

## **LICENSING COMMITTEE**

Minutes of a meeting of the Licensing Committee held in Council Chamber, County Hall, Ruthin on Wednesday, 4 March 2015 at 9.30 am.

### **PRESENT**

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Hugh Irving, Barry Mellor (Vice-Chair), Arwel Roberts and Cefyn Williams (Chair)

**Observers:** Councillor Meirick Davies and Alice Jones

### **ALSO PRESENT**

Principal Solicitor (Conwy County Borough Council) (SD); Public Protection Manager (EJ), Licensing Officers (NJ & JT) and Committee Administrator (KEJ)

### **POINT OF NOTICE**

Councillor Bill Cowie queried the reasoning behind Agenda Item 12 – Street Trading Consent Application being considered as a confidential item under Part 2 of the agenda. Officers reported upon the secondary consultation process carried out by the Local Member and explained that those consultation respondents had not given consent for their comments to be shared publicly. Consequently that information must remain confidential.

#### **1 APOLOGIES**

Councillors Pat Jones and Win Mullen-James

#### **2 DECLARATION OF INTERESTS**

No declarations of personal or prejudicial 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 3 December 2014 and Special Licensing Committee held on 12 January 2015 were submitted.

#### **Matters Arising – 12 January 2015**

During the meeting a statement had been submitted from a taxi proprietor regarding the state of the taxi industry in Denbighshire. The Public Protection Manager confirmed that officers were looking into the issues raised with a view to reporting back to the committee thereon.

**RESOLVED** that the minutes of the meetings held on 3 December 2014 and 12 January 2015 be received and confirmed as a correct record.

## **5 PROPOSED AMENDED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER DRESS CODE**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Hackney Carriage and Private Hire Driver Dress Code for consideration and approval.

Licensing Committee on 24 September 2014 had approved the Driver Dress Code for consultation. Details of the consultation exercise and workshop session with licence holders had been included within the report and the outcomes included –

- one written response welcoming the Dress Code and putting forward a number of additional suggestions for consideration, and
- points raised during the workshop session together with the reasoning behind any proposed changes as a result.

The committee welcomed the introduction of a Dress Code as a means of improving standards of dress and creating a favourable impression on visitors and residents alike. Members noted the points raised during the consultation process regarding acceptable standards of dress and there was some discussion regarding the appropriateness of drivers wearing shorts. Some members felt tailored shorts to the knee and below would be appropriate and comparisons should not be made to uniforms/dress codes of much larger/different organisations, particularly given that many drivers were self-employed. However other members felt wearing shorts did not convey a professional image of the trade and highlighted the difficulty of adjudicating on the different types of shorts worn. Some reservations were also expressed regarding enforcement of the Dress Code generally and ensuring parity when dealing with breaches under the penalty point system. It was accepted that implementation of the Dress Code would need to be carefully monitored and officers provided assurances that the Dress Code would be introduced on a gradual basis prior to formal enforcement. An evidence based approach would be taken when issuing penalty points which also included an appeal process. The role of taxi proprietors in ensuring compliance with the Dress Code was discussed but it was recognised that the majority of drivers were self-employed and that the onus was on individual drivers to ensure they complied with requirements.

Members considered the report recommendations and Councillor Hugh Irving proposed an amendment to the Dress Code, seconded by Councillor Stuart Davies, prohibiting shorts being worn. Upon being put to the vote it was –

**RESOLVED** that –

- (a) *subject to an amendment to 4.2, ii to read “no shorts may be worn” the revised Hackney Carriage and Private Hire Vehicle Dress Code as detailed at Appendix B to the report be approved to replace the existing Dress Code*

*currently found in the hackney carriage and private hire licensing conditions “Blue Book”, and*

*(b) the Dress Code be implemented with effect from 1 May 2015.*

Councillors Joan Butterfield and Bill Cowie voted against the amendment in (a) above.

## **6 PROPOSED CODE OF GOOD CONDUCT FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting a proposed Hackney Carriage and Private Hire Driver Code of Good Conduct for consideration and approval.

Licensing Committee on 24 September 2014 had approved the Driver Code of Good Conduct for consultation. Details of the consultation exercise and workshop session with licence holders had been included within the report. No response had been received from licence holders in response to the consultation and licence holders attending the workshop session agreed no amendments were necessary. It was noted that breaches would be dealt with by use of the penalty point system.

During debate reference was made to a recent incident involving a fight between two taxi drivers whilst on duty. In light of this incident Councillor Joan Butterfield felt that some sanction should be included in the Good Conduct Code for such cases. Members discussed whether a specific sanction could be accommodated within the Code bearing in mind the particular circumstances of individual cases and any subsequent sanction which may be imposed as a result of criminal proceedings. It was noted that imposing a suspension would prohibit any further action being taken at a later stage. Similarly imposing an immediate revocation without first hearing the circumstances of the case could prove costly to the Council. Consequently it was agreed that officers seek advice regarding the legalities of imposing a sanction within the Code for this purpose and report back to a future meeting of the committee thereon. Councillor Hugh Irving drew members' attention to the final note at the end of the Code relating to alcohol and drug misuse and he asked that consideration also be given to imposing a specific sanction in this regard. Members were reminded that the Council had recently adopted a robust all Wales Hackney Carriage and Private Hire Conviction Policy which covered drink and drug offences. Finally reference was made to recent changes to the law regarding drug driving and members were advised that this new legislation would be enforced by the Police.

**RESOLVED** that –

*(a) the Hackney Carriage and Private Hire Driver Code of Good Conduct, as detailed in Appendix A to the report, be approved with effect from 1 May 2015, and*

*(b) officers seek legal advice on the legalities of imposing a sanction within the Code of Good Conduct for cases involving violence by taxi drivers whilst on*

*duty together with sanctions relating to alcohol and drug misuse, and report back to a future meeting of the committee thereon.*

## **7 HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS - PROPOSED AMENDMENTS RELATING TO TIPPING OF SEATS FOR PRIVATE HIRE VEHICLES**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) seeking approval of the removal of condition 2.1(h) contained within the hackney carriage and private hire conditions relating to seat tipping for private hire vehicles.

Licensing Committee on 3 December 2014 had approved formal consultation on the proposal to remove the condition relating to seat tipping in private hire vehicles following the latest Department of Transport guidance and concerns raised by operators. Two consultation responses had been received in favour of removing the condition. Officers confirmed a review of the hackney carriage vehicle specification relating to the removal of the condition would be carried out and reported back to a future meeting of the committee.

***RESOLVED*** that condition 2.1(h) contained within the hackney carriage and private hire conditions (“Blue Book”) be removed with immediate effect.

## **8 REVIEW OF SEX ESTABLISHMENT POLICY**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) regarding amendments to the regime authorising the licensing of premises which provided sexual entertainment.

Licensing Panel on 19 September 2001 formally adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which made provision for the licensing of sex establishments. Applications for lap dancing clubs had been licensable since 2005 under the Licensing Act but Section 27 of the Policing and Crime Act 2009 reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. However those powers were not mandatory and would only apply where they had been specifically adopted by local authorities. Consequently members were asked to consider whether to adopt the provisions of Section 27 which would entail a public consultation prior to implementation. The committee agreed that steps should be taken with a view to adopting the necessary legislation and amending the current Sex Establishment Policy in that regard.

Officers confirmed that the sex establishment licensing regime did not include the licensing of Pole Dancing Academies.

***RESOLVED*** that –

- (a) *officers be requested to compile a draft revised Sex Establishment Policy that is fit for purpose for submission to a future meeting prior to undertaking a public consultation, and*
- (b) *the provisions of Section 27 of the Policing and Crime Act 2009 be adopted and incorporated within the draft revised Sex Establishment Policy.*

## **9 REVIEW OF STREET TRADING POLICY**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) recommending a review of the existing Street Trading Policy.

Background information regarding the legislation governing street trading had been provided within the report which included legal exemptions and types of trade regulated by other means/authorities. Officers reported upon the reasoning behind the recommendation to review the existing Street Trading Policy to ensure it was fit for purpose taking into account difficulties experienced in administering and enforcing the current policy and any new legislative requirements and guidance.

Members discussed with officers the regulation of particular activities and whether they constituted street trading or required other forms of consent including problems associated with forecourt trading, car selling and advertising. It was established that in terms of forecourt trading action could be taken under the Highways Act in cases of obstruction and action had been taken by the authority in respect of car sales. Breaches of advertising regulations could be dealt by the Planning Department. The Chair asked officers to take into account all those points when undertaking the review together with the sale of goods for charitable purposes. Councillor Bill Cowie volunteered to be the committee's liaison on the development of the draft policy and the Principal Solicitor confirmed he would have no conflict of interest when the draft policy was subsequently presented to committee.

***RESOLVED*** that –

- (a) *officers be authorised to draft a Street Trading Policy that is fit for purpose, and*
- (b) *Councillor Bill Cowie be nominated to liaise with officers whilst the draft policy was being developed and authorise officers to undertake any necessary consultation before presenting members with a proposed Street Trading Policy.*

## **10 SCRAP METAL DEALERS ACT 2013 - UPDATE ON THE PROPOSED POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) updating members on progress with preparing a Scrap Metal Dealers Policy.

Members had previously agreed to consider an All Wales policy for the Scrap Metal Dealers licensing regime. On 21 January 2015 the Licensing Expert Panel (LEP)

agreed a final version of the policy for circulation to all Welsh licensing authorities for comments. It was anticipated that the final policy would be submitted to the LEP on 22 April 2015 following which it would be presented to the Licensing Committee.

Councillor Hugh Irving welcomed the onset of the Act as a means of dealing with unscrupulous scrap dealers. Officers confirmed that the policy would help strengthen processes by providing a benchmark of the licensing authority's expectations and assist applicants and other agencies in understanding the statutory requirements and in submitting applications.

**RESOLVED** that the contents of the report be received and noted.

## **11 LICENSING COMMITTEE WORK PROGRAMME 2015**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme.

The Public Protection Manager confirmed that officers would report back to the committee on the implementation of the penalty point scheme as part of the monitoring process. In view of the problems experienced by the high number of taxis operating in Rhyl Councillor Joan Butterfield asked that consideration also be given to re-regulating and restricting the number of taxis in the area and that a review of the size and location of taxi ranks be undertaken.

Members also discussed their preferred location for future meetings and there were mixed views about whether to hold all meetings in Ruthin or to alternate between Ruthin and Rhyl. Councillor Stuart Davies was keen for some meetings to be held in Llangollen. Following a brief debate and upon being put to the vote it was –

**RESOLVED** that –

- (a) *subject to the above mentioned additions, the Licensing Committee's work programme be approved, and*
- (b) *to ensure parity across the county meetings of the Licensing Committee be held at County Hall Ruthin with a least two meetings a year held in the North of the county.*

At this juncture (10.40 a.m.) the meeting adjourned for a refreshment break.

## **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.

## **12 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING CONSENT APPLICATION**

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

- (i) an application received for Street Trading Consent for determination;
- (ii) the applicant proposing to operate a mobile catering trailer selling fast food at St. Asaph Business Park;
- (iii) officers having not been in a position to grant the application due to representations received opposing the application;
- (iv) referred to the Council's powers in determining the consent and current policy regarding street trading, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (NJ) provided a summary of the report and advised that the Applicant was not in attendance.

Councillor Alice Jones (Local Member) objected to the application and reported upon the consultation she had undertaken with local businesses in the vicinity of the proposed trading area and drew members' attention to the summary of responses received (as detailed within the report). Whilst there was some support for granting the application with advocates of greater choice and healthy competition between food outlets, there had also been a number of objections based on –

- overprovision of food outlets in the area
- direct competition and detrimental impact on the viability of existing catering businesses
- the difficulties in reconciling the selling of fast food with healthy eating aims
- concerns that the proposed mobile trailer would attract motorists from the A55 causing an increase in traffic and heavy goods vehicles into the business park
- potential problems causing by littering, and
- siting a mobile trailer not being in keeping with the image of the business park.

The committee considered the merits of the application and there was some support for granting the application and letting market forces prevail with members arguing that competition between businesses was healthy. Those members felt any problems associated with littering could be dealt with via licence conditions and considered the argument for motorists detouring from the A55 to be questionable. Other members felt the objections to be valid also arguing that there was an element of unfair trading with local businesses having more overheads. Upon being put to the vote it was –

***RESOLVED*** that the application for Street Trading Consent be refused.

The meeting concluded at 11.20 a.m.