



Licensing Committee Agenda

Wyre Borough Council
Date of Publication: 13 November 2023
Please ask for : George Ratcliffe
Assistant Democratic Services Officer
Tel: 01253 887608

Licensing Committee meeting on Tuesday, 21 November 2023 at 6.00 pm in the Council Chamber - Civic Centre, Poulton-le-Fylde

1. Apologies

2. Declarations of Interest

Members will disclose any pecuniary and any other significant interests they may have in relation to the matters under consideration.

3. Confirmation of minutes

(Pages 3 - 8)

To approve as a correct record the Minutes of the meeting of the Licensing Committee held on Tuesday 17 October 2023.

4. Exclusion of the public and press

In accordance with Paragraph 11 of the Access to Information Rules in Part 4 of the Council's Constitution, the Chief Executive has determined that the report submitted under item 5 of this agenda is "Not for Publication" because it contains "exempt information", as defined in Schedule 12A of the Local Government Act 1972.

If the Committee agrees that the public and press should be excluded for this item, it will need to pass the following resolution:

"That the public and press be excluded from the meeting whilst agenda item 5 be considered, as it refers to exempt information as defined in category 1 (information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act, 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

5. New applicant for a Wyre dual driver's licence with historic driving conviction

(Pages 9 - 34)

Report of the Corporate Director Environment.



Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Tuesday, 17 October 2023 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

Licensing Committee members present:

Councillors Birch, Ellison, Baxter, Leigh, Minto, Moliner, Rushforth, Swatton and Swift

Absent- apologies received:

Councillors Nicholls, Smith and B Stephenson

Officers present:

George Ratcliffe, Assistant Democratic Services Officer

Patrick Cantley, Senior Licensing Officer

Mary Grimshaw, Legal Services Manager and Monitoring Officer

Gary Scott, Transport & Maintenance Team Manager Copse Road Depot

Darren Morris, Fitter/Mechanic

No members of the public or press attended the meeting.

20 Declarations of Interest

None.

21 Confirmation of minutes

The minutes of the meeting of the Licensing Committee held on Tuesday 22 August 2023 were **confirmed** as a correct record by those who were in attendance.

22 Exclusion of the public and press

In accordance with Paragraph 11 of the Access to Information Rules in Part 4 of the Council's Constitution, the Chief Executive had determined that the report submitted under agenda items 5 and 6 of the agenda was "Not for Publication" because it contained "exempt information", as defined in Schedule 12A of the Local Government Act 1972.

The Committee passed the following resolution "That the public and press be excluded from the meeting whilst agenda items 5 and 6 were being considered, as it referred to exempt information as defined in category 1

(information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.”

23 Application to licence a Private Hire Vehicle contrary to emissions standard policy

The Chair invited the applicant and committee to go and inspect the vehicle being reviewed.

The Chair introduced the committee and the officers attending the meeting.

The applicant and his partner introduced themselves. The Chair ensured that they had received all necessary information and paperwork for the hearing.

The Senior Licensing Officer (SLO) introduced the report. He explained that the council’s Hackney Carriage and Private Hire Licensing Policy required that all new or replacement diesel fuelled motor cars must be a minimum of Euro 6 emissions rating and as the vehicle had an emissions rating of Euro 5, it therefore fell out of policy and was before committee for that reason.

The SLO explained the applicant’s history with the council and the applicant’s experience as a private hire driver. He outlined the council’s policy in terms of the protection of the environment, new or replacement vehicles needing to meet the emissions standards outlined in the policy and providing the travelling public with reasonably up-to-date vehicles. He highlighted the importance of this as it managed the emission of noxious fumes and diesel particulates in the Borough. He highlighted the relevant pieces of legislation and policy that would be useful for the committee to consider when determining their recommendation.

Gary Scott, Transport and Maintenance Team Manager, and Darren Morris, Fitter/Mechanic, entered the room and introduced themselves.

The applicant read out an email that Gary Scott had sent to the SLO which explained that his vehicle was a clean running engine but the main failure being the nitrogen oxide levels.

Councillor Rushforth highlighted concerns over climate change.

Councillor Baxter asked for clarification around the applicant’s Wyre Dual Driver’s Licence.

The applicant addressed the committee. He apologised for his failure and explained that he was unaware of the emissions policy. He said that due to the various work needed on his old vehicle, the best thing to do financially was look for another vehicle. He highlighted that it was a last minute decision which gave him limited time to do any research and look into the council’s policy. He explained that the distance he covered as a taxi driver in comparison with many other plated drivers was low.

Councillors raised the following questions/concerns over:

- using the vehicle for weddings;
- stickers, and;
- air quality strategy framework

The applicant confirmed that he had paid for the stickers and that weddings were going to be a very small part of his business. He highlighted that the animosity towards out of town drivers was increasing exponentially. He explained that the area he worked in was reasonably close to where he lived and if he wasn't granted a vehicle licence, the impact on the environment would be greater as taxi drivers from other areas would travel further to cover his jobs.

Councillor Leigh asked the SLO for clarification around carbon monoxide and hydrocarbon.

The applicant reiterated that in relation to meeting the standards for a Euro 6 vehicle, the vehicle only failed on nitrogen oxides, Gary Scott confirmed.

The Monitoring Officer (MO) asked the applicant for clarification around the removal of stickers. The applicant explained that he had never had permanent stickers stuck to either of his two previous vehicles and had always used magnetic stickers. The SLO highlighted that taking things on and off vehicles could create an issue under public safety.

Councillor Baxter asked for clarification around AdBlue.

The applicant, his partner, officers and Licensing Officer left the room to allow the committee to discuss their recommendation in private session.

In reaching its decision, the committee had regard to:

1. The Council's own Hackney Carriage and Private Hire Policy, in particular articles 4.3.7 and 4.3.8
2. The Local Government (Miscellaneous Provisions) Act 1976

The Licensing Committee then reconvened and the Chair announced the decision.

Decision

The Committee resolved not to grant a Wyre private hire vehicle licence for the following reasons:

Reasons for the decision

- The Committee heard from the SLO that Articles 4.3.7, 4.3.8 of the Policy requires new or replacement vehicles to meet minimum

emissions standards of Euro 6 for diesel engines. The reason for this requirement was to ensure that all new or replacement vehicles meet modern emissions requirements and provide the travelling public with reasonably up to date vehicles and as far as practicable manage the emission of noxious fumes and diesel particulates in the Borough of Wyre.

- The Committee heard that the applicant had been a taxi driver since 2014 and had also held a private hire operator licence since February 2016. The Committee heard that due to the age and condition of the applicant's previously licenced vehicle had decided to upgrade and purchase the vehicle, which as a diesel vehicle had a Euro 5 status and therefore fell outside of the Policy.
- The Committee heard that the applicant was unaware of the change to the Policy which the applicant accepted was a failure and apologised. The Committee found the applicant's lack of awareness, as an experienced driver and proprietor, hard to accept, especially as the Committee had been informed that all operators, proprietors and taxi drivers had been notified on more than one occasion.
- As a proprietor and driver, the Committee considered it was the applicant's responsibility to ensure that the applicant had read all correspondence from the Licensing Authority regarding the licence and to ensure that the applicant kept up to date with all of the relevant rules, conditions and policies that applied.
- The Committee heard from the applicant, that it was a clean running vehicle compared to the one that been licensed previously and was in good condition and far better than many of the vehicles that were currently licensed. The Committee inspected the vehicle and agreed that it was in very good condition.
- The Committee considered all the information before it and in particular the requirements of the Policy and its aim to manage the emission of noxious fumes and diesel particulates in the Borough. In particular, it was noted the nitrogen oxide emissions for the vehicle were 50% more than the limit required by Euro 6 and taking everything into consideration decided on this occasion that there were no valid reasons to depart from the Policy.
- In reaching their decision, the Committee also had regard to the fact

that officers had found the applicant's behaviour towards them during this application process to be challenging, difficult and rude, which they noted was in contrast to the applicant's behaviour before the Committee where they found the applicant to be polite, respectful and honest in accepting that it was the applicant's failure in not knowing about the Policy that had led to this position.

- The Committee noted that two officers from the MOT depot had complained about the applicant's behaviour towards them which was highly unusual and which the Chair in her many years of experience on the licensing committee had not previously encountered. The licensing officer had also described the applicant's behaviour as volatile and very rude. It was also noted that the same two MOT officers had attended the licensing committee hearing. The Committee also noted that the applicant had been using magnetic door stickers on the previously licensed vehicle and by removing them on occasions, had acted contrary to the standard conditions attached to a private hire licence, namely that all door stickers must be displayed at all times that a private hire vehicle licence is in force.
- It was acknowledged that the fitness and propriety test is a relevant consideration in deciding whether to grant a proprietor's licence and in reaching its decision the Committee decided to give limited weight to the complaints about the applicant's behaviour.

24 Using a vehicle as a Hackney Carriage without the appropriate licence in place

The Chair introduced the committee and the officers attending the meeting.

The applicant and representative introduced themselves. The Chair ensured that they had received all necessary information and paperwork for the hearing.

The Chair mentioned that some of the committee had met the applicant's partner and asked the applicant if he was still happy for the hearing to continue, the applicant said yes.

The Senior Licensing Officer (SLO) introduced the report. He explained that the applicant was before the committee because he allowed a hackney carriage vehicle licence to lapse in May 2023 and continued to use it for licensable activity without the relevant licence in place until September 2023.

The SLO explained the applicant's history with the council and the applicant's experience as a dual licence holder. He highlighted the relevant pieces of legislation and policy that would be useful for the committee to consider when determining their recommendation.

The representative spoke on behalf of the applicant. The representative highlighted that the applicant had an unblemished character and never been in any trouble with the authorities. He explained that he had a clean driver's licence and the actions of the applicant were of an honest man who made a mistake.

Councillor Baxter asked the applicant how his partner fitted into the situation. The applicant described his partner as a sleeping partner.

Councillor Swatton asked the applicant why his partner was on the licence and why he was not aware that his licence was running out. The applicant explained that his partner was on the licence for insurance purposes and he was unaware of his licence running out as he did not understand the system.

Councillor Baxter asked the applicant how he was going to ensure this won't happen again. The applicant explained that he had already made notes prior to the hearing of when his licences were due for renewal. The applicant took full responsibility.

The applicant, representative and Licensing Officer left the room to allow the committee to discuss their recommendation in private session.

In reaching its decision, the committee had regard to:

1. The Local Government (Miscellaneous Provisions) Act 1976

The Licensing Committee then reconvened and the Chair announced the decision.

Decision

The Committee decided not to take any further action.

Reasons for the decision

The Committee found the driver to be honest and accountable for his actions and noted that he accepted full responsibility for the mistake. The Committee acknowledged that it was a serious error, but noted that corrective measures had been put in place by the driver to ensure it never happened again. Accordingly, the Committee were confident that the driver would not find himself in this position in the future and decided after taking everything into consideration that it was appropriate not to take any further action.

The meeting started at 6.06 pm and finished at 8.15 pm.

Date of Publication: 30 October 2023

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank