

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held by video conference on Wednesday, 15 September 2021 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Brian Jones (Vice Chair), Barry Mellor, Melvyn Mile, Merfyn Parry, Pete Prendergast, Peter Scott, Rhys Thomas and Huw Williams

Observers: Councillors Meirick Davies and Tony Thomas

ALSO PRESENT

Solicitor – Team Leader – Places (TD), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Licensing Officer (ES), Legal Officer (SR) and Committee Officers (KEJ & SJ [Webcaster])

1 APOLOGIES

Councillor Arwel Roberts

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 23 June 2021 were submitted.

RESOLVED that the minutes of the meeting held on 23 June 2021 be received and confirmed as a correct record.

5 REVIEW - LICENSING ACT 2003: STATEMENT OF LICENSING POLICY

The Senior Licensing Officer submitted a report (previously circulated) seeking members' review of the Council's Statement of Licensing Policy prior to formal consultation and subsequent submission to full Council. The policy established a local framework for decision-making when considering applications for relevant permissions or variations to existing terms and conditions and it was a statutory requirement to consult and review the policy on at least a 5 yearly basis.

Given the benefits of a consistent policy across North Wales the majority of the proposed changes had been drafted by the six North Wales licensing authorities

and had been highlighted in red for members' consideration. No significant changes had been proposed other than to include legislative changes, health board responsibilities and to strengthen matters relating to drugs and the inclusion of local initiatives. The consultation process included public notice of the draft policy together with contacting statutory consultees and all licence and permit holders. Officers recommended that any representations received be reported back to the Committee but in the event of no representations a report be submitted to full Council to approve the draft policy.

The Committee considered the draft Statement of Licensing Policy and discussed with officers various requirements and reasonable steps the local authority expected from licensed premises. Officers responded to members' questions and comments regarding various aspects of the policy and provided clarity in a number of areas. Main points of debate focused on the following –

- officers confirmed it was a legislative requirement for all premises licensed for the supply of alcohol to provide free drinking water on request
- members had queried the proposed reference to the provision of a first aid room and equipment (including a defibrillator in larger venues) and whether it needed to be included in the policy given that the responsibility for such rested with the licensed premises themselves and not the licensing authority. Officers confirmed that any requirement to provide first aid facilities would be determined within the risk assessments undertaken by licensed premises themselves and also regard to the Health and Safety at Work Act. However it was appropriate that the policy considered the management of licensed premises in its entirety and to encourage all reasonable steps to be undertaken. No specific stipulations for licensed premises had been proposed in terms of first aid provisions given that it was for the individual licensed premises to determine what was reasonable for them
- it was clarified that drinking from bottles would be permitted unless there was a condition on the individual premises licence prohibiting that practice and officers agreed to revisit the wording within the policy to ensure clarity in that regard
- controls over drinking alcohol in streets/public places would be subject to Public Space Protection Orders
- Appendix 6 within the policy referred to mandatory conditions which could not be changed
- in terms of staff training expectations, each licensed premises was responsible for staff training and would have its own training programme
- whilst there was no definition of 'larger venues' the expectation was that any additional measures required given the size of the venue would be determined within the risk assessment of the individual premises
- in responding to comments regarding the lack of reference to building control regulations in section 5 of the policy officers advised that Planning Services were statutory consultees and had the opportunity to input into the policy review; officers agreed to seek the views of Building Control specifically in that regard
- Councillor Meirick Davies referred to the reference in the policy (page 64) to "alcohol is a toxic substance" and asked whether "and a drug, and habit forming" could be added. Officers agreed to seek the views of the Health Board thereon.

RESOLVED that, subject to members' comments and observations, the Committee authorise officers to commence consultation, and –

- (a) in the event of no representations being received as a result of the consultation the draft Statement of Licensing Policy be submitted to full Council for approval, or
- (b) in the event of representations being received as a result of the consultation officers report back to the next meeting of the Licensing Committee in December 2021.

6 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2021/22

A report was submitted (previously circulated) presenting the Licensing Committee's proposed forward work programme for 2021/22.

At the last meeting members had been advised of the difficulties in maintaining a forward work programme for the Committee over the previous twelve months in light of the coronavirus pandemic and it had been agreed that officers redraft a forward work programme for submission to the next meeting for approval. In drafting the forward work programme officers had considered policies relevant to the Committee together with the review dates of those policies and any potential legislative changes being proposed by central government. Officers advised that future meeting dates had been confirmed and would be included in future reports.

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

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.

7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 553562

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. 553562 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 appealed to the Magistrates Court against revocation of their licence to drive hackney carriage and private hire vehicles in July 2019 due to an alleged wounding offence, with the charge subsequently closed by

the Crown Court in October 2019 and the Applicant not convicted of any offence;

- (iv) the Magistrates Court having issued a consent order agreeing the appeal be set aside and the Applicant be permitted to apply to the licensing authority for a new licence where all matters would be considered afresh;
- (v) further information concerning the application including the Applicant's licensed driver history and all other routine checks completed satisfactorily together with character references submitted by the Applicant;
- (vi) the Council's policy with regard to the suitability of applicants, and
- (vii) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

The Applicant confirmed they had received the report and committee procedures.

The Public Protection Business Manager submitted the report and facts of the case.

The Applicant explained the events surrounding the alleged wounding offence which they strenuously denied together with the following legal processes and detrimental effect on their personal life. They were keen to regain their licence and return to the profession that they loved and to provide for their family. The Applicant responded to questions raised by members with a view to ascertaining their suitability to hold a licence confirming that they had not been working at the time the incident had occurred, they had not been involved in any previous incidents of that nature and had no anger management issues. They stressed their regret over the incident and provided assurances that they had always been, and continued to be, a fit and proper person to hold a licence. In their final statement the Applicant urged members to grant their application to enable them to work and provide for their family.

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. 553562 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 submissions and response to questions. Members had also considered the relevant sections of the Council's Statement of Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades.

In particular the Committee considered section 4.12 of the policy which provided that matters which had not resulted in a criminal conviction would be taken into account and any reference in relation to "conviction" in the policy included matters that amounted to criminal behaviour but had not resulted in a conviction, and

section 4.31 which provided that for offences involving/connected with violence a licence would not be granted until at least 10 years had elapsed since completion of any sentence imposed. The Committee concluded that the Applicant had not been convicted of any offence (indeed considered that a Crown Court criminal trial into the offence of wounding had resulted in the applicant being acquitted) but considered, on balance, that an altercation had taken place between the Applicant and another person. The Committee also accepted the Applicant's version of the events in relation to the incident, including the representations concerning provocation and mitigation and their denial of the specific wounding allegation.

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

Having found that the Applicant had not ultimately been convicted of any offence with regards to the altercation and having heard from the Applicant the circumstances surrounding the incident, and taking into account the Applicant's previous driving history and character references provided, the Committee was satisfied that the Applicant was a fit and proper person to hold a licence. The Committee concluded therefore that there were exceptional circumstances and justifiable reasons, namely criminal court acquittal relating to the incident notwithstanding that was for the offence of wounding and not wider violence offences, under section 3.19 of the policy to make a departure from the provision in section 4.31 and grant the application.

The Committee's decision was conveyed to the Applicant.

The meeting concluded at 10.50 am.