

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Friday, 16th February, 2018**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr O C Baldock and  
Cllr Mrs P A Bates

Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 18/13 DECLARATIONS OF INTEREST**

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

**LA 18/14 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 18/15 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER  
LICENCE - CASE NO 04/2018**

**(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) and from the Driver and Vehicle Licensing Agency (DVLA).

The Panel was advised that the Applicant had failed to declare a conviction dated 10 March 2011 for Battery and a conviction dated 24 April 2012 – Failure to comply with the requirements of a community order.

The Panel was advised that the Applicant had submitted a DVLA data release mandate form to allow the Licensing Team to undertake an online check of his driving licence which had disclosed Offence dated

29 December 2016 for MS90 Failure to give information as to identity of driver etc. Causing or permitting offences. Using a vehicle uninsured against third party risks for which he had received 6 Penalty Points.

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 5.7.5 of the Policy regarding the relevance of previous convictions required that the Council had regard to the following: whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty;
- (4) that Section 12.3.1 of the Policy stated that, in respect of violent offences, a period of 4 to 10 years conviction free was required before an application was considered favourably;
- (5) that Section 12.3.2 of the Policy stated that if an application was made between 4 and 8 years after the date of conviction more weight would be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction; and
- (6) that Section 12.7.2 of the Policy stated that an application would normally be refused where the Applicant has 6 or more penalty points on his DVLA licence.

The Panel listened carefully to the explanation of the circumstances surrounding the convictions on the DBS certificate and the penalty points issued by the DVLA. The Panel was dissatisfied with the explanation given by the Applicant regarding the DVLA points and were satisfied that the circumstances were of his own making. The Panel was concerned that the Applicant had failed to submit any evidence to indicate good character. In light of this the Panel felt that the full eight year period, as set out in the Policy, should elapse before an application could be considered. For these reasons the Panel was not satisfied that the Applicant was 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 1.38 pm  
having commenced at 1.00 pm