

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 17th November, 2017

Present: Cllr Mrs F A Kemp (Chairman), Cllr O C Baldock and Cllr M Taylor

Together with representatives of the Licensing Authority

An apology for absence was received from Councillor D Keers prior to the meeting and Councillor Baldock was appointed to serve on this meeting of the Panel

PART 1 - PUBLIC

LA 17/68 DECLARATIONS OF INTEREST

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

LA 17/69 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 17/70 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 16/2017

(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 Driver and Vehicle Licensing Agency (DVLA).

The Panel was advised that the DVLA printout attached at Annex 2 to the report had disclosed an offence dated 5 June 2015 of IN14 Causing or permitting offences, using a vehicle uninsured against third party risks and that the Applicant had 6 Penalty Points on his Driving Licence.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer and to the following:-

- (1) that Section 12.7.2 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that an application would normally be refused where an applicant has 6 or more penalty points on his DVLA 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 1.5.4 of the 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; and
- (4) that, with regard to previous cautions or convictions, a DVLA driver endorsement check was required to ensure that the information held by the DVLA was in accordance with the information submitted by the applicant. It was noted that Offence Code IN14 must stay on a driving licence for four years from the date of offence.

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the six point penalty on the DVLA printout and concluded that the Applicant was a 'Fit and Proper' person to hold a licence. For this reason the Panel, therefore

RESOLVED: That the Applicant be GRANTED a Probationary Private Hire Driver's Licence.

The meeting ended at 10.15 am
having commenced at 10 am

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Together with representatives of the Licensing Authority

An apology for absence was received from Councillor D Keers prior to the meeting and Councillor Baldock was appointed to serve on this meeting of the Panel

PART 1 - PUBLIC

LA 17/71 DECLARATIONS OF INTEREST

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

LA 17/72 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 17/73 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER LICENCE - CASE NO 17/2017

(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 receipt of information from the Disclosure and Barring Service (DBS).

The Panel was advised that the Applicant, in submitting the application, had consented to the Council receiving a full print out of any previous convictions. The Panel noted that the DBS enhanced disclosure had shown one Caution dated 31 October 2011 administered by Kent Police for the offence of Destroy or Damage Property (Value of Damage £5,000

or less) – Offence against Criminal Damage Act 2011 only on 31 October 2011.

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 5.6.6 of the Policy stated that a licence was conditional on there being no adverse information revealed on the DBS disclosure which would render the applicant as not 'Fit and Proper';
- (3) that Section 5.7.3 of the Policy regarding 'Fit and Proper required that the Council consider each case on its merits;
- (4) that, with regard to previous convictions, the overriding consideration was the safety of the public although some discretion may be appropriate if the offence was isolated and there were mitigating circumstances; and
- (5) that Section 12.3.8 of the Policy stated that more weight would be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction where an application was made between 4 and 8 years after the date of conviction.

The Panel listened carefully to the Applicant's explanation of the circumstances of the offence and concluded that the Applicant was a 'Fit and Proper' person to hold a licence. For this reason the Panel, therefore

RESOLVED: That the Applicant be GRANTED a Probationary Private Hire Driver's Licence.

The meeting ended at 11.25 am
having commenced at 11 am