

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Churton Road, Rhyl on Thursday, 22 September 2016 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Meirick Davies, Hugh Irving, Barry Mellor, Merfyn Parry, Pete Prendergast, David Simmons, Cefyn Williams (Chair) and Huw Williams (Vice-Chair)

### ALSO PRESENT

Principal Solicitor (AL), Senior Community Safety Enforcement Officer (TWE), Licensing Officer (JT), Community Safety Enforcement Officer (HB) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillor Stuart Davies.

#### 2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

The Chair declared that he intended to include for discussion the following matter requiring urgent attention –

##### **WHEELCHAIR ACCESSIBLE TAXIS**

Councillor Joan Butterfield highlighted a recent case whereby a number of wheelchair accessible taxis operating in the Rhyl area had refused to accept a booking to transport a wheelchair user. She referred to extra hackney carriage licences issued specifically for wheelchair accessible vehicles in order to provide that service and expressed serious concerns that taxis advertising that service refused to provide it. Officers were aware a number of taxis had been advertised as specialist wheelchair carriers and agreed to look into the matter further.

***RESOLVED** that officers investigate whether wheelchair accessible taxis operating in the area were providing an appropriate taxi service for wheelchair users and report back to members thereon.*

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 8 June 2016 and Special Licensing Committee held on 23 June 2016 were submitted.

**RESOLVED** that the minutes of the meetings held on 8 June 2016 and 23 June 2016 be received and confirmed as a correct record.

## **5 REVIEW OF STREET TRADING POLICY**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) informing members of progress with regard to the review of the current street trading policy within Denbighshire.

Officers provided some background to the current operation of the street trading regime which was being reviewed in order to address difficulties in the system and better regulate and support street trading within the county. 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. Members' views were sought on an initial draft (attached to the report) and officers intended to continue work on the draft, taking into account any new legislative requirements, prior to production of a final draft strategy for public consultation and subsequent consideration by the committee.

Discussion on the policy issues included the following –

- the proposal to introduce a system of “temporary block consents” as detailed in paragraph 4.3.3 of the report was fully supported by Councillor Barry Mellor in order to make it easier for organisers of community events and encourage attendance
- reference was made to the prohibited streets for street trading purposes in Rhyl and Prestatyn and officers confirmed that part of the review would include whether any change to the current system of prohibited and consent streets would be appropriate taking into account the different areas within the county in order to allow more flexibility within the scheme
- it was noted that Councillor Bill Cowie had been nominated the committee's liaison on development of the draft policy and officers confirmed that they would welcome his input in further developing the final draft – Councillor Cowie commended the work to date on the initial draft and supported officers continued work on the review as set out within the report.

Members queried whether or not the regulation of particular activities causing concern fell within the remit of street trading including parking permits issued to contractors working within town centres (which had caused some dissent in Rhyl Town Centre) and rogue traders operating from vehicles, particularly in rural areas. Officers advised that both issues fell outside of the street trading regime. Parking permits were authorised by Highways Street Works Section and the Chair asked that members take up any concerns in that regard directly with the Head of Highways. With regard to rogue traders members should direct concerns to the Trading Standards Section for investigation.

**RESOLVED** that the Licensing Committee –

- (a) *authorise officers to continue work on the draft Street Trading Policy taking into consideration any relevant forthcoming legislation which could impact on the regulation of street trading as drafted by the UK Government, and*
- (b) *authorise officers to consult on a draft policy, and taking into account any representations received, produce a final draft for members' consideration at their meeting in March 2017.*

## **6 LICENSING COMMITTEE FORWARD WORK PROGRAMME**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2016.

**RESOLVED** that the Licensing Committee's work programme 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 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1594/TXJDR**

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

- (i) the suitability of Driver No. 15/1594/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) details of the defects noted following presentation of the vehicle for a Compliance/MOT Test in May 2016 and issuing of 20 penalty points had been included within the report together with associated witness statements and documentation;
- (iii) the Driver having appealed the decision to award 20 penalty points on the basis that he had presented the vehicle for test beforehand at a different garage and the necessary repair works had been undertaken in accordance with the test failure and advisory notifications (the two items identified as 'dangerous' at the subsequent Test in May had not been identified during the initial test) – the Driver having failed to provide documentary evidence of his claims and following investigations officers refused the appeal, and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance in support of his case and confirmed receipt of the report and committee procedures.

The Licensing Enforcement Officer outlined the case as detailed within the report.

The Driver accepted the facts as detailed within the report apart from the failure to believe that he had presented the vehicle to the Testing Station beforehand. He argued that he had taken all reasonable steps to ensure fitness of the vehicle and detailed the sequence of events leading up to the Compliance/MOT Test Failure which included (1) refurbishment of the vehicle at a body shop; (2) presentation of the vehicle at a Testing Station where a pre-inspection was carried out which identified five defects; (3) submission of the vehicle to a different garage who repaired the identified defects, and (4) final presentation of the vehicle for requisite Compliance/MOT Testing which resulted in the test failure. The Driver provided evidence of payments made to each of the three separate garages identified in his submission although evidence of the work carried out and defects identified had not been provided. Documentary evidence was also provided in the form of a witness statement confirming collection of the vehicle from the Testing Station and its submission to a separate garage for repair work. Finally a letter from the Driver's Insurance Broker was submitted in support of his case. In closing his submission the Driver maintained that he had taken all reasonable steps to ensure compliance and had trusted professionals at three separate garages who had failed to identify the faults as listed on the failure notice. He provide assurances that immediate steps had been taken to repair the faults once they had been identified and that the vehicle had not been a danger to the public as it had been out of service during the period leading up to the test failure. Finally the Driver provided some general information regarding the management of his business and maintenance of his licensed vehicles without previous incident.

Members took the opportunity to raise questions with the Driver in order to further clarify the sequence of events and action he had taken in response to particular circumstances to ensure that the vehicle was in a safe and roadworthy condition together with questions regarding the general management of his business and vehicle maintenance regime. The Driver also responded to questions regarding the documentary evidence he had presented in support of his case and reasoning behind the lack of corroborating evidence in recording the vehicle inspection and repair work as detailed within his submission to the committee.

In his final statement the Driver advised that he had been honest in his submissions and drew members' attention to the evidence presented advising that he could provide further witness statements if required. He believed that he acted responsibly in this case and had been let down by other professionals.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the allegation made in respect of Driver No. 15/1594/TXJDR had not been proved and no action be taken.

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

Members had carefully considered all the evidence presented and the submissions by the Driver and his response to questions. The committee considered that the evidence in this case suggested that the Driver had followed the advice of other professionals, that he had taken his vehicle for a pre-inspection check, and had provided details of the work required to a garage for repairs which were carried out. The Driver had paid for those services. The vehicle was then presented for, and subsequently failed, the Compliance/MOT Test. The vehicle was then taken for further repairs whereupon it subsequently passed the Compliance/MOT Test.

Based on the evidence presented the committee accepted that the Driver had taken reasonable steps to ensure the fitness of his vehicle in this case and considered him to be a fit and proper person to hold a hackney carriage/private hire vehicle driver's licence. Members also recommended that the 20 penalty points issued to the Driver be removed forthwith.

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

The meeting concluded at 11.10 a.m.