

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 4 March 2020 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James, Brian Jones (Vice-Chair), Melvyn Mile, Merfyn Parry and Peter Scott

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Built Environment and Public Protection Manager (GR), Public Protection Business Manager (IM), Licensing Officer (JT), Licensing Enforcement Officer (KB), People Team Leader – Legal Services (NG), Legal Officer Contracts and Procurement (SR) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Barry Mellor, Arwel Roberts, Rhys Thomas and Huw Williams

2 DECLARATION OF INTERESTS

No declarations of 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 on 4 December 2019 were submitted.

Matters Arising –

Page 10: Item 5 Proposed Changes to Taxi Licensing Fees and Charges – no objections had been received following the necessary consultation and therefore the fees would come into effect 1 April 2020.

Pages 13 and 14, Item 8 Proposed House to House Collection Policy and Item 9 Proposed Street Collection Policy – no representations had been received in response to the formal consultation on the proposed policies and both would come into effect 1 April 2020.

RESOLVED that the minutes of the meeting held on 4 December 2019 be received and confirmed as a correct record.

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.

5 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 541292

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

- (i) a renewal application having been received from Applicant No. 541292 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the renewal application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having accrued 3 penalty points on his DLVA Driver's Licence for speeding in May 2017 and incurred a financial penalty relating to two offences for driving an overweight vehicle in December 2019, both of which had been declared by the Applicant and confirmed following a routine check;
- (iv) further information concerning the case including the Applicant's explanation of the circumstances relating to the convictions together with his suitability as a licensed driver and character references (attached to the report);
- (v) the Council's policy with regard to the suitability of applicants and reasoning behind the officer recommendation to deviate from that policy and grant the renewal application given the exceptional circumstances in this case, and
- (vi) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by his son and confirmed he had received the report and committee procedures and was happy to proceed.

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

The Applicant submitted he was a long standing and experienced taxi driver with no previous concerns and provided assurances with regard to his driving conduct. He also explained the circumstances surrounding the speeding conviction which was soon to be removed from his licence and confirmed he was not carrying a passenger at that time. With regard to the second offence his son explained his fault in miscalculating the weight limit resulting in his father unknowingly driving an overweight vehicle. Assurances were provided that there had been no deliberate intent in that regard and that steps had been taken since then to ensure no future reoccurrence. There being no further questions the Public Protection Business Manager summarised the reasoning behind the officer recommendation to grant the renewal application given the particular circumstances in this case. In his final

statement the Applicant expressed his remorse over the offences and reiterated that they had not been carried out deliberately.

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 Applicant No. 541292 be granted.

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

Members had carefully considered the report and submissions in this case. It was accepted that the Applicant was an experienced licensed driver with a previously clean record and had been open and honest in declaring his motoring offences. The numerous references attesting to the Applicant's good character had also been taken into account. Members had found the Applicant to be credible and genuine in his address to the Committee and accepted the explanation provided regarding the circumstances of the offences and remorse shown. Given those exceptional circumstances members were satisfied that the Applicant was a fit and proper person to hold a licence. Consequently it was decided to deviate from the Council's current policy in relation to vehicle use offences on this occasion and grant the renewal application. In light of the convictions obtained it was considered appropriate that the Applicant be cautioned as to his future conduct.

The Chair conveyed the decision and reasons therefore to the Applicant and cautioned him to be mindful of the rules and regulations in his future conduct.

6 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 543310

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

- (i) a renewal application having been received from Applicant No. 543310 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the renewal application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having accrued 6 penalty points on his DVLA Driver's Licence in August 2019 for using a handheld mobile phone or device whilst driving a motor vehicle which had been declared by the Applicant and confirmed following a routine check as part of the renewal application;
- (iv) further information concerning the case including the Applicant's explanation of the circumstances relating to the motoring conviction together with his suitability as a licensed driver;
- (v) the Council's policy with regard to the suitability of applicants and reasoning behind the officer recommendation to deviate from that policy and grant the renewal application given the exceptional circumstances in this case, and

- (vi) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was not in attendance and had not indicated whether he intended to be present. Officers confirmed the relevant papers and notice of the hearing had been served. The Committee considered sufficient information had been provided to determine the application and agreed to proceed in the absence of the Applicant.

The Enforcement Officer introduced the report and detailed the facts of the case. She responded to members' questions and further elaborated upon the particulars relating to the offence and confirmed the Applicant's account had been corroborated by the Police. Members' attention was drawn to the relevant sections of the Council's policy in relation to the use of a mobile phone whilst driving and the unique circumstances of the case together with consideration of the overall character of the Applicant leading to the officer recommendation to grant the renewal application.

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 Applicant No. 543310 be granted with a formal warning issued as to his conduct.

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

Members had carefully considered the particular circumstances of the case as set out in the report together with officers' response to questions thereon. Members noted the Applicant's previously clean record and good character as a licensed driver and his honesty in declaring the conviction at the appropriate time. Members also accepted the Applicant's account of the events which had been corroborated by the Police and found that at the time of the offence he had been experiencing unique circumstances through no fault of his own. Consequently members found the Applicant to be a fit and proper person to hold a licence and given the exceptional circumstances in this case agreed to deviate from the Council's policy with regard to using a handheld mobile phone while driving and grant the renewal application. Members also considered it appropriate to issue a formal warning as to the offence and future conduct. Whilst it was considered that sufficient information had been provided to enable a decision to be made on this occasion, the Committee asked that their disappointment be conveyed directly to the Applicant regarding his non-attendance at the hearing of his application.

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

7 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS/POLICY

The Licensing Officer submitted a report (previously circulated) proposing a number of amendments to the Hackney Carriage and Private Hire Vehicle Policy and Conditions for formal consultation and approval following its three yearly review.

In December 2016 the Licensing Committee approved the Hackney Carriage and Private Hire Vehicle Policy and Conditions with effect from July 2017. Having reviewed the policy in accordance with requirements a number of amendments had been proposed to reflect both changes in operating procedures (i.e. removal of the penalty points system) and to clarify existing conditions. It was recommended that any changes be subject to formal consultation prior to implementation.

Officers elaborated upon the proposed areas for amendment as follows –

- Signage/Advertising/Livery (Private Hire) – stopping use of magnetic door signs
- Plate Exemption – delegation to officers to deal with exemption applications
- Disciplinary Action – amend and replace references to penalty point scheme
- Penalty Points Scheme – amend and remove reference to penalty point scheme
- Facilities for Wheelchair Users – remove “at the nearside rear passenger door”
- Collisions – amendment to ensure procedure in place for suspended vehicles
- Signage/Advertising/Livery (Hackney Carriage) – removal of requirement for a roof sign or meter for initial vehicle inspection/testing.

The following matters were further discussed –

- Disciplinary Action – it was confirmed that in terms of officer delegations the procedure for suspensions and revocations specified that decisions were to be taken in consultation with the Chair and Vice Chair of the Licensing Committee together with relevant legal officers
- Facilities for Wheelchair Users – it was explained that many new wheelchair accessible vehicles allowed for various points of access and removing the current access restriction would allow for rear access and accommodate those vehicles. It was noted that problems may be caused on taxi ranks due to space in providing for rear access and many such vehicles displayed signage requesting sufficient distance be kept clear for that purpose
- Collisions – Councillor Joan Butterfield was keen to ensure costs incurred by vehicle proprietors were kept to a minimum and asked for a further amendment to specify that in cases where a compliance test was required following a collision, the compliance test may be used as one of the regular compliance tests required. To comply with that request officers agreed to amend the relevant section to read as follows “In the event of a licence being suspended due to the nature of the damage, the proprietor shall, at their own cost, have the vehicle tested **under the requirements of a compliance test** at DCC Fleet Management and Vehicle Maintenance Centre. Following which, they should submit the Compliance Certificate for examination by an authorised officer prior to the licence being reinstated. **If relevant, the proprietor may elect to use this compliance test as one of the annual compliance tests required under section 2.5 / 5.5. Proprietors should note this will introduce a new due date for the next 6 monthly compliance test**”. Councillor Brian Jones queried whether it was appropriate to require all vehicles to be tested at the Fleet Management Centre in Bodelwyddan, particularly given the distance for Llangollen proprietors. Officers explained the reasoning behind the requirement was to ensure that those vehicles incurring significant damage and subsequent repair were properly tested to a consistent standard at an impartial centre. It

was noted that the Licensing Committee had previously agreed to consider moving to in-house compliance testing only and officers were currently reviewing that proposal which would be brought back to a future meeting of the Committee for further consideration

- Signage/Advertising/Livery (Hackney Carriage) – members noted additional costs may be incurred by proprietors given the current requirement and to cater for both purpose built taxis and other vehicles agreed to the following amendment “New to Fleet Carriage Vehicles **may** be presented to DCC Fleet Management and Vehicle Maintenance Centre for initial inspection without a roof sign or meter.”

RESOLVED that –

- (a) *officers be authorised to consult on the proposed amendments to the existing Hackney Carriage and Private Hire Vehicle Policy and Conditions as detailed within the report, subject to minor adjustments proposed by the Committee, and if no objections are received, they will come into effect on 1 June 2020, and*
- (b) *where any objections are received, the Licensing Committee will consider those objections at their next meeting in June 2020 with a view to implementation (with or without modification) on 1 July 2020.*

8 UPDATE ON THE WORK OF THE LICENSING SECTION IN 2019

The Public Protection Business Manager submitted a report (previously circulated) updating members on the work of the Licensing Section during 2019 which focused on both operational and management matters.

The report provided statistical data regarding the number of licences issued, complaints and service requests received covering the main functions – Alcohol and Entertainment; Hackney and Private Hire Licensing; Gambling, Gaming and Lotteries; Street Trading; Charity Collections and Scrap Metal together with other ancillary matters including overall workload results and communications. Management matters included reference to policies, fees, complaints against the service together with future workload considerations. Officers elaborated on various aspects of the report and clarified particular issues in response to members’ questions thereon.

The main areas of debate on functions and management matters focused on –

- **Hackney Carriage and Private Hire Licensing** – two driver applications refused by officers had been successful on appeal to the Magistrates Court following the submission of further evidence not presented at the time of application. Members discussed with officers the cost of defending an appeal and whether there would be merit in introducing a mechanism for particular driver applications (which officers considered would merit refusal or borderline cases where robust arguments could be made for both grant and refusal and may warrant a deviation from the policy) to be brought before Licensing Committee for determination. Such a process would provide a further

opportunity for the applicant to present further evidence to support their application in a timely manner thereby helping to avoid potential court costs for all parties concerned. Members confirmed they had confidence in the delegation of powers afforded to officers for that purpose but agreed there would be merit for any applications which were not clear cut and caused officers some debate being brought back before the Licensing Committee for determination. It was noted that the option of bringing matters back before members was inherent in any delegation to officers and therefore a specific mechanism for that purpose within the policy was not required

- **Charity Collections** – it was confirmed that the number of charitable collections specified within the report included an accumulation of the same charity collecting in different areas of the county, and that charitable collections of clothing from house to house did require licensing with most large charities having a Home Office Exemption Order for that purpose
- **Scrap Metal** – details of the regulations in place covering scrap metal sites and collectors were provided and it was confirmed that any collection of scrap metal needed to be licensed; social media sites such as Facebook were routinely scanned for advertisements relating to scrap metal to ensure compliance
- **Communications** – it was noted that social media was used to post messages and officers agreed to circulate links for Facebook and Twitter to the Licensing and Trading Standards pages for members' information and interest
- **Fees** – in response to questions members were reminded that the Committee had approved the proposed changes to taxi licensing fees and charges at their last meeting in December 2019 and given that no objections had been received during the consultation period they would be effective from 1 April 2020. It was clarified that officers undertook an annual review of all fees and charges which were brought before the Licensing Committee for approval before consultation and formal sign off for the operational aspects by the Head of Service. The fees were set based on the actual costs incurred and a profit could not be made.

In considering future workload there was further debate on the following matters –

- following the introduction of a minimum price for alcohol effective from 2 March 2020 officers would be carrying out inspections in the coming months to ensure compliance. Inspections would be carried out in the first quarter and therefore it would be possible to report back on the level of compliance to members in June
- officers elaborated upon the “Best Bar None” initiative for licensed premises to be introduced in Denbighshire in order to promote good pub ethics and minimum standards – the focus in 2020 would be to raise awareness of the scheme ahead of a formal launch in March 2021
- reference was made to the Welsh Government's aim of a zero emission bus and taxi/private hire vehicle fleet by 2028 and there was some discussion about the potential role licensing could play in that vision through processes for taxi licensing and potential incentives to encourage licensees locally in that regard. The role and work of the Climate Change Group in the wider environmental context was acknowledged and the potential for a specific Licensing Working Group to focus on helping to meet Welsh Government's aim was suggested as a possible way forward. The need to ensure services in more rural areas would not be jeopardised or detrimentally affected as a result of any future proposals

was also highlighted. It was agreed that officers report back to the Committee with options on the way forward once further information became available

- it was noted that a training session would be held in September and whilst priority would be for committee members, other members would also be able to attend. Members were encouraged to let officers know of any particular areas they considered beneficial to meet their training needs. Officers were also willing to accommodate requests from members interested in shadowing officers on their duties with prior arrangement
- assurances were provided that grant funding streams that may be available would be explored by officers.

The Chair paid tribute to the work of the Licensing Team, particularly given the heavy workload involved, which was recognised and appreciated by the Committee. Members asked that their thanks be conveyed to the Licensing Team and their appreciation be recorded within the minutes. The Public Protection Business Manager thanked members for their support and agreed to feedback those comments to the Licensing Team.

RESOLVED that, subject to members' comments, the contents of the report be noted.

9 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2020/21

A report was submitted (previously circulated) presenting the Licensing Committee's work programme for 2020/21.

During consideration of the work programme reference was made to the annual review of Fees and Charges and officers clarified that some fees were statutory whilst others were discretionary. A profit could not be made from those discretionary fees which must only cover the costs incurred for administering that particular function. With regard to hackney carriage/private hire vehicle licensing fees a detailed methodology had been devised to allow for a detailed review of those fees and charges in line with relevant licensing processes and it was agreed to include that information as part of the next annual review brought before the Committee in December 2020. Members also noted the planned licensing training session in September and Councillor Joan Butterfield asked for an overview of the types of complaint received by the service together with the complaints process followed in that regard to be made available as part of that training session.

RESOLVED that the proposed forward work programme as detailed in the appendix to the report be approved.

The meeting concluded at 11.55 a.m.