

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 8 March 2017 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Stuart Davies, Hugh Irving, Barry Mellor, Merfyn Parry, Pete Prendergast, David Simmons, Cefyn Williams (Chair) and Huw Williams (Vice-Chair)

### ALSO PRESENT

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

#### 1 APOLOGIES

Councillor Meirick Davies.

#### 2 DECLARATION OF INTERESTS

Councillor Huw Williams declared a personal interest in Agenda Item 11 because he had past business dealings with the applicant.

#### 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 7 December 2016 and Special Licensing Committee held on 20 December 2016 were submitted.

Councillor Bill Cowie felt it would be beneficial for members to be kept informed of any subsequent appeal against the committee's decisions together with the outcome and officers agreed to report back thereon.

**RESOLVED** that the minutes of the meetings held on 7 December 2016 and 20 December 2016 be received and confirmed as a correct record.

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

## **5 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 510104**

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

- (i) the suitability of Driver No. 510104 to hold a licence to drive hackney carriage and private hire vehicles following an accrual of six penalty points on his DVLA driving licence for using a motor vehicle uninsured against third party risk in October 2015 which had been revealed following a routine check as part of his renewal application;
- (ii) the Driver having failed to declare the motoring conviction at the time of conviction or as part of his renewal application as required by licensing conditions;
- (iii) the Council's policy with regard to the relevance of convictions, and
- (iv) the Driver having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Driver confirmed that he had received the committee report and procedures.

The Enforcement Officer (LJ) presented the report and detailed facts of the case.

In mitigation the Driver explained that he genuinely believed his vehicle had been insured and his insurance company had admitted a clerical error when questioned in relation to the insurance. He provided assurances that there had been no deliberate attempt to deceive on his part. The Driver responded to members' questions and elaborated upon the circumstances surrounding the offence and his actions and accepted that he could have provided some evidence to support his version of events. With regard to the non-disclosure of the conviction the Driver referred to his personal circumstances at the time advising that the conviction had genuinely slipped his mind and he did not drive taxis on a full time basis. In his final statement the Driver reiterated that he had made a genuine mistake in not disclosing the conviction.

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

***RESOLVED*** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Driver No. 510104 be refused.

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

Members had carefully considered the facts of the case and mitigation put forward by the Driver and his response to questions. The committee had found there to be anomalies between the account given by the Driver at the meeting and his witness statement which did not reflect well on his credibility and he had provided no

evidence to support his version of events. With regard to his non-disclosure, the renewal application form clearly requested details of any motoring convictions. Consequently the committee believed that the Driver had deliberately failed to disclose the conviction in order to secure renewal of his licence and had knowingly made a false statement. The committee's overriding consideration was protection of the public. In view of the Driver's blatant disregard of the rules and deliberate attempt to deceive the committee did not consider him a fit and proper person to hold a licence and resolved to refuse the renewal application.

The committee's decision and reasons therefore were conveyed to the Driver and he was advised of his right of appeal.

## **6 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 16/0944/TXJDR**

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

- (i) the suitability of Driver No. 16/0944/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following a court conviction for being in possession of an offensive weapon;
- (ii) a summary of facts having been provided together with associated witness statements and other relevant documentation including character references;
- (iii) the Council's policy with regard to the relevance of convictions, and
- (iv) the Driver having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Driver was in attendance at the meeting and confirmed receipt of the report and committee procedures.

The Enforcement Officer (TB) outlined the case as detailed within the report.

The Driver provided assurances as to his good character and professionalism (references had been provided within the documentation). He explained the circumstances surrounding the conviction and presented a letter from his Solicitors confirming that he had been convicted on the basis that he had found the weapon in his vehicle and was guilty purely because he had not handed it to the Police as quickly as he should have done. The Driver accepted that he should have dealt with the matter differently and in accordance with procedures but submitted that he had forgotten it was still in the vehicle. The Driver clarified particular issues arising from his witness statement in response to members questions thereon and also elaborated further upon the circumstances leading up to the conviction, reasoning behind his actions, and his court plea. He vehemently denied obtaining the weapon and carrying it in the vehicle for a particular purpose and advised that he had co-operated fully with the Police and Licensing Section.

In his final statement the Driver reiterated that he was a professional driver who posed no risk to the public and provided assurances as to his future conduct. He highlighted the detrimental effect on his personal life over the last twelve months and hoped to put the matter behind him and move on.

The committee adjourned to consider the case and it was –

**RESOLVED** that a formal warning be issued to Driver No. 16/0944/TXJDR as to future conduct.

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

Members carefully considered the evidence presented in this case together with the explanation provided by the Driver and his response to questions. The committee believed the Driver had answered questions truthfully and to the best of his ability and overall accepted his version of events. The Driver had also accepted that he should have dealt with the situation in a timely manner and in accordance with procedures. Members also noted that the incident had taken place almost twelve months previously and there had been no issues either before or since that time and confidence had also been taken from the references which had been provided attesting to the Driver's professionalism and good character. Consequently members did not consider that the Driver posed a danger to the public and found him fit and proper to hold a licence. However in view of the seriousness of the offence members considered whether a suspension or formal warning would be appropriate. Upon being put to the vote it was resolved to issue a formal warning to the Driver as to his future conduct.

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

## **7 APPLICATION FOR STREET TRADING CONSENT - APPLICANT NO. 1**

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

- (i) an application received for Street Trading Consent from Applicant No. 1;
- (ii) the applicant proposing to operate a mobile van with trailer selling meat products and cheese in a number of specified areas within Rhyl;
- (iii) detailed the results of consultation on the application with various partners and sectors, both internal and external;
- (iv) referred to the Council's powers in determining the consent and other policy issues regarding street trading in the context of the new Street Trading Policy currently undergoing consultation, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (JT) provided a summary of the report and proposed trading areas in Rhyl specified by the Applicant which included private land located to the front of the Church, Sussex Street, Rhyl (written permission having been produced at the meeting); High Street (part); Market Street (part); Town Hall Square and Sussex Street (part). Members were advised that no further comments had been received in response to the consultation but attention was drawn to the response from the Highways Section as detailed in the report relating to traffic management.

The Applicant was in attendance at the meeting together with his associate and confirmed that he had received the committee documentation. The Applicant highlighted his previous trading experience in the locality advising that there was a demand for his products, particularly given that there was no butcher's shop in the vicinity, and he believed that the business would attract more footfall to the area.

Whilst there was no objection to the application in principle members highlighted the importance of safeguarding against any detrimental effect on existing local retail outlets and business in the area and ensuring that appropriate conditions be imposed if consent was granted, particularly in terms of noise nuisance. In considering the proposed trading areas members felt that most were too vague and needed to be more specific and there were particular reservations about granting consent for the Town Hall Square given the Council's plans to relocate the Registrar and Marriage Rooms there. In response to members' questions and comments the Applicant provided assurances that noise levels could be addressed via low level generators or other means and he also elaborated upon the operation of his business and positive effect in terms of attracting custom to the area.

At this junction the committee adjourned to consider the application.

***RESOLVED that –***

- (a) the application for Street Trading Consent for private land located to the front of the Church, Sussex Street, Rhyl as detailed within the report be granted, subject to the conditions as set out within the report, specifically paragraphs 4.3 and 7.3;*
- (b) an inspection by authorised officers be carried out on the first day of trading to ensure that conditions imposed are complied with, and*
- (c) the Applicant be requested to provide further detail on the proposed trading areas in High Street, Market Street, Town Hall Square and Sussex Street as referred to in his application to include specific sites for further consideration by the committee.*

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

In considering the merits of the application members noted that there were no butchers' shops in the area and an unmet demand for the product and it was also noted that the Applicant would not be in direct competition with other traders and could help increase footfall in the area. Given the potential positive impact on the consumer and other businesses members felt that, subject to appropriate

conditions, the application did have merit. Given the specific location of the proposed trading area on private land outside the Church on Sussex Street members were happy to grant consent subject to conditions. However, some concern was expressed regarding the lack of clarity in terms of the other general trading areas proposed and it was felt that more specific information should be sought from the Applicant in that regard to enable the committee to make a fully informed decision and safeguard both the public's interest and those of local retail outlets.

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

Following the conclusion of this item the committee deliberated on the decision making process used whereby the decision had been taken with the consensus of the committee. Members considered voting by a show of hands would be preferable in future but confirmed that the decision taken had reflected the committee's intention.

## **8 APPLICATION FOR STREET TRADING CONSENT - APPLICANT NO. 2**

[Councillor Huw Williams declared a personal interest in this item because he had past business dealings with the Applicant and left the meeting during consideration of the application.]

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

- (i) an application received for Street Trading Consent from Applicant No. 2;
- (ii) the applicant proposing to operate a bespoke trailer selling meat products in Market Street, Rhyl;
- (iii) detailed the results of consultation on the application with various partners and sectors, both internal and external;
- (iv) referred to the Council's powers in determining the consent and other policy issues regarding street trading in the context of the new Street Trading Policy currently undergoing consultation, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (JT) provided a summary of the report and it was clarified that the proposed trading area was outside of 10 and 11 Market Street, Rhyl and not as detailed within the report. In response to consultation Rhyl Town Council had since confirmed that they had no objection to the application.

The Applicant referred to his experience in the trade and reasoning behind his application to trade in Rhyl and at the particular site identified. He submitted that he would not be in direct competition with local retail outlets and could provide a quality product to local shoppers and he also gave assurances that quiet generators were

used. In response to questions the Applicant advised that he had not specified timings or specific week days as he would be willing to comply with times and days considered appropriate by the committee and had no specific preference. The Applicant advised that he sold local produce and officers clarified that he would not be restricted to selling meat from specific sources.

At this junction the committee adjourned to consider the application.

**RESOLVED that –**

(a) *subject to the conditions as set out within the report, specifically paragraphs 4.3 and 7.3, the application for Street Trading Consent be granted as follows*

–

<i>Trading Area</i>	<i>outside 10 and 11 Market Street, Rhyl</i>
<i>Trading Days/Times</i>	<i>Mondays, Wednesdays and Saturdays 08.00 hrs to 16.00 hrs</i>

(b) *an inspection by authorised officers to be carried out on the first day of trading to ensure that conditions imposed are complied with.*

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

Members considered that, providing appropriate conditions were imposed to aid regulation, granting the application would be beneficial to the consumer and could also help attract custom into the area thereby also benefitting other local businesses. The proposed site location as identified was also considered appropriate as it was situated away from the open air cafes in the street and similar trading had operated at the site successfully in the past. In the absence of a preference for week day trading/timings from the Applicant members agreed trading days of Mondays and Wednesdays and trading hours of between 8.00 hrs and 16.00 hrs to be appropriate. It was open to the Applicant to apply to vary those trading days/hours at any time.

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

**OPEN SESSION**

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

**9 CHILD SEXUAL EXPLOITATION AWARENESS TRAINING**

The Public Protection Business Manager (IM) submitted a report by the Head of Planning and Public Protection (previously circulated) updating members on driver attendance at Child Sexual Exploitation (CSE) Awareness training events and sought direction on actions for non-attendance as well as comments on future proposals for similar training for new driver applications.

Following a number of high profile safeguarding issues around the country, the Licensing Committee had resolved to make CSE Awareness training mandatory for

all licensed drivers. A multi-agency programme of Awareness events had been introduced in summer 2016 resulting in a total of 17 sessions over 5 different dates across the county, primarily in Rhyl but also in Ruthin and Denbigh. A final mop up event had been arranged in January 2017 for any outstanding drivers to attend. A total of 340 drivers had attended the events and feedback had been positive. However there remained 11 drivers who had not received the training for various reasons as detailed within the report and there was currently no agreed process to highlight CSE to new licensed drivers. Members were provided with a number of options to consider on how best to proceed with ensuring all drivers met the mandatory training requirement.

Members were pleased to note that 97% of Denbighshire's licensed drivers had attended the mandatory training which had been implemented as a positive action in helping to raise awareness of CSE, particularly given the links to licensed vehicles identified during the Rotherham Inquiry. However it was disappointing to note that a number of drivers had not attended any of the numerous training events provided, particularly given that officers had made every effort to contact those drivers by letter, phone and in person. Members were also keen that appropriate arrangements be put in place for those newly licensed drivers and for future applicants. The committee debated the different options to ensure compliance with the mandatory training as detailed within the report. In terms of existing drivers members were advised that if they were minded to revoke licences on the basis of non-attendance it would be appropriate for those drivers to be brought before the committee and given the opportunity to explain their reasons for non-attendance. Councillor Joan Butterfield suggested that the guidance document produced by officers to raise awareness of CSE within the community could be shared with schools given the links with school transport.

There were some mixed views regarding the best option to ensure compliance and upon being put to the vote it was –

**RESOLVED** that –

- (a) *a Special Licensing Committee be convened to hear representations from those existing drivers that had not attended the training;*
- (b) *in respect of newly licensed drivers who had not yet had the opportunity to attend awareness training officers be instructed to arrange a further awareness training event (this could potentially be delivered in-house), and*
- (c) *in respect of new applicants officers be instructed to implement a “knowledge test” type assessment after providing the guidance note to the applicants/new drivers which can be included in the pre-licence Knowledge Test.*

## **10 PROPOSED STATEMENT OF LICENSING POLICY**

The Public Protection Business Manager (IM) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the final draft of



the Council's Statement of Licensing Policy for adoption. It was a statutory requirement to consult and review the Policy on at least a 5 yearly basis.

Members were advised that following a review of the Policy only minor changes had been proposed, for example new legislation references, and the Policy had also been formatted in line with other licensing authorities across the region for consistency. Reference was also made to the consultation process and outcomes.

**RESOLVED** that the Statement of Licensing Policy as presented be adopted with effect from 1 April 2017.

## **11 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.

**RESOLVED** that the Licensing Committee's forward work programme as detailed in the appendix to the report be approved.

Prior to the close of the meeting those members who were not standing for re-election were thanked for their efforts on the Licensing Committee. Special thanks and appreciation was also conveyed to the Chair of the Licensing Committee.

The meeting concluded at 1.00 p.m.