

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 11 September 2024 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Gwyneth Ellis, Bobby Feeley (Chair), Hugh Irving (Vice Chair), Alan James, Delyth Jones, and Paul Keddie

### ALSO PRESENT

Legal Advisor (NF), Public Protection, Regeneration and Economic Development Manager (GR), Senior Licensing Officer (NJ), Licensing Officer (ES), Enforcement Officers – Licensing (NS & KB), and Committee Administrators (KEJ & RTJ [Webcaster])

### WELCOME

The Chair introduced and welcomed Mr. Nashwan Fazlani to the meeting as the Licensing Committee's Legal Advisor.

#### 1 APOLOGIES

Councillors Ellie Chard, Brian Jones, and Andrea Tomlin

#### 2 DECLARATION OF INTERESTS

No declaration of interest had been made.

#### 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 5 June 2024 were submitted.

**RESOLVED** that the minutes of the meeting held on 5 June 2024 be received and confirmed as a correct record.

#### 5 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2024/25

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section together with an update on the agreed forward work programme for 2024/25.

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. The work programme had been drafted taking into account relevant policies and review dates together with any potential legislative changes proposed.

A number of items in the work programme had been rescheduled or removed and a revised work programme had been presented for members' consideration.

An update was provided on those rescheduled/removed items which related to –

- Hackney Carriage Tariff – at their last meeting members had agreed to retain the current fares and review the position in twelve months' time (June 2025)
- Special Procedures – no further update had been received on the report item
- Wheelchair Accessible Vehicles – the item had been rescheduled to March 2025 to enable members to consider the results of the consultation on the review of licensing requirements.

Members noted the revisions to the forward work programme.

**RESOLVED** that –

- (a) *the contents of the report be noted, and*
- (b) *the forward work programme for 2024/25 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.

### **6 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 507343**

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

- (i) the suitability of Driver No. 507343 to hold a licence to drive hackney carriage and private hire vehicles following convictions obtained in July 2024 for being a proprietor of a vehicle used as a private hire vehicle without a licence and using a motor vehicle on a road or public place without third party insurance;
- (ii) officers having referred the matter to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) background information and associated documentation having been provided including details of the case summary and fine/penalty points imposed together with written submissions from the Driver including a supporting statement and character references;

- (iv) the Council's policy with regard to the relevance of convictions and suitability of applicants and licensees, and
- (v) the Driver having been invited to attend the meeting in support of the licence review and to answer members' questions thereon.

The Driver was in attendance in support of his licence review.

The Licensing Enforcement Officer (NS) submitted the report and facts of the case.

The Driver referred to his written submission which had been included within the report and expressed deep remorse over his actions, highlighted his previously longstanding good conduct, and provided assurances regarding his future conduct and lessons learned. In response to questions, the Driver further elaborated on the circumstances surrounding the convictions and the reasoning behind his actions, acknowledging the consequences of those actions and poor judgement exercised on his part, and referred to steps he had taken since then to secure a second licensed vehicle in the event a similar situation occurred in the future.

In terms of a final statement the Driver confirmed he had nothing further to add.

The Committee adjourned to consider the case and it was –

***RESOLVED*** that Driver No. 507343 was a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence and that a formal written warning be issued in respect of the convictions obtained.

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

Members had carefully considered the evidence before them in reaching their decision. Whilst it was not open to the Committee to revisit the findings of the conviction, it was open to members to consider the general circumstances behind it in considering whether the Driver was a fit and proper person to hold a driver's licence and/or any formal action to take in respect of it.

In accordance with relevant policy guidance and due to public safety being the paramount consideration for the licensing authority in respect of driver licences, members took the conviction seriously as it related to motor insurance. This was a matter that members were extremely concerned with and found that the Driver displayed very poor judgement. They considered that this conduct fell short of the high standards required by licensed drivers.

In reaching their decision members had placed significant weight on the Driver's previous track record which they found to be exemplary. Members were encouraged that the Driver had been fully co-operative with the Licensing Authorities involved. They were also encouraged by the Driver's full and frank admissions to the Licensing Officers and had placed significant weight on this factor in reaching their decision that the Driver remained a fit and proper person to hold a licence.

Furthermore, members were encouraged that since the conviction the Driver had taken steps to secure a second licensed vehicle which could be used if the Driver found himself in a similar position again. Members had been satisfied with the remedial action taken in this regard.

Although in consideration of the overall circumstances members found that the Driver remained a fit and proper person to hold a licence, they considered that formal action of a written warning was appropriate due to the insurance related conviction obtained. The written warning would remain on file with the Licensing Authority.

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

## **7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 577925**

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. 577925 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 obtained a conviction in November 2011 for conspiring/producing a controlled drug Class B cannabis together with motoring convictions obtained between July 2021 and December 2022 for speeding (currently six valid penalty points on his DVLA driving licence);
- (iv) background information and associated documentation having been provided relating to the case including details of the convictions obtained and the Applicant's explanation of events, supporting personal statement and character reference from his current employer;
- (v) the Council's policy with regard to the relevance of convictions and suitability of applicants and licensees, and
- (vi) 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 in support of his application.

The Licensing Enforcement Officer (NS) submitted the report and facts of the case.

The Applicant referred to his written submission contained within the report and also read out a pre-prepared written submission in support of his application in which he provided some context to the convictions obtained and his personal circumstances including his employment history to date and personal attributes with a view to demonstrating that he was a fit and proper person to hold a licence.

The Applicant responded to questions regarding his current employment which also involved transporting passengers together with other driving related work undertaken, the motivation behind his application, and further details relating to his convictions, mitigation, rehabilitation and subsequent good conduct and character.

Officers also responded to questions confirming that the conviction obtained in November 2011 would be considered spent in November 2024. In the event that members were minded to grant the application it would be subject to the satisfactory completion of the knowledge test and usual routine checks.

In terms of a final statement the Driver confirmed he had nothing further to add.

The Committee adjourned to consider the application and it was –

***RESOLVED*** that Applicant No. 577925 was a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence and that the application be granted subject to the satisfactory completion of all routine checks in connection with an application of this type and completion of the Knowledge Test to the required standard.

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

Members had carefully considered the evidence before them and had deliberated at length before finally reaching their decision.

The Committee considered that the Applicant had been convicted for a serious drug related offence and this conviction itself was given significant weight given that the overriding aim of a licensing authority when carrying out its functions relating to the licensing of drivers was protection of the public. It also found this a serious matter pursuant to their policy guidance concerning drugs related offences.

Members considered the policy guidance which stated that a licence must not be granted until 10 years after the completion of a sentence for a drug related offence. However, members decided to depart from guidance on this aspect given the short length of time until 10 years post-completion. Members considered it had been a long amount of time since the conviction and sentence and that the Applicant had subsequently taken steps to rehabilitate himself and were encouraged that he had not committed similar offences since.

Members were also encouraged that the Applicant had complied fully with the requirements of probation and had since held positions of trust and responsibility in subsequent employments. Therefore, the Applicant was considered unlikely to offend in such a manner again and attached weight to these factors in determining that the Applicant was a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Committee expressed concern about the separate speeding offences which had occurred within a short space of time. Members did note that they may be considered 'lower level' but found the repeated pattern of behaviour cause for concern.

Although the Committee was concerned about the three speeding offences and subsequently the effect this would have on the Applicant's standard of driving, they considered the evidence provided in the reference from the Applicant's current employer with zero alerts for speeding. This aspect was given significant weight although the reference in general was also given weight by the Committee in deciding that the Applicant was a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence.

Overall, the Committee considered that the Applicant's character and all the circumstances in their entirety were enough to outweigh their concerns in reaching the decision that the Applicant was a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence.

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

The meeting concluded at 11.40 am.