

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held by video conference on Wednesday, 23 June 2021 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving, Brian Jones, Barry Mellor, Melvyn Mile, Merfyn Parry, Pete Prendergast, Rhys Thomas and Huw Williams

ALSO PRESENT

Solicitor – Team Leader – Places (TD), Public Protection Business Manager (IM), Senior Licensing Officers (NJ & JT), Licensing Officer (ES), Licensing Enforcement Officer (SN), Democratic Services Manager (SP), Fleet Mobility Officer (MG) and Committee Officers (KEJ & RTJ [Webcaster])

1 APOLOGIES

Councillors Arwel Roberts and Peter Scott

2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2020/21. Councillor Melvyn Mile proposed, seconded by Councillor Huw Williams that Councillor Hugh Irving be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Pete Prendergast be appointed Chair. There being no further nominations and upon being put to the vote it was –

RESOLVED that Councillor Hugh Irving 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 2020/21. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Pete Prendergast be appointed Vice Chair. Councillor Huw Williams proposed, seconded by Councillor Melvyn Mile that Councillor Brian Jones be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

RESOLVED that Councillor Brian Jones be appointed Vice Chair of the Licensing Committee for the ensuing year.

4 DECLARATION OF INTERESTS

Councillor Barry Mellor declared a personal and prejudicial interest in agenda item 11 and left the meeting for the duration of that item.

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 4 March 2020 were submitted.

***RESOLVED** that the minutes of the meeting held on 4 March 2020 be received and confirmed as a correct record.*

7 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND CONDITIONS

The Senior Licensing Officer (NJ) submitted a report (previously circulated) seeking members' review of the current Hackney Carriage and Private Hire Licensing Policy and Conditions to incorporate the statutory standards published by the Department for Transport and the recommendations published by the Welsh Government, and also sought approval to undertake formal consultation on the draft Licensing Policy.

Some background was provided regarding publication of the Department for Transport's (DfT) statutory standards in July 2020 (Appendix A to the report) with the focus on protecting children and vulnerable adults and better regulation of the sector together with publication of the Welsh Government's (WG) recommendations in March 2021 (Appendix B to the report) to provide 'quick fixes' to improve the consistency of licensing standards and increase public safety. In terms of legislative jurisdiction it was clarified that DfT standards had effect in Wales even though responsibility for taxi and private hire policy had been devolved to the WG. However if the WG introduced legislation to regulate those issues the DfT standards would cease to apply. As the DfT standards had been considered in the drafting of the WG recommendations it was proposed the existing Licensing Policy and Conditions encompass all other supplementary policies and conditions relating to taxi and private hire licensing, and that a four week consultation be undertaken on that draft with a final policy submitted to the Licensing Committee for approval.

During consideration of the report the views of officers were sought on the comprehensive documents and questions were raised regarding the proposed consultation process with a view to maximising engagement from the licensed trade and stakeholders and ensuring a good understanding of the impact of any potential changes to the current policy. Officers confirmed they had no concerns regarding the proposed policy changes given that they had been designed to improve public safety, increase consistency and improve customer experience, with many of the WG's recommendations having already been included in the Council's existing policy. Assurances were given that the main policy changes would be highlighted during the consultation however it was important that those affected had sight of the whole document and understood it and any implications. Details were provided on the consultation which would include the licensed trade, relevant groups, City, Town and Community Councils and the wider public and would broadly be undertaken in line with previous consultations (written consultation and workshop sessions held at varying times in different geographical locations within the county) subject to being

Covid safe, with an open invitation for any interested party. The consultation responses would be taken into account to inform a final policy for submission to the Committee for approval. Officers agreed to provide members with a summary of the consultation responses and feedback received as part of that process.

RESOLVED that the Committee –

- (a) *approve the review of the current Licensing Policy relating to the Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators in line with the new Department of Transport Statutory Standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing Recommendations, and*
- (b) *authorise officers to consult with the trade and the wider public (including relevant local organisations) on a draft Statement of Licensing Policy.*

8 UPDATE ON ZERO EMISSION VEHICLES WITH THE LICENSED VEHICLE FLEET

The Senior Licensing Officer (NJ) submitted a report (previously circulated) updating members on the current position relating to the Welsh Government (WG) Green Taxis Pilot Scheme for zero emission vehicles and Denbighshire's success in securing WG funding for 4 electric vehicles and charging infrastructure as part of that pilot scheme.

WG had set a target of de-carbonising the taxi fleet entirely by 2028 and it was anticipated that the pilot scheme would assist in that aim. The three pilot areas were Cardiff Capital Region (CCR), Denbighshire and Pembrokeshire. In total 50 fully electric wheelchair-accessible Nissan Dynamo taxis would be purchased, 44 for CCR, 4 for Denbighshire and 2 for Pembrokeshire. The associated charging infrastructure would also be installed in each area and the scheme would operate on a 'try before you buy' basis allowing licensed taxi drivers to try the vehicle free of charge for 30 days and included free electric charging, insurance, vehicle licensing, breakdown cover etc. Drivers would then complete an evaluation survey and be provided with information on schemes/assistance for long term ownership/lease of zero-emission vehicles. The pilots would operate for 2 – 3 years and Fleet Management were leading and administering the project in Denbighshire. The Fleet Mobility Officer was in attendance to answer questions about the scheme.

Members welcomed the scheme as a means of encouraging the taxi trade to switch to zero emission vehicles and for the environmental benefits that would bring which was a corporate priority for the council. During debate members raised questions with officers regarding the practical implementation of the scheme, including the necessary charging infrastructure and how it would be monitored to ensure the best outcomes. Members were also keen to ensure that the county's rural areas could also take advantage of the opportunities presented as part of the pilot scheme.

Officers responded to members' questions and comments as follows –

- the council had 4 vehicles in its possession waiting to be licensed and a procurement process for the 50 kW chargers to meet the operational needs of the taxi trade was imminent. It was envisaged that the chargers would be installed within the next 8 – 10 weeks following which the pilot would commence
- the vehicles would be offered on a 30 day ‘try before you buy’ basis and uptake would be encouraged with assurances that the infrastructure and fuelling system would be in place to support the trade with the uptake of zero emission vehicles
- grant funding would be provided for an initial two years with the opportunity for a third year if data reporting demonstrated the pilot was successful
- the unsuccessful attempt by a local taxi firm to switch to electric vehicles (as reported in the press) had largely been due to the current lack of charging infrastructure to meet the operator’s particular business model. However the charging infrastructure was being developed to suit all operator business models and it was expected the same operator would take up the opportunity of participating in the pilot. In response to concerns that uptake would be adversely affected by the negative press coverage, officers provided assurances that there had been an exceptional amount of interest in Rhyl and Prestatyn
- as part of the grant terms the scheme would be piloted in the North of the county, predominantly around Rhyl which had high levels of CO2 and NO2 and if successful there was an opportunity to expand the pilot scheme. Where taxi proprietors had their own charging provision (such as home charges) they could also be supported and included as part of the pilot if it met their business model
- the scheme was not confined to just taxi operators with 400 licensed drivers in the county who would be eligible to apply to participate in the pilot
- it was a long and complex process to install electric chargers which was still at a very early stage but wider provision was being looked at across the county, not just for taxis, with chargers going into public car parks in Llangollen before the end of the financial year and there was potential for rapid chargers to be installed in Corwen. Transport for Wales was also looking at the potential to create a charge park type area in Corwen along the TrawsCymru bus network which would suit electric taxis, electric buses and electric bin wagons. Most projects of this type were in their infancy but gaining momentum and over time steps would be taken to install charging provision throughout the county.

Councillor Huw Williams reiterated his disappointment over the lack of opportunities for areas outside of Rhyl and Prestatyn, particularly rural areas, to participate in the pilot scheme given the lack of charging infrastructure and asked that charging points be installed in every major town in Denbighshire. It was agreed that those comments also be included in the Committee’s resolution.

RESOLVED that, subject to members’ comments above, the update on the Welsh Government Green Taxi Pilot Scheme be received and noted.

9 REVIEW OF STREET TRADING POLICY

The Senior Licensing Officer (JT) submitted a report (previously circulated) updating members on the review of the Council’s street trading policy and recommended next steps together with the draft policy for members’ consideration.

Some background was provided in terms of the legislative processes and current operation of the street trading regime in the county which was being reviewed in order to provide a fit for purpose policy which also addressed concerns of all who may be affected. The definition of street trading had been detailed within the report together with legal exemptions for certain types of trade and those regulated by other means or authorities. The Committee had agreed an initial consultation on a draft policy in December 2016 followed by a public consultation with no comments received. However subsequent feedback had been received from other individuals, members and council teams and in light of the challenges faced by high streets compounded by the coronavirus pandemic, it was considered that further work was required before a fit for purpose policy could be presented back to the Committee. Consequently members were asked to consider the latest draft policy for further consultation and the establishment of a Sub Group to further discuss the policy.

During consideration of the report members agreed that it was important to ensure how best the policy could support fixed outlets and street traders alike, particularly given the changing face of town centres and high streets and taking into account the impact of the coronavirus pandemic. Given the challenges faced it was agreed there was a need for flexibility in the policy and recognition that some fixed traders had adapted practices to deliver their businesses in response to the pandemic, including utilising outdoor space. The current inconsistencies across the county with regard to trading practices was also highlighted, which was largely due to the absence of a formal policy and reliance on the current regulations. Officers clarified that fixed traders utilising the pavement would require a pavement licence from the Highways Section but those trading from within the curtilage of their premises (6 – 9 feet) did not require a licence. Councillor Joan Butterfield added that for eateries, planning permission was required for tables and chairs in a defined area outside of the premises. Whilst officers were keen for a policy to be in place at the earliest opportunity the need for the policy to be robust and fit for purpose was paramount.

Members discussed the report recommendations and Councillor Brian Jones felt there would be merit in forming a Sub Group with elected member representation from across the county to further consider the policy. There was some debate as to whether the Sub Group would be best served by cross party or geographical representation and it was subsequently agreed that a geographical spread would be preferable. Councillor Brian Jones proposed, seconded by Councillor Joan Butterfield to approve the draft policy for consultation and support the creation of a Sub Group to include the Licensing Committee's Chair and/or Vice Chair and representation from each Member Area Group. Upon being put to the vote it was –

RESOLVED that the Committee –

- (a) *approve the draft street trading policy (Appendix A to the report) for consultation, and*
- (b) *support the establishment of a Sub Group to further consider the policy to include the Chair and/or Vice Chair to represent the Licensing Committee together with a representative from each of the Member Area Groups.*

10 LICENSING COMMITTEE FORWARD WORK PROGRAMME

The Public Protection Business Manager provided a verbal update and explained the difficulties in maintaining a forward work programme for the Committee over the last twelve months given the impact of, and responding to, the coronavirus pandemic. Consequently it was recommended that officers redraft a forward work programme to include a number of significant items in relation to taxis (including any electric vehicle incentives or schemes that may arise) and the street trading policy together with a number of smaller reviews required, and to submit a formal forward work programme to the next meeting of the Committee for approval.

RESOLVED that the verbal update be received and noted and a formal forward work programme be submitted to the Committee's next meeting for approval.

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.

[At this juncture (11.10 a.m.) the meeting adjourned for a short break.]

11 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 551134

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

- (i) an application having been received from Applicant No. 551134 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having accrued 8 penalty points on his DVLA Driver's Licence for speeding in July 2018 (3 points) and July 2019 (5 points) and obtained a conviction for Conspire/Handling Stolen Goods in 2010, all which had been declared by the Applicant and confirmed following the usual routine checks;
- (iv) further information concerning the case including the Applicant's licensed driver history with another local authority together with his suitability as a licensed driver and character references (attached to the report);
- (v) the Council's policy with regard to the relevance of convictions and suitability of applicants, and
- (vi) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

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

The Senior Licensing Officer (JT) introduced the report and facts of the case.

The Applicant provided some background information and reasoning behind his application after moving into the area. He also provided details of his current employment, being a licensed driver with another local authority, and reported upon his work carried out in Denbighshire in relation to school contracts and private hire. The Applicant gave assurances regarding his driving conduct and referred to his references attesting to his good character. He also responded to questions raised by members with a view to ascertaining his suitability to hold a licence, providing further clarification regarding his current working arrangements between local authority areas and detailing the circumstances surrounding the speeding offences. He confirmed there were no further penalty points pending on his licence and referred to his greater vigilance following the speeding conviction and safe driving conduct. The Applicant indicated he had nothing further to add to his submission.

The Committee adjourned to consider the application but during debate sought clarity on a further point and all parties were recalled. Officers confirmed that pre-booked private hire work was permitted across local authority areas provided the driver and vehicle had been licensed by a local authority. The Committee re-adjourned to continue deliberations and it was subsequently –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 551134 be granted.

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 the Applicant's oral submission and response to questions. Members had also considered the relevant sections of the Council's policy with regard to the relevance of convictions and suitability of applicants.

In particular the Committee considered 4.42 of the Council's Statement of Policy regarding the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades. It provided that where an applicant had 7 or more points on their DVLA licence for minor traffic or similar offences, a licence would not be granted unless at least 5 years had elapsed since the completion of the sentence imposed. The Committee concluded that the completion of the sentence imposed (which was 4 years from the first offence of 2018) would translate to 2027 when a licence would be granted in accordance with this policy provision.

Given the clear above policy provision, the Committee then considered 3.19 of the same policy that provided a policy provision, (namely 4.42 above) should only be departed from in exceptional circumstances and for justifiable reasons.

Given the length of time since the Applicant's conviction in 2010 and his honesty in declaring his speeding offences upon application, and having heard from the Applicant the circumstances and nature surrounding those offences and taking into account the character references provided, the Committee was satisfied that the

Applicant was a fit and proper person to hold a licence. The Committee concluded that there were indeed exceptional circumstances and justifiable reasons under 3.19 of the policy to make a departure from provision 4.42.

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

The meeting concluded at 12.05 p.m.