failed to declare a Conviction for Common Assault dated 28 November 2011.

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 5.6.6 of the Policy stated that a licence was conditional on there being no adverse information revealed on the DBS disclosure which would render the applicant as not 'Fit and Proper';
- (3) that Section 5.7.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (4) that, with regard to previous convictions, the overriding consideration was the safety of the public who entrusted themselves to the care of a driver both for their own safety and for fair dealing; and
- (5) that Section 12.3.1 of the Policy stated that, in general, a period of 4 to 10 years free of conviction of offences including violence would be required before an application was likely to be considered favourably. In addition, an application would normally be refused when it has been made within 4 years of the date of conviction for an offence of common assault.

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the Conviction. However, the Panel was not convinced that the explanations given were sufficient to overturn the position set out in the Council's Policy which required an 8 year period to have passed following a Conviction for Common Assault and, having considered all the circumstances, 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 11.41 am
having commenced at 11.00 am