

Minutes of the meeting of the LICENSING AND  
APPEALS HEARINGS PANEL held at 9.30 am on  
Thursday, 22nd November, 2018 at Main Committee  
Room, Civic Centre, Stone Cross, Northallerton

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Present

Councillor M A Barningham (in the Chair)

Councillor R A Baker

Councillor S P Dickins

LAHP.19 **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.20 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.20 **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 the Director's report and, as it was not satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire driver's licence, the Panel could not grant the application.

**The reason for the decision:**

The Panel considered the Director's report, the application for a hackney carriage and private hire driver licence, the Disclosure and Barring Service enhanced criminal record check for the applicant, 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 applicant disclosed a common assault offence in 2015 on his application form. The Panel considered the enhanced criminal record check from the Disclosure and Barring Service (DBS) which confirmed that the applicant was convicted of battery in October 2015. Accordingly the applicant received a 16-week imprisonment sentence (suspended for 12 months). He was also subject to a restraining order for protection from harassment and a requirement to carry out unpaid work. The applicant informed the Panel that his unpaid work consisted of 150 hours community service. The applicant was also ordered to pay compensation and costs.

The applicant informed the Panel that the offence occurred during an argument with a male relative. The applicant informed the Panel that he had pushed his victim and he had fallen over. The Panel noted that the applicant had no other convictions.

The Panel had concerns that the description of the offence by the applicant did not appear to be consistent with the severity of the sentence imposed by the court. The applicant indicated that a battery offence is a low level violent crime, but, provided no further details of the facts surrounding the offence other than that he had decided not to appeal his sentence on advice from his solicitor. The Panel accepted that a battery offence, by nature, was not usually considered as serious as an offence for grievous bodily harm, or even actual bodily harm. However, the Panel was not satisfied that the sentence issued by the court would be as a result of the act described by the applicant, especially where the applicant had no previous convictions. The Panel concluded, on the balance of probability, that the incident was more serious than the "little altercation" described by the applicant.

The applicant informed the Panel that since the conviction he had settled the dispute with his relative. The applicant indicated that his offence of battery did not involve members of the public and, that the Panel should not have concerns over his suitability to act as a hackney carriage and private hire driver. The Panel did not accept the suggestion that violence during a domestic dispute should be treated any differently to violence in any other situation. The Panel was satisfied that any person who has a propensity to violence has the potential to inflict harm in any situation.

The applicant informed the Panel that he was previously the owner of a mini bus company which he sold and since has worked for two firms as a mini bus driver. The Panel considered character references provided by the applicant's employers as well as an online customer review. The Panel noted that the applicant holds a licence to drive public service vehicles. However, the Panel also acknowledged that the application process for a public service vehicle driver licence does not involve a fit and proper test.

The Panel noted that the Council's Policy indicates that a licence will not normally be granted where the applicant has a conviction for common assault within three years of the date of application. The application was submitted in July 2018 which was less than three years prior to the date of conviction. The Panel noted that at the date of the hearing, more than three years had passed since the date of conviction. The Panel noted that the timescales contained within the Policy represent a minimum standard and therefore there is no automatic assumption of a grant of a licence when the minimum standards are met.

The Panel had concerns that the applicant had received a severe sentence following his conviction for battery in October 2015. The Panel concluded that the applicant's explanation was not sufficient to alleviate its concerns regarding the conviction for an offence of violence. Accordingly, the Panel was not satisfied that the public interest would be adequately served by granting the application in this case.

**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 the applicant 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 10.25 am

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Chairman of the Panel