

LICENSING COMMITTEE

29 November 2011

Present:

Councillor Moira Macdonald (Chair)

Councillors Branston, Choules, Fullam, D J Henson, Payne, Robson, Ruffle, Shiel, Thompson and Tippins

Head of Environmental Health Services, Principal Licensing Officer, Licensing Solicitor and Member Services Officer (HB)

70 Minutes

The minutes of the meetings held on 26 and 28 July and 27 September 2011 were taken as read and signed by the Chair as correct records.

71 Sergeant R. Crosby

The Chair welcomed Sergeant Richard Crosby of the Devon and Cornwall Constabulary to the meeting who was attending as an observer. He briefly explained his role as the new Licensing Sergeant for Devon, excluding Plymouth.

72 Declarations of Interest

The following Members declared personal interests as indicated:-

COUNCILLOR	MINUTE
Councillor Choules	75 (known to the applicant)
Councillor Robson	75 (known to the applicant)

73 Draft Policy on Relevance of Convictions of Hackney Carriage and Private Hire Vehicle Drivers

Councillor Branston arrived during the consideration of this matter.

The Head of Environmental Health Services presented the report setting out a draft policy to assist in procedures relating to holders of, and applicants for, hackney carriage and private hire drivers licences.

In response to a Member, the Principal Licensing Officer outlined the history of the guidance which had been drawn up over the years with regard to Home Office advice and best practice in other local authorities with new offences incorporated over time. It was confirmed that the Police and the Taxi Drivers' Forum were yet to be consulted on the policy.

In response to a Member who queried whether the policy was too prescriptive, it was confirmed that the Committee would have absolute discretion in determining an application for a taxi licence. A right of appeal existed in relation to an applicant. In response to a Member who expressed concern that the policy might not cover all offences, it was noted that the policy was not meant to be prescriptive. It included a statement to enable the policy to incorporate any changes including adding offences

as they arise as well as any offences found by the Committee to be similar in nature to any of those listed. The document offered greater transparency to applicants.

With regard to applications from non-UK residents, the Principal Licensing Officer advised that a five year record of any addresses was required to be provided. These could be checked in respect of EU and EEA residences but not world wide.

The Police, as well as the applicant, were under a duty to advise the Licensing Authority of any convictions. It was an offence for an applicant to fail to advise the authority of an offence after having been granted a licence.

RESOLVED that the draft policy be forwarded to the Police and Taxi Driver Forum for comment for report back to this Committee.

(Report circulated)

74 **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.

TOWN POLICE CLAUSES ACT 1847
TRANSPORT ACT 1985, SECTION 16

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

Councillors Choules and Robson declared personal interests as the applicant was known to them and left the meeting whilst the application was considered.

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. He stated that, in his opinion, there was an unmet demand and referred specifically to two nightclubs on the Quay - Havana and The Cellar Door - asserting that both had opened after both the survey into unmet demand and the top up survey had been carried out. He also stated that there was an unmet demand because of the increased number of students in the City, the opening of new hotels, including a new hotel at Exeter International Airport and new shops. He added that there was not the required 50% of the fleet of wheelchair accessible taxis. He referred to the latent demand as Christmas was coming and the weather was changing and getting colder so more people would require taxis. Furthermore, there had been attacks on taxi drivers which had made him feel vulnerable as he did not feel able to defend himself and would therefore be safer in a London type cab. He referred to a recent assault on a taxi driver and asserted that there were health and safety reasons for getting a licence as a London style taxi would afford him greater protection. He referred to some instances of taxi drivers refusing to carry passengers who were disabled and with wheelchairs even though they possessed wheelchair accessible vehicles. He also referred to increased demand as a result of the new development at Cranbrook and to latent demand arising from increased activity over the Christmas/New Year period. He confirmed that he proposed to put on the circuit a yellow London type cab (TX4), a photo of which he showed the Committee.

In response to Members' questions, he stated that he believed work had commenced on the development at Cranbrook and that even though the Airport was in the East Devon District Council administrative area it was still Exeter's airport. He confirmed that the taxi would be for his own use but that were he to rent it out the rate would be much lower than those charged by other owners.

With regard to the new nightclubs, he stated that Havana, which had not closed, was to open for longer hours and that Cellar Door was a new operation. He maintained that the survey into unmet demand had not covered this part of the City and that the demand from patrons of these clubs was not being met. It was confirmed that the Cellar Door had not been open during the survey period. Members noted that surveys would not cover the entire road system of a City and that changed circumstances such as increases or decreases in venue numbers and changes in demand such as peak periods were taken into account in the terms of reference of surveys.

In the presence of Mr KJ, the Licensing Solicitor confirmed her advice to the Committee during deliberations. The Committee needed to be satisfied that there was no significant unmet demand for the services of hackney carriages as a result of the assertion that further premises had opened on the Quay. The Principal Licensing Officer had indicated that the Quay area had not been specifically included in the survey and the Licensing Committee would need to be satisfied on Mr KJ's evidence that there was significant demand that was not being met.

The Licensing Committee retired to discuss the matter.

RESOLVED that Mr KJ's application be refused. The Committee found no evidence of unmet demand or evidence to support a finding of exceptional circumstances. Mr KJ was advised that full reasons for the refusal would be set out in the notice of refusal.

(Report circulated to Members)

76 **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) on the circuit.

Mr SH attended the meeting and spoke in support of his application. He stated that, in his opinion, there was unmet demand in the City and referred to letters of evidence from potential user's of his service which, he asserted, supported his stance that an unmet demand existed. He also referred to incidences where taxi drivers with wheelchair accessible vehicles were unwilling to provide lifts for individuals with wheelchairs. Such cases had occurred at both St David's Station and a City Centre pub.

Mr SH had been a joint proprietor with the holder of a licence in respect of hackney carriage bearing plate number 34. To ensure that he would not be the owner of two plates, he had removed his name from that licence. He explained that his name had been included on the licence for practical reasons. Mr SH confirmed that, during the period when his name had been on the licence, he had driven the taxi commercially. The legal advisor confirmed that there was an appeal in place against the decision of this Committee at the September meeting not to grant a licence but that the matter had no bearing on the application before them.

Councillor Ruffle asked whether Mr SH carried out work with a hackney carriage for those organisations named in the letters of reference. Mr SH confirmed that he did not. Mr SH asserted that he felt that he was being victimised and discriminated against but offered no evidence to support the assertion.

The Licensing Committee retired to make its decision.

RESOLVED that Mr SH's application be refused. 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 or the policy not to grant a licence to a person who holds a hackney carriage licence.

(Report circulated to Members)

Councillor Fullam left the meeting at this point.

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

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

Mr SA attended the meeting with his wife and spoke in support of his application. He reported that, following an assault whilst driving a hackney carriage on 10 November 2011 at St David's Station by four members of the public, he had been injured and hospitalised and unable to drive. As a result of this incident, the owner of the hackney carriage driven by Mr SA, had rented the vehicle to another driver and Mr SA was currently unemployed.

He had been living in this country for 12 years and had been licensed as a driver for a number of years. Mr SA wished to work to pay his taxes and to continue to support his wife and children. As a result of the attack, Mr SA was no longer confident in driving a saloon car and wished to purchase a London style cab which would provide him protection from assault because of the glass partition between the driver and passengers. Mr SA submitted a number of medical documents, police correspondence and letters in support of his application and confirmed that he had purchased a London style cab. Mr SA added that his wife was so concerned about his safety that she was very unwilling to allow him to drive a saloon car again.

In response to Members' questions, he provided further details of the assault and explained the circumstances of his unemployment. He had provided medical evidence relating to the attack and stated that the London style taxi would provide a bulkhead to offer him protection from assault.

RESOLVED that a Hackney Carriage Licence be issued to Mr SA, as there were exceptional circumstances identified.

(Report circulated to Members)

The meeting commenced at 5.30 pm and closed at 8.15 pm

Chair