

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 2 December 2015 at 9.30 am.

### PRESENT

Councillors Bill Cowie, Richard Davies, Hugh Irving, Barry Mellor (Vice-Chair), Win Mullen-James, Pete Prendergast, Arwel Roberts, Cefyn Williams (Chair) and Huw Williams

### ALSO PRESENT

Head of Planning and Public Protection (GB), Principal Solicitor (AL), Licensing Officers (NJ & JT), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

### POINT OF NOTICE

The Chair agreed to vary the order of the agenda to accommodate individuals attending for particular items.

#### 1 APOLOGIES

Councillors Joan Butterfield and Stuart Davies

#### 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.

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 23 September 2015 were submitted.

***RESOLVED** that the minutes of the meeting held on 23 September 2015 be received and confirmed as a correct record.*

### 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 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 15/1074/TXJDR

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

- (i) an application having been received from Applicant No. 15/1074/TXJDR 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 convictions revealed following an enhanced disclosure to the Disclosure and Barring Service (DBS) relating to offences committed between 1998 and 2014 which had not been disclosed by the Applicant;
- (iii) details obtained as a result of a routine check of the Applicant's DVLA licence which had been disclosed by the Applicant;
- (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 confirmed he had received the report and committee procedures. The Licensing Officer (JT) introduced the report and detailed the facts of the case.

The Applicant explained the circumstances surrounding the earlier offences which had been committed in his youth and referred to his changed character and current parental responsibilities. He also explained the circumstances regarding his recent police caution and link to his current occupation. The Applicant submitted various forms of documentation in support of his application, including a letter from North Wales Police which he had produced to demonstrate good character. In response to questions the Applicant advised that because the offences had been committed so long ago he did not think they needed to be disclosed. Officers confirmed that 'taxi driver' was an exempt profession under the Rehabilitation of Offenders Act and therefore applicants were required to disclose spent convictions. In making his final statement the Applicant expressed remorse over his past and gave assurances regarding his current and future conduct.

The committee retired to consider the application but adjourned pending verification of the letter submitted by the Applicant from North Wales Police. Upon resuming the proceedings the committee was advised that the letter was genuine and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 15/1074/TXJDR be granted.

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

Members were satisfied with the explanation provided by the Applicant with regard to his past convictions and considered the additional information presented demonstrated that he was a fit and proper person to hold a licence.

## 6 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1142/TXJDR

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

- (i) the suitability of Driver No. 15/1142/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 9 penalty points on this DVLA driving licence within a four month period for speeding;
- (ii) the Driver having disclosed 6 of the penalty points upon renewal of his licence but failed to disclose the most recent speeding conviction, and
- (iii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver confirmed he had received the report and committee procedures. The Licensing Officer (JT) introduced the report and detailed the facts of the case.

The Driver presented his case and explained the circumstances surrounding each of the three speeding offences and his personal circumstances and living arrangements during that time. In mitigation he advised that his speedometer had been defective and subsequently replaced and whilst he would have disputed one of the speeding offences he had been out of time to appeal. In response to questions regarding his version of events he elaborated further on the circumstances surrounding each offence confirming that he was not carrying fare paying passengers at the time; he had not been offered a speeding course in lieu of penalty points, and had not had the opportunity to disclose the most recent speeding conviction due to personal circumstances. With regard to his speedometer the Driver admitted that he had not thought to provide evidence of the fault before the committee. In making a final statement the Driver referred to his desire to continue to drive licensed vehicles.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Driver No. 15/1142/TXJDR be granted with a formal warning issued as to future conduct.

The reasons for the Licensing Committee decisions were as follows –

Members carefully considered the evidence presented in this case together with the explanation provided by the Driver in mitigation. There were mixed views regarding the credibility of the Driver's version of events but overall it was accepted that no fare paying passengers were being carried at the time of the offences and that the speedometer could have been faulty. Consequently members considered the Driver to be a fit and proper person to hold a licence and felt that a serious warning as to future conduct would be sufficient in this case.

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

At this juncture (10.40 a.m.) the meeting adjourned for a refreshment break.

## **7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0833/TXJDR**

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

- (i) the suitability of Driver No. 15/0833/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for driving an unlicensed vehicle;
- (ii) details and circumstances relating to the offence having been provided (a summary of facts together with associated witness statements and documentation had been attached to the report), and
- (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 in attendance at the meeting together with his representative and confirmed he had received the report and committee procedures. The Senior Community Safety Enforcement Officer (TWE) introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Driver's representative explained it was usual practice for a renewal reminder to be sent to licence holders which had not happened in this case. The failure to renew was a genuine oversight on the Driver's part for which he apologised and had since taken steps to ensure the matter would not be repeated by investing in a wall planner to act as an aide-memoire.

Members questioned the Driver on the circumstances of the case and assurances were provided that the vehicle was kept in immaculate condition and regular checks did take place but the expiry date on the licence plate had been overlooked. A letter from the Driver's insurance company (circulated at the meeting) advised that there had been no break in cover and should a claim have arisen during the expiration period it would have been treated on its merits. With regard to the renewal reminders officers confirmed it was customary to send reminders but due to the manual system used at the time no confirmation could be given as to whether a reminder was sent in this case or where it would have been sent to.

In making a final statement the Driver's representative reiterated that the failure to renew the licence had been a genuine oversight and a mechanism was now in place to ensure it would not be repeated. He referred to the Driver's previous good conduct and investment he had made in the vehicle and its ongoing maintenance.

The committee adjourned to consider the case and it was –

**RESOLVED** that a formal warning be issued to Driver No. 15/0833/TXJDR as to his future conduct.

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

Members considered the report and case put forward by the Driver and his response to questions. It was impossible to determine whether or not the Driver had received the renewal reminder due to the process in place at the time and his subsequent change of address. However it was the Driver's responsibility to ensure that he had a valid licence in place at all times. The committee accepted that no deliberate attempt had been made to deceive and noted the steps taken by the Driver to mitigate any lapse in the future. Consequently members considered the Driver to be a fit and proper person to hold a licence and that a stern warning would be appropriate in this case. Further the Driver was reminded to undertake daily checks of his vehicle which would include checking the expiry date of his licence plate. Any further appearance before the committee would be viewed extremely seriously.

## **OPEN SESSION**

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

### **8 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) seeking approval of the proposed Hackney Carriage and Private Hire Vehicle Policy for public consultation.

Officers reported upon the review process which included two workshop sessions with the taxi trade, elected members and Fleet Services followed by a presentation at the last Licensing Committee by Fleet Services. The review process had resulted in the draft policy which set out the policies, vehicle specification, conditions and procedures the Council wished to apply in exercising its vehicle licensing function. Members' attention was drawn to the main changes which had been highlighted in a separate appendix for clarity. Following public consultation any relevant representations received would be brought back to the committee.

**RESOLVED** that –

- (a) *the proposed Hackney Carriage and Private Hire Vehicle Policy as detailed in Appendix 1 to the report be approved for public consultation, and*
- (b) *following consultation a report on the final draft of the Hackney Carriage and Private Hire Vehicle Policy together with any relevant representations received be brought back to the committee for formal approval.*

### **9 LICENSING COMMITTEE FORWARD WORK PROGRAMME**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2016.

A report back following consultation on the draft Hackney Carriage and Private Hire Vehicle Policy as agreed earlier on the agenda would be included in the work programme for June.

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

The meeting concluded at 11.40 a.m.