

**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 18/28 DECLARATIONS OF INTEREST**

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

**LA 18/29 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 18/30 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 7/2018**

**(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).

The Panel was advised that the DBS Certificate had disclosed that the Applicant had Convictions dated 14 June 2015 for Using a Vehicle while uninsured, Road Traffic Act 1988 S.143(2) and for Drive Motor Vehicle otherwise than in accordance with a Licence, Road Traffic Act 1988 S.87(1). The Panel noted that the Applicant had declared the conviction

for driving while uninsured on the questionnaire submitted with his application.

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 Major traffic offences, Section 12.6.1 of the Policy stated that an isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention would require careful consideration of the facts and would, at the very least, merit a warning as to future driving and advice on the standard expected of a hackney carriage and private hire driver. However, where the conviction was within 6 months prior to the date of application, the application would normally be refused;
- (5) that Section 12.6.2 of the Policy stated that more than one conviction for this type of offence within 5 years was likely to merit refusal;
- (6) the list of offences under the Road Traffic Act 1988 set out in Section 12.14 of the Policy, to which the above applied, included offences IN 10 (Using a vehicle uninsured against third party risks) and LC 20 (Driving otherwise than in accordance with a licence)
- (7) that Section 12.12.1 required that Cautions and Endorsable Fixed Penalties should be treated as though they were convictions and must be disclosed.

The Panel listened carefully to the explanation of the circumstances surrounding the convictions and heard that, at the material time, the Applicant did not hold a valid driving licence and was driving without insurance. From the explanation given by the Applicant it was clear to the Panel that he had been driving for some time without a valid driving

licence or insurance. In the circumstances the Panel concluded that there was no good reason to deviate from the Council's Hackney Carriage and Private Hire Policy, as set out in Sections 12.6.1 and 12.14, as the Applicant was not 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 12.25 pm  
having commenced at 12 noon