

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Churton Road, Rhyl on Wednesday, 12 June 2013 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Stuart Davies, Hugh Irving, Pat Jones, Barry Mellor, Win Mullen-James, Arwel Roberts and Cefyn Williams

### ALSO PRESENT

Head of Legal and Democratic Services (RGW), Public Protection Manager (EJ), Licensing Officers (NJ & JT), Senior Community Safety Enforcement Officer (TWE), Licensing Enforcement Officer (HB) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Richard Davies and Peter Owen

#### 2 APPOINTMENT OF CHAIR

In accordance with the appointment process a written statement had been made available from Councillor Cefyn Williams for the position of Chair of the Licensing Committee for 2013/14. Councillor Stuart Davies proposed, seconded by Councillor Bill Cowie that Councillor Cefyn Williams be appointed Chair. There being no further nominations it was –

**RESOLVED** that Councillor Cefyn Williams 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 2013/14. Councillor Bill Cowie proposed, seconded by Cefyn Williams that Councillor Stuart Davies be appointed Vice Chair. Councillor Joan Butterfield proposed, seconded by Councillor Pat Jones that Councillor Barry Mellor be appointed Vice Chair. Upon being put to the vote an equal number of votes were cast for each candidate. The Chair used his casting vote and it was –

**RESOLVED** that Councillor Stuart Davies 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.

#### 5 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

## **6 MINUTES OF THE LAST MEETING**

The minutes of the Licensing Committee held on 6 March 2013 were submitted.

***RESOLVED** that the minutes of the meeting held on 6 March 2013 be received and confirmed as a correct record.*

## **7 LICENSING COMMITTEE PROCEDURES FOR DETERMINING HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER APPLICATIONS AND REVIEWS**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) seeking members' approval of revised Licensing Committee procedures for determining hackney carriage and private hire driver applications and reviews of existing drivers.

It was explained that the current procedures were outdated having been originally tailored for public entertainment/premises licences and there was a need for a set of procedures to deal specifically with driver applications and reviews.

***RESOLVED** that the Licensing Committee procedures for determining hackney carriage and private hire driver applications and reviews of existing licensed drivers (as detailed in the appendix to the report) be approved.*

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, 13 and 14 of Part 4 of Schedule 12A of the Act.*

## **8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 047324**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 047324 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service together with a motoring conviction detailed on the applicant's DVLA Licence;

- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1981 to 2007 including incidents relating to drink/drugs, indecency and dishonesty;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and following introductions confirmed that he had received the report and committee procedures. The Licensing Officer (JT) provided a summary of the report and explained that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence given the amount and nature of the convictions.

The Applicant addressed the committee and spoke of his desire to become a taxi driver as an alternative means to his current employment and physical demands that required. He also explained the circumstances surrounding the offences revealed by the criminal record check. Members questioned the Applicant further on his version of events and recollections of the incidents. The Applicant was also questioned about more recent health issues relating to drugs/alcohol dependencies in light of his convictions and medical certificate. In making his final statement the Applicant expressed regret over his previous actions and reiterated that he did not have a problem with alcohol. He considered himself to be good with the public and provided examples in his present employment. The Applicant had also provided a character reference from his current employer which was read out to the committee prior to deliberations.

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. 047324 be refused.

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

Whilst the application did fall within policy guidelines the committee's overriding duty was to public safety. Having considered the facts of the case and answers given in explanation by the Applicant the committee had particular concerns in respect of the conviction relating to alcohol, dependency on alcohol as discussed and the indecency offence. Consequently the committee was not satisfied that the Applicant was a fit and proper person to hold a licence and resolved to refuse the application.

The committee's decision and reasons therefore were conveyed to the Applicant and he was advised that the decision did not prevent him from making an application in the future. He was also advised of his right of appeal against the decision to the Magistrates Court within twenty one days.

[Councillor Arwel Roberts took no part in the discussion or voting on this matter as he had not been present throughout the entire proceedings]

## 9 SUITABILITY OF A VEHICLE FOR A PRIVATE HIRE LICENCE

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application having been received for a Private Hire Vehicle Licence;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the specifications as detailed in the Council's Hackney Carriage and Private Hire Licensing Conditions, namely (1) the seat configuration did not provide the minimum clearance through which passengers may pass, and (2) passengers would be required to tip one of the other seats to access/exit the rear row of seats, and
- (iii) the applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting together with his Representative and following introductions confirmed that he had received the report and committee procedures. Members also confirmed that they had received, via email, supplementary information from the Applicant in support of his application which was made available to all parties at the meeting.

The Licensing Enforcement Officer presented the report and asked the committee to consider whether it would be appropriate to depart from the Council's policy concerning vehicle specifications in order to grant the application as applied for.

The Applicant's Representative explained the main concern was that altering the vehicle specification to conform to the current council policy would result in the Applicant falling foul of type approval and lead him to be held personally liable in the event of an accident. He also referred to advice received from VOSA and the Department of Transport in that regard and drew members' attention to the supplemental information (previously circulated) consisting of a letter from the National Private Hire Association in support of the application. The National Private Hire Association had made reference to –

- the Department of Transport's Best Practice Guidance
- judgments from two legal challenges taken to Magistrates Court
- statement from Ford UK relating to seat alterations

In light of the evidence presented the Applicant's Representative asked the committee to grant the application for the vehicle concerned with its present seating configuration. He also asked that this aspect of the policy guidelines be further considered as part of the current hackney carriage and private hire licensing policy review.

In response to questions the Applicant and his Representative explained the seating configuration in further detail including access and egress from the rear of the vehicle together with the implications should seating be removed. It was

confirmed that the Applicant had been provided with a copy of the council's conditions prior to purchasing the vehicle. In terms of the minimum clearance for passengers the Applicant's Representative advised that the front seat gap measured the same as the rear seat on the said vehicle which fell below the minimum stipulated in the conditions. In his final statement the Applicant's Representative asked members to grant the application as applied for. If the committee was not minded to grant the application with the present seating configuration he asked whether a certificate could be supplied absolving the Applicant of any liability in the event of an accident.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a Private Hire Vehicle Licence be granted in respect of the vehicle concerned with its present seating configuration.

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

Members had carefully considered the application and evidence presented in this case and had been mindful of their responsibilities in respect of licensing vehicles. The committee was satisfied that the vehicle subject to the application met the legal requirements for use as a private hire vehicle being suitable in type, size and design; was mechanically suitable, safe and it was comfortable. Consequently the committee resolved to grant the application as applied for.

The committee's decision and reasons therefore were conveyed to the Applicant and his Representative. Members asked that this case be taken into account during the review of hackney carriage and private hire licensing policies. Councillor Joan Butterfield also asked that advertising on licensed vehicles be revisited as part of the policy review.

At this juncture (11.10 a.m.) the meeting adjourned for a refreshment break.

## **10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 047331**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 047331 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service together with a motoring conviction detailed on the applicant's DVLA Licence;
- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1997 to 2010 including incidents relating to drunkenness, driving and traffic offences;

- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and following introductions confirmed that he had received the report and committee procedures. The Licensing Officer (JT) provided a summary of the report and explained that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence in light of the convictions disclosed.

The Applicant addressed the committee in support of his application describing his background and personal circumstances at the time the offences had been committed. He was keen to impress upon members his change in attitude since he had moved into the area some years ago becoming a responsible adult in employment with family commitments. He explained that his current employment was seasonal and he wished to become a taxi driver to provide for himself and his family. Members questioned the Applicant on his convictions, particularly in light of the substantial penalties imposed and repeated driving disqualifications, and sought assurances regarding his future behaviour. The Applicant elaborated upon particular incidents in response to members' questioning and assured the committee that he only drank alcohol at social occasions such as weddings. In making his final statement he assured members that he valued his driving licence and was a changed character.

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. 047331 be refused.

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

Members considered all the evidence presented and the response given by the Applicant to questions. Whilst granting the application was in line with individual policy guidelines the committee's overriding consideration was public safety and in light of the prolific and repeated convictions specifically relating to motoring offences including dangerous driving; driving with no insurance, and with excess alcohol members were not satisfied that the Applicant was a fit and proper person to drive hackney carriage and private hire vehicles. Accordingly it was resolved to refuse the application.

The committee's decision and reasons therefore were conveyed to the Applicant and he was advised of his right of appeal against the decision to the Magistrates Court within twenty one days.

## **11 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 047319**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 047319 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service and motoring convictions detailed on the applicant's DVLA Licence;
- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1989 to 2009 including incidents relating to drunkenness and dishonesty;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and following introductions confirmed that he had received the report and committee procedures. The Licensing Officer (JT) provided a summary of the report and explained that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence in light of the convictions disclosed.

The Applicant addressed the committee in support of his application admitting his wrongdoing and expressing remorse over previous actions. He explained his personal circumstances advising that he had moved to Wales some years ago highlighting his family commitments and responsibilities and referred to his association with the taxi trade and his desire to become a taxi driver. The Applicant also explained the circumstances surrounding the offences, clarifying issues in response to members' questions thereon. Members sought assurances regarding his future behavior and the Applicant elaborated upon his current lifestyle and community links and the trustworthy relationship with his current employer. He assured the committee that he had learnt from past mistakes and had turned his life around. A reference from the Applicant's employer was read out to the committee attesting to his good character. In his final statement the Applicant thanked members for the opportunity to present his case and asked the committee to look favourably on his application.

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. 047319 be granted.

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

The committee had carefully considered the facts of the case and having listened to the Applicant's submission and his response to questioning members had been impressed by the Applicant's demeanor and had found him to be genuine in his assurances regarding his current and future behaviour. Consequently members

considered the Applicant to be fit and proper to hold a hackney carriage and private hire vehicle drivers licence. The Applicant's previous convictions had caused concern to the committee however and he was warned that any future transgression causing him to be brought before the committee would be severely dealt with.

The committee's decision and reasons therefore were conveyed to the Applicant.

[Councillor Stuart Davies wished it to be recorded that he voted against the above resolution.]

## **12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 044473**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 044473 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) concerns having been raised by Licensing Enforcement Officers regarding the conduct of the licensed driver on a number of separate occasions (a summary of facts together with witness statements having been attached to the report);
- (iii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was not present at the meeting despite being invited to attend. In the absence of an explanation from the Driver regarding his non attendance the committee agreed to proceed in his absence.

The Licensing Enforcement Officer (HB) introduced the report and detailed the summary of facts of the case. Members took the opportunity to raise questions and the officers clarified the association of the Driver to the business and taxi referred to within the incidents and the behaviour of the Driver during the events concerned. It was clarified that during the multi agency taxi operation in February 2013 licensed vehicles had been inspected generally and other vehicles were also tested. Officers were concerned about the Driver's failure to engage with them and other officials, the attitude he had displayed and his disregard of authority. The Public Protection Manager highlighted that Enforcement Officers had a difficult and challenging role and maintained positive relationships with licensees in the main and issues would not be brought before committee unless significant.

The committee adjourned to consider the case and it was –

***RESOLVED*** that –

- (a) *consideration of the suitability of Driver No. 044473 to hold a hackney carriage and private hire vehicle drivers licence be deferred to the next*



*meeting of the committee to provide a further opportunity for the Driver to attend and present his case, and*

- (b) *a letter be sent to Driver No. 044473 advising him of the committee's decision above, requesting his attendance at the committee's next meeting and impressing upon him the seriousness of the matter.*

Having considered the evidence presented the committee expressed serious concerns regarding the behaviour of the Driver in this case and considered their powers in terms of suspension and revocation. In the absence of the Driver and hearing his version of events however the committee agreed that the Driver be given a further opportunity to present his case to the Licensing Committee before a determination was made. Consequently it was resolved to defer consideration of the suitability of the Driver to the committee's next meeting and to invite him to attend advising him of the committee's decision and the seriousness of the matter.

## **OPEN SESSION**

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

### **13 PROCEDURES FOR NEW AND REVISED POLICIES**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection Services (previously circulated) seeking members' approval of the procedures to be adopted for drafting new and revised policies.

Apart from statutory requirements, there were no written procedures in place for officers to follow when drafting new licensing policies or reviewing existing licensing policies. Approving a set of procedures should reduce any risk of exposing the Council to challenge and administrative error.

Members' attention was drawn to the following –

- new policies would include a full consultation exercise, including screening the policy using the Equality Impact Assessment Toolkit, and reporting the outline of the policy and scope of consultation to members
- for existing policies requiring general amendments officers would discuss proposed amendments with members, along with any consultation requirements and would seek members to recommend to the Lead Member the adoption of the amendments
- the Head of Service would approve minor policy amendments including legislative updates or in cases where it is considered the change would not affect the purpose of the policy

***RESOLVED*** that the procedures for drafting new licensing policies and reviewing existing policies (as detailed in the appendix to the report) be approved.

### **14 LICENSING PROCEDURES**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) seeking members' approval of eight procedures, including officer delegations, for dealing with applications for hackney carriage and private hire licensing.

An extensive review of the licensing regime had been undertaken with a view to ensuring that licensing processes were as robust as possible and that the public travelled safely and received a good level of service. The draft procedures had also been scrutinised by a Licensing Legal Specialist and covered the following –

- Expired Insurance and Compliance Documents
- Grant/Renewal of a Private Hire Operator Licence
- Grant/Renewal of a Hackney Carriage and Private Hire Vehicle Licence
- Grant/Renewal of a Hackney Carriage and Private Hire Driver Licence
- Suspension/Revocation of a Hackney Carriage and Private Hire Driver Licence
- Suspension/Revocation of a Hackney Carriage and Private Hire Vehicle Licence
- Transfer of interest/replacement vehicle of a Hackney Carriage and Private Hire Vehicle Licence
- Notification of a Hackney Carriage and Private Hire Vehicle Driver Conviction

The Chair commented that the procedures were very comprehensive and acknowledged the hard work carried out to review them.

**RESOLVED** that –

- (a) *the eight hackney carriage and private hire procedures (as detailed in the appendix to the report) be approved with effect from 1 August 2013, and*
- (b) *the delegations as detailed within the procedures be approved to form part of the scheme of delegation with effect from 1 August 2013.*

## **15 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2013/14**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme.

The review of hackney carriage and private hire policy was progressing well and a report thereon would be submitted to the committee in December 2013 before formal consultation commenced. Details on the consultation exercise had also been provided.

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

The meeting concluded at 1.00 p.m.