

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in Council Chamber, Russell House, Rhyl on Wednesday, 12 September 2012 at 9.30 am.

PRESENT

Councillors Bill Cowie, Richard Davies, Stuart Davies (Chair), Win Mullen-James, Peter Owen, Arwel Roberts and Cefyn Williams

ALSO PRESENT

Principal Solicitor (AL), Licensing Officers (NJ & JT), Licensing Administration Officer (ES), and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Brian Blakeley, Hugh Irving and Barry Mellor

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised. However the Chair referred to remarks made at the last training session for Licensing Committee members relating to constitutional issues. He had raised the matter directly with the Head of Planning, Regeneration and Regulatory Services who had advised that those issues would be dealt with as part of the ongoing review of the constitution. Accordingly members could rest assured that the issues were being addressed.

4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 19 June 2012 were submitted.

RESOLVED that minutes of the meeting held on 19 June 2012 be received and confirmed as a correct record.

At this point the Chair indicated his intention to vary the order of the agenda to accommodate those individuals 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 THREE LICENCES TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

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

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 three Drivers numbered 040298, 040448 and 040740 (corresponding individual reports listed at Appendix 1 – 3 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.

Members considered the individual circumstances relating to each Driver separately, treating each case on its own merits as follows –

(1) Driver No. 040740 (Appendix 3) – Renewal Date 31 December 2011

Five reminders had been issued to the Driver since his licence renewal but he had made no attempt to contact officers. On 6 June 2012 the Driver had been informed that the matter would be referred to the Licensing Committee for consideration.

The Driver was in attendance in support of his case and during his submission he spoke out against the test which he felt was insufficient and failed to achieve its purpose in adequately assessing the suitability of individuals to become licensed drivers. He further advised that, in support of his application for a licence, he had produced various certificates and references which he felt proved his suitability for such employment far beyond that of the driver knowledge test. The Driver proceeded to air a number of grievances he had regarding what he perceived to be a lack of action by the Licensing Department in addressing various concerns he had raised in terms of taxi licensing. The Chair asked the Driver to confine his submission to the reasons why he had not successfully undertaken the knowledge test as required. The Driver reiterated his view that the test was insufficient and did not achieve its purpose.

Members took the opportunity to question the Driver regarding the case and it was confirmed that he had failed to respond to any of the reminders to undertake the knowledge test sent by the Licensing Department. It was also established that, by not taking the test and appearing before the Licensing Committee, he was making a protest against what he believed to be a lack of action by the Licensing Department in addressing his concerns and complaints relating to taxi licensing. He reiterated that point again when making his final statement to the committee. He added that he felt he had not been treated fairly by the Licensing Department during his dealings with them and had been harassed by Licensing Officers. The Licensing Officer (JT) confirmed she was aware that the Driver had raised issues and queries with the Licensing Department which officers had tried their best to address.

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

RESOLVED that consideration of the suitability of Driver No. 040740 be deferred to provide a further opportunity for the Driver to sit the knowledge test. Failure by the Driver to successfully undertake the knowledge test by the committee's next meeting (5 December 2012) would result in the matter being brought back before the committee for determination.

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

Whilst acknowledging that the Driver had a point to make with regard to licensing matters, refusal to take the knowledge test, which applied to all drivers, was not the way to make his protest. All licensed drivers were required to take the knowledge test and there were no exceptional circumstances of this case which would prevent the Driver from taking the test. The test had been called for by members of the trade and was part and parcel of the requirements to become a licensed driver. Failure by the Driver to successfully complete the test by the time of the next meeting of the Licensing Committee on 5 December 2012 would result in the committee giving serious consideration to revoking the licence on the basis that the Applicant had failed to demonstrate that he was a fit and proper person to hold a licence.

The Chair conveyed the committee's decision and reasons for that decision to the Driver.

(2) Driver No. 040298 (Appendix 1) – Renewal Date 31 August 2011

Six reminders had been issued to the Driver since his licence renewal and on 6 June 2012 he had been informed that the matter would be referred to the Licensing Committee. Following the Driver's unsuccessful attempt to pass the driver knowledge test the Licensing Officer (JT) was pleased to report that the Driver had since retaken and successfully passed the test.

RESOLVED that the successful completion of the driver knowledge test by Driver No. 040298 be noted and no further action be taken.

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

The Driver had now complied with the Council's requirement to successfully undertake a driver knowledge test and therefore it was considered that no further action was required.

(3) Driver No. 040298 (Appendix 2) – Renewal Date 31 August 2011

Six reminders had been issued to the Driver since his licence renewal but he had made no attempt to contact officers. On 6 June 2012 the Driver 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 Driver No. 040448 be suspended pending his successful completion of the driver knowledge test. Failure by the Driver to successfully undertake the test by the committee's next meeting (5 December 2012) would result in the matter being brought back before that committee for determination. Successful completion of the test within the suspension period would result in the suspension being lifted.

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

The committee considered that the Driver had been given sufficient opportunity in which to undertake the driver knowledge test and had shown disrespect to the committee by failing to attend the meeting and state his case. Accordingly the committee considered it appropriate to suspend the Driver's licence until such time as he passed the knowledge test. Failure by the Driver to take and successfully pass the test would result in the matter being brought back before the committee's next meeting when serious consideration would be given to revoking his licence on the basis that he was not a fit and proper person to hold a licence.

6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 043727

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. 043727 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 by the Applicant and following an enhanced disclosure from the Criminal Records Bureau (CRB);
- (iii) a summary of the convictions disclosed having been provided which involved violence and dishonesty over a period from 1979 to 1997;
- (iv) a licence having been previously granted to the Applicant in 2009 based on the available information at that time which had not included the latest conviction in 1997;
- (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) advised that the Applicant had been fully cooperative throughout the process and in his dealings with officers. Unfortunately the Applicant had been unable to attend the meeting in support of his case due to work commitments. However he had submitted a letter (circulated at the meeting) in which he apologised for his absence and asked that members take into account the following information when considering his application –

- that he genuinely believed he had disclosed the 1997 conviction at the time of his original application in 2009 which he had subsequently disclosed as part of his current application, and
- that he had also disclosed the 1997 conviction to Wrexham County Borough Council and had held a licence with that authority for over ten years.

The Licensing Officer (JT) then provided a summary of the convictions and the circumstances surrounding the 1997 conviction as relayed to her previously by the Applicant together with details of his employment history in the taxi licensing profession.

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

RESOLVED that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 043727 be granted.

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

Having considered the merits of the case members noted that the Applicant had worked as a taxi driver in the Wrexham County Borough Council area for a number of years without incident. The committee considered that the Applicant had changed his ways and had remained conviction free for a number of years. It was further noted that the Applicant had previously held a licence in the Denbighshire County Council area and had not come to the attention of licensing officers during that time, save for routine matters. It was clear that the Applicant had not declared his 1997 conviction on his previous application to this Council but he had previously declared the conviction to Wrexham County Borough Council had subsequently done so to Denbighshire County Council. Accordingly the committee did not consider that the Applicant had set out to deceive.

OPEN SESSION

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

7 REVIEW OF LICENSING FEES AND CHARGES

The Licensing Officer (NJ) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) updating members on progress made to date on the review of the licensing fees and charges for 2013/14. Details of the comprehensive review of licensing functions had been included within the report and members were advised that officers had been unable to complete the review within the period specified by the committee at their meeting on 14 March 2012 due to staffing resource issues. The review was currently ongoing with the intention of presenting a full report to a future meeting of the committee.

RESOLVED that –

- the report on progress made on the review of the licensing fees and charges for 2012/13 be receive and noted, and*

- (b) *the findings of the full review of licensing fees and charges be submitted to a future meeting of the committee for consideration.*

8 REVIEW OF CHARITY COLLECTIONS

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

- (i) progress made to date on the review of Charity Collections, namely House to House Collections and Street Collections, in order to better reflect the nature of charitable collections and allow for more flexibility in the existing policies;
- (ii) details of the current policies for Charity Collections and proposals to better reflect the aims of the Council to –
- safeguard the interests of both public donors and beneficiaries
 - facilitate well organised collections by bona fide charitable institutions and to ensure that good standards were met
 - prevent unlicensed collections from taking place
 - ensure money was collected securely and proceeds properly accounted for
 - reduce nuisance to residents and visitors
 - achieve a fair balance between local and national causes
- (iii) the next stage of the review being to consult with legal officers and other interested parties, and
- (iv) pending completion of the full review approval being sought to allow The Royal British Legion (Poppy Appeal) to extend their current allocation for Street Collection (two days) to seven days to allow them sufficient time and flexibility to collect county wide.

The Licensing Officer responded to members' questions regarding the various types of charitable collections and particular circumstances when licences were required, either locally or via Home Office Exemption Order. She added that there was a need to raise public awareness of the issue and the possibility of bogus collections. Reference was also made to the draft policies which had been produced for consultation and members were advised that the committee's work programme would be revised to include the review of Charity Collections together with the review of other licensing policies and procedures.

RESOLVED that –

- (a) *the report on progress made on the review of Charity Collections be received and noted;*
- (b) *officers be authorised to consult with legal officers and other interested parties such as the Charity Commission, National Charities and any Charity that had held a Street Collection or House to House Collection in the County*

within the last twelve months on the draft policies produced during the review, and

- (c) *the request for a Street Collection by The Royal British Legion to collect county wide for up to seven days for the Poppy Appeal be approved.*

9 LICENSING COMMITTEE 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. The Licensing Officer (NJ) advised that a revised work programme would be submitted to the next meeting of the committee to include the review of other licensing policies and procedures.

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

10 OUTCOMES CONCERNING THE SUITABILITY OF EXISTING LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

The Licensing Officer (JT) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) updating members on the outcomes of resolutions made at the last Licensing Committee in respect of six licensed drivers who had failed to meet the Council's requirement to successfully complete the driver knowledge test. Officers were pleased to report that, as a result of the decisions taken by members, all six drivers had successfully undertaken the driver knowledge test, including the two drivers whose licences had been suspended which had been subsequently reinstated.

Members were pleased to note that all six drivers had successfully undertaken the driver knowledge test and it was –

RESOLVED *that the update report on the outcomes of resolutions made at the last Licensing Committee in respect of licensed drivers be received and noted.*

The meeting concluded at 10.35 a.m.