

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 6 December 2017 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James (Vice-Chair), Brian Jones, Barry Mellor, Melvyn Mile, Arwel Roberts, Tony Thomas and Huw Williams

ALSO PRESENT

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

1 APOLOGIES

Councillors Peter Scott and Rhys Thomas

2 DECLARATION OF INTERESTS

Councillor Hugh Irving – Personal and Prejudicial Interest – Agenda Item 5
Councillor Barry Mellor – Personal and Prejudicial Interest – Agenda Item 6

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 20 September 2017 and Special Licensing Committee held on 18 October 2017 were submitted.

***RESOLVED** that the minutes of the meetings held on 20 September 2017 and 18 October 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 items 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 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 523920

[Councillor Hugh Irving (Chair) declared a personal and prejudicial interest in this item because the applicant and his representative were known to him personally

and he left the meeting during consideration of the application. Councillor Alan James (Vice Chair) took the Chair for the item.]

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. 523920 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the renewal following accrual of nine penalty points on the Applicant's DVLA Driver's Licence for speeding offences covering the period November 2015 to November 2016 which had been confirmed following a routine check as part of the renewal application;
- (iii) mitigation having been put forward by the Applicant during interview regarding the traffic offences together with assurances regarding his driving conduct;
- (iv) the Council's policy with regard to the relevance of convictions, and
- (v) 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 his employer 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 all three speeding offences had coincided with major upheavals in his personal life which had since been resolved. He accepted that there was no excuse for speeding and apologised profusely in that regard. His employer also spoke in support of the Applicant advising that he was a long standing driver with an accident free record and the speeding offences had been out of character.

In response to members' questions the Applicant elaborated upon the circumstances surrounding the speeding offences and provided assurances regarding his driving competency and behaviour should a similar situation occur in the future. It was established that he had not been offered or undertaken a speed awareness course prior to or since accruing the penalty points. In terms of his fitness to drive a medical certificate had been obtained. Members noted that whilst the Applicant had disclosed the latest speeding offence to his employer, neither had informed the licensing authority of the conviction, although it was the Applicant's responsibility to do so within seven days in accordance with licensing conditions. In his final statement the Applicant reiterated his regret over the speeding offences.

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. 523920 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 circumstances of the speeding offences and mitigation put forward by the Applicant together with his assurances as to future conduct and his employer reference. It was also noted that no further motoring offences had been committed in the last twelve months. The committee found the Applicant to be genuine and remorseful of his actions, and after taking into account his previous long standing good character and the support of his employer, accepted his assurances with regard to future conduct. 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 accumulation of nine penalty points for speeding offences in a relatively short period of time was of serious concern and consideration was given to suspending the licence for an appropriate period. On balance however it was decided to issue a formal warning as to future conduct in this case.

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

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

[Councillor Barry Mellor declared a personal and prejudicial interest in this item because the applicant was known to him and he left the meeting during consideration of the application.]

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. 516098 for a licence to drive hackney carriage and private hire vehicles;
- (ii) the Applicant having been previously licensed by the authority and brought before the Licensing Committee on three separate occasions in January 2010, March 2011 and March 2016 resulting in formal warnings on the first two occasions and revocation of his licence on the final occasion;
- (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 his union representative and confirmed he had received the report and committee procedures.

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

The Applicant's representative provided some background information relating to the Applicant's previous history as a licensed driver, highlighting that the council had failed to provide the appropriate formal training as directed by the committee in March 2011 and referred to the subsequent impact and circumstances of the case in 2016 leading to revocation of the Applicant's licence to drive hackney carriage and private hire vehicles. Previous complaints had been made whilst the Applicant had been undertaking school contract work but there had been no issue when carrying out general mainstream taxi licensing work. Consequently the Applicant submitted that if he was granted a licence he would not undertake school transport work. A reference from the Applicant's current employer was read out at the meeting highlighting a number of qualities and recommending him for employment.

Members took the opportunity to question the Applicant in order to ascertain whether or not they considered him a fit and proper person to hold a licence. The Applicant clarified that, if a licence was granted, he would not undertake any school contact work but would transport children in the usual course of taxi driving, i.e. pick-ups from the street/rank or pre-booked work. He had grandchildren himself so was aware of their behaviours and submitted that it would be fine provided children were accompanied by an adult to keep them under control and ensure they did not interfere with his driving. He acknowledged that he may be faced with challenging behaviour from youngsters late at night and advised that he would be able to cope having transported children previously with no problems. With regard to training the Applicant confirmed that he had not received training on carrying special needs children but had received the mandatory Child Sexual Exploitation awareness training recently introduced as part of the Council's application process.

During further questioning of the Applicant and officers it was established that –

- the committee in March 2011 had imposed a condition which required the Applicant to undertake appropriate formal training in respect of carrying special needs children within 28 days. However, it had not been clarified who was responsible for providing that training and whilst some driver training had been organised by the School Transport Section it had not specifically involved carrying special needs children. The Applicant's representative argued that the onus had been on the council to facilitate that training provision. It was noted that whilst provision of such training may have been limited in 2011 there was now a plethora of training organisations who would be able to offer that type of training and the Applicant indicated he would be willing to undertake such training as required
- if a licence was granted it would qualify the Applicant to transport children and any other person, vulnerable or otherwise, at any time, in a licensed vehicle.

The Applicant's representative made a final statement reiterating that previous complaints related solely to when the Applicant had undertaken school transport work and not in any other capacity and had been a civil matter with no police involvement. Whilst the Applicant would have the opportunity to pick-up and transport children when working as a licensed driver, no parent should allow children to travel alone with a driver not known to them until they were of a particular age.

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. 516098 be refused.

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

The Committee found that the Applicant had failed to demonstrate he was a fit and proper person to hold a hackney carriage and private hire vehicle licence, specifically –

- the Applicant failed to show an appreciation for the office of taxi driver or acknowledge that this was a position of trust placed in him by the local authority
- the Applicant acknowledged previous complaints made against him when carrying out his duties as a taxi driver in relation to school contract work and had provided no evidence or assurance against future complaints in terms of his conduct in that regard, instead he advised that he would not undertake any school contracts which failed to give the Committee any confidence in his abilities or behaviour
- by voluntarily excluding himself from school contract work the Applicant also failed to demonstrate that he had the trust and confidence in himself to undertake the duties required of a licensed driver
- despite being aware from his previous history that training in carrying special needs children would assist him, notwithstanding that the local authority did not provide training, he had failed to undertake any training of his own volition which may have assisted him or given confidence to the local authority with regard to his competencies and behaviour
- despite the fact that the Applicant had indicated he would not undertake school contract work, granting a licence would place him in a position of trust and qualify him to transport children and vulnerable adults, and this was given great emphasis by the Licensing Committee
- in response to questions of the Committee the Applicant advised that he would only carry children if an adult was there to supervise so that he could concentrate on his driving. The Committee felt that such a response showed that he had no appreciation of the realities of driving a taxi with children who may be unaccompanied (e.g. 14 year old going to a party). The Committee had to have confidence in the Applicant if such a situation arose. The Applicant failed to provide any assurances to the Committee and as such they did not have the confidence in him when he may be in a situation of carrying children and vulnerable adults
- in terms of the Applicant's past history and behaviours no evidence was presented to the Committee to persuade them that he would act any differently in the future
- there was a lack of remorse shown for past events and the Applicant had failed to acknowledge or demonstrate any understanding or learning from them
- the Applicant had only brought one reference in support of his application, from his current employer, however it was noted that his current position would not involve the carrying of other passengers mainly the delivery of food

Given that the overriding consideration of the Committee was one of public safety, and taking into account the Applicant's past behaviour, his submissions and responses to questions, he failed to demonstrate to the Committee that he was a fit and proper person to hold a licence to drive hackney carriage and private hire vehicles. Consequently the Committee resolved to refuse the application.

The committee's decision and reasons therefore were conveyed to the Applicant together with the right of appeal against the decision to the Magistrates Court within 21 days.

At this juncture (11.05 a.m.) the meeting adjourned for a refreshment break.

7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 517116

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

- (i) re-consideration of an application received from Applicant No. 517116 for a licence to drive hackney carriage and private hire vehicles following an appeal against refusal of the application by the Licensing Committee in June 2017;
- (ii) detailed convictions revealed following an enhanced disclosure to the Disclosure and Barring Service (DBS) relating to offences committed in 1998 under the Road Traffic Act 1988 which had not been disclosed by the Applicant and the accumulation of fourteen penalty points on his DVLA Driving Licence relating to traffic offences committed during 2014 and 2015, one of which had not been disclosed by the Applicant;
- (iii) relevant documentation relating to the case including details of the Applicant's formal interview having been attached to the report;
- (iv) referred to the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was accompanied by his legal representative and confirmed he had received the report and committee procedures.

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

The Applicant's legal representative highlighted the difficulties when different rules were applied by different organisations which had led to a misunderstanding with regard to the disclosure of relevant convictions as part of the application process in this case. There had been no attempt by the Applicant to deceive or hide any information which had been borne out by the submission of the DBS check and known routine check of the Applicant's DVLA driving licence. Reference was made

to the timing of the motoring convictions obtained by the Applicant and those 'spent' convictions which remained on record for a further twelve months and there had been no convictions for motoring offences for over two years. It was submitted that the Applicant had accepted his mistake and was of good character and possessed the necessary qualities to be a responsible and trustworthy licensed driver.

Members were advised of two issues to consider in this case, (1) the non-disclosure of relevant convictions, and (2) the penalty points which remained valid in respect of the application. The Applicant responded that he had been advised that the 'spent' convictions would not debar him from obtaining a licence and he accepted that three penalty points remained valid on his licence and had been disclosed. He also confirmed that he had an offer of employment should the licence be granted.

In his final statement the Applicant's legal representative reiterated that a genuine mistake had been made with regard to the non-disclosure for which the Applicant had apologised and he asked members to look favourably on the application.

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. 517116 be granted with a formal warning issued as to his future conduct.

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

Having considered the explanation by the Applicant with regard to the offences and non-disclosure of relevant offences members accepted that he had made a genuine mistake on this occasion and there had been no intention to deceive. It was noted that the motoring offences had occurred some time ago and the Applicant had a period free from convictions for over two years. Whilst there remained some valid points on the Applicant's DVLA Licence the committee did not consider them so serious as to make him unfit to act as a licensed driver. Consequently members found the Applicant to be a fit and proper person to hold a licence and agreed to issue a warning as to his future conduct in light of the convictions received.

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

8 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. DR186

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. DR186 for a licence to drive hackney carriage and private hire vehicles;
- (ii) a routine check on the Applicant's DVLA Driving Licence having confirmed the accumulation of twelve penalty points for speeding offences covering the period September 2013 to December 2016;

- (iii) relevant documentation relating to the case including details of the Applicant's formal interview together with character references having been attached to the report;
- (iv) the Applicant having appealed to the Magistrates Court against refusal of the application by officers under delegated decision resulting in an agreement to submit the renewal application to the Licensing Committee for determination;
- (v) the Council's policy with regard to the relevance of convictions, and
- (vi) 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 his legal representative and confirmed he had received the report and committee procedures.

The Public Protection Business Manager introduced the report and facts of the case.

The Applicant's legal representative advised that the Applicant was not proud of his driving record and accumulation of nine penalty points (the oldest convictions having since been removed from record) and detailed the circumstances surrounding the speeding offences which had been committed in unfamiliar areas in his private vehicle and not when working as a licensed driver. He referred to areas within the council's conviction policy arguing that the Applicant was not dishonest and did not pose a threat to the public or public safety, highlighting the glowing references (previously circulated) which had been provided voluntarily by a cross section of the community attesting to his good character. In terms of sanctions members were advised that the Applicant had effectively been suspended for nearly two months given that he had not been able to work during that time which had caused financial hardship with low employment prospects for the future. The Applicant responded to questions and provided assurances regarding his driving competencies. He confirmed he had not been offered a speed awareness course.

In making a final statement the Applicant's legal representative described the Applicant as a dedicated individual and competent driver who had expressed genuine remorse and had maintained a clean driving record over the last twelve months. He submitted that the character references provided further assurance as to his character demonstrating that he was fit and proper to hold a licence.

Councillor Tony Thomas left the meeting at this point.

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 Driver No. DR186 be granted with a formal warning issued as to his future conduct.

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

Members carefully considered the report and submissions put forward by the Applicant in support of his application. The committee found the Applicant to be genuine in his address and response to questions and had also demonstrated via his character references that he was a trusted and well regarded individual. Consequently the committee considered the Applicant to be a fit and proper person to hold a licence. However concerns were expressed regarding the Applicant's speeding offences and it was agreed to issue a formal warning as to future conduct.

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

OPEN SESSION

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

9 PROPOSED AMENDMENTS TO THE EXISTING HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE SPECIFICATIONS

The Licensing Officer (NJ) submitted a report (previously circulated) detailing proposed amendments to the existing hackney carriage and private hire vehicle specifications for members' consideration.

The existing hackney carriage and private hire vehicle policy, together with vehicle specification and conditions, had been approved by the Licensing Committee in December 2016 following extensive consultation and came into effect on 1 July 2017. The Licensing Committee held on 18 October 2017 had resolved to deviate from the policy specification with regard to minimum legroom requirements and requested that officers review the current specification policy, in particular the vehicle seating specification, and report back as soon as practicable. Details of the proposed amendments had been included as an appendix to the report.

Members noted that, apart from amendments for clarification purposes, the majority of the proposed amendments removed the more restrictive vehicle specifications in favour of the vehicles being "type approved" as they had already been deemed fit for purpose to carry the number of passengers as detailed on the vehicle registration documents. Upon being put to the vote it was –

RESOLVED that the amendments to the hackney carriage and private hire vehicle specifications as detailed in Appendix A to the report be approved with immediate effect.

10 PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES

The Public Protection Business Manager submitted a report (previously circulated) seeking members' consideration of revised hackney carriage/private hire fees and charges in light of the consultation responses received thereon.

The proposed licensing fees and charges had been approved for public consultation by the Licensing Committee in September 2017. One consultation response had been received as detailed within the report together with officers' comments in response thereto. Consequently members were asked to consider

whether or not to modify the proposed fees and charges in line with the representations made.

During debate it was clarified that the council did not undertake, or charge for, the calibration of taxi meters which was carried out by private companies.

RESOLVED that, following consideration of the representations received, members –

- (a) approve the fees and charges as detailed in Appendix A to the report, and
- (b) authorise officers to implement the fees and charges as approved with effect from 1 April 2018.

11 PROPOSED CHANGES TO THE HACKNEY CARRIAGE VEHICLES TABLE OF FARES AND CHARGES

The Public Protection Business Manager submitted a report (previously circulated) seeking members' review of the current tariff charges for hackney carriage vehicles (taxis).

Following a request by a delegation of licensed drivers to review the current tariff charges officers had consulted with all drivers to ascertain an appropriate tariff charge based on five options. Details of the responses received had been included within the report together with the authority's position within the "league table" of taxis fares based on each option. Reference was made to the decision making process which was subject to further public notice and Lead Member delegated decision prior to implementation. It was proposed that any representations received in response to the public notice be referred back to the Licensing Committee for further consideration as part of that process.

Members discussed the decision making process with officers, particularly given that the relevant Lead Cabinet Member was also a member of the Licensing Committee, and officers agreed to seek further clarification in that regard. Officers also confirmed that the taxi meter tariffs related to the maximum fees and charges set and operators could charge a lower amount. Members noted the increase in fares and charges had been requested by a significant number of licensed drivers.

RESOLVED that members –

- (a) approve an amendment to the current table of charges as follows:
 - Introduce option 2 of the costs per mile
 - Introduce stepped changes in multiples of £0.10 per 1/20th of a mile only
 - Increase the soiling charge to £100
 - Increase waiting time for Tariff 1 to £0.30 per minute
 - Retain waiting time for Tariff 2 as £0.40 per minute
 - Include Easter Sunday into Tariff 2
 - Include wheelchairs and pushchairs in the exclusions to the luggage charge

- *Retain the extra charge of £0.20 for each item of luggage outside the passenger compartment (excluding shopping)*
 - *Introduce an extra charge of £0.20 for each domestic pet, excluding guide dogs*
- (b) *authorise officers to prepare a report for Lead Member delegated decision to adopt the amendments in sub-paragraph (a) above;*
- (c) *authorise officers to publish the changes in a local newspaper for the necessary consultation, and if no objections are received, they will come into effect on 1 February 2018, and*
- (d) *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 April 2018.*

Councillor Brian Jones abstained from voting on this item.

12 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 2018.

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

The meeting concluded at 12.50 p.m.