

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 6th April, 2018

Present: Cllr Mrs J A Anderson (Chairman), Cllr Mrs F A Kemp and Cllr H S Rogers

Together with representatives of the Licensing Authority

Following an apology for absence received from Councillor O C Baldock prior to the meeting Councillor Rogers had been appointed to serve on the Panel

PART 1 - PUBLIC

LA 18/25 DECLARATIONS OF INTEREST

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

LA 18/26 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 18/27 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 6/2018

(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 Kent Police. The Hearing was held in the absence of the Applicant who had failed to attend. The Panel was advised that the DBS Certificate had disclosed that the Applicant had received a Caution dated 27 January 2017 for failure to comply with notification requirements on 19 October 2016, Sexual Offences Act 2003; had a Conviction dated 15 October 2014 for exposure, Sexual Offences Act 2003 and had received a Caution dated 17 June 2013 for committing an

act outraging public decency by behaving in an indecent manner, Common Law.

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 in respect of Indecency offences, Section 12.5 of the Policy required a period of 10 years conviction free before an application was considered favourably; and
- (5) that Section 12.12.1 required that Cautions and Endorsable Fixed Penalties should be treated as though they were convictions and must be disclosed.

After careful consideration of the information placed before it, the Panel reached the conclusion that, due to the serious nature of the offences and to his appearance on the Sex Offenders register, the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver's Licence and, therefore,

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

The meeting ended at 11.35 am
having commenced at 11.00 am