

## LICENSING COMMITTEE

27 March 2012

Present:

Councillor Moira Macdonald (Chair)

Councillors Branston, Fullam, D J Henson, Newby, Payne, Ruffle, Thompson and Tippins

Apologies:

Councillors Choules, Newcombe, Robson and Shiel

Also present:

Assistant Director Environment, Principal Licensing Officer, Licensing Solicitor, Trainee Legal Executive and Member Services Officer (HB)

### 14 **Declarations of Interest**

The following Member declared a personal and prejudicial interest as indicated:-

<b>COUNCILLOR</b>	<b>MINUTE</b>
Councillor Tippins	18 (spokesperson on behalf of the objectors)

### 15 **Convictions relating to Hackney Carriage and Private Hire Vehicles**

The Assistant Director Environment presented the report setting out the feedback from consultation conducted between 15 December 2011 and 9 March 2012 relating to a draft policy in respect of convictions to assist in determining applications and standardising procedures relating to holders of, and applicants for, hackney carriage and private hire drivers' licences.

**RESOLVED** that, subject to:-

- (a) the amendment of Section 53, Appendix E to read "unreasonable refusal to take a fare"; and
- (b) the amendment of the policy to reflect gender inclusiveness;

the policy relating to convictions be adopted.

(Report circulated)

Councillor Branston left the meeting at this point.

### 16 **Joint Enforcement Exercise - Exeter City Council and other agencies on Licensed Hackney Carriages and Private Hire Vehicles**

The Principal Licensing Officer presented the report setting out feedback from an enforcement exercise carried out on 17 February 2012. Officers of the Devon and Cornwall Constabulary, Vehicle and Operator Services Agency, Borders Agency, HM

Revenue and Customs, Customs and Excise and the Department for Work and Pensions along with City Council officers had carried out checks on vehicles and drivers working in the City. This had been undertaken to establish the level of compliance with the statutory obligations to ensure the vehicles were well maintained and that standard conditions attached to vehicle and driver licences were being complied with and to ensure that the drivers were properly licensed.

Of the 29 vehicles inspected, most had been found to have at least one defect and VOSA had issued 10 immediate prohibition notices. Only a small number of hackney carriages had been on the circuit during the inspection period and it was believed that a number had returned home on learning that inspections were being conducted.

The Principal Licensing Officer advised that, following consultation with the Devon and Cornwall Constabulary, new arrangements were now in place whereby Police Officers now carry local authority enforcement notices enabling them to issue fixed penalty notices as well as immediate suspension notices where faults are found on vehicles. It was noted that, whereas the Police could pull over and suspend vehicles, this power did not extend to Council Officers.

Joint Enforcement exercises were routinely carried out but frequency was limited because of the resource implications for so many agencies. It was suggested that it could be of benefit to the Licensing Committee for Members to accompany officers when future multi-agency enforcement checks were to be carried out to obtain an insight into the enforcement role of Licensing Officers. Rather than contacting all Committee Members prior to inspections, Members would put their names forward.

**RESOLVED** that:-

- (1) Members notify the Principal Licensing Officer if they wish to be included in future enforcement exercises; and
- (2) the report be noted.

(Report circulated)

**17 Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

**RESOLVED** that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part I, Schedule 12A of the Act.

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

**18 Application to renew and vary a consent to trade (Mr A.C.)**

Councillor Tippins left the meeting during consideration of this item as she had a personal and prejudicial interest as a spokesperson on behalf of objectors. It was noted that, although she had submitted papers objecting to the application, these had not been submitted within the time period and that she was therefore not able to speak on the matter. Councillor Newby withdrew from the Committee in order to speak against the application, prior to this application coming forward.

The Principal Licensing Officer reported that Mr AC had applied to renew and vary a consent to street trade for a period of six months in Glasshouse Lane, a designated

area under the provisions of the Local Government Act 1982. He would use a 14ft by 20ft mobile trader, the hours of opening being 16.00 hours to 23.00 hours Monday to Sunday, an extra hour being sought to trade until 23.00 hours. He was currently trading from 16.00 hours to 22.00 hours Monday to Saturday.

Mr AC attended the meeting and spoke in support of his application. He confirmed that, prior to the change to the street designation policy across the City, he had traded until 23.00 hours for some seven to eight weeks up to 1 August 2011. Although he was seeking a seven day trading period he was prepared not to operate on one evening if that was the will of the Committee.

Councillor Newby spoke on behalf of residents objecting to the application. An email from the Councillor, stating that an additional hour of operation beyond 22.00 hours would be too much for this small estate was tabled. The residents were concerned that extending the terminal hour to 23.00 would lead to a continuation of any noise and disturbance into a later hour. Specific reference was made to the operation of the generator, noise from general tidying up and closing down of the van and, particularly, a tendency for groups to gather immediately prior to the closing time to purchase food and to remain in the area consuming their purchases.

Mr AC, in response, stated that he would keep the noise of the generator and general clearance to a minimum and stated that the One Stop Shop was open until 23.00 hours. He advised that general clearance and closing down took approximately 15 minutes.

The Licensing Committee retired to make its decision. Councillor Tippins left the meeting prior to deliberation of the application.

**RESOLVED** that consent be granted as applied for, for a period of six months.

(Report circulated to Members)

## **TOWN POLICE CLAUSES ACT 1847/TRANSPORT ACT 1985, SECTION 16**

### **TRANSPORT ACT 1985**

#### **19 Application for the issue of a Hackney Carriage Vehicle Licence (Mr A.A.)**

The Principal Licensing Officer reported that Mr AA had applied for a hackney carriage licence. He had indicated that, if successful, he would put a Peugeot E7 onto the circuit.

Mr T, Mr AA's representative, attended the meeting and spoke in support of the application. He circulated some documents in support of the application.

The Licensing Committee retired to make its decision.

**RESOLVED** that it be determined that Mr AA's application be not granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) together with a top-up survey published in March 2011 that there was no significant unmet demand for hackney carriages in Exeter. Mr AA had adduced no evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was significant unmet demand. The Licensing Committee found no reasons that justified a departure from the policy of not exercising its discretion to grant further hackney carriage licences.

(Report circulated to Members)

20      **Application for the issue of a Hackney Carriage Vehicle Licence (Mr K.J.)**

The Principal Licensing Officer reported that Mr KJ had applied for a hackney carriage licence.

Mr KJ attended the meeting and spoke in support of his application. Mr KJ stated that, in his opinion, there was an unmet demand. He referred, in particular, to a busy time during the recent Six Nations Rugby Tournament. He also stated that, in his opinion, there was an unmet demand because of the increased number of students in the City, a new settlement at Cranbrook and new shops. In particular, he felt that demand was likely to increase further when John Lewis opened later in the year. He confirmed that he proposed to put on the circuit a yellow London type cab (TX4) and stated that such a taxi would be of greater visibility to individuals with poor sight.

The Licensing Committee retired to make its decision.

**RESOLVED** that it be determined that Mr KJ's application be not granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) together with a top-up survey published in March 2011 that there was no significant unmet demand for hackney carriages in Exeter. Mr KJ had adduced no evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was significant unmet demand. The Licensing Committee found no reasons that justified a departure from the policy of not exercising its discretion to grant further hackney carriage licences.

(Report circulated to Members)

21      **Application for the issue of a Hackney Carriage Vehicle Licence (Mr S.H.)**

The Principal Licensing Officer reported that Mr SH had applied for a hackney carriage licence. He had indicated that, if successful, he would put a London type cab (TX4 Elegance) onto the circuit.

Mr SH attended the meeting and spoke in support of his application. He suggested that should the Committee be mindful to grant a licence it should be on a 12 month basis only which would enable him to prove whether there was an unmet demand or otherwise. If it was apparent that there was insufficient demand the vehicle licence would be returned to the licensing authority. The Licensing Solicitor advised that licences were not issued on a time limited basis.

The Licensing Committee retired to make its decision.

**RESOLVED** that it be determined that Mr SH's application be not granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) together with a top-up survey published in March 2011 that there was no significant unmet demand for hackney carriages in Exeter. Mr SH had adduced no evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was significant unmet demand. The Licensing Committee found no reasons that justified a departure from the policy of not exercising its discretion to grant further hackney carriage licences.

(Report circulated to Members)

22     **Application for the issue of a Hackney Carriage Vehicle Licence (Mr S.R.)**

The Principal Licensing Officer reported that Mr SR had applied for a hackney carriage licence. Mr SR had indicated that, if successful, he would put a Ford Journey onto the circuit.

Mr SR attended the meeting and spoke in support of his application. He circulated photographs of the City at night time showing queues of people both at taxi ranks and waiting to enter the Timepiece nightclub. He stated that the latter queue indicated the likely level of demand for taxis in the early mornings when the nightclubs closed. He had also taken photos of empty taxi ranks which he felt was proof of an unmet demand as they indicated that there were insufficient taxis generally in the City.

The Licensing Committee retired to make its decision.

**RESOLVED** that it be determined that Mr SR's application be not granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) together with a top-up survey published in March 2011 that there was no significant unmet demand for hackney carriages in Exeter. Mr SR had adduced no evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was significant unmet demand. The Licensing Committee found no reasons that justified a departure from the policy of not exercising its discretion to grant further hackney carriage licences.

(Report circulated to Members)

23     **Application for the issue of a Hackney Carriage Vehicle Licence (Mr A.M.)**

The Principal Licensing Officer reported that Mr AM's application would not be presented as it had not been properly made nor complied with legal requirements.

**RESOLVED** that the withdrawal of Mr AM's application be noted.

(Report circulated to Members)

The meeting commenced at 5.30 pm and closed at 8.20 pm

Chair