

Minutes of the meeting of the LICENSING AND
APPEALS HEARINGS PANEL held at 9.30 am
on Thursday, 14th December, 2017 in Meeting
Room 2, Civic Centre, Stone Cross, Northallerton

Present

Councillor R A Baker
P Bardon

Councillor R Kirk

LAHP.19 **ELECTION OF CHAIRMAN**

THE DECISION:

That Councillor R A Baker be elected Chairman for the duration of the meeting.

(Councillor R A Baker in the Chair)

LAHP.20 **APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE,
CARLTON CARS (N YORKS) LTD - PH71**

The Panel considered a request from the applicant to adjourn the hearing on the basis that he would not be given a fair hearing as two of the Panel Members had sat on Panels that had refused to grant licences to the applicant in respect of previous private hire vehicle licence applications.

The Panel was satisfied that the applicant could not be prejudiced by the selection of the Panel Members as none of the Panel Members had predetermined any part of the current application. The Panel was also satisfied that each Panel Member had attended the hearing with an open mind and that the specific circumstances of the applicant's case would be considered on its individual merits.

The applicant stated that one of the Panel Members had failed to declare a personal interest on account of his past relationship with the applicant. The Panel Member informed the Panel that, as the warden of a scout centre, there was an arrangement which permitted the applicant to park his private hire vehicles in the scout centre car park. The Panel Member informed the Panel that he had continued this relationship with the applicant until such time as the applicant decided to park his vehicles in an alternative location (approximately two years ago). The Panel Member informed the Panel that this was the extent of his relationship with the applicant, that there were never any issues between the parties and that the relationship was amicable. The applicant confirmed to the Panel that the Panel Member had fairly and accurately presented the facts to the Panel. The Panel concluded that a personal interest may arise in such circumstances where a Member derives a personal or financial benefit from a decision with which they are involved. The Panel was satisfied that the extent of the past relationship between one Panel Member and the applicant could not reasonably provide justification for adjourning the hearing.

Accordingly, the Panel rejected the applicant's request for an adjournment and the Panel notified the applicant of the reasons.

Following the Panel's decision to refuse to grant an adjournment, the applicant informed the Panel that he intended to leave the hearing. The Panel informed the applicant that the matter may be determined in his absence. The applicant informed the Panel that he no longer wished to be in attendance and he subsequently withdrew from the hearing.

At 9.50am the hearing was adjourned for the applicant to leave.

At 9.53am the hearing reconvened.

The Panel concluded that the hearing could proceed in the applicant's absence as the applicant had chosen not to be present and a delay would not be in the public interest.

The subject of the decision:

The Director of Law and Governance asked the Panel to consider whether to grant or refuse an application for the renewal of a private hire vehicle licence.

Alternative options considered:

The Panel considered granting the application but concluded that the specific circumstances of the case were not sufficient to justify a departure from the Council's Hackney Carriage and Private Hire Licensing Policy.

The reason for the decision:

The Panel considered the officer's report, the applicant's representations, copies of letters awarding five contracts provided by the applicant, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel noted that the Council's policy generally opposes the grant of a licence in respect of vehicles over the age of ten years. The revised policy was approved by the Licensing Committee in February 2016 and subsequently adopted by Full Council in March 2016. Members of the trade were informed of the new arrangements in March 2016 and have therefore been aware of the revision for over 18 months. In order to reduce the financial impact on the trade, the general age limit was not implemented until January 2017. The Panel noted that the applicant acquired the vehicle in December 2016 (several months after the policy was adopted and just 11 days before the general age restrictions took effect).

The Panel noted that the vehicle in question was first registered 15 years and 4 months ago. The Panel noted that the vehicle satisfied the mechanical standards set out by the policy.

Prior to withdrawing from the hearing, the applicant had indicated that his private hire business relied exclusively on school contract work. The applicant provided five letters awarding contracts to his company by North Yorkshire County Council. The Panel noted that one of the contracts commenced in April 2016 (several weeks after the applicant had been informed of the Council's new policy arrangements). The Panel noted that four of the school contracts were awarded prior to the adoption of the revised policy.

The Panel noted that many hackney carriage and private hire vehicles licensed by the Council are frequently used to undertake school contract work. The Panel concluded that the applicant's business model did not amount to exceptional circumstances.

The Panel noted that the applicant did not make his vehicle available for a visual inspection. However, the Panel did consider the documentation provided within the officer's report including the recent mechanical inspection and MOT history.

The Panel noted that the MOT certificate dated 8th August 2017 was subject the same two advisory notices (relating to the vehicle's brake pipes) that had appeared on the previous MOT certificate dated 14th June 2016. The Panel concluded that the MOT history demonstrated a degree of neglect in relation to mechanical defects. The Panel was satisfied that those defects would not warrant the failure of a MOT test. However, the Panel concluded that the vehicle was maintained to the minimum regulatory standards and cannot therefore be regarded as exceptionally well-maintained.

Ultimately, the Panel was asked to consider whether or not to grant a licence in respect of a vehicle that exceeded the general age limit prescribed by the Council's policy.

The Panel noted that the age limit was adopted in order to promote public safety, reliability and improved high standards of hackney carriage and private hire services in the district. The Panel was not satisfied that the licence could be granted without undermining the policy objectives.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence, the Panel decided to refuse the application on the grounds of any reasonable cause in accordance with Section 60 of Local Government (Miscellaneous Provisions) Act 1976.

The meeting closed at 10.12 am

Chairman of the Panel