

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 20 September 2017 at 9.30 am.

### PRESENT

Councillors Hugh Irving (Chair), Alan James (Vice-Chair), Brian Jones, Barry Mellor, Peter Scott, Tony Thomas and Huw Williams

### ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officers (NJ & JT), Enforcement Officers (HB & TB) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Melvyn Mile, Arwel Roberts and Rhys Thomas

#### 2 DECLARATION OF INTERESTS

Councillor Huw Williams – Personal Interest – Agenda Item 6  
Councillor Peter Scott – Personal Interest – Agenda Item 7

#### 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 28 June 2017 were submitted.

**Accuracy** – Councillor Tony Thomas had attended the last meeting but had been omitted from the list of members present as recorded within the minutes.

**RESOLVED** that, subject to the above point of accuracy, the minutes of the meeting held on 28 June 2017 be received and confirmed as a correct record.

#### 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.

#### 5 APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

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

- (i) a request having been received from a hackney carriage proprietor to licence a vehicle for the purposes of hackney carriage licensing;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the specification with regard to age limits as detailed in the Council's Private Hire and Hackney Carriage Vehicle Policy, Specification and Conditions, and
- (iii) the Applicant having been invited to attend the meeting in support of his application.

The Licensing Officer (NJ) presented the report and drew attention to the Council's policy which specified that vehicles subject of a new application must be no older than five years and explained there was no longer discretion in the policy to deviate from the age limit for older vehicles in exceptional condition. As the vehicle subject of the application was nine years old it did not comply with current specifications. Consequently members were asked to consider the Applicant's request to depart from the Council's policy in this case in order to grant the application as applied for.

The Applicant accepted that granting the application would be a deviation from the existing policy but urged members to do so in this case given the quality and condition of the vehicle; his commitment to its purchase, and the fact that he had been unaware of the policy change or he would have submitted the vehicle for licensing earlier. He also provided some background history to his business and his intention to license the vehicle in order to fulfil contract work effectively. The Applicant responded to members' questions regarding the timing of his application and the operation of his business, including acquisition of the vehicle for licensing.

With regard to the policy changes officers advised that a comprehensive consultation process had been undertaken following which information had twice been sent out to licence holders regarding implementation of the new policy and its implications with particular emphasis on the age limit for licensed vehicles. The Applicant was adamant that he had been unaware of the policy change and claimed that he had only been alerted to the fact by a fellow operator. In making his final statement he argued that rather than a deviation from policy, it was a technicality, as the request for licensing had been submitted one working day too late to be considered under the previous policy rules.

At this juncture the committee adjourned to consider the application and it was –

***RESOLVED*** that the request for the vehicle to be licensed as a hackney carriage vehicle be refused.

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

Members had carefully considered the case put forward by the Applicant and whilst there was some sympathy for his situation, on balance the committee did not consider a case had been made which would persuade them to deviate from their policy in this instance. The Council's policy stated that vehicles licensed under a

new application must be up to a maximum of five years old from the date of first registration. As the vehicle subject of the application in this case was nine years old it did not comply with the policy. The committee also considered that sufficient consultation had taken place with regard to the policy changes and sufficient notice had been given to licence holders in that regard, consequently the Applicant ought to have known about the change in policy.

The Chair conveyed the committee's decision and reasons therefore to the Applicant and he was advised of his right of appeal against that decision to the Magistrates Court within twenty-one days.

## **6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 519937**

[Councillor Huw Williams declared a personal interest in this item because the operator of the taxi services he used was a relative of the Applicant]

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. 519937 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of two motoring convictions relating to speeding offences in 2015 revealed following a routine check on the Applicant's DVLA Driving Licence which had not been disclosed by the Applicant;
- (iii) referred to the Council's policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was accompanied by a relative and confirmed he had received the report and committee procedures.

The Enforcement Officer (HB) introduced the report and facts of the case.

The Applicant elaborated upon his driving experience and employment history and professed to be an honest, trustworthy and careful driver. He had mistakenly believed that the two speeding convictions revealed by the DVLA check had been spent and referred to his error in completing the application form for which he was genuinely sorry, providing assurances that there had been no intention to deceive. He also advised that if members were minded to grant his application he had secured employment with a local taxi firm. In making his final statement the Applicant reiterated that non-disclosure of the motoring convictions had been a genuine mistake on his part for which he was truly sorry and he provided assurances that he was a competent driver.

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. 519937 be granted with a formal warning issued as to his future conduct.

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

Members had carefully considered the facts of the case and explanation provided by the Applicant with regard to the offences and reasoning behind his non-disclosure of relevant motoring convictions. The committee found the explanation provided by the Applicant to be credible and his remorse over the omission to be genuine. Consequently members found the Applicant to be trustworthy and of good character and considered him to be a fit and proper person to hold a licence. However, the non-disclosure of convictions was a serious matter and cause for concern and members impressed upon the Applicant the importance of full and correct disclosure and it was agreed that a formal warning be issued as to his future conduct and a record kept on file.

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

## **7 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 520399**

[Councillor Peter Scott declared a personal interest in this item because a relative of the Applicant and his taxi business was known to him].

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

- (i) a renewal application having been received from Applicant No. 520399 for a licence to drive hackney carriage and private hire vehicles;
- (ii) a routine check on the Applicant's DVLA Driving Licence having revealed a speeding conviction in January 2017 which had not been disclosed by the Applicant in accordance with licensing conditions or on his renewal form;
- (iii) the Council's policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by a relative and confirmed he had received the report and committee procedures.

The Enforcement Officer (TB) introduced the report and facts of the case.

The Applicant explained that in rushing to complete the renewal application on time he had not realised that he should have declared the speeding offence as a conviction given that he had never been in trouble with the law or had any traffic

convictions before then. He explained the circumstances surround the speeding conviction during which time he had been distracted by the conduct of his passengers. The Applicant also provided some written character references from customers attesting as to his good character and his relative, who was his employer, also spoke of his trustworthiness and reliability.

During questioning it was accepted that it was clearly stated on the form that the convictions referred to motoring convictions. The Applicant advised that in his haste to complete the form he had overlooked that reference and claimed that it was a genuine mistake not to disclose the speeding conviction and not a case of dishonesty. He confirmed that it was his first renewal form and in completing his original application form he had no motoring convictions to disclose. In his final statement the Applicant apologised to the committee for his error.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 520399 be granted with a formal warning issued as to his future conduct.

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

Members had carefully considered the facts of the case and mitigation put forward by the Applicant in terms of his non-disclosure. The committee accepted the character references submitted attesting to the Applicant's good character and also accepted his explanation as to his non-disclosure of his speeding conviction. Consequently members considered the Applicant to be a fit and proper person to hold a licence and decided to grant the renewal application. However the non-disclosure of the speeding conviction was a cause for concern and members considered it appropriate to issue a formal warning as to future conduct.

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

At this juncture (10.50 a.m.) the meeting adjourned for a refreshment break.

## **OPEN SESSION**

Upon completion of the above business the meeting resumed in open session.

At this point it was agreed to vary the order of the agenda in order to accommodate individuals attending for particular items.

## **8 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER REGIME**

The Licensing Officer (NJ) submitted a report (previously circulated) regarding the development of a Hackney Carriage and Private Hire Vehicle Driver Policy to better regulate and support the hackney carriage and private hire regime in the county.

Whilst drivers were subject to various checks to assess their suitability there was currently no written policy and officers sought members' views on the regime and

specific areas for improvement as detailed within the report. Members' attention was also drawn to the Welsh Government consultation document (attached to the report) on the reform of taxi legislation which could impact on future regulation and would be taken into account when developing the policy.

Members considered the report and discussed the potential areas of improvement as follows –

**Medicals** – there was general support to move to the Group 2 Standards of Medical Fitness as applied by the DVLA to HGV and bus drivers. Officers confirmed that drivers were required to inform the licensing authority of changes in medical history and this element would be written into the new policy.

**Qualification** – there was currently no qualification for licensed drivers and members welcomed the introduction of a suitable qualification for new applicants which could also be used as an additional enforcement tool for any taxi licensing breaches in order to raise standards and improve behaviour. Officers advised of nationally recognised qualifications covering areas such as customer service and driving standards which were utilised by other local authorities. Members asked that officers undertake further research into potential course options and cost implications, including those courses utilised by other local authorities. It was confirmed that the cost of the course would be met by the individual and not the licensing authority.

**Age and Driving Experience** – members discussed the possibility of introducing a minimum age restriction to ensure applicants had appropriate experience and knowledge of driving but were also careful to consider age discrimination and the Equality Act. The committee agreed that driving experience was an important criteria which must be demonstrated by all applicants.

In addition to the above members discussed with officers whether more could be done to ensure drivers declared motoring convictions both to the licensing authority and insurance companies, particularly given the implications for non-disclosure. It was agreed that the application forms be reviewed to assess whether this aspect could be further highlighted and made clearer to applicants and officers also confirmed that an additional reference could be included on the form asking applicants to declare that they had notified their insurance company of relevant motoring convictions. Stronger warnings about the non-disclosure of convictions could also be included in the Driver Conviction Policy. Officers provided assurances that proactive steps were being taken to address the issue and discussions were ongoing with the Police with a view to sharing information about driver convictions.

**RESOLVED** that –

- (a) *the contents of the report be noted, and*
- (b) *officers be instructed to start work on a draft policy taking into account members' views as detailed above and any developments from the Welsh*

*Government process, and authorise Denbighshire's consultation with interested parties, and report back to a future meeting of the committee.*

## **9 PROPOSED CHANGES TO TAXI LICENSING FEES AND TARIFF CHARGES**

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) seeking members' approval of revised fees and charges for hackney carriage and private hire licensing proposed to be introduced alongside changes to make the licensing process more efficient.

The Council could charge fees for licences in respect of hackney carriage and private hire licensing to cover costs relating to administration, inspection, control and supervision. Enforcement costs could not be included and a profit could not be made. Consequently a fees and charges methodology had been devised to allow for a detailed review of fees and charges in line with relevant licensing processes. It was also proposed to realign the fees structure to accommodate changes made to the licensing process to better aid administration in a way which would not disadvantage licence holders. Any change to fees and charges would be subject to public notice with any objections being brought back before the committee. It was noted that, save for an increase to the Private Hire Driver fee in 2009, there had been no increase in fees and charges for taxi licensing since April 2008.

The PPBM clarified a number of issues in response to questions regarding the fee structure, particularly in relation to the proposed new private hire operators' fee dependent upon the number of vehicles operated, and confirmed that vehicle licence fees remained broadly the same, as did drivers save for a cost saving in light of the opportunity for drivers to apply for a new or renewal of licence for a period of three years rather than an annual basis in line with the new processes.

Reference was also made to the proposal to carry out a review of taxi meter tariff charges and implement a consultation on those changes with findings being reported to Cabinet for implementation. It was clarified that the taxi meter tariffs related to the maximum fees and charges set and operators could charge a lower amount. Given the setting of the taxi meter tariff charges was a Cabinet decision members supported the Chair's suggestion that the proposed charges be brought before the Licensing Committee for consideration and recommendation to the Cabinet for implementation.

**RESOLVED** that members –

- (a) approve the fees and charges as detailed in Appendix A to the report;*
- (b) authorise officers to publish the changes to the Taxi Licensing fees in a local newspaper for the necessary consultation, and if no objections are received, they will come into effect on 1 December 2017;*
- (c) request that where any objections are received, the Licensing Committee will consider those objections at their next meeting with a view to implementing (with or without modification) not later than 1 January, 2018;*

- (d) *note the administrative changes to the licensing regime, and*
- (e) *authorise officers to conduct a review of taxi meter tariff charges and consult as necessary with a view to reporting findings to the Licensing Committee for consideration and recommendation to the Cabinet for implementation.*

## **10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2017/18**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2017/18.

Members were reminded that the work programme was a live document and regularly updated as appropriate.

**RESOLVED** *that the Licensing Committee's forward work programme as detailed in Appendix 1 to the report be approved.*

## **11 REVIEW OF STREET TRADING POLICY**

The Licensing Officer (JT) submitted a report (previously circulated) updating members on progress with the review of the current Street Trading Policy in Denbighshire.

In 2015 the Licensing Committee authorised officers to review the existing street trading policy in order to address difficulties with the regime and suggest improvements to better regulate and support street trading within the county. A draft policy was considered by the Licensing Committee in December 2016 and it was agreed that an initial consultation be undertaken with City, Town and Community Councils along with internal council departments. Comments received as a result of that initial consultation had been incorporated into the draft Street Trading Policy which had been subject public consultation. No comments had been received as a result of the public consultation exercise. However feedback from individuals and teams within the Council had raised further issues for consideration and officers proposed that further discussions take place with local "fixed" traders, street traders, communities and the wider Council teams prior to finalising a policy for presentation to the Licensing Committee.

Members noted progress with the review of the Street Trading Policy it was –

**RESOLVED** *that members authorise officers to continue work on a draft street trading policy and engage with relevant groups and individuals to develop such a draft policy for presentation at a future Licensing Committee.*

## **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 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 520398

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

- (i) a renewal application having been received from Applicant No. 520398 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the renewal application following accrual of 9 penalty points on the Applicant's DVLA Driving Licence for minor traffic offences covering the period October 2013 to February 2017 (relating to breach of requirements as to control of the vehicle and failure to comply with traffic light signals) which had been confirmed following a routine check as part of the renewal application;
- (iii) the Council's policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and confirmed receipt of the report and committee procedures.

The Enforcement Officer (HB) introduced the report and facts of the case.

The Applicant explained the circumstances surrounding the three traffic offences, the first offence related to his use of a hands free phone which he understood had been spent, the second offence he had accepted, and the third offence had been due to the result of an altercation between passengers in his vehicle. He also provided information regarding to his personal circumstances in mitigation for his actions and frame of mind. The Applicant answered members' further questions relating to the three offences and confirmed that he had been a licensed driver for nearly twenty years. In his final statement the Applicant asked members to take into account his mitigation and previous good record when making their decision.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 520398 be granted with a formal warning issued as to his motoring convictions and future conduct.

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

Members carefully considered the facts of the case and mitigation put forward by the Applicant. Concern was expressed regarding the accumulation of penalty points but having considered the mitigation, including the Applicant's previous good record, and given that the first offence had occurred over three years ago, the committee was satisfied that the Applicant was a fit and proper person to hold a licence. There was some debate regarding the imposition of a sanction given the

accumulation of penalty points and consideration was given to suspending the licence for an appropriate period. On balance however it was decided that a formal warning be issued as to future conduct. It was noted with regard to his failure to comply with traffic light signals on two occasions that he knew the area to be a hotspot and should proceed with more caution and a third conviction for the same offence would not be looked upon favourably by the committee.

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

### **13 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 516098**

Members were advised that this application had been withdrawn from the agenda.

### **OPEN SESSION**

Upon completion of the above business the meeting resumed in open session.

### **14 REQUEST FOR ADVERTISING ON A HACKNEY CARRIAGE VEHICLE**

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

- (i) a request from a Hackney Carriage Proprietor for approval to display emblems on his licensed vehicle (Appendix A to the report);
- (ii) referred to the Council's existing policy and vehicle specification setting out acceptable requirements relating to signage, advertising and livery of licensed vehicles (Appendix B to the report), and
- (iii) highlighted potential implications for public safety in granting requests to display sporting emblems and patriotic signage and queried whether the existing policy should be amended on that basis.

The Licensing Officer (JT) provided a summary of the report and reasoning behind the request being referred to committee given the potential implications when granting permission for emblems of this type which may attract unwelcome attention, with concerns for driver safety if someone took issue with particular signage.

The Applicant advised that he had supported Lancashire County Cricket Club for many years and had displayed the emblem on his licensed vehicles previously. He submitted that in a democratic society the signage was appropriate and inoffensive and he wished to demonstrate his loyalty to the Cricket Club by displaying the emblem on his vehicle. Officers also considered there may be a perception from the public that the vehicle had been endorsed by the Cricket Club if such emblems were displayed. In response the Applicant indicated that sponsored cars usually had graphics displayed heavily across the vehicle.

The committee adjourned to consider the application and it was –

**RESOLVED** that –

- (a) *the request to display emblems be granted as applied for, and*
- (b) *future requests to display emblems be considered individually on their own merits.*

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

Having considered the report and Applicant's submission members were satisfied that it was appropriate for the emblems to be displayed on the vehicle as applied for. It was acknowledged that particular emblems of this type may attract unwanted attention but members considered that a policy change was not required and that each request should be determined on its own merits.

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

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

The Licensing Officer (JT) submitted a report (previously circulated) updating members on progress with the review of the Council's Statement of Principles for the Gambling Act 2005.

Members were reminded of the statutory requirement to review the Statement of Principles every three years. The draft document had been developed by the six licensing authorities in North Wales to ensure consistency in matters relating to Gambling issues and functions and 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. Members had approved the draft policy for formal consultation at their last meeting and details of the consultation process had been provided within the report.

Members noted progress with the review of the Council's Statement of Principles for the Gambling Act 2005 and it was –

**RESOLVED** *that members note the contents of the report and authorise officers to continue work on the draft policy by compiling any responses received and present members with a final version for consideration at the next meeting in December 2017.*

The meeting concluded at 12.25 p.m.