

Minutes of the meeting of the LICENSING AND APPEALS HEARINGS PANEL held at 11.00 am on Wednesday, 15th August, 2018 at Main Committee Room, Civic Centre, Stone Cross, Northallerton

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Present

Councillor M A Barningham (in the Chair)

Councillor S P Dickins

Councillor D Hugill

LAHP.2 **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.3 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.3 **APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE**

All Wards

**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.

**Alternative options considered:**

The Panel considered the options outlined in paragraph 5.1 of the Director's report and it was satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire driver's licence. Therefore, the application was granted and the Panel did not consider the alternative options to be appropriate.

**The reason for the decision:**

The Panel considered the report of the Director of Law and Governance, the application for a hackney carriage and private hire driver licence, the applicant's oral representations and written submissions, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel noted that the burden of proof was on the applicant to satisfy the Panel that he was a fit and proper person to hold a hackney carriage and private hire driver licence.

The Panel was informed that in March 2018 the applicant had been arrested on suspicion of a sexual assault involving a female and released on bail. At a hearing of the Licensing and Appeals Hearings Panel in April 2018 it was resolved to revoke the applicant's hackney carriage and private hire driver licence on the grounds of public safety. Subsequently the applicant applied for a new hackney carriage and private hire driver licence in July 2018 and provided a 'Notification of No Further Action' from North Yorkshire Police in relation to the alleged sexual assault.

The Panel considered the contents of the Notification from the Police which recorded that no further action would be taken on the basis that “there is insufficient evidence to provide a realistic prospect of conviction”. The Panel noted that, in order to secure a conviction, the Police would need to satisfy a court beyond reasonable doubt that an offence had been committed whereas the Panel was required to determine the applicant’s suitability on the balance of probability.

The Panel also considered a letter dated July 2018 from North Yorkshire County Council which authorised the applicant to work on school transport contracts subject to a prohibition on transporting any of his own relatives. The Panel was satisfied that the decision of North Yorkshire County Council was not a matter which could carry significant weight when determining whether or not the applicant was a fit and proper person.

The applicant informed the Panel that he had been accused by his partner’s 14 year old granddaughter (“F”) of touching her between her legs during an incident which occurred between September and Christmas 2017. The applicant informed the Panel that he had not been told the time or date of the alleged incident but had recalled that on Christmas Day 2017, he had used F’s knee to push himself up from the sofa. The applicant had been unable to explain why he could recall this incident over any other during the three month period. However, he did not believe that he had touched F inappropriately. The applicant informed the Panel that, at the time of the incident, he was not alone with F and that other family members (including his partner and F’s mother) were in the room. The Panel noted that this did not correspond with the version of the incident he had recounted to the Panel in April 2018, where the applicant recalled that only F and her younger sibling were in the room at the time of the incident.

The applicant informed the Panel that he had been contacted by social services in respect of his involvement with another of his partner’s grandchildren. The applicant informed the Panel that he had been assisting with the bathing routine of his partner’s disabled granddaughter at the request of the child’s mother. The Panel was informed that social services had contacted the applicant to advise him that it was not appropriate for him to be involved in this way. The applicant informed the Panel that he did not agree with social services’ views.

The Panel considered the character reference provided by the applicant’s employer and noted that the applicant had not been the subject of any formal enforcement action prior to his revocation in April. The applicant’s employer informed the Panel that he had no concerns over the applicant’s suitability to operate as a hackney carriage and private hire driver. The Panel accepted that, prior to the allegation, the applicant had a good history and reputation with his employer.

The Panel noted that both social services and the police had become involved in respect of the allegation (although the police had decided there was insufficient evidence to provide a realistic prospect of conviction) and that social services had become involved in another matter involving the applicant and another of his partner’s grandchildren. The applicant informed the Panel that he had not had any contact with his partner’s daughter and her family since March 2018.

The Panel was satisfied that the Police had insufficient evidence to prove beyond reasonable doubt that the applicant had committed an offence and, although Members acknowledged that they were not subject to the same criminal standard of proof, the Panel concluded that there was insufficient evidence to refuse the application on the grounds of the applicant’s suitability.

**THE DECISION:**

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

The Panel was satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire driver licence and the application was granted.

The meeting closed at 12.25 pm

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Chairman of the Panel