

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Thursday, 7th December, 2017

Present: Cllr Mrs J A Anderson (Chairman), Cllr D Keers and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 17/83 DECLARATIONS OF INTEREST

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

LA 17/84 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 17/85 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 19/2017

(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 dated 22 August 2017 had disclosed that the Applicant had received a Caution dated 7 April 2015 for Battery on 6 April 2015 – Criminal Justice Act 1988 S.39.

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 Section 12.12.1 required that Cautions and Endorsable Fixed Penalties should be treated as though they were convictions and must be disclosed; and
- (4) that, in respect of previous convictions, the offence of Battery was not specifically listed within Section 12.3 of the Policy. However, the offence was one which involved violence and the Panel was invited to consider the general policy listed at Policy Section 12.3.1 and the shorter 4-8 year period (within Section 12.3.2) for lower-order violent offences as the appropriate guideline when considering the application

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the Caution. However, there was no evidence presented which persuaded the Panel to depart from the general policy requirements. For this reason the Panel was not satisfied that the Applicant would be a 'Fit and Proper' person to hold a licence and, therefore,

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

The meeting ended at 11.24 am
having commenced at 11.00 am