

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 18th June, 2021

Present: Cllr Mrs F A Kemp (Chairman), Cllr A E Clark and Cllr N G Stapleton

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LAP 21/7 DECLARATIONS OF INTEREST

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

LAP 21/8 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 (RESPONSIBILITY FOR COUNCIL FUNCTIONS)

LAP 21/9 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO 03/2021

(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to any 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 the offence of using a handheld mobile phone whilst driving.

The report of the Director of Central Services and Deputy Chief Executive advised that, following the submission of a renewal form to the Licensing Office and DVLA check of his Driving Licence, it had been shown that the Driver had been issued with 6 penalty points in April 2019. The Driver admitted that he had made a mistake and that he should not have used his mobile phone whilst driving.

The Panel took into account the Council's Taxi and Licensing

Enforcement Policy as well as the Institute of Licensing guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trade. Particular reference was made to section 4.8.3 regarding the assessment of whether the applicant was a 'fit and proper' person to hold a licence and the account to be taken of any relevant cautions, convictions and fixed penalty notices, whether spent or unspent. The Panel's attention was drawn to section 14.7.1 which required licensees to 'Drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a handheld mobile phone whilst driving'.

The Panel had regard to the report of the Director of Central Services and the oral evidence presented by the licence holder. Based on the evidence presented the Panel considered whether the licence should be revoked as the use of a mobile phone whilst driving was a serious offence and the licensee had failed to notify not only the Council but also the insurance company and the Private Hire Operator at the time of the offence.

The Panel took into account, as mitigating circumstances, the Licence Holder's previously clean record and co-operation and

RESOLVED: That, in respect of Case Number 03/2021, the Private Hire Driver's Licence be suspended for a period of Three Months under s.61(2) of the Local Government (Miscellaneous Provisions) Act 1976 on the ground that there was reasonable cause to do so.

The meeting ended at Time Not Specified
having commenced at 10am