

LICENSING AND ENFORCEMENT COMMITTEE

MEETING : Tuesday, 19th July 2011

PRESENT : Cllrs. Noakes (Chair), Durrant, C. Witts, Wilson, Dallimore, Taylor, Hansdot, Mozol, Patel and Toleman

Officers in Attendance

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Tony Moseley, Licensing Enforcement Officer

Steve Isaac, Solicitor

Sonia Tucker (Secretary)

APOLOGIES : Cllrs. Porter, Ravenhill and Field

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES

The minutes of the meeting held on 14th June 2011 were confirmed as a correct record and signed by the Chair.

14. PUBLIC QUESTION TIME (15 MINUTES)

There were no questions from the public.

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

There were no petitions or depositions.

16. APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR MOHAMMED SANNEH

The Licensing Officer outlined the appeal by Mr Mohammed Sanneh against an officer decision to refuse to issue a private hire vehicle licence to vehicle BMW 525, registration number SB06 BKD, on the grounds that it did not meet the age specification required by the Council's vehicle licensing conditions by a period of 24 days.

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. A condition for the first time of licensing a private hire vehicle which came into effect on 1st June 2010 stipulated '*vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first*

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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 the Conditions on an individual merits basis.

Mr Sanneh had been a licensed Private Hire driver since December 2004. He purchased the vehicle, which had been first registered with the DVLA on 19th May 2006, on 27th May 2011. The Private Hire vehicle licence application was received by the Licensing Team on 10th June 2011, which meant that the vehicle had failed to meet, by 24 days, the City Council’s specific condition relating to age and a vehicle’s acceptance for licensing on the first occasion.

In a letter to the Licensing Team, Mr Sanneh explained that he had misunderstood the ‘5 year rule’. He added that he had further invested in the car to improve its comfort and specification and requested that the matter be referred, as an appeal against the officer decision, to the Licensing and Enforcement Committee.

The vehicle had subsequently been inspected by a Licensing and Enforcement Officer at the City Council’s offices on 6th July 2011 and proved to meet all other licensing requirements.

Members were advised that they had two options:-

(a) To refuse the application on the grounds that the vehicle did not meet the criteria for licensing due to its age.

Or

(b) To accept the application on the grounds that the vehicle was of such a high standard for its age that the relevant condition should be waived in this particular case.

In making their deliberations, Members were advised that as they had made the decision to adopt the age policy in the first place they also had the power to depart from the policy in exceptional cases. The age policy had been set in order to maintain the standards of the licensed fleet and once licensed a vehicle could continue to be licensed up to the age of 10 years. Members were further advised that it might also be prudent to consider changing the wording of the condition at some stage in the future, after consultation with the Trade, in order that the Council was seen to be flexible and demonstrated that it considered each case on its merits. This would protect the Council from any potential legal challenge where an applicant took the Condition on its face value.

Mrs Sanneh, representing the appellant, was then invited to address the Committee and to answer any questions.

A Member asked Mrs Sanneh if the appellant had a copy of the relevant Handbook which set out the ‘5 year rule’ and whether he had read it. The Member also

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pointed out that the '5 year rule' would have been contained within the licensing application form which Mr Sanneh had completed.

Mrs Sanneh confirmed that Mr Sanneh did have the Handbook. She explained that there had been a misunderstanding over the exact meaning of the '5 year rule'. There had been no deliberate intention to contravene the Council's rules.

The Chair agreed a short recess whilst Members retired to inspect the vehicle outside the Council offices.

Members then discussed the following points:-

- The vehicle was an executive car in excellent condition and would be a credit to a licensed fleet.
- The policy was intended to maintain the standards of the fleet, but there was a need to be flexible and that Members had discretion as set out in paragraph 5.2 of the report.
- It was felt that the appellant had made a genuine oversight and had misunderstood the exact meaning of the '5 year rule'.

RESOLVED

That the application be accepted on the grounds that the vehicle was of such a high standard for its age that the relevant condition should be waived in this particular case.

17. DRAFT SEX ESTABLISHMENTS POLICY STATEMENT

The Committee reviewed the outcome of the consultation on the draft Sex Establishment Policy Statement and considered the revised final Sex Establishment Policy Statement. The Committee had considered the draft policy statement at its meeting on 18 January 2011 and had approved it for consultation.

The Committee noted and discussed the following issues and points:

- That the City Council could not take any moral stand in adopting a Sex Establishments Policy and that it was the Council's role as the Licensing Authority to administer the licensing regime for such establishments in accordance with the law.
- The Council had only received one formal response to the consultation process and this was detailed at appendix C of the report.
- The proposed amendments to the policy detailed at paragraphs 4.8, 4.10 and 4.11 of the report that were recommended.
It was agreed to amend the final bullet point of paragraph 4.8 to read: "The proximity of any other premises that is, or may be, frequently visited by children"
- The statement would take immediate effect from when it was approved to ensure that premises were undertaking activities in accordance with the policy.

RESOLVED

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1. That the draft Sex Establishments Policy Statement and consultation feedback be noted.
2. That the proposed amendments as detailed in paragraphs 4.8, 4.10 and 4.11 were noted and recommended for inclusion in the final Sex Establishment Policy Statement. Members agreed that the amendment to 4.8 should state "The proximity of any other premises that **may** be frequently visited by children".
3. That the revised Sex Establishments Policy Statement, as amended, be recommended to Full Council for approval.

18. DATE OF NEXT MEETING

Tuesday 16th August 2011 at 6.30 pm.

Time of commencement: 18:30 hours
Time of conclusion: 19:19 hours

Chair