

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 7 December 2016 at 9.30 am.

### PRESENT

Councillors Bill Cowie, Meirick Davies, Barry Mellor, Pete Prendergast, David Simmons, Cefyn Williams (Chair) and Huw Williams (Vice-Chair)

### ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officers (NJ & JT), Licensing Enforcement Officer (TB) and Committee Administrators (KEJ & SJ)

#### 1 APOLOGIES

Councillors Joan Butterfield, Hugh Irving and Merfyn Parry

#### 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 22 September 2016 were submitted.

#### Matters Arising –

**Page 9, Item 3 Urgent Matters: Wheelchair accessible taxis** – The Licensing Enforcement Officer updated members on the issue raised at the last meeting regarding the availability of wheelchair accessible taxis operating in the Rhyl area.

Since removal of the numerical restriction on taxi licences there had been an increase in the number of wheelchair accessible vehicles and the demand for them. Whilst there was little unmet demand for wheelchair accessible vehicles generally, availability was limited at times those vehicles were used to undertake school transport contracts. Following investigation of the case referred to at the last meeting it was clarified that the operator had not refused the booking but had been unable to provide a wheelchair accessible vehicle when requested because it was already in use and the customer had been offered a later booking. Officers had provided the individual concerned with details of other service providers which would be made more widely available via the Council's website.

There was some debate as to whether there were sufficient wheelchair accessible vehicles in operation and whether there would be any merit in regulating those numbers to ensure a greater proportion of licensed vehicles provided that service. However it was accepted that it would be difficult to quantify whether there was any unmet demand in the area, particularly given that only one complaint had been received in that regard, and wheelchair accessible vehicles could not be restricted to wheelchair users only. Consequently it was agreed that officers investigate the booking processes used by wheelchair accessible taxi services and whether appropriate contingency plans were in place to accommodate wheelchair users.

**RESOLVED** that –

- (a) *the minutes of the meeting held on 22 September 2016 be received and confirmed as a correct record, and*
- (b) *officers investigate the booking processes used by wheelchair accessible taxi services in the area and whether appropriate contingency plans were in place to accommodate wheelchair users.*

## **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.

## **5 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE**

[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 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 specification as detailed in the Council's Hackney Carriage and Private Hire Licensing Conditions given that the vehicle was left hand drive and the Council's policy stated that all vehicles must be right hand drive unless specifically exempt by the Council;
- (iii) the Applicant having been invited to attend the meeting in support of his application and to present the vehicle for members' inspection.

The Applicant had been unable to attend the meeting but had appointed a representative who confirmed receipt of the report and committee procedures.

The Licensing Officer (NJ) presented the report and the committee was asked 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. If

members were minded to deviate from policy there were approved additional conditions contained within the current policy to aid in the regulation and enforcement which had been attached as an appendix to the report.

The Applicant's representative submitted a letter from the Applicant and relevant documentation in support of the application (circulated at the meeting). Details of the Applicant's private hire business had been provided and reasoning behind the application in order to upgrade the existing licensed vehicle which had received all necessary approvals and authorisations to ensure public safety. It was clarified that the vehicle would be a direct replacement for an existing vehicle which was also left hand drive. The Licensing Officer explained that officers could not grant the application because it involved a deviation from the current policy but approval to grant delegated powers to officers for dealing with such applications in future was being sought as part of the private hire vehicle licensing policy review. Whilst the current age policy was 5 years for a new vehicle to fleet the vehicle in this case was in exceptional condition. The reference in the current policy to right hand drive vehicles was historical and the basis for that ruling was unclear.

In making a final statement the Applicant's representative reiterated that the vehicle was in immaculate condition and had passed all the necessary safety tests and provided a direct replacement and newer version of the existing vehicle on the fleet.

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

***RESOLVED*** that the application for a Private Hire Vehicle Licence be granted subject to additional conditions as detailed in Appendix 2 to the report.

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

Members considered the vehicle to be in exceptional condition and appropriate for licensing being a direct replacement and upgrade of an existing vehicle and having passed all the necessary compliance tests. Additional conditions had been attached in order to aid regulation and enforcement of the vehicle type.

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

## **OPEN SESSION**

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

### **6 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) presenting the proposed Private Hire and Hackney Carriage Vehicle Policy, specification and conditions for adoption with effect from 1 April 2017.

Following a review and initial consultation on the proposed policy, members had approved a second consultation on a revised policy to reflect the changes made to

the first draft and to take account of any further representations in the final version. In presenting the final version officers had amended the policy to reflect the consultation responses as appropriate and had also incorporated some additional areas featured in other policies for clarity and ease of reference. The Department for Transport Model Byelaws previously approved by members were waiting confirmation by the Secretary of State before final implementation and would sit alongside the Hackney Carriage and Private Hire Policy.

The committee discussed the final draft policy with officers who clarified that –

- the maximum age of vehicles had been subject to much debate in the past and the final draft brought both hackney carriages and private hire vehicles into line with vehicles under a new application being a maximum of 5 years old and renewal applications granted for vehicles up to 12 years old whereupon the vehicle must be replaced with one of a maximum age of 5 years
- in terms of implementation of the new age limit all existing vehicles would have grandfather rights for 5 years which would be relevant to vehicles that had a continuous licence – vehicles not renewed before the expiry date of the existing licence would lose those rights and be treated as a new vehicle
- the testing regime for licensed vehicles included two compliance tests per year – for consistency new vehicles to fleet required an initial test by the Council's Fleet Services and at least one of the compliance tests carried out per year must be undertaken by Fleet Services when the vehicle reached 5 years old.

Members felt the changes brought consistency across hackney carriage and private hire vehicles and would result in improved vehicle standards whilst also giving sufficient time for the older vehicles to be replaced and upgraded. It was also noted that there had been general support for introducing an age limit for vehicles from the trade during the consultation process. For the benefit of new members it was clarified that the initial draft policy had highlighted the proposed changes to the existing policy.

**RESOLVED** that the Licensing Committee –

- (a) *adopt the Private Hire and Hackney Carriage Vehicle Policy, Specification and Conditions found at Appendix 1 to the report, to come into force on 1 April 2017, and*
- (b) *authorise the Head of Planning and Public Protection, in consultation with the Chair of the Licensing Committee, to make minor administrative amendments to the policy where necessary following a three yearly review, or earlier if appropriate.*

## **7 UPDATE ON PENALTY POINTS PROCEDURE**

The Public Protection Business Manager (IM) submitted a report by the Head of Planning and Public Protection (previously circulated) providing an annual update on the Penalty Points Procedure for the period 1 October 2015 to 30 September 2016 as previously requested by the committee. A breakdown of points awarded during the period had been attached to the report.

The Penalty Points Procedure detailed how the Council dealt with minor breaches in respect of taxi licensing and had been approved by the committee in September 2014 and further updated in March 2016. The issuing of points had been active since January 2015 and the procedure was subject to a review every three years.

Members' attention was drawn to the following points of interest –

- points had been awarded to 15 drivers which equated to 3% of licensed drivers
- no driver had multiple incidents resulting in the issue of points
- 4 drivers had been issued with maximum points in a single incident
- some drivers had appeared in front of the Licensing Committee
- 3 incidents involved presenting a vehicle for test in an unsafe condition – this had increased from two incidents last year
- failure to report convictions had trebled as had vehicles showing a dirty/filthy interior
- incidents of tyre defects had reduced by 80% and smoking in a vehicle had halved from last year

The trends in certain areas of the scheme were noted and the committee agreed with officers' suggestion that they continue with advisory messages via newsletters and press articles together with regular roadside compliance checks to reduce non-compliance. There was general support for the scheme from members and the Chair felt that it was worthwhile and a useful tool in identifying areas of concern and influencing positive behaviour. Officers responded to questions and elaborated upon inspections carried out by enforcement officers and joint operations with the Police and Fleet Services. With regard to passenger behaviour members were advised that it was the driver's responsibility to ensure that passengers acted in a reasonable manner.

**RESOLVED** that the information provided on the breakdown of the points issued as detailed in the report be acknowledged.

## **8 REVIEW OF STREET TRADING POLICY**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) updating members on progress with regard to the review of the Council's current street trading policy and presenting the latest draft for members' consideration.

Members had considered an initial draft policy at the last meeting as part of the review process and had agreed to the inclusion of a system of "temporary block" consents or "special event" consents for use at community events and highlighted the need to review the merits of the current system of prohibited and consent streets. As part of review process officers intended to consult further with Town, City and Community Councils and other relevant Council departments on those issues prior to finalising a draft policy for public consultation. Officers also intended to revise the current scale of fees for street trading which would include scope to waive fees for small community events or charitable causes as appropriate.

Members noted the changes to the draft since consideration at the last meeting and welcomed proposals to consult with Town, City and Community Councils as part of the review and development of the policy. In response to questions officers –

- elaborated upon the current system of prohibited and consent streets which would be subject to review taking into account the different areas within the county in order to allow more flexibility in the scheme
- clarified that whilst there were guidelines and regulations governing street trading the intention was to develop a new simplified policy which was easy to read with a streamlined application process, including an annual consent, which was also supportive of community and charitable events
- highlighted that a number of issues had been raised for further consultation including a condition to prohibit trade within 100 metres of the boundary of any school/college between particular hours without formal invitation from the establishment
- advised that the policy was not intended to cover regulated markets which was subject to a separate process although one off speciality markets classed as special events could be considered under the new street trading policy.

**RESOLVED** that report be received and noted and officers be authorised to continue work on the draft Street Trading Policy by working with both Town, City and Community Councils and relevant sections within the Council to establish their views before undertaking a wider public consultation.

## **9 REVIEW OF SEX ESTABLISHMENT POLICY**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) regarding proposals to compile a draft revised Sex Establishment Policy.

Licensing Committee on 4 March 2015 agreed that steps should be taken to adopt the provisions of Section 27 of the Policing and Crime Act 2009 (which gave local authorities the power to regulate lap dancing clubs as sex establishments) and review and amend the Council's existing Sex Establishment Policy as appropriate. Whilst there were currently no premises of that type in Denbighshire, the adoption of those powers would serve as a preventative measure for any future premises. Given current workloads officers considered they would be in a position to present members with a draft policy in 2017/18 and in the meantime officers would continue to refer any future application to the committee under existing procedures.

**RESOLVED** that the report be received and noted and the timescales therein for formulation of a revised draft Sex Establishment policy be approved.

## **10 LICENSING FORWARD WORK PROGRAMME 2017**

A report by the Head of Planning and Public Protection was submitted (previously circulated) presenting the Licensing Committee's future work programme for 2017.

Officers proposed to present an updated work programme to each committee meeting and maintain a rolling twelve month programme which would enable

officers to react to emerging pressures or impending changes as they arose without the need to make significant changes to the programme.

**RESOLVED** that –

- (a) *the Licensing Committee's forward work programme as detailed in the appendix to the report be approved, and*
- (b) *officers be authorised to introduce a rolling twelve month forward work programme to be updated for each committee meeting.*

The meeting concluded at 10.45 a.m.