

## **LICENSING COMMITTEE**

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 5 December 2018 at 9.30 am.

### **PRESENT**

Councillors Hugh Irving (Chair), Alan James (Vice Chair), Brian Jones, Richard Mainon, Melvyn Mile, Arwel Roberts, Tony Thomas, Rhys Thomas and Huw Williams

### **ALSO PRESENT**

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Enforcement Officers (HB & KB) and Committee Administrator (KEJ)

### **POINTS OF NOTICE**

The Chair –

- (i) introduced and welcomed the newly appointed Licensing Enforcement Officer (KB) to the meeting;
- (ii) reported upon a joint regulatory visit to licensed premises in Rhyl, Prestatyn and Meliden he had undertaken with Councillor Tony Thomas (Lead Member for Licensing), Licensing Officers and North Wales Police with a view to promoting the licensing objectives and there had been positive engagement between all parties. One issue of note was evidence of drug use in some licensed premises which was being actively dealt with through a multi-agency approach and engagement with licensees, and
- (iii) confirmed that the order of the agenda would be varied in order to accommodate individuals attending for particular items.

#### **1 APOLOGIES**

Councillors Joan Butterfield and Barry Mellor

#### **2 DECLARATION OF INTERESTS**

No declarations of interest had been made.

#### **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 13 June 2018 were submitted.

***RESOLVED*** that the minutes of the meeting held on 13 June 2018 be received and confirmed as a correct record.

## 5 UPDATE ON HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTION POLICY

The Licensing Officer submitted a report (previously circulated) updating members on the review of the Council's Hackney Carriage and Private Hire Driver Conviction Policy and seeking approval to adopt the Institute of Licensing (IOL) Guidance document on determining the suitability of applicants and licensees in the hackney carriage and private hire trades (attached to the report).

Members had received an update on the IOL Guidance at their last meeting when only Anglesey had expressed an interest in adopting the document. Since then the All Wales Licensing Technical Panel had agreed in principle that each local authority should look to adopt the IOL conviction policy to ensure consistency across the region and the majority of North Wales licensing authorities had indicated that they would be looking to adopt the Guidance. If members decided to adopt the Guidance officers proposed an engagement strategy to raise awareness and discuss the implications of the document with existing licence holders.

During the ensuing debate officers responded to members' questions as follows –

- the Guidance had been developed with contributions from the Local Government Association, Lawyers in Local Government and the National Association of Licensing Enforcement Officers and had been subject to a wide ranging public consultation including Councillors, Licensing Officers, Lawyers, Hackney Carriage and Private Hire Trades, academics, the Probation Services and the Police – a full list of contributors had been detailed within the document
- the IOL had undertaken a survey to measure the current position with regard to adoption of the policy nationally and the latest figures revealed that 99% of the 160 respondents acknowledged the merits of a standardised national policy; the majority of those looking to review their policy had indicated they would do so with a view to adopting the IOL Guidance, and when others reviewed their policy they would be looking to adopt the IOL Guidance to ensure uniformity. With regard to the North Wales region all local authorities had expressed a desire to adopt the Guidance with the exception of Conwy County Borough Council who had indicated that they would not adopt the policy but would have regard to it
- an engagement strategy for existing licence holders had not yet been finalised but would include surgeries across the county at various times and would likely include further on a one to one basis with individuals directly affected; initial engagement would be via the annual newsletter for licence holders.

The Licensing Committee acknowledged the merits of adopting the Guidance in order to provide a consistent approach on determining the suitability of applicants and licence holders and provide a degree of uniformity across the region in that regard. It was also noted that adoption would likely provide an additional safeguard for local authorities in the event of an appeal. Consequently it was –

**RESOLVED** that members –

- (a) *adopt the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades;*

- (b) *instruct officers to draft a policy which meets the contents of the Institute of Licensing Guidance document and report back to the June 2019 meeting with a view to implementation on 1 July 2019, and*
- (c) *that officers engage, through correspondence and surgeries across the county, with all existing Hackney Carriage and Private Hire licence holders on the Institute of Licensing Guidance document.*

## **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.

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

A 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) the vehicle having previously been licensed for private hire but the licence had not been renewed prior to expiry of the existing licence in April 2018 and therefore needed to be treated as a new vehicle licence application;
- (iii) officers having not been in a position to grant the application as the vehicle was registered in 2007 and therefore did not comply with the Council's existing policy which specified that all vehicles licensed under a new application must be up to a maximum of 5 years old from the date of first registration, and
- (iv) the Applicant having been invited to attend the meeting in support of the application and to answer members' questions thereon.

The Applicant was in attendance and confirmed she had received the report and committee procedures.

The Enforcement Officer (HB) presented the report and the Licensing Committee was asked to consider whether it would be appropriate to depart from the Council's policy concerning the age requirement for new vehicles to fleet in order to grant the application as applied for.

The Applicant submitted that the vehicle was in a tidy condition, mechanically sound, suitable and fit for purpose as illustrated in the photographs provided. General taxi work was not undertaken only school contract work and the vehicle had been adapted for eight persons and provided extra room for students' bags/equipment. Past experience had shown that a newer vehicle would not be as robust and could not cope with the demands of rural roads and conditions in remote

rural locations – if a new vehicle had to be purchased it would result in a cost implication which would be passed onto the Council when contracting for school transport provision. The Applicant also referred to her personal family circumstances and explained the circumstances which had led to the failure to renew the existing licence before its expiry given that the vehicle licence plate had been transferred at an earlier stage.

In response to members' questions it was confirmed that seats had previously been removed from the vehicle leaving seating capacity for eight persons. The vehicle had previously been granted an approval certificate for the modification to seating configuration – however a new approval certificate would be required given that the application had to be treated as a new vehicle application. There being no further questions the Applicant was invited to make a final statement and advised that she had nothing further to add to her submission.

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

***RESOLVED*** that the application for a Private Hire Vehicle Licence be refused.

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

Members had carefully considered the application and submissions of the Applicant in this case. The decision of the Licensing Committee had been to refuse the application because the Council's policy stated that vehicles licensed under a new application must be up to a maximum of five years old from the date of first registration. As the vehicle subject of the application in this case was eleven years old it did not comply with the policy. The Committee also considered that the Applicant had offered no acceptable mitigation which would persuade them to deviate from their policy in this instance. The current policy had been in operation for two years and the Applicant would have been aware of it. Whilst the Licensing Committee had been sympathetic to the struggles recently experienced by the Applicant the Committee considered their policy to be a strict one and as such must be adhered to. The Council had adopted the policy to raise standards amongst the fleet and the age limit of new vehicles was part of that.

The Committee's decision and reasons therefore were conveyed to the Applicant. There was a right of appeal against the decision to the Magistrates Court within twenty-one days.

## **7 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES**

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

- (i) an application for dispensation from the requirement to display private hire plates on a private hire vehicle;
- (ii) the draft policy regarding requests for exemption to display private hire plates and door stickers (Appendix A to the report);

- (iii) the Council's powers to grant a proprietor dispensation from displaying the licence plate taking into account the executive nature of the work along with quality of the vehicle involved and where the vehicle would be operated;
- (iv) the applicant having provided full details of the vehicle subject to the application and nature of the business (Appendix B to the report), and
- (v) other determining factors requiring consideration and suggested conditions (Appendix C to the report) should members be minded to grant the dispensation request.

Members were advised that the Applicant was not in attendance to present his case and had not indicated whether or not he intended to be present. The Committee considered sufficient information had been provided for them to determine the request for dispensation and agreed to proceed in the absence of the Applicant.

The Licensing Officer summarised the report for members.

Members considered the criteria for dispensation from the requirement to display licence plates together with the operation and nature of the Applicant's business. It was noted that the Applicant had previously been before the Licensing Committee and had been granted dispensations for other vehicles for the business – the current application had been made for an upgraded replacement vehicle.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the request for dispensation from the requirement to display the private hire vehicle licence plate and door stickers for the vehicle detailed within the report be approved subject to the conditions as detailed in Appendix C to the report.

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

Having considered the report and written submission of the Applicant members were satisfied that the nature of the work and quality of the vehicles involved met the criteria for exemption in this case. The conditions had been imposed in order to aid regulation and enforcement.

## **OPEN SESSION**

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

### **8 UPDATE ON PENALTY POINTS POLICY AND PROCEDURE**

The Public Protection Business Manager submitted a report (previously circulated) updating members on the Penalty Points Policy and Procedure which detailed how the Council dealt with minor breaches in respect of taxi licensing.

The Penalty Points Policy and Procedure had been approved in September 2014, further updated in September 2015 and the issuing of points had been active since

January 2015. The document was to be reviewed at least every three years with the last review undertaken in September 2015. Having reviewed the document officers considered it was still fit for purpose and therefore did not propose any changes to the scheme. The number of incidents and types of breach where points had been issued during 2017 and 2018 had also been referenced within the report.

Members discussed the merits of the scheme with the Public Protection Manager and it was considered that the policy was useful and the weighting of penalty points for specific breaches were proportionate. Some discretion was afforded when enforcing the policy in particular cases with opportunities provided for specific breaches to be rectified when appropriate within certain timescales. The reduction in the number of incidents in 2018 was likely due to the positive impact of the policy in addressing minor breaches combined with the temporary absence of a full time Enforcement Officer for part of that period. It was also confirmed that the infringement relating to 'failure to observe rank discipline' was applied consistently across the county but relied predominantly on reports/complaints to investigate.

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

## **9 UPDATE ON THE INTRODUCTION OF A LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES**

The Public Protection Business Manager submitted a report (previously circulated) informing members of progress with introducing a published list of wheelchair accessible vehicles as approved by the Licensing Committee in March 2018 following changes introduced by the Equality Act 2010.

Members were advised that –

- 24 of the 352 licensed vehicles were classed as wheelchair accessible
- an implementation date of 31 January 2019 was proposed to publish the list
- prior to implementation all proprietors of wheelchair accessible vehicles would be advised of the list and process for exemption to provide mobility assistance
- once the list was active it would place further obligations on drivers/and or proprietors of those vehicles, creating offences for breaches and discrimination
- any vehicles placed on the list would not be required to carry all wheelchairs but must be capable of carrying some, and
- the list of wheelchair accessible vehicles would be made publicly available via the Council's website.

Members were keen for the contact details of those proprietors operating designated wheelchair accessible vehicles to be made readily available to those requiring that service. The Public Protection Business Manager explained that requirements for the published list did not include contact details which would have implications under the General Data Protection Regulations. However as part of the process of introducing a list consent would be sought from proprietors to include their contact details and details of those providing wheelchair accessible vehicles could be circulated as appropriate to hospitals, GP surgeries, etc. Whilst there were currently 24 licensed vehicles deemed to be wheelchair accessible, the majority of

those vehicles were limited to approximately five companies operating within the county. Members also discussed the obligations placed on drivers with a designated wheelchair accessible vehicle to provide additional assistance to passengers. It was noted that drivers who had a medical condition, disability or physical condition which made it impossible or unreasonably difficult for them to undertake the duties could apply for an exemption on that basis to be determined by the licensing authority.

**RESOLVED** that members note the contents of the report and agree to the implementation date of 31 January 2019 for the publication of the list of designated wheelchair accessible vehicles.

## **10 GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES**

The Licensing Officer submitted a report (previously circulated) presenting the Council's Statement of Principles for re-adoption.

The Council's Statement of Principles had been adopted and implemented on 1 April 2018 and was subject to review every three years. It had been developed by the six licensing authorities in North Wales in order to bring consistency to matters relating to Gambling and had been subject to full public consultation. However the Gambling Commission had directed all licensing authorities to review and adopt their Statement of Principles to come into effect from 31 January 2019. Consequently members were asked to re-adopt the existing policy in accordance with the directive from the Gambling Commission without the need for further consultation in order to coincide with their timescale for review.

**RESOLVED** that members to adopt the Statement of Principles, as attached to the report, with an implementation date of 31 January 2019.

## **11 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2019**

A report by the Head of Planning and Public Protection was submitted (previously circulated) presenting the Licensing Committee's future work programme for 2019.

In drafting the work programme officers had considered the policies relevant to the Licensing Committee and review dates of those policies together with potential legislative changes. Officers recommended maintaining a rolling twelve month forward work programme in order to react to emerging pressures or impending changes as they arose without the need to make significant changes to the programme. The work programme would be submitted to each meeting for ratification and members could put forward items for consideration to officers through the Licensing Committee.

**RESOLVED** that members –

- (a) approve the proposed forward work programme as detailed in the appendix to the report, and

- (b) *authorise officers to introduce a rolling twelve month forward work programme to be updated for each committee meeting.*

*The meeting concluded at 10.55 a.m.*