

Minutes of the meeting of the LICENSING AND
APPEALS HEARINGS PANEL held at 2.30 pm on
Monday, 26th September, 2016 at Main Committee
Room, Civic Centre, Stone Cross, Northallerton

Present

Councillor Mrs I Sanderson (in the Chair)

Councillor S P Dickins

Councillor R Kirk

LAHP.15 **EXCLUSION OF THE PUBLIC AND PRESS**

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the item of business at minute no LAHP.16 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

LAHP.16 **APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE**

The subject of the decision:

The Panel was asked to consider whether to grant or refuse an application for a hackney carriage and private hire driver licence submitted by the applicant ("Mr G").

Alternative options considered:

The Panel considered the options outlined in the Executive Director's report. The Panel was not satisfied that Mr G was a fit and proper person to hold a hackney carriage and private hire driver licence. In accordance with section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976, the licensing authority cannot grant a licence where it is not satisfied the applicant is fit and proper person.

The reason for the decision:

The Panel considered the Executive Director's report, Mr G's application for a hackney carriage and private hire driver licence, the Disclosure and Barring Service ("DBS") enhanced criminal record check for Mr G, oral representations from Mr G, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel reached the following conclusions:

- The Panel considered the Disclosure and Barring Service enhanced criminal record check for Mr G and was satisfied that the racially-aggravated offence, which Mr G received a caution for in 2013, was relevant for determining an application for a hackney carriage and private hire driver licence. The Panel noted that the Council's Hackney Carriage and Private Hire Licensing Policy guidelines state that a licence will not normally be granted where the applicant has a conviction for a racially-aggravated offence in the five year period prior to the date of the application and that cautions will be taken into consideration in the same way that they would be if there was a conviction.

- Mr G informed the Panel that the racially-aggravated offence in 2013 was as a result of Mr G being subject to an inappropriate comment of a racist nature. Before a caution can be administered, the police would not only need to be satisfied that the offence could be proved beyond reasonable doubt but they must also be satisfied that there has been an admission of guilt. Mr G's mitigation was not therefore accepted by the Panel. Furthermore, the Panel noted that there was evidence of an allegation of Mr G making a similar racist comment in 2012 which provides some corroborative evidence that the 2013 offence was not a one-off incident and that Mr G does speak to the public in such a manner. The Panel was concerned that both of these incident involved Mr G's passengers and therefore the potential risk to the public had to be considered when determining Mr G's application.
- The Panel considered the evidence in relation to Mr G's licensing history. The Panel noted that Mr G was referred to Stockton Borough Council's Licensing Committee on four separate occasions between 2007 and 2013. During this period, the Committee considered Mr G's conduct, his short temper and his attitude towards women and members of the public. It also considered a fixed penalty notice for swearing at a police officer, a non-molestation order issued by the County Court and the caution for a racially-aggravated offence as shown on his DBS disclosure. These matters twice led to the revocation of Mr G's licence.
- Mr G apologised for his previous behaviour and insisted that he had learnt his lesson. The Panel noted that attendance on an anger management course in 2010 had not prevented Mr G from displaying aggressive behaviour including swearing at a police officer, committing a racially-aggravated offence and being subject to a non-molestation order. The Panel was not satisfied on the balance of probabilities that Mr G had demonstrated sufficient evidence to support his assertions that he was a reformed character.
- The onus is on the applicant to demonstrate that he is a fit and proper person to hold a hackney carriage and private hire driver licence. The Panel concluded that Mr G had not provided sufficient evidence to demonstrate any exceptional circumstances which would convince the Panel to depart from the Council's policy to refuse applications within five years of a conviction for a racially-aggravated offence. Furthermore the Panel had serious concerns about Mr G's short temper and attitude toward women and members of the public and it was not satisfied that Mr G had demonstrated that he is a fit and proper person to hold a licence.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence the Panel reached the following conclusions:-

The Panel was not satisfied that Mr G was a fit and proper person to hold a hackney carriage and private hire driver licence and the application was refused.

The meeting closed at 3.10 pm

Chairman of the Panel