

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 8 June 2016 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Stuart Davies, Hugh Irving, Barry Mellor, Merfyn Parry, Pete Prendergast, Arwel Roberts, Cefyn Williams and Huw Williams

### ALSO PRESENT

Principal Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Community Safety Enforcement Officer (HB) and Committee Administrator (KEJ)

The Head of Legal, HR and Democratic Services (GW) attended as the Committee's Legal Adviser for agenda item 9.

### 1 APOLOGIES

Councillor David Simmons

Councillors Joan Butterfield and Huw Williams advised that they would be leaving early to attend a meeting of the Appointments Panel.

### 2 APPOINTMENT OF CHAIR

Nominations were sought for the position of Chair of the Licensing Committee for 2016/17.

Councillor Bill Cowie proposed, seconded by Councillor Arwel Roberts that Councillor Cefyn Williams be appointed Chair. Councillor Hugh Irving proposed, seconded by Councillor Merfyn Parry that Councillor Huw Williams be appointed Chair. Upon being put to the vote 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 2016/17.

Councillor Hugh Irving proposed, seconded by Councillor Pete Prendergast that Councillor Huw Williams be appointed Vice Chair. It was subsequently –

**RESOLVED** that Councillor Huw Williams 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 9 March 2016 and Special Licensing Committee held on 24 March 2016 were submitted.

**RESOLVED** that the minutes of the meetings held on 9 March 2016 and 24 March 2016 be received and confirmed as a correct record.

[At this juncture Councillor Huw Williams left the meeting.]

At this point it was agreed to vary the order of the agenda in order to accommodate individuals attending for particular items.

#### **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.

#### **7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1124/TXJDR**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted seeking a review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 15/1124/TXJDR.

The Solicitor read out an adjournment request on behalf of the Driver concerned due to the late receipt of the necessary documentation and given that his representative had been unable to attend. In the interests of natural justice members decided to grant the adjournment request. There was some debate on whether to defer the matter to the committee's next meeting or to convene a special meeting to hear the case. Upon being put to the vote it was –

**RESOLVED** that consideration of the suitability of Driver No. 15/1124/TXJDR to hold a hackney carriage and private hire vehicle drivers licence be deferred to a special meeting of the Licensing Committee to be convened as soon as practicable.

[At this juncture Councillor Joan Butterfield left the meeting.]

#### **8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 16/0374/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. 16/0374/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 1986 and 2007, most of which had not been disclosed by the Applicant;
- (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 confirmed he had received the report and committee procedures.

The Licensing Officer introduced the report and detailed the facts of the case.

The Applicant explained his reasoning for non-disclosure of historical convictions with no intention to mislead. He provided some context to those convictions and expressed deep remorse over his past. The Applicant referred to his current personal circumstances and responsibilities and how his life had changed. References were provided attesting to his good character and he gave further assurances to members regarding both his current and future conduct. The Applicant responded to members' questions regarding the nature of his convictions, his current lifestyle and changed circumstances and his employment history. In making his final statement he reiterated how much his life had changed over the last decade in testament to his current good character.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 16/0374/TXJDR be granted with a formal warning as to his future conduct.

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

Members had taken into account that the convictions were largely historical and accepted the explanation provided by the Applicant with regard to those convictions. Members had also found the Applicant to be genuine in his remorse over his past and in response to their questions. It was considered that the Applicant had demonstrated, both through his address to the committee and his written references, that he had a changed lifestyle and was of good character. Consequently the Applicant was found to be a fit and proper person to hold a licence. However, given those historical convictions it was also considered appropriate for the Applicant to be issued with a warning as to his future conduct.

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

At this juncture (10.25 a.m.) the meeting adjourned for a refreshment break.

**9 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 15/1446/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. 15/1446/TXJDR for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having refused the application under delegated powers after taking into account the convictions disclosed and the Council's conviction policy;
- (iii) the Applicant having subsequently appealed against officers' decision to the Magistrates Court following which an agreement was reached that the appeal would cease and the application be referred to the Licensing Committee for determination;
- (iv) detailed the convictions revealed following the enhanced disclosure to the Disclosure and Barring Service together with the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting accompanied by his Legal Representatives who confirmed receipt of the report and committee procedures.

The Licensing Officer introduced the report and detailed the facts of the case.

The Applicant's Legal Representative highlighted some factual inaccuracies in the report and provided some background to the application and how it had appeared before the Licensing Committee for determination, including reference to the proceedings at the Magistrates Court on appeal. In presenting the Applicant's case she referred to his previously unblemished record as a licensed driver and his competency when dealing with the public. The matter for consideration related to the most recent conviction and the Legal Representative elaborated upon the circumstances of that offence and its context within the Council's licensing policy with regard to the relevance of convictions. She also argued that, whilst serious, the conviction in this case did not impact on the safety of the public when considering whether the Applicant was fit and proper to hold a licence. She added that the licensing regime was not designed to punish again and the Applicant had already paid his penalty to society in that regard. Members' attention was drawn to the written references provided (circulated at the meeting) attesting to the Applicant's character and demonstrating his trustworthiness. In conclusion it was submitted that the Applicant had made a terrible mistake which he had paid for and wished to return to his profession as a licensed driver.

The Applicant and his Legal Representative responded to members' questions regarding the circumstances of the case and subsequent conviction together with the Applicant's association with others involved in criminal activity. The Applicant also responded to assurances sought by the committee regarding his future conduct given the nature and seriousness of the offence. In making a final statement the Applicant explained how the conviction had devastated his life and of his desire to return as a licensed driver.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 15/1446/TXJDR be refused.

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

Members had listened very carefully to all the submissions in this case and answers to questions and carefully considered the references provided. The committee was clear that the purpose of their decision was to deal with the licensing issue and not to inflict further punishment on the Applicant as a result of the offence committed. It was accepted that the Applicant had not been in further trouble and had no further convictions since his release. However, the committee's overriding consideration was safety of the public and under the law must not grant a licence unless satisfied that the Applicant was a fit and proper person.

The committee had concerns given the nature and seriousness of the offence committed in 2010 whilst acting as a licensed driver, using a licensed vehicle, and had not heard sufficient to satisfy them that he was a fit and proper person to hold a licence. In reaching that decision members had regard to the licensing policy – the aim of the policy to protect the safety of the public, that a person was a fit and proper person, that the person did not pose a threat to the public and that the public had confidence in the use of licensed vehicles. In weighing the responsibility to the public against the information provided by the Applicant, the committee was not satisfied that he was a fit and proper person to hold a licence.

The committee's decision and reasons therefore were conveyed to the Applicant and his Legal Representatives together with the right of appeal against the decision to the Magistrates Court within 21 days.

[At this juncture Councillors Barry Mellor, Pete Prendergast and Arwel Roberts left the meeting.]

## **10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1567/TXJDR**

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

- (i) the suitability of Driver No. 15/1567/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following prosecutions brought by a neighbouring local authority relating to hackney carriage offences;
- (ii) details of the circumstances of the case having been provided including the outcome of the prosecution (a summary of facts together with associated witness statement had been attached to the report);
- (iii) the Driver having previously appeared before the Licensing Committee on 24 September 2014 and the outcome of that case, and
- (iv) 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 Legal Representative and confirmed he had received the report and committee procedures.

The Community Safety Enforcement Officer detailed the facts of the case.

The Driver's Legal Representative elaborated upon the circumstances of the case and resultant outcome following attendance at the Magistrates Court. The Driver had pleaded guilty to the outstanding offence and had been penalised. He was a long serving taxi driver and deeply regretted the incident. Written references had been provided (circulated at the meeting) attesting to his good character. Given the circumstances of this particular case the Legal Representative argued that the Driver remained a fit and proper person to hold a licence. In response to members' questions the Driver elaborated upon the circumstances surrounding the incident. In making a final statement the Legal Representative added that it was clear that there had been no deliberate intent on the Driver's part and argued that the conviction did not warrant suspension or revocation.

The committee adjourned to consider the case and it was –

**RESOLVED** that a formal warning be issued to Driver No. 15/1567/TXJDR as to his future conduct.

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

Members considered the report and mitigation put forward by the Driver and his response to questions. The committee accepted the Driver's version of events and found him to be genuine in his remorse over the incident. However, given the nature of the conviction it was considered appropriate to issue a formal warning.

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

At this juncture (1.10 p.m.) the committee adjourned for a refreshment break.

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, and
- (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 was in attendance and confirmed he had received the report and committee procedures.

The Licensing Officer 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.

The Applicant advised that the vehicle in question had a very low mileage given its age and was in outstanding condition. Following a vote the meeting was adjourned to enable members to view the vehicle presented for licensing. Upon resuming the proceedings the Applicant responded to questions regarding the merits of licensing the vehicle given its immaculate condition and that it was wheelchair accessible. It was noted that the vehicle was not suitable for licensing as a hackney carriage given the clearance measurements between seats but private hire was an option. In response to concerns regarding the vehicle's structural condition the Fleet Compliance Engineer advised that licensed vehicles required a basic MOT test and Compliance test every six months and should be appropriately maintained. The Applicant provided assurances regarding the vehicle maintenance regime. Members were reminded that each application must be treated on its own merits.

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.

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

Members considered the vehicle to be in exceptional condition and appropriate for licensing and resolved to grant the licence.

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

## **OPEN SESSION**

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

## **12 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE POLICY**

The Licensing Officer submitted a report by the Head of Planning and Public Protection (previously circulated) informing members of the result of the consultation on the proposed Hackney Carriage and Private Hire Vehicle Policy.

Details of the eight week consultation period had been provided together with representations received; the majority of responses had been positive with few areas of contention. Taking into account the consultation responses a number of options had been proposed for members to consider further which had been detailed in Appendix D to the main report.

Members discussed each of those areas of the policy as follows –

### **(1) Hackney Carriage Colour Stipulation**

Councillor Hugh Irving fully supported the proposal to impose a colour stipulation advising that such an approach worked well in other countries and improved the whole street scene. Taking into account the reservations expressed regarding a black colour stipulation he suggested that an alternative colour be considered. During debate there was little support from other members to impose a colour requirement, particularly given the cost of implementing such a condition and whether that cost should fall to the local authority or hackney carriage proprietor. It was considered that money would be better spent ensuring passenger safety including vehicle maintenance. Upon being put to the vote it was agreed that the proposed colour stipulation for hackney carriages be removed.

### **(2) Age of Licensed Vehicles new to fleet**

Given the onset of new technology and extended warranties provided for vehicles it was agreed to support the proposal to increase the age limit for new to fleet vehicles for hackney carriage purposes to 5 years (in line with private hire vehicles).

### **(3) Maximum age of Licensed Vehicles on fleet**

The merits of imposing a maximum age limit was considered. In light of the regular MOT and Compliance Testing regime for licensed vehicles it was agreed to retain the proposal for a 10 year age limit for hackney carriage vehicles and 12 year age limit for private hire vehicles.

### **(4) Trailers**

Members agreed there was merit in allowing trailers for private hire vehicles, particularly for transporting luggage during airport runs when the fare had been pre-booked and the need for a trailer was known. However the use of trailers by hackney carriages was considered inappropriate on a taxi rank. The issue of training drivers was also discussed and it was agreed to consider accepting trailers for private hire vehicles only and also to consider whether relevant training would be required for those drivers currently exempt from the need to pass the DVLA driver trailer entitlement.

### **(5) Wheelchair accessible**



Members noted that most wheelchair accessible taxis were purpose built and whilst noting the merits of stipulating wheelchair accessible as a condition, overall members felt that such a requirement would be too restrictive. Consequently it was agreed not to support a proposal for all hackney carriage vehicles to be wheelchair accessible.

The Licensing Officer drew members' attention to late representations received in response to the vehicle policy review which had been circulated to members the previous day. Members agreed that those late representations be dealt with as part of the next consultation phase. The Passenger Transport Manager referred to his written representations and highlighted that any changes to the existing policy could impact on the school transport budget.

**RESOLVED** that –

- (a) *the proposed policy be amended to reflect the changes as discussed and agreed during the meeting, and*
- (b) *officers be instructed to carry out further consultation with interested parties and to take account of any representations received in the final version of the policy that will be presented at a future meeting of the County Council.*

### **13 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.

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

The meeting concluded at 2.45 p.m.