

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs F A Kemp and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/46 DECLARATIONS OF INTEREST

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

LA 18/47 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 18/48 REVIEW OF A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 9/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether the holder of a Probationary Private Hire Driver's Licence should have his licence suspended or revoked for failing to wear his driver's badge so that it was plainly and distinctly visible in contravention of s.54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976. The licence holder had been reported to the Panel following an enforcement exercise in Maidstone High Street at 02.40 hours on 22 April 2018 when he was found not wearing a driver's badge whilst working as a private hire driver and not in possession of a valid driver's badge.

The Panel found as a matter of fact that the badge holder's probationary private hire driver's licence had been extended for a further six months from 27 March 2018 at the request of his employer. The Panel found

that the driver had failed to collect his new badge from the Council's offices at Gibson Drive and had worked as a private hire driver between 27 March and 23 April 2018 on at least nineteen occasions without a valid driver's badge. The Panel was, therefore, satisfied that the badge holder had contravened s.54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver acknowledged that he had not picked up his badge from the Council's offices. He stated that he was aware that the new badge had been issued but had been unable to collect it because of difficult personal circumstances involving his children.

In its deliberations the Panel took into account Appendix G of the Council's Taxi Licensing and Enforcement Policy and Section 4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy. After careful consideration of the circumstances the Panel

RESOLVED: That

- (1) the Driver be sent a formal warning letter; and
- (2) the Driver be issued with 12 penalty points which will stay on his record for 24 months from the date of this Hearing.

The meeting ended at 10.50 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs F A Kemp and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/49 DECLARATIONS OF INTEREST

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

LA 18/50 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 18/51 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE – CASE NO 10/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether the holder of a Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 on the ground of any other cause, namely for using a mobile 'phone whilst driving. The licence holder had been reported to the Panel following an enforcement exercise in Maidstone High Street on 22 April 2018 when he was seen driving his private hire vehicle whilst using his mobile phone. The Panel was advised that this was a criminal offence under s.110 of the Road Vehicles (Construction and Use) Regulations 1986, attracting a fine of up to £1,000 and 3 to 6 penalty points.

The driver admitted that he had been using his mobile 'phone whilst driving and said that it was a mistake. He apologised to the Panel and promised not to make the mistake again.

The Panel found as a matter of fact that the driver had been using his mobile 'phone while driving and that he had expressed remorse. Nonetheless, the Panel made it clear to the licence holder that it took this matter extremely seriously and advised him that the Council was committed to ensuring the safety of the public and expected higher standards from its licensed drivers.

In its deliberations the Panel took into account Appendix G of the Council's Taxi Licensing and Enforcement Policy and Section 4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy. After careful consideration of the circumstances the Panel

RESOLVED: That

- (1) the Private Hire Driver's Licence be suspended for a period of six months; and
- (2) the Driver be issued with 12 penalty points which will stay on his record for 24 months from the date of this Hearing.

The meeting ended at 11.46 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr M A Coffin and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/52 DECLARATIONS OF INTEREST

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

LA 18/53 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 18/54 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Director of Central Services and Monitoring Officer advised the Panel that he had received an email from the licence holder on 7 June requesting an adjournment of the Hearing on the ground that he only received the report to the Panel two days previously.

In the circumstances the Panel

RESOLVED: That consideration of Case No 12/2018 in respect of the review of Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be DEFERRED to a meeting of the Licensing and Appeals Panel to be held on 22 June 2018.

The meeting ended at 12.01 pm
having commenced at 12 noon

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 15th June, 2018

Present: Cllr Mrs J A Anderson (Chairman), Cllr O C Baldock and Cllr M A Coffin

Together with representatives of the Licensing Authority, Mr D J House (Applicant), Mr F Prescott (former premises licence holder), Ms E Keefe (Planning Services) and Councillor M Base (Interested Party)

PART 1 - PUBLIC

LA 18/55 DECLARATIONS OF INTEREST

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

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

LA 18/56 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT THE HENGIST VILLAGE RESTAURANT AND GARDENS, 7-9 HIGH STREET, AYLESFORD

The Panel gave consideration to an application made by Mr David John House under section 34 of the Licensing Act 2003 in respect of premises known as "Hengist Village Restaurant and Gardens" at 7-9 High Street, Aylesford. The application related to the variation of timings for the sale of alcohol authorised by a current licence.

The Panel gave careful consideration to the written report of the Director of Central Services and Monitoring Officer, the application set out at Annex 2 to the report and the written representations received during the statutory consultation period as set out at Annex 4 (General Representations) and Annex 5 (Responsible Authorities) to the report.

The Panel listened carefully to the representations made by Mr D House and Mr F Prescott in support of the application and by Councillor M Base (representing himself and other local residents who had made General Representations). The Panel also heard from Ms E Keefe, Development Control Manager (Responsible Authority).

The Panel was mindful of its obligations under section 35(3) of the Licensing Act 2003 which stated that, having regard to the relevant

representations, the Licensing Authority must take such of the steps set out in section 35(4) as it considers appropriate for the promotion of the licensing objectives. The Panel took into consideration Chapters 2 and 9 of the guidance dated April 2018 provided by the Secretary of State under s.182 of the Licensing Act 2003 as well as the Council's own Statement of Licensing Policy.

The Panel took into account all of the representations from local residents, both written and oral, regarding noise and the potential for increased public nuisance contrary to the licensing objectives. The Panel was also mindful of the applicant's stated objectives for the increase in hours, namely to increase his business, in particular in relation to events, and of the consequences of this on the prevention of public nuisance objective. The Panel was satisfied that the licensing objectives were met.

The Panel suggested that the premises licence holder bear in mind the original conditions of the licence and planning permissions. The Panel recommended that steps be taken to improve the relationships within the village with residents who live near the Hengist Village Restaurant and Gardens.

In accordance with the objectives contained within the Licensing Policy of Tonbridge and Malling Borough Council, the Licensing and Appeals Committee, sitting as a Panel

RESOLVED: That the application to vary a Premises Licence be granted subject to the mandatory conditions set out in the Licensing Act 2003, the Conditions shown at Annex 3 of the current licence issued on 16 April 2018 and to the following:-

Section J	<p>Supply of alcohol for consumption both on and off the premises –</p> <p>Monday to Friday from 11:00 hours until 24:00 hours. Saturday and Sunday from 10:00 hours until 24:00 hours.</p> <p>New Year's Eve to extend the sale of alcohol until 2am with food.</p>
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LA 18/57 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 11.06 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority and Kent County Council.

PART 1 - PUBLIC

LA 18/64 DECLARATIONS OF INTEREST

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

LA 18/65 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 18/66 REVIEW OF PRIVATE HIRE OPERATOR'S LICENCE – CASE NO 11/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether any action should be taken against a current Private Hire Operator following the receipt of information from Kent County Council that a driver had been sent to carry out a school run but had been unable to produce a private hire driver's licence when challenged by a KCC School and Client Transport Inspector.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer, the statement made by the KCC School and Client Transport Officer (as set out at Annex 2 to the report) and the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy in respect of private hire operators. The Panel noted that the

Policy required that an Operator should ensure that every driver engaged by him had obtained a private hire driver's licence from the same Licensing Authority which had issued the private hire operator's licence and that the driver wore the badge in a conspicuous place at all times whilst available for bookings.

The Panel listened carefully to the explanation of the circumstances which had led to the Operator allowing an unlicensed driver to carry out a school run. The Operator explained that he believed that his driver did have the appropriate driver's licence but had subsequently realised that he had confused a driver's carer's badge with a driver's badge issued by the Council and had, therefore, made a mistake. The Operator further explained that, due to a family bereavement, the usual office administrator had been absent and that this had contributed to the error.

The Panel was satisfied that the licence holder had operated a vehicle as a private hire vehicle when the driver of that vehicle did not have a current private hire vehicle driver's licence in contravention of s.46(1)(e)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 and, on that basis, found that it was appropriate to suspend his private hire operator's licence. The Panel, therefore

RESOLVED: That Private Hire Operator's Licence Number 171 OPER be suspended for 1 month.

The meeting ended at 11.01 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority and Kent County Council.

PART 1 - PUBLIC

LA 18/67 DECLARATIONS OF INTEREST

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

LA 18/68 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 18/69 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 14/2018

(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 Kent County Council that the Applicant had been driving a private hire vehicle in order to carry out a school contract without a private hire driver's licence.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer, the statement made by the KCC School and Client Transport Inspector (as set out at Annex 2 to the report) and the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy. The Panel gave careful consideration to the representations made by the Applicant and his Mentor in respect of the circumstances

which had led the Applicant to drive a licensed vehicle whilst being unlicensed. The Applicant acknowledged that he had driven a private hire vehicle and admitted that he had made a mistake. He apologised to the Panel for that mistake and informed them that, as soon as he realised that he did not hold the appropriate licence, he had made it clear that he would not carry out any more private hire work. The Panel noted that the Applicant had considerable experience in the motor trade and had worked as a driver for a supermarket chain for a number of years and also drove for a charity. The Panel accepted that the Applicant had a clean record and had shown remorse for his mistake. In the circumstances the Panel was satisfied that the Applicant was a 'fit and proper' person to hold a Probationary Private Hire Driver's Licence. For these reasons, therefore, the Panel

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

The meeting ended at 12.08 pm
having commenced at 11.15 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/70 DECLARATIONS OF INTEREST

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

LA 18/71 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 18/72 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Director of Central Services and Monitoring Officer advised the Panel that he had received an email from the licence holder on 21 June requesting an adjournment of the Hearing on the ground that he was ill and had a 'Sick Note'.

In the circumstances the Panel

RESOLVED: That consideration of Case No 12/2018 in respect of the review of Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be DEFERRED to a meeting of the Licensing and Appeals Panel to be held on 25 July 2018.

The meeting ended at 12.32 pm
having commenced at 12.30 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/73 DECLARATIONS OF INTEREST

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

LA 18/74 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 18/75 REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE –
CASE NO 15/2018**

**(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to
an individual)**

The Panel was asked to consider whether any action should be taken against a current holder of a Hackney Carriage Driver's Licence who had failed to accept penalty points for failure to comply with a requirement of an authorised officer of the Council or police officer and failure to display insignia on exterior of the two front doors of the vehicle.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer and to Sections 4.8.1, 14.9.1 and 16.5.1 of the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy.

The Panel listened carefully to the representations made by the Driver but found that he had contravened Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. The Panel was satisfied that the Driver had failed to meet with Council Officers when required to do so and had failed to accept or respond to the offer of penalty points on his licence.

For these reasons the Panel, therefore

RESOLVED: That Hackney Carriage Driver's Licence Number 17/01915/HCDL (Badge No: 343) be suspended for a period of two weeks and 12 penalty points be added to the licence.

The meeting ended at 10.46 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/76 DECLARATIONS OF INTEREST

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

LA 18/77 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 18/78 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S
LICENCE - CASE NO 16/2018**

**(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 a Caution dated 14 September 2017 – Theft by Employee on 28 July 2017, Theft Act 1968 S.1. The Panel noted that the Applicant had declared the Caution for theft on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 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 4.7.6 of the Policy stated that the licence was conditional upon there being no adverse information revealed on the DBS disclosure which would render the applicant not 'Fit and Proper';
- (3) that Section 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (4) that in respect of Cautions, Section 4.8.4 of the Policy stated that the Council would have regard to the class and age of the offence and the age of the applicant when the offence occurred when considering their relevance to an application; and
- (5) that in respect of Offences of Dishonesty, Section 10.3.1 of the Policy stated that, in general, a period of 4 years free of conviction was required before an application was likely to be considered.

The Panel listened carefully to the explanation given by the Applicant of the circumstances surrounding the Caution for Theft and concluded that, as the offence had taken place within the last year and there was no extenuating circumstance or compelling reason to deviate from the Council's Hackney Carriage and Private Hire Policy, 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 11.40 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/79 DECLARATIONS OF INTEREST

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

LA 18/80 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 18/81 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S
LICENCE - CASE NO 17/2018**

**(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 a Conviction dated 15 March 2013 for Destroy or Damage Property (value of Damage £5000 or less – offence against Criminal Damage Act 1971 only) Criminal Damage Act s.1(1). The Panel noted that the Applicant had not declared the Conviction on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 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 in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.4.1 stated that applications would normally be refused where the conviction was less than 8 years old.

The Panel gave careful consideration to the application and the DBS Certificate and listened carefully to the Applicant's representations about his current circumstances, his explanation regarding the conviction and his failure to disclose the previous conviction on his application. The Panel took particular note of Section 10.4 of the Policy and found that there were no compelling or extenuating circumstances to justify deviation from the Council's Policy. The Panel concluded that 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 12.42 pm
having commenced at 12 noon

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/82 DECLARATIONS OF INTEREST

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

LA 18/83 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 18/84 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

(Reasons: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Panel was reminded that the case had previously been scheduled to be heard on 6 June and 22 June but had been deferred on each occasion as the Driver was unavailable. The Panel noted that the Driver had indicated that he would not be attending the Hearing and had been advised that the case would be heard in his absence.

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

- (1) that the Driver had failed to comply with the Local Government (Miscellaneous Provisions) Act 1976 in that he failed, without reasonable excuse, to comply with a requirement properly made to him by the Senior Licensing Officer; and
- (2) that the Driver had failed to comply with s.60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 - Any Other Reasonable Cause in that he had played very loud music in his vehicle in contravention of the Borough Council's Hackney Carriage and Private Hire Policy.

For these reasons the Panel

RESOLVED: That Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be SUSPENDED for a period of 4 weeks.

The meeting ended at 1.41 pm
having commenced at 1.00 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 27th July, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr O C Baldock and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/85 DECLARATIONS OF INTEREST

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

LA 18/86 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 18/87 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 18/2018

(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 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 March 2001 and 11 April 2008 relating to the export, supply and possession of Class A drugs.

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

- (1) that Section 1.4.4 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 in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.15.3 stated that an application would normally be refused where the conviction had resulted in imprisonment exceeding 30 months.

The Panel gave careful consideration to the Application and the DBS Certificate, listened carefully to the Applicant's representations about his current circumstances and his explanation regarding the convictions and concluded that the Applicant 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 10.34 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 27th July, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr O C Baldock and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/88 DECLARATIONS OF INTEREST

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

LA 18/89 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 18/90 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 19/2018

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

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Conviction dated 18 May 2011 for Battery – Criminal Justice Act 1988 – Community Order – unpaid work requirement 60 hours, compensation £50.00 and costs £45.00.

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

- (1) that Section 1.4.4 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 in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.4.1 stated that applications would normally be refused where the conviction was less than 8 years old prior to the date of the application.

The Panel gave careful consideration to the application and the DBS Certificate and listened carefully to the Applicant's representations about his current circumstances and to his explanation regarding the conviction. In the circumstances the Panel was satisfied that the Applicant 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 11.23 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 3rd August, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and Cllr Mrs B A Brown

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

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/91 DECLARATIONS OF INTEREST

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

LA 18/92 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 18/93 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 20/2018

(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 Driver and Vehicle Licensing Agency (DVLA).

The Panel was advised that the response to the DVLA data release mandate form had disclosed that the Applicant had 6 Penalty Points on his Driving Licence an Offence dated 4 October 2017 – IN14 Causing or permitting offences. Using a vehicle uninsured against Third Party risks.

The Panel noted that the Applicant had declared the offence on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 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 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (3) that in respect of Cautions and Endorsable Fixed Penalties, Section 10.2.7 of the Policy stated that formal cautions and endorsable fixed penalties should be treated as though they were convictions and must be disclosed; and
- (4) that Section 12.7.2 of the Policy stated that, in particular, an application would normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed).

The Panel listened carefully to the explanation given by the Applicant of the circumstances which led him to accept six penalty points from the DVLA and reached the conclusion that there were no compelling or extenuating circumstances to justify deviation from the Council's Hackney Carriage and Private Hire Policy. The Panel felt that causing or permitting a vehicle to be used whilst uninsured posed a risk to the public and that public safety was a paramount concern when considering the licensing of taxi and private hire drivers. In the circumstances the Panel reached the conclusion that 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 10.43 am
having commenced at 10.10 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 3rd August, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and Cllr Mrs B A Brown

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

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/94 DECLARATIONS OF INTEREST

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

LA 18/95 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 18/96 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 21/2018

(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 Driver and Vehicle Licensing Agency (DVLA) and the Disclosure and Barring Service (DBS).

The Panel was advised that the response to the DVLA data release mandate form had disclosed that the Applicant had 3 Penalty Points on his Driving Licence for an Offence dated 9 December 2014 – CD10

Driving without due care and attention. The Panel noted that the Applicant had declared the offence on the questionnaire submitted with the application.

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Conviction dated 30 October 2015 for Failing to give name and address after accident on 3 February 2015 – Road Traffic Act 1988 S.170(4); Failing to report accident on 3 February 2015 – Road Traffic Act 1988 S.170(4) and Drive a mechanically propelled vehicle on a road/in a public place without due care and attention on 3 February 2015 – Road Traffic Act 1988 S.3. The Panel noted that the Magistrates Court had imposed the following: Fine £625; Costs £620; Disqualification from driving – Discretionary 6 months from 30/10/2015 and a Victim Surcharge of £63. It was noted that the DVLA report had disclosed the offence AC10 – Failing to stop after an accident – Date of offence: 3 February 2015 (no points issued).

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

- (1) that Section 10.2.2 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that the overriding consideration was the safety of the public;
- (2) that Section 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (3) that in respect of the relevance of previous convictions, Section 4.8.5 of the Policy required that the Council had regard to the class, age and seriousness of the offence;
- (4) that in respect of Cautions and Endorsable Fixed Penalties, Section 10.2.7 of the Policy stated that formal cautions and endorsable fixed penalties should be treated as though they were convictions and must be disclosed; and
- (5) that in respect of Major Traffic Offences Section 10.8.3 of the Policy stated that more than one conviction for this type of offence within the last 5 years would likely merit refusal of an application.

The Panel gave careful consideration to the application, the DBS Certificate and the DVLA Drivers Report and listened carefully to the Applicant's explanation of the facts and circumstances which led to the convictions and the endorsement of his DVLA Driving Licence. The Panel took particular note of Sections 10.2.2 and 10.8.3 of the Council's Policy and reached the conclusion that there were no compelling or extenuating circumstances to justify deviation from the Council's Hackney Carriage and Private Hire Policy by granting a licence to someone with convictions for Major Traffic Offences.

In the circumstances the Panel reached the conclusion that 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 11.38 am
having commenced at 11.04 am