

# LICENSING AND ENFORCEMENT COMMITTEE

**MEETING** : Tuesday, 13th December 2011

**PRESENT** : Cllrs. Noakes (Chair), Porter (Vice-Chair), Durrant, C. Witts, Wilson, Field, Dallimore, Hansdot and Toleman

## **Officers in Attendance**

Rebecca Tuck, Licensing Enforcement Officer

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Sonia Tucker, Democratic Services Officer (Secretary)

**APOLOGIES** : Cllrs. Tracey, Ravenhill, Mozol and Patel

## **11. DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **12. MINUTES**

The minutes of the meeting held on 18<sup>th</sup> October 2011 were confirmed as a correct record and signed by the Chair.

## **13. MINUTES OF LICENSING SUB-COMMITTEES**

The minutes of the two meetings held on 8<sup>th</sup> November 2011 and 1<sup>st</sup> December 2011 were confirmed as a correct record and signed by the Chair.

## **14. PUBLIC QUESTION TIME (15 MINUTES)**

There were no questions from members of the public.

## **15. PETITIONS AND DEPUTATIONS (10 MINUTES, MAXIMUM 3 MINUTES PER PERSON)**

There were no petitions or deputations.

## **16. APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR ADERITO QUEIROS BALDE UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Chair outlined the procedure for consideration of the application.

### **The Council's Case**

The Licensing and Enforcement Officer outlined the appeal by Mr Aderito Queiros Balde, a licensed Private Hire driver with Gloucester City Council, against an officer

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decision to refuse to issue a new Private Hire vehicle licence for a Chrysler Grand Voyager registration number DV55 ZPM, on the grounds that it did not meet the age specification required by the Council's policy on the age of vehicles. Mr Balde was also the owner of a licensed Private Hire vehicle, a wheelchair accessible Peugeot Expert plate number 106 (PHV106) with an expiry date of 19<sup>th</sup> February 2012.

DV55 ZPM was first registered with the DVLA on 31<sup>st</sup> January 2006. Mr Balde submitted a request to licence this additional vehicle on 7<sup>th</sup> November 2011. This meant that from receipt of the initial request the vehicle failed to meet the Council's age policy by nine months and six days.

Members inspected the car and noted it had passed the MOT and the Council's own inspection check. All necessary documentation had been provided by Mr Balde, with the exception of a certificate of insurance for hire and reward which would need to be obtained, should the Committee be minded to approve the application.

Committee was advised that the City Council was empowered under the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire vehicles and to apply conditions to the issue of such licences.

Council policy for the first time of licensing a private hire vehicle which came into effect on 1<sup>st</sup> June 2010 stipulated '*vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration, regardless of whether it was previously licensed anywhere else in the UK, or re-licensed 10 years from the date of first registration*'.

The Licensing and Enforcement Officer reminded Members that in May 2003, the Council's General Conditions for Hackney Carriage and Private Hire Licensing contained the wording '***will not normally be accepted***' in place of the above, thus allowing Officer and Member discretion when deciding the merits of an individual case. It was noted that at present, the discretion rested only with Members to exempt vehicles from Council policy on an individual merits basis.

Members were advised that they had two options:-

(a) To refuse the application on the grounds that the vehicle fell outside of Council policy on the age of vehicles that can be accepted for licensing on the first occasion.

Or

(b) To accept the application on the grounds that the vehicle was of such a high standard for its age, that Council policy should be departed from in this particular case.

**Questions to the Licensing and Enforcement Officer**

Mr Taylor, representing Mr Balde, indicated that he had no questions to ask of the Licensing and Enforcement Officer

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A Member asked for clarification on the exact number of months and days by which the application fell outside the Council's age policy. At this point, Mr Taylor advised the Committee that this was the second time Mr Balde had attempted to licence DV55 ZPM, the first occasion being when the vehicle was one week outside of the Council's age policy. Mr Taylor understood that Mr Balde had not been notified of the opportunity to appeal against the decision at that time and had only recently become aware of the appeals process. The Licensing and Enforcement Officer was unable to verify this at the Committee meeting but agreed to check the position afterwards. The Solicitor advised Members to disregard the information as this was a fresh application which had to be considered on its merits.

A Member enquired on the number of six seater Private Hire vehicles which were operating in the City. The Licensing and Enforcement Officer did not have this information to hand but agreed to provide it after the meeting.

**The Applicant's Case**

Mr Taylor spoke on behalf of the applicant. Mr Balde had purchased the vehicle as an up-market, bespoke design car suitable for long journeys because of its comfort. He pointed out that, in his opinion, most 7 or 8 seater vehicles were converted vans and were not in the same class as DV55 ZPM.

The Licensing and Enforcement Officer indicated she had no questions to ask of the applicant's representative.

A Member asked whether the car was suitable for transporting disabled passengers. Mr Taylor replied that this particular vehicle was not intended for this purpose.

Another Member queried whether Mr Balde would be driving the vehicle himself. Mr Taylor confirmed that this would be the case.

**The Summing Up**

The Licensing and Enforcement Officer reminded the Committee of the options before them and that Members should not fetter their discretion by rigidly following the policy and should treat each case on its merits.

The Applicant's representative advised Members that the vehicle would be used for motorway journeys rather than short taxi rides in the City Centre.

**The Decision**

The Committee voted to make their decision in public. After a short debate it was:-

**RESOLVED**

That the application be granted on the grounds that the vehicle was of such a high standard for its age that Council policy should be departed from in this particular case, subject to the applicant providing a valid certificate of insurance for hire and

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reward as required under the terms of Section 48(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

**17. MEMBERS UPDATE FOR LICENSING AND ENFORCEMENT COMMITTEE**

Members were presented with an update on key licensing activities carried out in the last quarter of the year, including feedback on appeal cases heard by the Magistrates' Court against decisions made by the Licensing and Enforcement Committee. The report also detailed future work from January 2012 to December 2014. The information was provided for Members' information with no decisions being required.

Members were interested to note that following discussion on the licensing of pedicabs at the meeting on 18<sup>th</sup> October, 2011, that further work had taken place which had led to the Licensing and Enforcement team investigating the trialling of the Pedicab business in the Docks area of the City without the need for a Hackney Carriage licence, pending the drafting of a Policy for the licensing of Pedicabs.

The Committee's attention was drawn to the section of the report relating to a change to the taxi tariff rates. Following publication of this information, one objection had been received from The Trade before the close of the consultation period on 11<sup>th</sup> December 2011. Members were advised that it might be necessary to hold a Special Licensing and Enforcement Committee in January 2012 unless agreement could be reached with all parties beforehand.

**RESOLVED**

That the report be noted.

**18. DATE OF NEXT MEETING**

Members were advised that a Special Meeting would need to be called on either 17<sup>th</sup> or 24<sup>th</sup> January 2012 at 18.30 hours to deal with the proposed changes to the taxi tariff.

The next scheduled Committee after that date was 13<sup>th</sup> March 2012 at 18.30 hours.

**Time of commencement: 18:30 hours**

**Time of conclusion: 19:30 hours**

**Chair**