

## **LICENSING COMMITTEE**

Minutes of a meeting of the Licensing Committee held in Conference Room 1a, County Hall, Ruthin on Wednesday, 18 October 2017 at 9.30 am.

### **PRESENT**

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James (Vice-Chair), Brian Jones, Barry Mellor, Melvyn Mile, Tony Thomas and Huw Williams

**Observers** – Councillors Mabon ap Gwynfor and Emrys Wynne

### **ALSO PRESENT**

Solicitor (AL), Public Protection Business Manager (IM), Fleet Compliance Engineer (JH), Licensing Officer (NJ), Enforcement Officer (HB) and Committee Administrator (KEJ)

#### **1 APOLOGIES**

Councillors Arwel Roberts, Peter Scott and Rhys Thomas

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

The following councillors declared a personal interest in Agenda Item 4 –

Councillor Joan Butterfield declared that she sometimes used the Applicant's taxi service (Leddon's Taxis)

Councillor Alan James declared that he used the taxi service (Town & Country Taxis) of the Applicant's supporter who was also known to him

Councillor Tony Thomas declared that the Applicant was resident in his ward.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

No urgent matters had been raised.

#### **4 APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE**

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

- (i) a request having been received from a hackney carriage proprietor to licence a vehicle for the purposes of hackney carriage licensing;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the specification with regard to available leg room for passengers as detailed in the Council's Private Hire and Hackney Carriage Vehicle Policy, Specification and Conditions;

- (iii) details having been provided regarding seating requirements of other local authorities with officers concluding that there was no national standard or guidance for leg room space allowances, and
- (iv) the Applicant having submitted written representations (confidential Appendix 1 to the report) in support of his request and had been invited to the meeting.

The Applicant, Mr. T. Leddon (Leddon's Taxis) was accompanied by his supporter Mr. G. Higginson (Town & Country Taxis).

[At this point the Applicant advised that he had not received the report and committee procedures and the meeting was adjourned to allow sufficient time for the Applicant to be furnished with all the relevant documentation and peruse them. Upon resuming proceedings the Applicant confirmed he was happy to continue.]

The Public Protection Business Manager presented the report and explained that the Applicant had approached the Council with a view to licensing a number of new vehicles to fleet – Dacia Logan estate cars – which had a measured leg room of 157mm. The vehicles had been rejected because they did not comply with the Council's current policy which specified a minimum 200mm leg room for passengers. The policy had become effective from 1 July 2017 and had been introduced to provide clarity to licensees and consistency of the standard of vehicles being licensed. It was noted that there were already a number of other vehicles licensed prior to adoption of the current policy which would also fall foul of the new specification at renewal time and compliance testing. Members would therefore need to balance the interests and opinion of the Applicant with possible implications on Denbighshire's taxi fleet and the potential for an increased number of similar requests from applicants in the future when considering the application.

The Applicant set out his case and questioned the validity of the specification relating to leg room which he believed was too restrictive given that it served no purpose in improving the standard of vehicles used or impact on public safety implications. He also argued that the condition resulted in the exclusion of the majority of medium and large saloon and estate cars being suitable for licensing and submitted that there were licensed vehicles in Denbighshire and other local authority areas which did not meet the current specification but provided ample leg room for passengers and it was unlikely that the vehicles would ever operate with the seats fully extended. He believed that if those matters had been brought to members' attention at the outset the restriction would not have been introduced. The Applicant also provided details of his specific business and its operation, with particular reference to his planned investment in order to upgrade the fleet and improve vehicle standards, arguing that the new vehicles were clean and modern with a lower carbon footprint and represented best value for his business and the customer. Mr. Higginson also spoke in support of the Applicant and he urged members to consider that neighbouring authorities licensed vehicles of that type and that the licensed trade should be given appropriate notice of any changes to vehicle specifications.

The Chair invited the Fleet Compliance Engineer to advise members on the measurements for leg room and he provided a prop for members to use as a visual aid to highlight the range difference between the minimum 200mm specification and 150mm. The minimum 200mm specification had been derived from a number of processes including what had been considered fair and reasonable measurements and related to when the front seat had been extended to its rearmost position. In response to a question from the Chair the Fleet Compliance Engineer advised that the current minimum seat spacing on fleet ranged from 60mm to 270mm with the differences being predominantly attributed to the runner used by different manufactures together with the seating type which gave a varied amount of leg room. It was acknowledged that the rear seats in the vast majority of vehicles fell below the minimum 200mm specification when the front seat was fully extended.

Officers responded to members' questions as follows –

- physical alterations to seat runners would weaken the structure and have serious safety implications, however it might be possible to place something in the runner to prevent the seat extending to its rearmost position
- the prospect of the authority being able to influence vehicle manufactures with respect to those measurements was unrealistic given that vehicles were type approved and subject to rigorous testing
- explained the comprehensive consultation process since starting the review of hackney carriage and private hire conditions in 2015 which involved two workshops and consultation with all interested parties including the licensed trade on two separate occasions with further updates provided in newsletters to licence holders with final approval by Licensing Committee in December 2016 and implementation of the policy on 1 July 2017
- officers were available to provide advice and guidance and were regularly approached in that regard – potential vehicles for licensing were also assessed free of charge to ensure specifications were met before individuals committed to financial outlay
- the leg room for the front seat passenger was not in question and in the normal operating position those vehicles would meet the leg room requirement
- there was no grace period for the leg room specification and vehicles currently licensed which did not meet the new specification upon renewal or compliance testing would no longer be able to be licensed. It was accepted that the new ruling would affect a large number of vehicles currently licensed including models such as Ford Mondeo, BMW 5 Series and Skoda Octavia.

The Applicant responded to questions and issues raised by members as follows –

- in terms of passenger comfort a computerised monitoring system was used when taking bookings with mobility and other issues being noted and an appropriate vehicle sent to fulfil the booking
- he had engaged with the consultation process on the policy review but given the wealth of information and major changes considered in terms of vehicle age and colour the new leg room requirement and its significance had gone unnoticed
- the Dacia Logan model had not been checked for seat compliance beforehand because he had been unaware of the new leg room condition and its

implications, particularly given that the same vehicle type was currently licensed by the Council

- the Dacia Logan had been chosen for licensing because it was a medium estate car with good luggage space which met the needs of customers and also provided value for money, and the intention was to replace and modernise the existing fleet with those vehicles – there were currently six two year old vehicles awaiting licensing with four more new vehicles currently on order
- the new ruling would affect the vast majority of vehicles currently licensed and have a devastating effect on the licensed trade.

The Applicant was given the opportunity to make a final statement and indicated that he had nothing further to add.

The committee agreed to deliberate on the application in private session and it was **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 Paragraph 14 of Part 4 of Schedule 12A of the Act.

Following deliberations it was –

**RESOLVED** that the Licensing Committee –

- (a) deviate from the Council's existing policy to approve the vehicle as suitable to be licensed as a hackney carriage vehicle, and
- (b) the current policy specification relating to the minimum requirement for available legroom to be reviewed as soon as practicable.

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

Members had carefully considered the case as set out by the Applicant and accepted that he had bought a number of vehicles which were economic, safe, modern, more environmentally friendly, and improved the existing fleet. The Applicant had admitted that he had failed to notice the significance of the leg room requirement in the policy because of the wealth of new information it contained and the concern amongst the trade had been focused around the age/colour requirements of vehicles. Members considered that in practical terms the leg room requirement meant that a large proportion of licensed vehicles would be removed from the road. Consequently members found that the policy had unintended consequences on the industry and appeared unduly restrictive and on that basis they would be calling for a review of the policy in order to assess the impact across the trade. On this occasion though and specifically in relation to the Applicant's vehicles, members agreed to deviate from the policy to approve them as suitable to be licensed.

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

At this juncture (10.45 a.m.) the meeting adjourned for a refreshment break.

## **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 Paragraph 12 of Part 4 of Schedule 12A of the Act.

### **5 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 520509**

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. 520509 for a licence to drive hackney carriage and private hire vehicles;
- (ii) the application having been referred to the Licensing Committee due to the Applicant's failure to disclose two criminal convictions which had been revealed following a routine Disclosure and Barring Service (DBS) check relating to theft (1990) and driving a vehicle with excess alcohol (2004);
- (iii) referred to the Council's policy with regard to the relevance of convictions (including non-disclosure) and relevant legislation with regard to making a false statement and omission of particular material, and
- (iv) the Applicant having been invited to 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 Public Protection Business Manager detailed the facts of the case.

The Applicant apologised for his error in completing the application form and explained that (1) he had not realised the first offence would be on record as it had been committed in his youth, and (2) he had mistakenly believed the second conviction related to motoring rather than a criminal offence, and proceeded to explain the circumstances surrounding those two convictions. Since then the Applicant had held a clean driving licence and described himself as capable and trustworthy. In response to members' questions the Applicant admitted that he had not read the relevant documentation properly which had led to the omission on this application form. He believed that being a taxi driver would allow him to work flexible hours which would suit his family circumstances. In making a final statement the Applicant again apologised for incorrectly completing the application form stating that it had been a genuine error on his part.

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. 520509 be granted.

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

Members had carefully considered the facts of the case and explanation provided by the Applicant with regard to the offences and reasoning behind his non-disclosure of convictions. The committee found the Applicant to be genuine and honest in his submission and answers to questions and accepted that he had made a genuine mistake on this occasion in completing the application form given that he had not read the accompanying guidance notes properly. The committee accepted the Applicant's version of events with regard to his historic convictions and noted that if the Applicant had declared those convictions at the appropriate time officers would have been in a position to grant the application in accordance with the Council's conviction policy. Consequently members considered the Applicant to be a fit and proper person and resolved to grant the application.

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

The meeting concluded at 11.15 a.m.