

Present

Councillor R Kirk (in the Chair)

Councillor P Bardon

Councillor D Watkins

LAHP.10 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.11 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.11 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.

Alternative options considered:

The Panel considered the options outlined in the Director's report. The Panel 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 was not satisfied that granting the licence would adequately serve the interests of the public.

The reason for the decision:

The Panel considered the Director of Law and Governance's report, 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 applicant had, as part of the application process, disclosed that he currently holds a hackney carriage and private hire driver licence with Darlington Borough Council. The Panel considered information provided by Darlington Borough Council indicating that the applicant had been licensed with them since March 2017 and had been the subject of two complaints in that time.

The Panel noted that the complaints related to two separate incidents involving parking in a loading bay and using a PDA (a digital device used to transfer taxi booking data) whilst driving.

The Panel acknowledged that no other information was provided by Darlington Borough Council to confirm whether the complaints were upheld or whether any sanction was imposed. However, the Panel noted that, during the hearing, the applicant acknowledged his wrongdoing in this regard.

The applicant informed the Panel that the PDA is used as part of his operator's taxi booking system. The applicant informed the Panel that he had used the PDA while driving but only to press a button on the screen.

The Panel was concerned that the applicant had been in receipt of complaints in respect of matters relating to adhering to road safety and the Highway Code. However, the Panel was satisfied that the licence had not been suspended or revoked by Darlington Borough Council. Accordingly, the Panel was satisfied that this concern, in itself, would not necessarily render the applicant unsuitable to hold a licence.

The Panel noted that, in accordance with the Council's Policy, a hackney carriage and private hire driver licence will not be granted unless a number of requirements have been satisfied. One of these requirements is that the applicant passes a written test which seeks to assess the applicant's knowledge of the law, the Council's Policy and the local area.

The Panel was informed that the applicant had first undertaken the knowledge test at the Council's offices in October 2019. During the test, the Council's Enforcement Officer observed the applicant repeatedly looking at another applicant's test paper. The applicant was warned by the Enforcement Officer to keep his eyes on his own paper. Despite the earlier warning, the applicant continued to look at another applicant's paper. The Enforcement Officer then instructed the applicant to hand him the test paper and leave the examination room.

The Panel noted that the applicant was subsequently informed in writing that his conduct during the test had raised concerns about his suitability to act as a hackney carriage and private hire driver. The Panel noted that the applicant apologised for his behaviour and indicated that he was stressed at the time due to personal reasons.

The applicant informed the Panel that, at the time of taking the test in October, he was under financial pressure and was therefore eager to pass the test at his first attempt. The applicant told the Panel that he was not confident that his knowledge of the local area was sufficient to pass the test and this was why he looked at another applicant's test paper during the examination.

The Panel was concerned that the applicant had attempted to obtain the answers in such a dishonest manner and it was further concerned that he continued to do so despite the Enforcement Officer's warning. Licensed drivers are expected to co-operate with officers and the Panel was satisfied that the applicant's conduct demonstrated an inclination not only to behave dishonestly but also to disobey the instructions of an authorised officer.

The Panel was satisfied that the Council's knowledge test is an essential tool for determining whether or not an applicant is a fit and proper person. Although the Panel acknowledged that the applicant subsequently passed the test in November, the Panel was not satisfied that the applicant had provided any reasonable justification for

behaving dishonestly during the first examination. The Panel was concerned that the applicant had sought to justify his conduct by making reference to circumstances that could exist for any other applicant. The Panel acknowledged that the applicant was eager to pass the test at the first attempt but this could in no way excuse any attempt to cheat.

The Panel also noted that the applicant had provided two character references, one from his current employer and one from his landlord. The Panel concluded that the applicant will no doubt have had positive experiences with other individuals in differing circumstances. However, the Panel had concerns that the applicant had behaved dishonestly to further his own gains and failed to correct his behaviour after being warned by an authorised officer. The Panel noted that, in accordance with the Council's Policy, drivers are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

The Panel was satisfied that licensed drivers hold a unique position of trust and therefore applicants must be able to demonstrate that they will not abuse that position to the detriment of passengers and other members of the public. The Panel was satisfied that all decisions on the suitability of an applicant should be made on the balance of probability and applicants should not be given the benefit of any doubt. Accordingly, the Panel was not satisfied that the applicant is a fit and proper person to hold a hackney carriage and private hire driver 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 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 10.15 am

Chairman of the Panel