

Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 9.30 am on Friday, 1st October, 2021 at Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

Present

Councillor R Kirk (in the Chair)

Councillor D B Elders

Councillor B Phillips

LAHP.13 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.14 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.14 Application for the grant of 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 ("D").

Alternative options considered:

The Panel considered the options outlined in paragraph 5.1 of the Director's report. Having concluded that D was not a fit and proper person to hold a hackney carriage and private hire driver's licence, the Panel was satisfied that none of the alternative options were appropriate.

The reason for the decision:

The Panel considered the officer's report, the written and oral representations of D, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel noted that, according to the applicant's enhanced DBS disclosure, D received two cautions on 21 April 2018 – one for criminal damage and one for battery.

According to D, the cautions were issued after he was taken into police custody following a family dispute. D informed the Panel that, during an argument, he went outside the house “to cool off” but picked up a garden tool and smashed some windows of a van belonging to one of the people involved in the argument. Upon re-entering the house, D pushed open a door “with considerable force”, which struck a family member and knocked them to the floor.

D indicated that he was shocked by his own behaviour and therefore he attended a CBT (Cognitive Behavioural Therapy) course soon after the incident to understand why he reacted in the way that he did and to prevent a repeat. The Panel acknowledged that D had not received any cautions or convictions since the date of the incident in question.

D informed the Panel that he accepted a caution the day after the incident and agreed to pay £500 compensation. D indicated that he was not entirely sure of the offences that he was accepting guilt for at the time and, if he had seen any reference to battery, he would have disputed it.

The Panel noted that cautions can only be issued where there is an admission of guilt and where the evidence meets the standard normally required to bring a prosecution. For this reason, cautions are regarded in the same way as convictions when considering the suitability of an applicant.

The Panel also acknowledged that it is not entitled to review the merits of a conviction or caution and therefore it would need to consider the offences of criminal damage and battery as recorded.

The Panel considered the Council’s guidelines relating to applicant suitability and the relevance of criminal convictions contained within its Hackney Carriage and Private Hire Licensing Policy. The Panel acknowledged that applicants are generally expected to remain free from caution or conviction for a minimum period after committing an offence, although exceptions may be made where the circumstances justify it. The Panel was satisfied that the guidelines establish a minimum standard to place public safety as the priority while enabling previous offenders to sufficiently evidence their rehabilitation.

According to the Council’s policy, a licence will not normally be granted where the applicant has a conviction or a caution for criminal damage within 5 years of the date of application. Furthermore, a licence will not normally be granted where the applicant has a conviction or a caution for an offence involving violence against another person within 10 years of the date of application.

The Panel noted that the Council’s policy was recently revised following the publication of the government’s new Statutory Taxi and Private Hire Vehicle Standards, which set out a range of robust measures to raise standards and promote consistency in the interests of public safety.

The Panel noted that D's cautions were issued three and half years ago and therefore he fell short of the minimum standards in respect of both offences.

The Panel acknowledged its obligation to consider D's application on its individual merits, and its discretion to depart from the policy where the specific circumstances justify taking such an approach.

The Panel specifically considered the nature of D's offences and it was satisfied that an offence of battery should not necessarily raise the same level of concern as a more serious violent offence. The Panel also considered the positive submissions provided in support of the application, including the applicant's participation in a CBT course, the statements from D's business partner and statements from the family members involved in the incident in 2018. The Panel was satisfied that D had taken steps to resolve the matter with his family and to prevent any future occurrences.

However, the Panel remained concerned by D's overall behaviour at that time. In particular, the Panel was concerned that the criminal damage offence (which, according to D, was committed by smashing multiple vehicle windows with a garden tool) appeared to be a violent act in itself, albeit not against another person.

The Panel noted that licensed drivers have close regular contact with the public and therefore should not be of a violent or aggressive disposition and must be able to avoid confrontation.

The Panel was satisfied that all decisions on the suitability of an applicant should be made on the balance of probability in the interests of the public and applicants should not be given the benefit of any doubt.

Having considered the specific circumstances of D's case, the Panel was not satisfied that D was able to demonstrate that he had been successfully rehabilitated at this time. On that basis, the Panel concluded that D was not 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 refused to grant D's application for a hackney carriage and private hire driver licence.

The meeting closed at 10.25 am

Chairman of the Panel