

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

MINUTES

Friday, 8th September, 2023

Present: Cllr M A Coffin (Chair), Cllr M Taylor and Cllr K S Tunstall

PART 1 - PUBLIC

LAP 23/22 DECLARATIONS OF INTEREST

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

LAP 23/23 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

LAP 23/24 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO 06/2023

The Licensing and Appeals Committee, sitting as a Panel was asked to consider whether any action was appropriate in respect of a holder of a Private Hire Driver's licence, following the receipt of information from the Disclosure & Barring Service (DBS).

The driver produced a Disclosure and Barring Service (DBS) Certificate dated 19 December 2022 which showed that they had a conviction on 13 February 2020 for fly-tipping contrary to s.33 (1)(B) of the Environmental Protection Act 1990 for which they received a community order as well as two offences of perverting the course of justice contrary to common law dating back to 2012 and 2013 for which they received a custodial sentence of six months.

On their application form for renewal of their private hire driver's licence dated 2 August 2022, the driver had disclosed a conviction for speeding dated 10 October 2021 but had failed to disclose the conviction for fly-

tipping (the form did not require them to disclose convictions that were more than three years old).

At the hearing, the driver, who was legally represented, said that they had told the Licensing Team by an email dated 17 February 2020 about their conviction for fly-tipping and that they had also mentioned it on another form that they had submitted to the Licensing Team (application to renew their operator's licence which referred in general terms to other matters but not specifically to an offence contrary to s.33 of the EPA 1990).

Whilst considering their decision, the Panel was referred to the Institute of Licensing's Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades, in particular the paragraphs on drivers, previous convictions and dishonesty. The Council also took into account the Council's own Licensing Policy on private hire and hackney carriage drivers.

Having considered all of the evidence, namely the written report, the oral representations from the Licensing Team and the information provided by the driver at the hearing and the representations made by their solicitor, the Panel decided unanimously that the application to renew the private hire driver's licence should not be granted. The Panel relied upon the ground of "any other reasonable cause" under s.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 to make their decision.

The Panel was not satisfied that the individual was a "fit and proper" person or sufficiently "safe and suitable" to hold a private hire driver's licence based on their findings that they had failed to disclose their conviction on their renewal application form, they had failed to notify the Council within seven days of this conviction or at all, and bearing in mind their previous convictions for perverting the course of justice (the Panel considered that these convictions were still relevant despite their age).

RESOLVED: That, in respect of Case Number 06/2023, the renewal of the Private Hire Driver's licence be REFUSED.

The meeting ended at 1.00 pm
Having commenced at 10.40 am