

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 7 December 2022 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Gwyneth Ellis, Bobby Feeley (Chair), Martyn Hogg, Hugh Irving (Vice Chair), Alan James, Paul Keddie, Win Mullen-James and Andrea Tomlin

**Observer** – Councillor Huw Hilditch-Roberts

### ALSO PRESENT

Solicitor (LB), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Enforcement Officers – Licensing (KB & NS), Fleet Manager (CB), and Committee Administrators (KEJ, NH & SJ [Webcaster])

Licensing Consultant Joseph Mannix, InDepth Consultancy

#### 1 APOLOGIES

Councillor Michelle Blakeley-Walker.

#### 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 12 October 2022 were submitted.

***RESOLVED** that the minutes of the meeting held on 12 October 2022 be received and confirmed as a correct record.*

#### 5 UPDATE ON REVIEW OF HACKNEY CARRIAGE VEHICLES TABLE OF FARES AND CHARGES

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) updating members on the review of the current Hackney Carriage Vehicles Table of Fares and Charges and proposed way forward.

Licensing Committee had approved changes to the hackney carriage tariffs in June 2022 and requested officers review the charges and report back to the Committee within six months' time. A consultant had led on that process and a proposed tariff

had been put out to public consultation. The message from respondents generally was that a change in the tariff was not needed. Details of the current tariff (Appendix 1), consultant's report (Appendix 2), and a summary of responses from the trade (Annex C) and public (Annex D) had been appended to the main report.

Members' attention was drawn to the recommendations of the consultant's report and comprehensive methodology for setting a fair and transparent table of fares. The lack of engagement from the taxi trade during that process meant insufficient information had been obtained in order to make a properly evidence based decision on the setting of the taxi tariff which would require further work when considering any future tariff changes. The consultant had recommended the following –

- the introduction of three tariffs for taxis that seat four people and a tariff for taxis that seat five or more people
- the rounding of the tariff unit rate, to 10s of pence to eliminate the use of copper coins
- a yearly fare increase/decrease, in line with the Retail Price Index for Motoring
- adoption of the proposed methodology.

The PPBM also referred to the Welsh Government's white paper on taxi legislation in early 2023 which may impact on future fee setting. Consequently, officers recommended retention of the existing tariffs and further research, with input from local licensees, to determine future tariff charges.

Members considered the report together with the findings of the consultant's report and there was general support for retaining the current tariffs at this time, particularly given the potential implications arising from the Welsh Government's forthcoming white paper on future tariff setting, the further work required to build on the basis of the proposed methodology as set out in the consultant's report, and the general lack of support for a change in the tariff at the present time. The Committee considered that it would be appropriate to further review the tariff charges once any impact on future tariff setting was known following the Welsh Government's consultation, and to consider any further research as appropriate with input from the licensed taxi trade.

The PPBM responded to questions, confirming that the intention was to use the framework provided by the consultant to form the basis of calculating future hackney carriage fares and charges. However, it was acknowledged that the framework would require further scrutiny taking into account input from the licensed trade and sufficient engagement in order to produce the necessary evidence to effectively assess actual costs as part of that process. In terms of the engagement process there was no single body in Denbighshire representing the taxi trade, but assurances were provided that the consultation carried out had been extended to include additional social media and press releases together with contact with every licensed driver, providing ample opportunity to engage and input into the process.

Having considered the contents of the report along with the findings of the consultant's report as detailed at Appendix 2 it was –

***RESOLVED that –***

- (a) *the current tariff as set out in Appendix 1 to the report be retained, and*
- (b) *officers be instructed to conduct further research, with necessary input from local licensees, to enable members to determine appropriate tariff charges in the future.*

## **6 CONSIDERATION FOR AN INTERIM PROCESS FOR NEW TO FLEET VEHICLES**

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) on the review of the existing age requirements for vehicles first licensed by the Council and recommendation to retain the current age policy for both new to fleet and existing fleet vehicles.

The Hackney Carriage and Private Hire Vehicle Policy had been approved by the Licensing Committee in December 2016, effective from 1 July 2017. The policy included an age restriction on vehicles, namely all new to fleet vehicles must be a maximum of 5 years old, and any vehicle reaching the age of 12 years old must be removed. The Committee had reviewed the vehicle age policy at their last meeting and in light of vehicle procurement issues, including cost and availability, had authorised officers to look into an interim process of delegation for determining new to fleet applications for vehicles over 5 years old and report back to the next meeting. The Committee had also resolved to extend the grace period to allow already licensed vehicles reaching 12 years old to remain on fleet until July 2024, and to further consult on amending the vehicle age policy by relaxing both the new to fleet age and upper age limit.

The PPBM guided members through the detail of the report which included a breakdown of vehicle age across the fleet and considerable investment by proprietors to date, retail vehicle sales costs, industry standards, safety ratings, warranty cover and emissions. Particular attention was drawn to the following –

- relatively few vehicles remained on fleet that were over the 12-year threshold and of those that were the proprietors were able to take advantage of the grandfather rights grace period until 2024
- a significant number of vehicles had been introduced to the fleet to date as a result of investment by proprietors
- the increase in safety standards as vehicles technologically progressed
- the Welsh Government review of taxi standards in Wales, and the impending white paper, which was likely to include vehicle age.

Given those considerations officers recommended that the current age policy for both new to fleet and existing fleet vehicles be retained and that an update on the Welsh Government's review of taxi standards be provided at the appropriate time.

Members considered the report, again noting the potential impact on vehicle standards arising from the Welsh Government's white paper on taxi legislation. It was noted that the breakdown of vehicle ages across the licensed fleet demonstrated considerable investment by proprietors to date and that the current

age policy had not been a deterrent, with the taxi industry buying vehicles for licensing purposes within those current age stipulations. It was also noted that the grace period for vehicles already licensed had been extended to July 2024. The intention of the vehicle age policy to modernise the current fleet of licensed vehicles to ensure high standards and safety of the travelling public was also highlighted.

As vehicle standards were within the scope of the Welsh Government's white paper on taxi legislation, members considered it prudent to await the outcome of that consultation prior to reviewing vehicle age requirements given that any determination by the Committee at this time may subsequently be superseded. Councillor Martyn Hogg queried whether it would be possible, in a future review of the vehicle age policy, to quantify the effects of carbon emissions on policy changes, and referred to a calculation which suggested the amount of carbon emitted in manufacturing a brand new electric vehicle equated to that emitted by a 10-year-old diesel vehicle over 40,000 miles. The PPBM recommended awaiting the outcome of the Welsh Government's white paper in the first instance before considering whether it would be possible to quantify carbon emissions as described. The Fleet Services Manager added that safety was paramount and newer vehicles were generally safer than older ones.

Having considered all the information contained in the report the Committee –

**RESOLVED** that –

- (a) *the content of the report be noted;*
- (b) *the current age policy of new to fleet vehicles being under 5 years of age and any vehicle on fleet being removed at 12 years of age, unless grandfather rights rule applied up until 2024, be retained, and*
- (c) *officers be instructed to update the Licensing Committee of the details of the Welsh Government review of taxi standards at an appropriate time during 2023.*

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

The Senior Licensing Officer submitted a report (previously circulated) presenting the Council's draft Statement of Principles (Gambling Act 2005) for consideration and approval for statutory consultation.

Members were advised of the statutory requirement to review the Statement of Principles every three years. Due regard had been given to the licensing objectives of the Gambling Act 2005 and the Gambling Commission's 'Guidance of Licensing Authorities' as part of that review and the draft document had been developed regionally by the six licensing authorities in North Wales to ensure consistency of approach relating to gambling issues and functions. No significant changes had been proposed, other than minor changes and additions in order to strengthen the existing policy in line with guidance, which had been summarised in Appendix A to the report and highlighted on the draft Statement of Principles in Appendix B. It was confirmed that the existing policy had not been subject to any legal challenge.

Details of the consultation process had also been provided which included both responsible authorities, existing licence/permit holders and support organisations. If any representations were received as a result of the consultation a further report would be presented to the Committee at the next meeting. If no representations were received the final statement would be submitted to full Council for approval.

Members confirmed they were happy to approve the draft for formal consultation and it was subsequently –

**RESOLVED** that the draft Council's Statement of Principles (Gambling Act 2005) as attached to the report be approved for statutory consultation.

## **8 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2023**

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section and a revised forward work programme for 2023.

The priorities of the Licensing Section reflected the duty placed on the authority in relation to its responsibilities for the licensing function and the effective regulation, control and enforcement of licensees, and the authority's commitment to safer communities and the development of the economy. Due to the Welsh Government proposals to consult on the new taxi legislation in January 2023, the previously approved work programme had been amended slightly to postpone the scheduled report on the review of the existing Hackney Carriage and Private Hire Statement of Policy until next year, when the outcome of the consultation had been published.

Members noted the update and proposed revisions to the forward work programme. In light the forthcoming Welsh Government white paper early next year on taxi legislation, and subsequent implications on the taxi industry, the Committee asked that an update on that consultation be included in the forward work programme as soon as information became available.

**RESOLVED** that –

- (a) *the contents of the report be noted, and*
- (b) *subject to the inclusion of an update on the Welsh Government's white paper on taxi legislation at the earliest appropriate opportunity, the revised forward work programme for 2023 as detailed in Appendix A 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 items 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.

At this juncture (10.15 am) the meeting adjourned for a break.

## 9 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE

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

- (i) an application having been received for a Private Hire Vehicle Licence;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the Council's policy with regard to the five-year age limit for vehicles licensed under a new application;
- (iii) additional conditions being applicable to the licensing of specialist vehicle types such as the one presented in this case together with supporting evidence submitted by the Applicant, 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 he had received the report and committee procedures.

The Enforcement Officer (KB) summarised the report and facts of the case.

The Applicant presented his case advising that he was a long established operator of specialist vehicles with an unblemished record and provided some background to the nature and operation of the business. He elaborated on the proposed vehicle for licensing (registered in 2008) and its merits which included high standards and safety requirements and ongoing maintenance and service schedules. He submitted that the age policy had a disproportionate effect on the specialist nature of his business and the vehicle under consideration was a type of luxury vehicle not normally used for routine private hire work with less wear and tear. It was also submitted that, in recognition of such specialist vehicle types, other councils did not apply an age policy to vehicles of that nature.

The Applicant answered members' questions regarding the potential use and estimated mileage of the vehicle and provided assurances with regard to future maintenance schedules and compliance testing, and adherence to the proposed additional conditions for specialist vehicle types. The Committee had previously granted a licence for a comparable vehicle outside the age limit on a similar basis. In his final statement the Applicant advised that he was willing to comply with any licence conditions the Committee considered appropriate for the vehicle in question.

The Committee adjourned to consider the application and it was –

**RESOLVED** that the application for a Private Hire Vehicle Licence be granted subject to the additional conditions as detailed in Appendix 3 to the report.

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

Members had carefully considered the application, officer's report and the case put forward by the Applicant both in writing in advance of the meeting and at the meeting itself.

In reaching their decision, the Committee noted the nature and type of business operated and that the Applicant was a reputable, long established operator of such specialist services. On that basis, and having considered specifically the specialist nature of the vehicle proposed to be licensed, the intended use of the vehicle, and the strict bi-annual maintenance service by Fleet Services, members agreed that a case had been made to deviate from their age limit policy in this instance and grant the application as applied for, subject to the additional conditions applicable to the specialist vehicle type, as set out in Appendix 3 to the report.

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

[As an aside, the Committee felt there may be merit in introducing a separate policy in respect of specialist vehicle types, and officers agreed that the matter could be subject to further consideration as part of the future policy review going forward.]

At this juncture Councillor Gwyneth Ellis left the meeting.

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

[Councillor Arwel Roberts attended for this item but did not take part in the process and left the meeting during the Committee's deliberations on the application.]

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

- (i) an application having been received for a Hackney Carriage Vehicle Licence;
- (ii) the vehicle having previously been licensed as a hackney carriage but the licence had not been renewed prior to expiry of the existing licence 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 presented for licensing did not comply with the Council's policy with regard to the five-year age limit for vehicles licensed under a new application;
- (iv) the Applicant's supporting statement, MOT history and vehicle emissions together with further relevant information relating to the application, and
- (v) 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 accompanied by his vehicle mechanic.

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

The Senior Licensing Officer summarised the report and facts of the case.

The Applicant referred to the maintenance of the vehicle, advising of the garage where the mechanics of the vehicle had been maintained, and he undertook to maintain the interior vehicle furnishings himself. It was a Wheelchair Accessible Vehicle. In responding to members' questions the Applicant advised that he had purchased the vehicle from new and had no plans to replace/upgrade it given his personal circumstances and costs involved. The vehicle was available for inspection. He elaborated on the circumstances leading to submission of the renewal application some eleven days after expiry of the vehicle licence due to difficulties sourcing the relevant parts needed for vehicle repair in order to pass the compliance test and submit the compliance certificate with the renewal application. The Applicant had received the renewal forms from the Council which he had completed and put aside until nearer the renewal date; it had been an oversight which led to the late submission of the renewal application.

Officers confirmed that renewal reminders were sent a month in advance and the expiry date was specified on the vehicle licence plate. It was the licence holder's responsibility to submit the renewal application before expiry of the current licence. If the renewal application had been submitted within timescale, the grandfather rights afforded to vehicles over twelve years' old which were already licensed would have applied given that the grace period had been extended to July 2024. In terms of a final statement the Applicant confirmed he had nothing further to add.

The Committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage vehicle licence be refused.

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

Members had carefully considered the application, officer's report and case put forward by the Applicant.

The Committee had resolved to refuse the application because the Council's Hackney Carriage and Private Hire Licensing Policy and Conditions stated that vehicles licensed under a new application must be up to a maximum of five years old. As the vehicle subject of the application was thirteen years old it did not comply with the Council's policy.

In reaching their decision, the Committee had considered all the evidence before it which included written submissions circulated in advance of the hearing and verbal submissions during the hearing itself, and had placed weight on the following –

- the vehicle being eight years over the age limit as set out in the Council's policy
- a general vehicle MOT and service history showing clear issues of previous non-compliance over a number of years, as detailed by the fail/advisories contained within Appendix 3 to the report
- the whereabouts of a compliance certificate from 6 January 2022 to 7 October 2022 and use of the vehicle to carry members of the public without that certificate.



The Committee considered their duty to ensure licensed vehicles were safe for members of the community, especially vulnerable wheelchair users, to be of paramount importance. The current Council Policy had been in operation for a number of years and had been adopted to raise standards amongst the fleet and the age limit of new vehicles was part of that process. The Committee considered that the Applicant had offered no acceptable mitigation which would persuade them to deviate from the Council's policy in this instance.

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

The meeting concluded at 12.35 pm.