

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 27th 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

PART 1 - PUBLIC

LA 18/34 DECLARATIONS OF INTEREST

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

LA 18/35 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 18/36 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 5/2018

(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 reminded that the application should have been considered on 6 April 2018 but that the Applicant had been unavailable on that date.

The Panel was advised that the DBS Certificate had disclosed that the Applicant had received a Caution dated 26 January 2010 for Assault occasioning actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998). The Panel noted that the Applicant had declared the Caution 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 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; and
- (4) that Section 12.3.2 of the Policy stated that an application would normally be refused where the Applicant has a conviction for an offence of Assault occasioning actual bodily harm and the conviction was less than 4 years prior to the date of application. Between 8 and 10 years after 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.

The Panel listened carefully to the explanation given by the Applicant of the circumstances surrounding the Caution. The Panel felt that the applicant had conducted himself well over the last eight years since the incident giving rise to the Caution had occurred. The applicant's explanation of the incident and his acceptance of the caution was considered creditable and there were no other facts to the contrary. The Panel felt that the Applicant had presented himself well at the Hearing and was satisfied that he 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 GRANTED.

The meeting ended at 10.47 am
having commenced at 10.00 am