

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 11 June 2014 at 9.30 am.

### PRESENT

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

**Observer:** Councillor Meirick Davies

### ALSO PRESENT

Principal Solicitor (AL), Licensing Officers (NJ & JT), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

Planning Policy Manager (AL) and Planning Officer (CM) attended for Agenda Item 7.

#### 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 Barry Mellor and Cefyn Williams for the position of Chair of the Licensing Committee for 2014/15. Councillor Joan Butterfield proposed, seconded by Councillor Pat Jones that Councillor Barry Mellor be appointed Chair. Councillor Stuart Davies proposed, seconded by Councillor Peter Owen that Councillor Cefyn Williams be appointed Chair. Following a ballot undertaken in accordance with Standing Order No. 14.4, 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 Vice Chair of the Licensing Committee for 2014/15. Councillor Joan Butterfield proposed, seconded by Councillor Pat Jones that Councillor Barry Mellor be appointed Vice Chair. It was subsequently –

**RESOLVED** that Councillor Barry Mellor be appointed Vice Chair of the Licensing Committee for the ensuing year.

#### 4 DECLARATIONS OF INTEREST

Councillor Cefyn Williams declared a personal interest in Agenda Item 12 – Application for a Licence to Driver Hackney Carriage and Private Hire vehicles because he knew the applicant in question.

## **5 URGENT MATTERS**

No urgent matters had been raised.

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

The minutes of the Licensing Committee held on 5 March 2014 were submitted.

***RESOLVED** that the minutes of the meeting held on 5 March 2014 be received and confirmed as a correct record.*

## **7 DRAFT SUPPLEMENTARY PLANNING GUIDANCE - HOT-FOOD TAKEAWAYS**

The Planning Policy Manager and Planning Officer presented a report by the Head of Planning and Public Protection (previously circulated) seeking members' views on the draft Supplementary Planning Guidance (SPG) document on hot-food takeaways prior to its submission to Planning Committee and public consultation. The Local Development Plan Steering Group had requested the guidance be presented to the Licensing Committee in view of the clear links with licensing.

Members were advised of the need to update existing SPGs following adoption of the Local Development Plan in June 2013. Following a review of this particular guidance some minor changes had been proposed but the main change was the proposal to introduce a restriction on new hot-food takeaways within 400m of any school boundary. Officers elaborated upon other considerations within the document of particular interest to licensing and emphasised that the guidance would only apply to new planning applications and would not affect existing hot-food takeaway premises.

During consideration of the draft guidance discussion focused on the following –

- the committee supported the proposal to introduce an exclusion zone near schools and was keen for this restriction to be extended to mobile hot food businesses with greater controls exercised over mobile traders generally and proactive enforcement. Officers explained the legalities governing mobile traders advising they could not be regulated via the planning mechanism but through Street Trading Consents and Hawkers Licences. It was agreed that reference be made to street trading within the guidance clarifying those areas of responsibility and control. However, concerns remained that adequate controls could not be exercised over particular traders which fell outside the Council's legislative jurisdiction
- members reported upon existing traffic and parking problems experienced near established hot-food takeaways and lack of enforcement and officers provided assurances that consultation with Highways formed part of the planning process for new applications

- reference was made to paragraph 6.7 regarding litter and members felt that those measures should be strengthened and made mandatory if possible.

The Planning Policy Manager advised that members' comments would be put before Planning Committee in July when considering the draft document. She added that members would have a further opportunity to comment during the formal consultation stage.

**RESOLVED** that, subject to the above comments, the draft Supplementary Planning Guidance document on hot-food takeaways be received and noted.

## **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 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. 051261**

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

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

- (i) an application received from Applicant No. 051261 for a licence to drive hackney carriage and private hire vehicles;
- (i) 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 motoring convictions detailed on the applicant's DVLA Licence;
- (ii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1988 to 2010 including incidents relating to traffic offences, drunkenness and other related offences and dishonesty;
- (iii) the Council's current policy with regard to the relevance of convictions, and
- (iv) 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 elaborating upon his personal circumstances and recent move back to the area. Despite his convictions he described himself as a good person and expressed his desire to return to his profession as a taxi driver. The Applicant responded to questions from members regarding the potential anomaly on his criminal record disclosure and his own personal disclosure; the circumstances surrounding his most recent conviction, and his potential employment opportunities. Members also sought evidence of the Applicant's fitness to drive licensed vehicles and were advised of his recent employment history and assurances that references could be provided to attest to his good character. In making his final statement the Applicant hoped that he had answered members' questions to their satisfaction and that he would be given the opportunity to prove himself as a taxi driver.

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. 051261 be granted.

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

Members considered the report and responses provided by the Applicant to questions. The committee found the Applicant to be genuine in his responses and accepted his assurances as to his future behaviour and consequently considered him to be a fit and proper person to hold a licence. In light of his previous convictions the Applicant was also issued with a warning as to his future conduct.

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.]

## **OPEN SESSION**

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

### **9 PROPOSED AMENDED PENALTY POINT POLICY AND PROCEDURE**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Penalty Point Policy and procedure for approval. [The existing penalty point scheme had not been implemented following its approval because of concerns at that time over the validity of such schemes.]

Officers reported upon the legalities of implementing a penalty point system and the need to ensure the scheme did not remove the authority's discretion and allowed for an appropriate appeals process. The policy aimed to improve standards in the hackney carriage and private hire trade and work in conjunction with other enforcement options to identify those individuals who repeatedly behaved in a manner which, if taken as a whole, indicated they were not fit and proper persons to hold a licence. Consultation had taken place and the views of the respondents had

been summarised in the report and taken into account when formulating the final document. Those respondents had also been invited to attend the meeting. Councillor Stuart Davies thought the committee should be consulted on policy issues and proposals prior to the licensed trade and other interested parties.

Members welcomed the introduction of a penalty point scheme as a means of improving behaviour and raising standards but were keen to ensure the scheme was equitable, particularly in the allocation of penalty points, and sought assurances in that regard. Officers confirmed the scheme was comparable with those implemented by other local authorities and advice had been sought from James Button, Solicitor on the reasonableness of the scale of points. Points would be allocated appropriately depending upon the circumstances of the offence.

At the Chair's invitation, Mr. Les Peake, Coastline Taxis addressed the committee expressing support for the scheme provided it was implemented and policed properly. He added that in order to maintain vehicle standards it would be necessary to prohibit cut price fare charging. Mr. Ian Armitage and Mr. Gareth Jones stated that they represented the views of a number of licensed drivers in Rhyl. The increase in the number of breaches subject to a penalty under the new scheme was highlighted (from 28 to 58) and although most of the proposals were supported there were a small number which caused concern. Of particular concern was the lack of provision for toilet breaks with taxi drivers being penalised for leaving their vehicle unattended on a taxi rank. Officers explained it was an offence to leave a vehicle unattended on a rank and the proposal attempted to address the abuse of ranks by drivers who had in the past left their vehicles to go shopping. A common sense approach would be taken to the allocation of points in all circumstances.

In light of the concerns raised by the taxi trade and poor response to consultation members felt the proposals required further detailed consideration before a final policy was approved. Consequently it was –

***RESOLVED*** that a special meeting be convened to consider the Penalty Point Scheme and Procedure in detail taking into account the views of the taxi and private hire trade.

At this juncture (11.00 a.m.) the meeting adjourned for a refreshment break.

## **10 PROPOSED HACKNEY CARRIAGE INTENDED USE POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the Hackney Carriage Intended Use Policy for approval to full Council for adoption.

The difficulties associated with hackney carriages licensed by an authority undertaking private hire work outside of that council's area were highlighted, particularly for officers carrying out compliance and enforcement duties. The Director of Public Protection Wales (DPPW) Licensing Technical Panel recognised the safety implications of vehicles operating predominantly in this manner and recommended a policy for adoption by all Welsh local authorities to ensure a

consistent and transparent approach across Wales when determining the intended use of hackney carriage vehicles. No objections had been received to the proposed policy following consultation.

Whilst accepting the policy members highlighted problems with its enforcement and implementation, particularly in terms of ascertaining the Applicants' true intentions for operating under the terms of the licence and reliance on assurances provided by them in that regard. It was requested that this point be made to the DPPW Licensing Technical Panel as author of the policy. Members also felt that hackney carriage proprietors found in breach of the policy should be severely dealt with.

**RESOLVED** that the proposed Hackney Carriage Intended Use Policy be supported and recommended to Full Council for adoption.

## **11 PROPOSED REVISED RELEVANCE OF CONVICTION POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS AND DRIVERS**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting a revised Relevance of Conviction Policy for hackney carriage and private hire vehicle drivers and operators for approval.

Local authorities in Wales had been reviewing the guidance in respect of relevant convictions and had decided through the Directors of Public Protection Wales (DDPW) Licensing Technical Panel to recommend an updated guidance relevant to current situations arising in taxi licensing. The DPPW recommended the policy for adoption by all Welsh local authorities to ensure a consistent and transparent approach across Wales when determining whether or not an applicant or an existing licence holder was a fit and proper person to hold a hackney carriage or private hire driver/operator licence. Whilst officers and members would have regard to the guidelines each case would be considered on its individual merit and where circumstances demand the officer/committee may depart from the guidelines. No objections had been received to the proposed policy following consultation.

Members were content to accept the revised policy and it was –

**RESOLVED** that the revised Hackney Carriage and Private Hire Conviction Policy as detailed in Appendix B to the report be approved.

## **12 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15**

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

Councillor Joan Butterfield suggested that the amended Penalty Point Policy and Procedure be provisionally scheduled for the committee's September meeting.

**RESOLVED** that the Licensing Committee's work programme be approved.

## **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 14 of Part 4 of Schedule 12A of the Act.

### **13 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 051260**

[Councillor Cefyn Williams declared a personal interest and left the meeting during consideration of this item. Councillor Barry Mellor (Vice Chair) took the Chair.]

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

- (i) an application received from Applicant No. 051260 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;
- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1965 to 1995 including incidents relating to theft, traffic offences, drunkenness and other related offences 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.

Members were advised that the Applicant was not in attendance but had submitted a letter (circulated at the meeting) in support of his application. The letter did not explain the Applicant's absence. Following consideration members agreed that the application be deferred to the committee's next meeting to provide a further opportunity for the Applicant to attend.

**RESOLVED** that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 051260 be deferred to the committee's next meeting.

The meeting concluded at 11.40 a.m.