
Meeting	Licensing and Regulatory Committee
Date	13 June 2023
Present	Councillors Melly (Chair), Clarke, Kent, Kilbane, Ravilious, Rose, Wells, Cuthbertson, Hook, Mason, Widdowson, Nicholls and Warters
Apologies	Councillors Knight and Smalley

Chair's Welcome [17:32]

Cllr Melly, newly appointed Chair of the Committee, welcomed all to the meeting and recorded thanks to previous Members of the Committee.

Election of Vice Chair for the meeting

Cllr Cuthbertson was appointed as Vice Chair for the meeting.

1. Declarations of Interest [17:34]

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. None were declared.

2. Minutes [17:35]

Resolved: That the minutes of the meeting held on 4 April 2023 be approved and then signed by the Chair as a correct record.

3. Public Participation [17:35]

It was reported that there had been three registrations to speak at the meeting under the Council's Public Participation Scheme.

Wendy Loveday had registered to speak on matters within the Committee's remit. As she was unable to attend the meeting, the Chair read out a statement on her behalf. The statement requested the reopening on Penley Grove Street and Lowther Street.

William Swords spoke on matters within the Committee's remit. He asked the Committee to reconsider the type of vehicle in the issuing of hackney carriage licences and detailed the reasons for the request.

Antony Schiller (Solicitor for Applicant) had registered to speak on agenda item 6 Application for a Private Hire Operators licence - Mohammed Iqbal, trading as York Cars (Private Hire). He spoken on the application when it was taken during the meeting.

In response to a request from a Member, the Chair undertook to contact speakers after the meeting.

4. Renewal of Sex Establishment Licence for The Adult Shop, 70B Gillygate, York, YO31 7EQ [17:44]

[The meeting adjourned from 17:44 until 17:46]

Members considered a report which sought the determination of an application to renew a Sex Establishment Licence for a sex shop which has been made under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009 in respect of The Adult Shop, 70B Gillygate, York, YO31 7EQ.

The Licensing Manager outlined the report, detailing the annexes. She then detailed the options available for consideration by the Committee. She was asked and explained the policy for sex establishment licences could be reviewed at any time.

[Cllr Mason joined the meeting at 17:49]

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

Option 1: Grant a renewal of the licence as requested.

Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.

Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Kilbane moved option 1 to grant a renewal of the licence as requested. This was seconded by Cllr Mason. The Senior Solicitor advised that Cllr Mason had missed the outline of the report. On being put to the vote it was unanimously:

Resolved: That, in accordance with option 1 to grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

5. Hackney Carriage Fares [17:51}

Members considered a report that asked Members to determine a request from the Hackney Carriage Associations with regards to the maximum fares to be paid in respect of the hire of a City of York licensed hackney carriage vehicles. This request related to a variation of the table of fares.

The Taxi Licensing Manager outlined the report noting that all three taxi associations in York had agreed the request. In response to Member questions, the Taxi Licensing Manager explained:

- The incremental charges in the tariffs
- There was a requirement in the Bylaws that fares were advertised in vehicles
- The overall increase for tariffs was 13%.
- The process for consultation
- Mobility aids did not count as luggage
- How the request for the increase in fares was advertised
- The fare increase comparisons would be included in the report next time a determination was made
- There had been no objections to the fare increases and the increases would come into effect from the 14th day following the determination of the request should there be no objections. If there had been an objection the request that was not withdrawn, the request would come back to the Committee.
- The fares put forward by the trade compared with York and North Yorkshire. The annual % rise in fare rates had been provided by the trade.
- Confirmation was given that the proposed fares put forward were the maximum allowed fares.

By virtue of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) the Committee had the following options available to them in making their decision:

Option 1 – ask officers to publish in a local newspaper the variation to the table of fares proposed by the Hackney Carriage Associations, giving a specified period of 14 days within which objections can be made. If no objections are received or if so received are withdrawn then the new fares will be implemented on the date specified in the advert.

Option 2 – determine an alternative variation to the table of fares, and ask officer to publish in a local newspaper the variation to the table of fares determined by Members, giving a specified period of 14 days within which objections can be made.

Option 3 - reject the request from the Hackney Carriage Associations to vary the table of fares.

Cllr Warters moved option 1 to ask officers to publish in a local newspaper the variation to the table of fares proposed by the Hackney Carriage Associations, giving a specified period of 14 days within which objections can be made. If no objections are received or if so received are withdrawn then the new fares will be implemented on the date specified in the advert. This was seconded by Cllr Cuthbertson. On being put to the vote with eleven in favour, one against and one abstention, it was:

Resolved: That, in accordance with option 1 to grant a renewal of the licence as requested.

Reason: To determine the table of fares that will apply to charges in respect of the hire of City of York's licensed hackney carriage vehicles.

[The meeting adjourned from 18:22 to 18:34].

6. Application for a Private Hire Operators licence - Mohammed Iqbal, trading as York Cars (Private Hire) [18:34]

Members considered a report which sought determination of an application made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 by Mohammed Iqbal, trading

as York Cars (Private Hire) operating from Unit 1, Heritage Park, Outgang Lane, York, North Yorkshire, YO19 5UP.

In coming to their decision, the Committee took into consideration all the evidence and submissions that were presented, as follows:

1. The Taxi Licensing Manager's report and his comments at the meeting. He outlined the information set out in the report and annexes. In response to Members' questions, he also confirmed that: Officers were aware that the applicant was not the director of Gladstone Garage.

If the application was approved, York Cars could operate from two premises.

The complaints were about three different cards.

Additional condition 8b was part of the planning consent and licensing officers would work with planning officers on this.

The outcome of the investigation.

That 91 was the last tier for the number of cars.

2. The application form, and the submissions made by Mr Schiller, the Solicitor for the Applicant at the meeting. In response to Member questions, Mr Schiller explained that:

- The applicant had drivers not licensed in York and 75% of the drivers were licenced in York.
- The application was not in respect of the registered company for Gladstone Garage, the applicant did not have a connection with Gladstone Garage as it was a separate legal entity.

[At this point the Senior Solicitor was asked what weight could be given to complaints and she advised Members of the fit and proper test as outlined in Annex 4. She added that Members needed to carefully consider the relevance of parking issues. The Licensing Manager noted that planning permission had been granted].

It was for the committee to decide if they wanted to attach additional conditions.

The applicant was already deemed fit and proper.

Why proposed condition 8b was unenforceable.

How the applicant would deal with complaints under his grievance procedure.

If a vehicle was allocated a job under the private hire operators licence the applicant would need to know the requirement of that job,

[Cllr Widdowson left the meeting at 19:26]

Regarding the applicant's relationship with the operator of Gladstone Garage, the applicant was applying for a private hire operators licence in his own name and he had no control over Gladstone Garage. The applicant did not have a connection with Gladstone Garage as it was a separate legal entity.

Condition 8 was not reasonable and necessary.

He did not know how many drivers licensed in York passed the knowledge and safety test. [At this point the Taxi Licensing Manager confirmed that two of those drivers had passed the test].

Officers were asked and clarified that:

The annexes for the Blossom Street York Cars premises were included at annex 7 and that proposed condition 8 did not apply to the existing licence.

[Cllr Hook left at 19:41]

Officers clarified that the conditions attached were reasonable. They clarified proposed condition 8 and explained that in there was non compliance with regard to parking, this would be for the council to resolve. Regarding authority of other vehicles this would be with police and parking officers at the council. Officers confirmed that if the licence was granted for 12 months it would be under officer delegation to renew the licence. Officers were asked and clarified that drivers could only undertake the knowledge and safety test six times. They confirmed that the procedure for the test could be considered as part of the Statement of Licensing Policy review. Officers were asked and noted that they did not recall a specific email relating to comments made by the applicant at a previous committee meeting. They clarified the guidance relating to fit and proper was provided by the Institute of Licensing and that Members could amend conditions. Mr Schiller then made his closing statement in which he outlined the reasons for application to be granted.

By virtue of paragraphs 55, and 57 of the Local Government (Miscellaneous Provisions) Act 1976, the Committee have the following options available to them in making their decision:

Option 1 - Grant the licence as requested, with the standard and additional conditions attached, for a period of one year.

Option 2 - Grant the licence with modified / additional conditions imposed by the licensing committee for a period of one year.

Option 3 - Refuse the application, providing the grounds for refusal.

Following consideration of the options, and debate Cllr Kent proposed option 2 for the licence to be granted with the standard conditions and the modified / additional conditions imposed by the licensing committee as set out below for a period of one year. This was seconded by Cllr Kilbane. Further debate on modified / additional conditions was further debated. Following a vote with ten in favour and one abstention, it was:

Resolved: That Option 2 be approved and the licence be granted with the standard conditions and the modified / additional conditions imposed by the licensing committee as set out below for a period of one year in accordance with section 55(1) of the Local Government (Miscellaneous Provisions) Act 1976.

The additional conditions are as follows:

- (a) Not to use any driver licensed by any other authority onto the operators platform who is known to have taken and failed the York Knowledge and Safeguarding Test within the previous 3 years, unless the driver has subsequently passed.
- (b) To require any other authority licensed drivers who wish to be recruited onto the operator's platform to state
 - [1] if they have previously taken and failed the York knowledge and safeguarding test within the previous 3 years
 - [2] the current live points on their DVLA licence. Drivers' responses to be notified to the City of York Council.
- (c) To require any other authority licensed drivers who wish to be on-boarded to the operators platform to sign an appropriate form (in accordance with the requirements of the GDPR and Data Protection Act 2018) authorising information as to their having taken, or otherwise, the City of York Knowledge and Safeguarding Test, and current live points of their DVLA licence as well the result of any such test, to be given to the operator and/or their representatives.
- (d) To require that before fulfilling a sub-contracted booking from the operator, each other authority licensed driver must complete topographical training, namely 2-3 hours of in-house training consisting of classroom or in-car training, including the York Pedestrian Zone, city centre roads and routes, and important venues such as hospitals, the railway station, tourist attractions, etc.

- (e) To require that before fulfilling a sub-contracted booking from the operator, each other authority licensed driver must take and pass a driving assessment administered by a DVSA accredited assessor, such as The Blue Lamp Trust, Green Penny or any such other organisation as may be authorised by or agreed with the City of York Council to undertake the said driving assessment.
- (f) To keep records of topographical training and driving assessment for each other authority licensed driver. The said records (including driving assessment certificate) to be kept throughout the period the driver works with the company and for 6 months thereafter. To produce such records on request of an authorised officer of the City of York Council
- (g) A parking condition, the wording of which is delegated to officers on consultation with the Chair.
- (g1) The licensed operator shall provide parking for five vehicles, working for York Cars, on site at the operator base.
- (g2) Within 28 days from the date of this licence the licensed operator shall submit to the Licensing Authority for its approval in writing a written plan (to be known as the 'York Cars Parking Plan') which shall detail how the licensed operator will address unlawful parking of York Cars vehicles on Outgang Lane. Once the York Cars Parking Plan has been approved the licensed operator will thereafter implement and comply with the York Cars Parking Plan as so approved and no changes will be made to the York Cars Parking Plan without the prior written consent of the Licensing Authority.
- (h) A condition regards Booking and Dispatch Staff DBS checks
- (h1) The licensed operator shall ensure that booking and dispatch staff provide a basic disclosure, criminal record check as a requirement of employment. A record of this check will be kept in a register of booking and dispatch staff. The register should be available for inspection by authorised officers of the council.

Reasons:

- (i) The Committee were satisfied that:
 - a. you are a fit and proper person to hold an operator's licence and
 - b. you are not disqualified by reason of your immigration status from operating a private hire vehicle.

- (ii) The Committee considered that the additional conditions are reasonably necessary in order to ensure that any bookings sub-contracted to drivers licensed by authorities in districts other than York are carried out safely and that such drivers are not deterred from taking the York Knowledge and Safeguarding Test.

Member request [20:35]

A Member requested that a forward plan be added to future meeting agendas, that there be an update on the Drive operators licence application and that licensing hearings revert back to being held in person.

Cllr Melly, Chair

[The meeting started at 5.30 pm and finished at 8.36 pm].