



## **Minutes of the Licensing Sub-Committee**

**4 October 2018**

**-: Present :-**

Councillors Stocks, Thomas (J) and Tolchard

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### **25. Election of Chairman/woman**

Councillor Thomas (J) was elected as Chairman for the meeting.

### **26. Minutes**

The Minutes of the meeting of the Sub-Committee held on 9 August 2018 were confirmed as a correct record and signed by the Chairman.

### **27. Consideration of an Application for a New Hackney Carriage Vehicle Licence**

Members considered an application for a new Hackney Carriage Vehicle Licence. Both Applicants, Mr Jurak and Mr Nicholson, agreed to having their applications heard together with both applicants making their own submission and Members making separate decisions. The Principal Licensing Officer outlined his submitted report in respect of both applications and responded to Members questions. Mr Jurak and Mr Nicholson addressed Members and responded to questions.

#### **Decision**

That Mr Jurak's application for a Hackney Carriage Vehicle Licence be refused.

#### **Reason for the Decision**

In determining, following the request by both Applicants that the matters be heard together and having carefully considered all the written and oral submissions, Members resolved to refuse the applications as they could not be satisfied on the evidence before them that there was a significant unmet demand and therefore found no reason to depart from its current Policy.

In coming to that decision, Members noted the absences of any evidence from either Applicant to demonstrate that there was in fact a significant unmet demand within Torbay, that the Applicants themselves had not carried out any form of survey to establish a significant unmet demand and that the applications were based on the Applicants observation of a specific taxi rank within Torbay whilst working as drivers licensed by Torbay Council. These observations were specific to the hours between 11pm and 2am and not continuous, were of a rank which is in the Authority's night time economy and were predominantly on a Saturday but

also on a Friday. In addition, the oral submission from one of the Applicants that they were not saying that there was a significant unmet demand, just that there was an unmet demand.

In consideration of those determining facts, Members had careful regard to Section 16 of the Transport Act 1985 which provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet', point 14.1 of Torbay Council's Hackney Carriage (Taxi) & Private Hire Policy 2013 which sets out that the Licensing Authority currently imposes a quantity restriction regarding the number of hackney carriages licensed by Torbay Council, the Licensing Committee's determination on the 22 January 2015 which states that the current quantitative limit of Hackney Carriage licences of 162 full time licences, with seven additional summer only licences be approved and the Department of Transport, Taxi and Private Hire Vehicle Licensing' Best Practice Guidance dated March 2010 which states that an interval of three years is commonly regarded as the maximum reasonable period between surveys.

In further consideration of the quantitative limit set by the Authority and the issue raised by the Applicants that the Authority was eight months beyond this proposed period, Members noted that it was guidance which they had to have regard to but in light of the evidence of the Principal Licensing Officer, that a study demand survey had been carried out and a report of its findings are scheduled to come before the Licensing Committee on the 1<sup>st</sup> November 2018, Members unanimously determined that to depart from the Policy at this stage would in their opinion be contrary to any substantive evidence.

## **28. Consideration of an Application for a New Hackney Carriage Vehicle Licence**

The background to the decision below is set out in Minute 28 above.

### **Decision**

That Mr Nicholson's application for a Hackney Carriage Vehicle Licence be refused.

### **Reason for the Decision**

In determining, following the request by both Applicants that the matters be heard together and having carefully considered all the written and oral submissions, Members resolved to refuse the applications as they could not be satisfied on the evidence before them that there was a significant unmet demand and therefore found no reason to depart from its current Policy.

In coming to that decision, Members noted the absences of any evidence from either Applicant to demonstrate that there was in fact a significant unmet demand within Torbay, that the Applicants themselves had not carried out any form of survey to establish a significant unmet demand and that the applications were based on the Applicants observation of a specific taxi rank within Torbay whilst

working as drivers licensed by Torbay Council. These observations were specific to the hours between 11pm and 2am and not continuous, were of a rank which is in the Authority's night time economy and were predominantly on a Saturday but also on a Friday. In addition, the oral submission from one of the Applicants that they were not saying that there was a significant unmet demand, just that there was an unmet demand.

In consideration of those determining facts, Members had careful regard to Section 16 of the Transport Act 1985 which provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet', point 14.1 of Torbay Council's Hackney Carriage (Taxi) & Private Hire Policy 2013 which sets out that the Licensing Authority currently imposes a quantity restriction regarding the number of hackney carriages licensed by Torbay Council, the Licensing Committee's determination on the 22 January 2015 which states that the current quantitative limit of Hackney Carriage licences of 162 full time licences, with seven additional summer only licences be approved and the Department of Transport, Taxi and Private Hire Vehicle Licensing' Best Practice Guidance dated March 2010 which states that an interval of three years is commonly regarded as the maximum reasonable period between surveys.

In further consideration of the quantitative limit set by the Authority and the issue raised by the Applicants that the Authority was eight months beyond this proposed period, Members noted that it was guidance which they had to have regard to but in light of the evidence of the Principal Licensing Officer, that a study demand survey had been carried out and a report of its findings are scheduled to come before the Licensing Committee on the 1<sup>st</sup> November 2018, Members unanimously determined that to depart from the Policy at this stage would in their opinion be contrary to any substantive evidence.

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Chairman/woman