

## **LICENSING COMMITTEE**

30 November 2010

### **Present:**

Councillor Shiel (Chair)

Councillors Sterry, S Brock, A Hannaford, Macdonald, Newby, Ruffle, Taghdissian, Wadham and Winterbottom

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

### **33 Minutes**

The minutes of the meetings held on 27 July and 23 September 2010 were taken as read and signed by the Chair as correct records.

### **34 Declarations of Interest**

No declarations of interest were made by Members.

## **LICENSING ACT 2003**

### **35 Review of Hackney Carriage Policy : Disability Discrimination Act Consultation Response**

The Principal Licensing Officer presented the report on the outcome of the consultation undertaken in order to review the current policy in respect of the requirement for hackney carriage proprietors to provide disabled accessible vehicles and, in particular, the provision of swivel seats, in line with determined policy. The policy had been adopted in 2007 as a result of changes brought about by regulations made under the Disability Discrimination Act 1995.

Consultation had taken place with all licensed private hire and hackney carriage drivers' operators and vehicle owners as well as with disabled user groups. Approximately 1,000 letters had been sent out with 98 responses received, 92 with comments. Of these 92 responses, 13 were from the taxi trade. Seven of the 13 from the trade did not support the policy requiring the installation of swivel seats. The trade wished the requirement to provide accessible vehicles with swivel seats to be removed. Of the 92 responses, 83% were supportive of the continuance of the policy, 12% were opposed to the continuance of the policy and 5% expressed no view.

A Member was concerned that, because of the perceived cumbersome nature of the swivel seats, they might present a danger should the vehicle be involved in an accident. The Head of Environmental Health Services stated that swivel seats were manufactured for both the commercial and domestic market and there were many thousands of such in every day use across the UK. In response to a Member, the Principal Licensing Officer advised that, according to the figures supplied by the Unite representative in his response, 19% of local authorities required all vehicles to be wheelchair accessible and that most of these were larger authorities.

**RESOLVED** that the modification to the original policy requiring all new hackney carriages to be wheelchair accessible, which allowed the installation of swivel seats as an alternative in hackney carriage saloon cars, be discontinued.

(Report circulated)

### 36 **Review of the Licensing Act Policy : Results of Consultation**

The Head of Environmental Health Services presented the report setting out the results of the consultation under the Licensing Act 2003 in respect of the City Council's Licensing Policy, the consultation having taken place in line with statutory provisions.

**RECOMMENDED** that:

- (1) the Policy be amended by the following changes:
  - (a) the amendment of the last line in paragraph 5.1 to read "the issue of need is a matter for the market to decide and does not form part of this policy"; and
  - (b) the amendment of the address of the Planning Authority to include Building Control; and
- (2) the Statement of Licensing Policy be accepted with the revisions identified and recommended to Council for approval.

(Report circulated)

### **TOWN POLICE CLAUSES ACT 1847** **TRANSPORT ACT 1985**

### 37 **Annual Top Up Surveys into Unmet Demand in Exeter**

The Principal Licensing Officer presented the report on the outcome of research into the level of taxi rank provision in the City. This followed the Licensing Committee's request, at its meeting on 23 September 2010, that a report be submitted on the recommendation for top-up surveys of demand for the services of hackney carriages. The proposal that this be done having arisen from the survey into unmet demand carried out by Mouchel Ltd. in May of 2010.

The cost of a top-up survey has been identified as currently being between £1,500 and £2,000 per annum. An additional levy on the existing hackney carriage licence fee would be required if the proposal was adopted. In the past, it had been the practice to subsidise the surveys into unmet demand with the trade paying 80% and the Council absorbing the other 20%. There was currently no budget identified to pay the 20% contribution.

Members considered whether a top-up survey should be undertaken. There was some opposition to the Council contributing to the cost although some Members also felt that it would be appropriate as part of the service to Exeter citizens. It was suggested that payment should be considered further at a later date. A Member suggested that more frequent, but smaller scale, surveys at costs similar to that proposed for a top-up survey would be less costlier than a full survey. The Principal Licensing Officer advised that this would not be a viable option as the smaller surveys would be inadequate. Official guidance indicated that a survey should be

undertaken at least every three years. Rather than an annual survey, it was proposed that a top-up survey at 18 month intervals would be appropriate.

**RESOLVED** that:

- (1) the principle of top-up surveys be supported, a survey to be undertaken in 18 months following a triennial survey; and
- (2) the current practice of the Council absorbing 20% of the payment of the survey be considered at a future meeting of this Committee.

(Report circulated)

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

#### **38 Provision of Taxi Ranks in Exeter**

The Principal Licensing Officer presented the report on the outcome of research into the level of taxi rank provision in the City following this Committee's request, at its meeting on 23 September 2010, that a report be submitted on the need for a review of the provision of ranks in the City, the request having arisen from the survey into unmet demand carried out by Mouchel Ltd. in May 2010.

The report had shown that there were a significant number of rank spaces that were very rarely, if ever, used, while other ranks were heavily used and could benefit from the addition of more spaces if possible.

**RESOLVED** that a decision relating to the removal of the unused ranks and the exercise of any options relating to the heavily used ranks be deferred for a report to be brought back to a future meeting of this Committee when the options are identified.

(Report circulated)

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** **TOWN POLICE CLAUSES ACT 1847**

#### **39 Renewal of Purpose Built Hackney Carriage Vehicle Licences**

The Principal Licensing Officer presented the report seeking approval to amend the scheme of delegations for the Head of Environmental Health Services to deal with the renewal of purpose built hackney carriage vehicle licences, normally referred to as London type cabs, until they reach 12 years old. All applications for the renewal of a licence for a London type cab were considered by the Licensing Sub-Committee in order that they could consider the merits of the application and determine whether or not to grant the licence when the vehicle presented was over eight years old.

This class of vehicle was designed and built to last at least 12-15 years and were often perfectly serviceable for some time after that, assuming good servicing and maintenance practices were adopted. The applications put before Sub-Committee meetings were almost always non-controversial with full maintenance histories, MOT certificates and general maintenance documents made available, and the applications were generally granted without too much debate.

Current policy allowed for the Head of Environmental Health Services to re-licence all licensed vehicles, including London type cabs that were less than eight years old,

under delegated powers, therefore the proposal was to extend this term to less than 12 years old in respect of London type cabs only.

Any application for further renewal of vehicle licenses after attaining the age of 12 years would be referred to a Licensing Sub Committee, as was the present policy.

**RECOMMENDED** that the scheme of delegations in the Council's Constitution be amended to authorise the Head of Environmental Health Services to determine hackney carriage vehicle licenses relating to London type cabs that were no more than 12 years old under delegated powers.

(Report circulated)

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

##### **40 Renewal of Street Trading Consent**

The Principal Licensing Officer presented the report seeking approval to amend the scheme of delegations for the Head of Environmental Health Services to deal with applications for non-contentious street trading consent renewals.

All new street trading consents were referred to the Licensing Committee in order that they could consider the merits of the application and determine whether or not to grant consent. All applications to renew consents were currently referred to a Licensing Sub-Committee for determination. These were almost always non-contentious, had not been the source of any complaint or comment from the enforcing bodies and agencies and were generally granted without too much debate.

**RECOMMENDED** that the scheme of delegations in the Council's Constitution be amended to authorise the Head of Environmental Health Services to determine applications for non-contentious street trading consent renewals.

(Report circulated)

##### **41 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 Paragraph 1 of Part I, Schedule 12A of the Act.

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

##### **42 Application for the Issue of a Street Trading Consent (Mr DJ)**

The Principal Licensing Officer presented an application for consent to street trade from Mr DJ for a period of three months in Budlake Road Exeter, which was designated as a consent street under the provisions of the Local Government Act 1982.

Mr DJ attended the meeting and spoke in support of his application. He was seeking to trade Mondays to Fridays 0800 hours to 1500 hours, selling fast food from a mobile trailer, preparing the food on site and using disposable packaging, the residual waste to be collected daily. A 4.4 metre x 1.8 metre mobile unit would be

used, to be removed at the end of the trading period. There were no other consent holders currently trading in this area.

Mr DJ advised Members of the location where he intended to trade and confirmed that he would be using biodegradable materials.

The Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that street trading consent be granted to Mr DJ for a period of three months, as requested by the applicant.

(Report circulated to Members)

### **TRANSPORT ACT 1985**

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

##### **43 Application for an hackney carriage licence (Mr AA)**

The Principal Licensing Officer reported that Mr AA had applied for an hackney carriage licence.

Mr AA was not in attendance.

**RESOLVED** that the application for the grant of an hackney carriage licence be deferred to the next meeting of this Committee for Mr AA to be allowed to present his application and to be notified that the application may be dealt with in his absence.

(Report circulated to Members)

##### **44 Application for an hackney carriage licence (Mr SB)**

The Principal Licensing Officer reported that Mr SB had applied for an hackney carriage licence.

Mr SB attended and spoke in support of his application. In his view, there existed an unmet demand in Exeter as there was a shortage of vehicles between 1900 hours and 0700 hours. Mr SB stated that the vehicle he proposed to purchase, subject to obtaining a licence, would accommodate a wheelchair and up to five passengers.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr SB's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. Mr SB 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)

45      **Application for an hackney carriage licence (Mr AD)**

The Principal Licensing Officer reported that Mr AD had applied for an hackney carriage licence.

Mr AD was not in attendance.

**RESOLVED** that the application for the grant of an hackney carriage licence be deferred to the next meeting of this Committee for Mr AD to be allowed to present his application and to be notified that the application may be dealt with in his absence.

(Report circulated to Members)

46      **Application for an hackney carriage licence (Mr KH)**

The Principal Licensing Officer reported that Mr KH had applied for an hackney carriage licence.

Mr KH spoke in support of his application stating that he had significant experience of working with people with disabilities and held a certificate relating to working with the disabled obtained whilst he was a Stagecoach bus driver. As a taxi driver, a significant proportion of his work was with the disabled and he referred to the work he undertook transporting the disabled to and from care homes, the hospital and their own homes. Mr KH stated that he had a contract with Home Care for this. The supporting papers contained numerous references from these bodies and from those he had transported. Mr KH advised that the vehicle he proposed to purchase, subject to obtaining a licence, could hold one large (electric) wheelchair with a disabled person, one folded wheelchair and its user and two carers at the same time.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr KH's application be granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. While Mr KH had not adduced any evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was any unmet demand, the Licensing Committee did find reasons that justified a departure from its policy not to exercise its discretion to grant further hackney carriage licences, in that Mr KH's vehicle would be configured to accommodate a large electric wheelchair and its occupant as well as one folded wheelchair and its occupant and two other passengers. In addition, Mr KH had shown exceptional consideration for, and accommodation of, a large number of disabled users.

(Report circulated to Members)

47      **Application for an hackney carriage licence (Mr JA)**

The Principal Licensing Officer reported that Mr JA had applied for an hackney carriage licence.

Mr JA was not in attendance.

**RESOLVED** that the application for the grant of an hackney carriage licence be deferred to the next meeting of this Committee for Mr JA to be allowed to present his application or to be notified that the application may be dealt with in his absence.

(Report circulated to Members)

**48 Application for an hackney carriage licence (Mr KJ)**

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

Mr KJ spoke in support of his application and stated that, in his view, there was an unmet demand in Exeter because British Transport Police no longer limited the number of taxis that could wait at the St. David's Station rank. As such, potentially all hackney carriages could choose to wait at this rank which would lead to a demand at other ranks such as at the rank outside Debenhams. Mr KJ also stated that, subject to being granted a licence, both the RD&E Hospital and the Exeter Community Transport Association office had confirmed that they would be prepared to use his service. Mr KJ stated that his vehicle would be wheelchair accessible, carried six people and had a swivel seat.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr KJ's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) 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)

**49 Application for an hackney carriage licence (Mr GQ)**

The Principal Licensing Officer reported that Mr GQ had applied for an hackney carriage licence.

Mr GQ spoke in support of his application and stated that, in his view, there was an unmet demand in Exeter. Mr GQ referred to demand for an eight seater hackney carriage late at nights from two groups - students wishing to return to their residences and other groups wishing to be taxied home to outlying areas such as Tiverton. In both cases, the use of a single vehicle was cheaper than hiring two taxis - the fare to Tiverton, for example, increasing from about £35 in the case of a single vehicle to £60-70 if two taxis were used. Mr GQ proposed, subject to obtaining a licence, purchasing an eight seater vehicle and stated that there was only one other eight seater vehicle currently operating in Exeter. Mr GQ confirmed that his vehicle would be configured to take one wheelchair and four additional passengers as opposed to the usual one or two additional passengers.

It was noted that, as a result of granting a licence to Mr KH (Min. No. 46 above), there would potentially be a second, eight seater vehicle operating in Exeter.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr GQ's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. Mr GQ 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)

**50 Application for an hackney carriage licence (Mr JR and Mr BR)**

The Principal Licensing Officer reported that Mr JR and Mr BR had applied for an hackney carriage licence.

Mr BR spoke in support of his application. Mr BR stated that the application for a licence was on behalf of himself and his brother, the two brothers intending to share the hackney carriage. Mr BR explained that he suffered from certain medical conditions and that taxi driving was an occupation where his health would not be affected. Referring to the British Transport Police decision to no longer limit the number of taxis waiting at the St. David's Station rank, he stated that, in his view, there was an unmet demand in Exeter. Mr BR believed that this would lead to a demand for hackney carriages elsewhere in Exeter such as at the rank outside Debenhams. Mr BR said his reasons for wanting a hackney carriage licence were personal and he could not make out any "public reason".

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr BR's and Mr JR's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. Mr BR 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)

**51 Application for an hackney carriage licence (Mr SBR)**

The Principal Licensing Officer reported that Mr SBR had applied for an hackney carriage licence. A further reference on behalf of Mr SBR was tabled.

Mr SBR spoke in support of his application and referred to his work as an interpreter and to the fact that he was attending a further education establishment.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.



**RESOLVED** that Mr SBR's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. Mr SBR 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)

**52 Application for an hackney carriage licence (Mr AT)**

The Principal Licensing Officer reported that Mr AT had applied for an hackney carriage licence.

Mr AT spoke in support of his application. Referring to the British Transport Police decision to no longer limit the number of taxis waiting at the St. David's Station rank, he stated that, in his view, there was an unmet demand in Exeter. Mr AT believed that this would lead to a demand for hackney carriages elsewhere in Exeter, such as at the rank outside Debenhams.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr AT's application be refused. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. Mr AT 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)

**53 Application for an hackney carriage licence (Mr WAT)**

The Principal Licensing Officer reported that Mr WAT had applied for an hackney carriage licence.

Mr WAT spoke in support of his application and explained that he had been a resident of Exeter since 1975 and a taxi driver since 1972. Mr WAT had previously jointly owned two hackney carriage licences which he had bought in 1992 with his former wife but that this had been transferred out of his name when he was out of the country visiting relatives in Iraq in 2004. There had been a delay in his return to Exeter from Iraq because his passport had been taken from him at the airport and it became impossible for him to leave. Mr WAT's ex-wife had informed the Licensing Authority that he was not coming back. Mr WAT stated that he had always driven an hackney carriage and that he knew Exeter very well. Mr WAT, in response to Members' questions, gave further information on his personal circumstances assisted by the Principal Licensing Officer who verified details of the licence previously held and the circumstances of its subsequent transfer. Mr WAT had divorced in 2003. The licences remained in the name of his ex-wife.

Mr WAT stated that he currently rented a hackney carriage.

It was noted that this was the third occasion Mr WAT had applied to this Licensing Committee for a licence, the previous two applications having been refused. The Licensing Solicitor advised that the previous refusals should not fetter the discretion of this Licensing Committee.

The Licensing Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer. The Head of Environmental Health Services was also present but took no part in the deliberations.

**RESOLVED** that Mr WAT's application be granted. The Licensing Committee was satisfied with the conclusion of the Mouchel Ltd. survey (published in September 2010) that there was no significant unmet demand for hackney carriages in Exeter. While Mr WAT had not adduced any evidence that cast doubt on the survey findings or persuaded the Licensing Committee that there was any unmet demand, the Licensing Committee did find reasons that justified a departure from its policy not to exercise its discretion to grant further hackney carriage licences, in that the circumstances in which Mr WAT's previous licence had been transferred out of his name were exceptional and their discretion should be exercised to grant him a new licence.

(Report circulated to Members)

The meeting commenced at 5.30 pm and closed at 8.05 pm

Chair