

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in Conference Room 1a, County Hall, Ruthin on Tuesday, 19 June 2012 at 2.00 pm.

PRESENT

Councillors Brian Blakeley, Joan Butterfield, William Cowie, Richard Davies, Stuart Davies, Hugh Irving, Barry Mellor, Win Mullen-James, Peter Owen, Arwel Roberts and Cefyn Williams

ALSO PRESENT

Principal Solicitor (AL); Licensing Officers (NJ & JT); Community Safety Enforcement Officer (HE); Licensing Enforcement Officer (TB); Licensing Administration Officer (ES) and Committee Administrators (KEJ & SLW)

1 APOLOGIES

There were no apologies.

2 APPOINTMENT OF CHAIR

In accordance with the appointment process written statements had been made available to the committee from Councillors Stuart Davies, Barry Mellor and Cefyn Williams for the position of Chair of the Licensing Committee for 2012/13. Councillor Peter Owen proposed, seconded by Councillor Richard Davies that Councillor Stuart Davies be appointed Chair. Councillor Arwel Roberts proposed, seconded by Councillor William Cowie that Councillor Cefyn Williams be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Brian Blakeley that Councillor Barry Mellor be appointed Chair.

Following a secret ballot, undertaken in accordance with Standing Order No. 14.4, it was –

RESOLVED that Councillor Stuart Davies be appointed Chair of the Licensing Committee for the ensuing year.

3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for the position of Vice Chair of the Licensing Committee for 2012/13. Councillor Joan Butterfield proposed, seconded by Councillor Brian Blakeley that Councillor Barry Mellor be appointed Vice Chair. Councillor Arwel Roberts proposed, seconded by Councillor William Cowie that Councillor Cefyn Williams be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

RESOLVED that Councillor Cefyn Williams be appointed Vice Chair of the Licensing Committee for the ensuing year.

4 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

At this point the Chair indicated his intention to vary the order of the agenda to accommodate those Applicants who were attending the meeting in support of their applications/licence reviews and to hear their cases before any other business.

EXCLUSION OF PRESS AND PUBLIC

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

5 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 041088

[This item was brought forward on the agenda with the consent of the Chair]

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) the suitability of Applicant No. 041088 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint having been made regarding the Applicant involving the proxy sale of alcohol to a person under the age of eighteen (a summary of facts together with witness statements and a record of interview with the Applicant having been attached to the report);
- (iii) the North Wales Police having subsequently issued a Penalty Notice to the Applicant for proxy sale of alcohol to an underage person, and
- (iv) the Applicant having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Community Safety Enforcement Officer (CSEO) introduced the report and the facts of the case during which it was established that the Applicant had admitted the offence. Members were reminded that this matter had been deferred from the committee's last meeting at the Applicant's request to enable him to attend.

The Applicant expressed his deep regret over the incident which may have been due in part to an error of judgment whilst he had been preoccupied with other matters. In support of his case the Applicant had provided written character references from both his previous and current employer who had attested to his good character and subsequent remorse. In response to members' questioning the Applicant explained the circumstances of the case confirming the offence had not been premeditated and he acknowledged the seriousness of his actions. The CSEO confirmed that he was not aware of any previous incidents involving the

Applicant who had been clear and direct in his dealings with officers. In making his final statement the Applicant reiterated his remorse over the incident and assured members it would not be repeated.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that Applicant No. 041088 was considered a fit and proper person to hold a hackney carriage and private hire vehicle drivers licence but that a warning be issued as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members had taken into account the Applicant's deep remorse over his actions and his honesty in his subsequent dealings with officers over the incident. The references provided by the Applicant also evidenced that the incident had been completely out of character and had attested to his previous good conduct. Accordingly the committee considered the Applicant to be a fit and proper person to hold a licence but felt it was appropriate to issue a formal warning in light of the offence.

6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 042869

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) an application having been received from Applicant No. 042869 for a licence to drive hackney carriage and private hire vehicles;
- (ii) the officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Criminal Records Bureau (CRB);
- (iii) a summary of the convictions disclosed having been provided which related to motoring offences;
- (iv) a letter having been received from the Applicant (Appendix 1 to the report) in support of his application;
- (v) the Council's current policy with regard to the relevance of convictions, and
- (vi) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (JT) provided a summary of the report and advised that the Applicant was in attendance at the meeting. She indicated that the matter had been brought before the committee to assess the Applicant's suitability in view of the relatively short period the Applicant had been free of motoring offences.

The Applicant addressed the committee in support of his application advising that he had turned his life around since the offences took place and that he needed a licence in order to work and support his family. He added that his driving ban had been reduced from 24 months to 18 months after he had attended a course recommended by the court. In response to questions the Applicant confirmed that he had stopped drinking following his driving ban; detailed his family commitments, highlighted his past experience working as a licensed driver and his employment history. He also confirmed that he had been guaranteed a job if he was granted a licence. The Licensing Officer confirmed that the Applicant had been fully co-operative throughout the process and in his dealings with officers.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 042869 be granted and a warning issued regarding the seriousness of his offences and to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Having considered the evidence provided by the Applicant the committee was persuaded that he had turned his life around since the time the offences had been committed and had stopped drinking. They had also taken into account the Council's current policy with regard to the relevance of convictions and noted that granting the application was in line with their own policy and the timeframe provided for the Applicant to be free from convictions. Accordingly members considered the Applicant to be a fit and proper person to hold a hackney carriage and private hire vehicle drivers licence but felt it was appropriate to issue a warning in light of his previous offences.

7 REVIEW OF SIX LICENCES TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Licensing Officer (JT) submitted a confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) seeking members' consideration of the suitability of six Applicants numbered 040517; 038993; 039711; 039820; 039981 and 039853 (corresponding individual reports listed at Appendix 1 – 6 respectively to the main report) to continue as licensed drivers following their failure to comply with the Council's requirement to successfully undertake a driver knowledge test within the designated timescale.

During consideration of the reports some general questions were put to the officers regarding the introduction of the tests and processes for existing drivers together with the content of the knowledge test and details of pass rates. Members expressed some concern regarding the lack of response by the licensed drivers despite numerous reminders and the officers advised that those in breach of the Council's requirement to undertake the test could not be attributed to one particular firm or operator. Members considered the individual circumstances relating to each Applicant separately, treating each case on its own merits as follows –

(1) Applicant No. 038993 (Appendix 2) – Renewal Date 31 July 2011

The Applicant had failed a driver knowledge test on 2 August 2011. Since then four reminders had been issued to the Applicant and he had been informed on 14 May 2012 that the matter would be referred to the Licensing Committee. The Applicant was in attendance in support of his case and during his submission put a number of questions to officers and questioned the validity of the decision of the Licensing Committee on 23 June 2010 to extend the knowledge tests to existing drivers. It was established that the Licensing Committee on 23 June 2010 had resolved to introduce the test for both new applicants and for existing licensed drivers at renewal time. The Chair asked the Applicant to confine his submission to the reasons why he had not successfully undertaken the knowledge test as required.

The Applicant advised that (1) his understanding of the Licensing Committee on 23 June 2010 had been to introduce the knowledge test for new applicants only and not existing drivers, (2) despite requests he had not been issued with the 'blue book' (the Hackney Carriage & Private Hire Licensing Conditions) on which some of the questions in the knowledge test were based, and (3) he had other responsibilities and conflicting demands on his time over the past twelve months and had not had the opportunity to retake the test. He also advised that the witness he wished to call in support of his case had been unavailable.

Members took the opportunity to raise questions with the Applicant regarding his belief that the test did not apply to existing drivers and the efforts he had made to obtain a copy of the 'blue book'. In response to a direct question the Applicant confirmed that he would be willing to retake the knowledge test. The Applicant indicated that he did not wish to make a final statement but thanked members for the opportunity to present his case.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that consideration of the suitability of the Applicant No. 038993 be deferred to enable the Applicant to be provided with a copy of the Hackney Carriage & Private Hire Vehicle Licensing Conditions and the opportunity to sit the driver knowledge test within the next seven days. Failure by the Applicant to successfully undertake the knowledge test would result in the matter being brought back before the committee.

The reasons for the Licensing Committee's decision were as follows –

The Applicant was a long serving licensed driver and his willingness to retake the knowledge test was noted. In light of the reasons provided by the Applicant as to why he had not successfully undertaken the test to date members considered it reasonable that he be given a further opportunity to retake the test. However, failure by the Applicant to take the opportunity provided to him to successfully complete the test would result in the matter being brought back before the committee for further consideration.

At this juncture (3.10 p.m.) the meeting adjourned for a refreshment break.

(2) Applicant No. 040517 (Appendix 1) – Renewal Date 31 August 2011

Seven reminders had been issued to the Applicant since his licence renewal but he had made no attempt to contact officers. On 20 April 2012 the Applicant had been informed that the matter would be referred to the Licensing Committee for consideration. No response had been received from the Applicant and he was not in attendance at the meeting.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that Applicant No. 040517 be suspended for a period of three months during which time he be given the opportunity to undertake the driver knowledge test. Failure by the Applicant to successfully undertake the test would result in the matter being brought back before the committee for consideration. Successful completion of the test within the three month suspension period would result in the suspension being lifted.

The reasons for the Licensing Committee's decision were as follows –

The Applicant had made no attempt to contact officers despite repeated reminders and had given no indication that he would undertake the test. In light of the Applicant's failure to comply with the Council's requirement and respond to the licensing authority it was considered appropriate to suspend the licence but provide the Applicant with the opportunity to successfully complete the test and retain his licence.

(3) Applicant No 039711 (Appendix 3) – Renewal Date 30 September 2011

Six reminders had been issued to the Applicant since her licence renewal but she had made no attempt to contact officers. On 20 April 2012 the Applicant had been informed that the matter would be referred to the Licensing Committee and she had subsequently contacted officers to make arrangements to sit the test. Unfortunately the Applicant had failed the test the previous day and she was due to retake the test the following day. The Applicant was not in attendance at the meeting.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that consideration of the suitability of the Applicant No. 039711 be deferred to provide an opportunity for the Applicant to re-sit the driver knowledge test. Failure of the Applicant to successfully undertake the test would result in the matter being brought back before the committee for consideration.

The reasons for the Licensing Committee's decision were as follows –

The Applicant had shown her willingness to undertake the knowledge test and had made arrangements to re-sit the test the following day. Accordingly it was deemed reasonable to provide the Applicant with a further opportunity to successfully complete the test. Failure by the Applicant to successfully complete the test would result in the matter being brought back before the committee for consideration.

(4) Applicant No. 039820 (Appendix 4) – Renewal Date 31 October 2011

Four reminders had been issued to the Applicant since his licence renewal and he had been informed on 30 April that the matter would be referred to the Licensing Committee. The Applicant contacted the Licensing Office to arrange to take the test on 23 May 2012 but failed to attend the appointment. Since then the Applicant had made arrangements to sit the test the following day. The Applicant had been unable to attend the meeting in support of his case due to illness.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that consideration of the suitability of the Applicant No. 039820 be deferred to provide an opportunity for the Applicant to sit the knowledge test. Failure of the Applicant to successfully undertake the test would result in the matter being brought back before the committee for consideration.

The reasons for the Licensing Committee's decision were as follows –

The Applicant had shown his willingness to undertake the knowledge test and had made arrangements to sit the test the following day. Accordingly it was deemed reasonable to provide the Applicant with the opportunity to successfully complete the knowledge test. Failure by the Applicant to successfully complete the test would result in the matter being brought back before the committee for consideration.

(5) Applicant No. 039981 (Appendix 5) – Renewal Date 31 October 2011

Five reminders had been issued to the Applicant since his licence renewal and he had made no attempt to contact officers. On 30 April 2012 the Applicant was informed that the matter would be referred to the Licensing Committee. No response had been received from the Applicant and he was not in attendance at the meeting.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that Applicant No. 039981 be suspended for a period of three months during which time he be given the opportunity to undertake the driver knowledge test. Failure by the Applicant to successfully undertake the test would result in the matter being brought back before the committee for consideration. Successful completion of the test within the three month suspension period would result in the suspension being lifted.

The reasons for the Licensing Committee's decision were as follows –

The Applicant had made no attempt to contact officers despite repeated reminders and had given no indication that he would undertake the test. In light of the Applicant's failure to comply with the Council's requirement and respond to the licensing authority it was considered appropriate to suspend the licence but provide the Applicant with the opportunity to successfully complete the test and retain his licence.

(6) Applicant No. 039853 (Appendix 6) – Renewal Date 31 October 2011

Five reminders had been issued to the Applicant since his licence renewal and he had made no attempt to contact officers. On 30 April 2012 the Applicant had been informed that the matter would be referred to the Licensing Committee and he had subsequently contacted officers to make arrangements to sit the test. Unfortunately the Applicant had failed the test the previous day and he was due to retake the test shortly. The Applicant was not in attendance at the meeting.

At this juncture the committee adjourned to consider the case and it was –

RESOLVED that consideration of the suitability of Applicant No. 0389853 be deferred to provide an opportunity for the Applicant to re-sit the driver knowledge test. Failure of the Applicant to successfully undertake the test will result in the matter being brought back before the committee for consideration.

The reasons for the Licensing Committee's decision were as follows –

The Applicant had shown his willingness to undertake the driver knowledge test and had made arrangements to re-sit the test. Accordingly it was deemed reasonable to provide the Applicant with a further opportunity to successfully complete the knowledge test. Failure by the Applicant to successfully complete the test would result in the matter being brought back before the committee for consideration.

OPEN SESSION

Upon completion of the above the meeting resumed in open session.

8 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

9 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 14 March 2012 were submitted.

RESOLVED that minutes of the meeting held on 14 March 2012 be received and confirmed as a correct record.

10 REVIEW - GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

The Licensing Officer (NJ) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) seeking members' approval of the content of the Council's Statement of Principles (Gambling Act 2005) for formal consultation prior to submission to Full Council for adoption. A copy of the reviewed Statement of Principles (Appendix A) had been attached to the report.

Members were advised that the Council was required to review the Statement of Gambling Principles every three years. The Statement had been developed by the

six Licensing Authorities in North Wales to ensure consistency and following review no material changes had been deemed necessary.

RESOLVED that –

- (a) *the content of the Council's Statement of Principles (Gambling Act 2005) attached to the report (Appendix A) be agreed for formal consultation, and*
- (b) *subject to no further amendment being required following the consultation process the Statement of Principles be recommended to Full Council for adoption.*

11 REVIEW OF HACKNEY CARRIAGE FARES AND CHARGES

The Licensing Officer (NJ) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) upon –

- (i) two requests having been received for a review of the current fares and charges for hackney carriage (taxis) which had previously been approved by the Licensing Committee on 23 June 2010 (Appendix A to the report);
- (ii) an extract from the National Private Hire Monthly Magazine showing a league table of taxi fares throughout the UK (Appendix B to the report) with Denbighshire listed at number 219 from a total number of 363;
- (iii) a league table showing that Denbighshire was listed at eighth out of twenty two Welsh authorities (Appendix C to the report);
- (iv) details of the proposals received from the trade including a table showing the cost of journeys if the proposal of 20 pence was added to the start price (Appendix D to the report);
- (v) ten responses having been received from the trade following consultation on the proposals (Appendix E to the report) with the majority opposing any increase in fares due to the current economic climate and a number of firms operating a '£3 anywhere in Rhyl' fare;
- (vi) details of costs affecting vehicle operators since the last fare increase in 2010 relating to insurance and vehicle purchase cost and fuel prices, and
- (vii) the options available to members in reviewing the current fares and charges for hackney carriages.

Members considered the merits and otherwise of the proposals for increasing the hackney carriage fares and charges together with the responses received from the trade following the consultation exercise and the additional information provided by officers as detailed within the report.

During the ensuing debate Councillors Brian Blakeley and Joan Butterfield highlighted that a number of Rhyl taxi firms had been operating a '£3 anywhere in

Rhyl' fare with recent notification of that fare being undercut by rival firms and taxi drivers were struggling to make a living in difficult circumstances. The Licensing Enforcement Officer clarified that the Council had powers to set maximum fares and charges for taxis but drivers could charge less should they wish to do so and the Council had no control over the discounting of fares. With regard to the pilot scheme to issue all vehicle operators with "sick bags" for customers use members welcomed the initiative which was being funded by the Community Safety Team.

In view of the price competition between taxi firms and the fact that the licensing authority had no control over such promotions, and given that the majority of responses received to the consultation had opposed any increase in fares and charges, Councillor Barry Mellor proposed, seconded by Councillor Joan Butterfield that the proposals detailed in 5.2 of the report be rejected and the current fares and charges be retained. Consequently it was –

RESOLVED that the proposals as detailed in 5.2 of the report be rejected and the current fares and charges not be increased.

12 NEW CONSTITUTION AND THE DELEGATION OF COUNCIL FUNCTIONS

The Principal Solicitor submitted a report by the Deputy Monitoring Officer (previously circulated) seeking members' approval of the relevant Delegation of Functions and the scheme of Delegation to Officers as set out in the report and attached appendices following a review of the Council's Constitution.

Changes to the constitution had been proposed to make the Council's functions and delegations more transparent. Part 3 had been amended to provide greater clarity on the responsibilities of individual committees (Appendix 1 to the report) and Part 9.2 had been amended to include details of the delegations to Heads of Service (Appendix 2 to the report.) Those sections with particular reference to the Licensing Committee had been highlighted within the appendices to the report. The Principal Solicitor added that the changes did not include any new proposals but brought together in one place the committee's responsibilities and delegation of functions.

With regard to Part 3, Table 1, 11 – the discharge of any function relating to the control of pollution or the management of air quality, Councillor Joan Butterfield advised that the Licensing Committee had not previously considered matters of that nature. The Principal Solicitor agreed to check that reference with the Deputy Monitoring Officer.

Whilst accepting that the issue fell outside the remit of the Licensing Committee the Principal Solicitor agreed to feedback Councillor Butterfield's comments to the Deputy Monitoring Officer that she would like to see the Member Area Groups involved as part of the consultation process in view of the impact on the county's towns and villages in respect of highway functions (Part 3, Table 1, 18).

Members supported the greater clarity and transparency in terms of responsibility and decision making arising from the amendments made to Part 3 and Part 9.2 of the constitution. Having considered the detail of the report and appendices it was –

***RESOLVED** that, subject to checking the reference to inclusion of functions relating to the control of pollution or the management of air quality being within the remit of the Licensing Committee, the relevant Delegation of Functions and the Scheme of Delegation to Officers as set out in the report and highlighted in the appendices attached to the report be approved.*

13 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2012/13

A report by the Head of Planning, Regeneration and Regulatory Services was submitted (previously circulated) on the Licensing Committee's future work programme.

***RESOLVED** that the Licensing Committee work programme as detailed within the report be noted.*

The meeting concluded at 4.00 p.m.