

LICENSING COMMITTEE

12 June 2012

Present:

Councillor Macdonald (Chair)

Councillors Owen, Clark, Dawson, D J Henson, Payne, Pearson, Robson, Ruffle, Shiel, Tippins and Winterbottom

Apologies:

Councillors Choules and Leadbetter

Also present:

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

24 Minutes

The minutes of the meetings held on 14 February and 27 March 2012 were taken as read and signed by the Chair as correct records.

25 Declarations of Interest

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

COUNCILLOR	MINUTE
Councillor Tippins	32 (knew the applicant)

26 Law Commission - Proposals for Change to Taxi and Private Hire Licensing

The Principal Licensing Officer presented the report setting out the main elements of a consultation document issued on the 10 May 2012 by the Law Commission relating to proposed changes to the activities that are regulated by authorities by way of hackney carriage and private hire vehicle and driver licensing.

Changes under consideration included the introduction of national standards for taxis and private hire vehicles with all vehicles being subject to national minimum safety standards, the Law Commission stating that this would contribute to widening consumer choice and making services cheaper and more competitive. The proposals would not affect the traditional London "black cab" but taxi numbers could no longer be restricted by local authorities on the basis of unmet demand.

Members would be invited to comment on the proposed response to the consultation document and further reports would be submitted to this Committee as proposed changes to the current system progressed.

RESOLVED that the report be noted.

(Report circulated)

27 **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

28 **Application for Consent to Trade (Mr M.R.)**

The Principal Licensing Officer reported that Mr MR had applied for consent to street trade for a period of twelve months in Castle Street, a designated area under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. He had not previously held consent to trade in any part of the City.

Mr MR wished to sell Mediterranean type food such as falafel and borek from a stall but had not identified a particular unit for the purposes of trading in the application. The times and days requested were from 09.30 hours to 18:00 hours, Monday to Sunday.

Mr MR attended the meeting and spoke in support of his application for this fast food business. He stated that he had initially identified one of the existing sites but the vacating occupant had failed to notify him of his departure and that consent had now been granted to another trader. Mr MR had identified a possible fifth site, adjacent to the site occupied by the creperie stall and close to the wall on the right hand side (looking up to the Castle) of Castle Street.

Mr MR stated that he was offering a new and different fast food option in the City Centre. The food was healthy and ingredients were largely locally sourced. He circulated a photograph of the proposed location of the unit but advised that he was unable to inform Members of the precise size of the stall as he had not wished to commit himself to a purchase until he knew whether consent was to be granted.

It was noted that the availability of sites in Castle Street were not advertised and that the existing traders came to agreements regarding the precise location of their respective pitches. Members further noted that, given the limited availability of space in the area, it was difficult to assess the impact any further unit would have given that no details had been provided of the likely size and construction of the stall or the precise location suggested.

Members noted that the left area of Castle Street was taken up with external seating allocated to a coffee outlet; the centre of the area was fitted with seating running the length of the consent area leaving approximately one third of the total area for the remaining traders. Comments had been received from the proprietor of the coffee unit, Exeter City Council's Property Manager as well as the Events Facilities and Markets Manager who were opposed to the application.

The Licensing Committee retired to make its decision.

RESOLVED that, while the Licensing Committee found the application to be an interesting one, there was a lack of detail and concern over the lack of space so the application for consent be refused.

(Report circulated to Members)

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

TRANSPORT ACT 1985

29 **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. Mr SH 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 stated that, overall, there had been a reduction in the number of taxi seats in the City. This was partly resulting from some operators converting to smaller vehicles that were still capable of carrying wheelchairs, asserting that, as a result, there were now 13 fewer vehicles that could accommodate wheelchairs. He also stated that, of the 336 private hire vehicles in the City, only 11 were wheelchair accessible. In response to questions raised by Mr SH, the Principal Licensing Officer stated that there was no reduction in wheelchair accessible vehicles but there may have been a reduction in the number of seats available but that was not what unmet demand surveys took into consideration.

He questioned the validity of the recent survey stating it had not included a survey of people with disabilities in the City. He also questioned the validity of the top up survey undertaken in respect of the demand experienced as part of the night time economy. It had been raining the night the survey had been taken and he therefore suggested that, consequently, the figures may not have been accurate. Mr SH did concede that poor weather might equally lead to more people using taxis.

Mr SH referred to umbrella organisations serving the needs of the disabled such as Living Options and the Exeter Community Transport Association (ECTA) and stated that one of the companies used by them to transport the disabled was no longer operational. The Principal Licensing Officer confirmed that Exeter Community Transport Association had ceased providing the services of a vehicle they had licensed but this vehicle was licensed for private hire as an application for a hackney carriage licence by ECTA had been refused at a previous Committee.

Members noted the responses Mr SH had received from institutions such as care homes etc. indicating they may be likely to use the service of a wheelchair accessible vehicle. Mr SH stated that his original letter to these bodies had been reported to this Committee as part of an earlier application. He acknowledged that some of the responses were over a year old and that it might be appropriate to further approach those contacted to obtain an update on their position.

Members noted that, of the 65 hackney carriage vehicles operating in the City, approximately 50% were able to carry wheelchairs. The number of people identified as disabled in the City was unknown.

The Licensing Committee retired to make its decision.

RESOLVED that it be determined 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 licenses.

(Report circulated to Members)

30 **Application for a Private Hire Licence Renewal (Mr T.T.)**

The Licensing Solicitor reported that Mr TT had applied to renew a hackney carriage licence.

The private hire vehicle licence for the Ford Tourneo VRN CN55 ZXL had expired before an application for renewal had been submitted, the expiry date being 8 May 2012, Mr TT had stated that he had contacted the Council on both 4 and 8 May 2012 although there was no record of him having done so. A temporary PHV licence had been issued to cover the period between 8 May 2012 and any determination of the renewal application by this Committee. There was a record of Mr TT contacting the Council on 9 May 2012.

In *R (o/a Exeter City Council) v Sandle [2011] EWHC 1403 (Admin) 16 May 2011* Collins J, in considering the question of whether a licence that had expired was capable of renewal answered this in the affirmative. In deciding for how long after expiry it could be renewed it was held that there was “no particular period” of time after which a licence could not be renewed “but only in exceptional circumstances would an application for renewal be entertained after a delay of two to three days”.

Mr TT attended together with Mr PN, Solicitor, who spoke on his behalf.

The Licensing Committee retired to make its decision.

RESOLVED that it be determined that Mr TT’s application for the renewal of his private hire vehicle licence be granted.

(Report circulated to Members)

31 **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 offered to circulate details of a survey he had undertaken which he stated proved unmet demand. As Members did not have sufficient opportunity to consider the papers fairly, it was proposed that the matter be adjourned for the documentation to be circulated and considered at the next meeting.

RESOLVED that consideration of Mr SR’s application be adjourned in order for the documentation he had provided at the meeting to be circulated to Members as part of the application to be presented to the next meeting of this Committee.

(Report circulated to Members)

32 **Application for a Private Hire Vehicle Licence Renewal (Mr T.G.)**

Councillor Tippins declared a personal and prejudicial interest as she knew the applicant and left the meeting during consideration of this matter.

The Licensing Solicitor reported that Mr TG had applied to renew a hackney carriage licence.

The private hire vehicle licence for the Fiat Ulysee VRN WG05 NXM had expired before an application for renewal was submitted, the expiry date being 12 April 2012, Mr TG contacting the Council on the following day, 13 April 2012. A temporary PHV licence has been issued to cover the period between 12 April 2012 and any determination of the renewal application by this Committee.

In *R (o/a Exeter City Council) v Sandle* [2011] EWHC 1403 (Admin) 16 May 2011 Collins J, in considering the question of whether a licence that had expired was capable of renewal answered this in the affirmative. In deciding for how long after expiry it could be renewed it was held that there was “no particular period” of time after which a licence could not be renewed “but only in exceptional circumstances would an application for renewal be entertained after a delay of two to three days”.

Mr TG attended and spoke in support of his application.

RESOLVED that it be determined that Mr TG’s application for the renewal of his private hire vehicle licence be granted.

(Report circulated to Members)

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

The Principal Licensing Officer reported that Mr HA 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 HA was not in attendance.

RESOLVED that it be determined that Mr HA’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 HA 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)

The meeting commenced at 5.30 pm and closed at 8.00 pm

Chair