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Bridgend County Borough Council
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Legal and Regulatory Services /
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Ask for / Gofynnwch am: Sarah Daniel

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: Wednesday, 12 August 2015

Dear Councillor,

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B will be held in Committee Rooms 2/3 on **Tuesday, 18 August 2015 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence (to include reasons, where appropriate) from Members/Officers
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Application for Grant of Street Trading Consent 3 - 8
4. Application to Licence Hackney Carriage Vehicle 9 - 10
5. Application to Licence Hackney Carriage Vehicle 11 - 14
6. Urgent Items
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.
7. Exclusion of the Public
The reports relating to the following items are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

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If following the application of the public interest test the Committee resolves pursuant to the Act to consider these items in private, the public will be excluded from the meeting during such consideration.

- | | | |
|----|---------------------------------------------------------|---------|
| 8. | <u>Application for Grant of New Licence</u> | 15 - 16 |
| 9. | <u>Disciplinary Hearing for Existing Licence Holder</u> | 17 - 22 |

Yours faithfully

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Distribution:

Councillors:

GW Davies MBE

PA Davies

E Dodd

Councillors

CJ James

PN John

DRW Lewis

Councillors

DG Owen

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING SUB COMMITTEE

18 AUGUST 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

APPLICATION FOR GRANT OF STREET TRADING CONSENT

1. Purpose of Report.

1.1 To determine an application for the grant of a street trading consent for the sale of ice cream from a vehicle in various locations in the county borough. The application has been submitted by Pamela Davies in respect of a single van, for the sale of ice cream sweets, tea/coffee, biscuits, crisps.

1.2 A previous consent expired on 11 August 2015.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

2.1 None.

3. Background.

3.1 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading in the County Borough. For the purposes of the Act street trading is defined as “the selling or exposing or offering for sale of any article (including a living thing) in a street.”

3.2 A street includes

“(a) any road, footway, beach or other area to which the public have access without payment...”

When adopting the designation of consent streets and a street trading policy, the Licensing Committee was advised of the High Court in the case of WEST BERKSHIRE DISTRICT COUNCIL v PAINE (2009) which clarified the scope of the definition of a street. The judgement outlined that it was important to keep in mind the purpose of the 1982 Act, namely that it enabled a local authority to regulate sellers who operated without premises and itinerant traders so that it could assess the suitability of sellers; assess what nuisance or obstruction they might cause; and ensure consumer protection. The judgement concluded that whether premises were private property was an immaterial consideration for the purposes of considering what constituted a street for the purposes of Sch.4 paragraph 1(1)(a) of the 1982 Act. Therefore the key consideration for the local authority was whether the public could go to a place without having to make a payment and not whether they did so go.

3.3 The current application process requires the applicant to provide information to enable an assessment to be carried out as to the suitability of the applicant, and to

ensure that consideration may be given as set out in Paragraph 7 of Part III Schedule 4 of the Act to conditions to prevent

- (a) obstruction of the street or danger to persons using it; or
- (b) nuisance or annoyance (whether to persons using the street or otherwise)

3.4 The policy governing the grant and renewal of applications, and the application process was approved by the Licensing Committee on 4 October 2011 (Minute 91). The resolution identified that all streets in the County Borough shall be designated as consent streets e.g. one where consent from the local authority is needed before street trading may commence.

4. Current situation / proposal

4.1 The application was originally submitted prior to the expiry date, to renew and extend the scope of the existing consent which covered fixed trading on the Newton Beach site, and Porthcawl streets as a mobile trader. The applicant provided supporting evidence from the land owner of consent to occupy the fixed trading site at Newton Beach, Porthcawl.

4.2 The application also named Rhych Avenue Porthcawl specifically as a site. The applicant also seeks to extend the mobile trading element to encompass all streets in the County Borough except outside schools.

4.3 The application has been circulated to South Wales Police, the Council's Highways Department, Transportation and Engineering, Planning Department, Town Centre Manager, Property Department, Public Protection Department, Streetworks Department, Rights of Way Department, Parks and Playing Fields Department and Porthcawl Town Council. The application was also advertised on Bridgend County Borough Council website.

4.4 The previous consent was issued subject to special conditions as to the location of trading on a fixed site, and specifying where trading could not take place as follows:

4.4.1

1. When operating as a mobile trader the consent holder shall not operate so as to cause:

(a) The contravention of any traffic regulation order or advice given in the Highway Code.

(b) The obstruction of the free flow of traffic and pedestrian movement or otherwise cause a hazard to other road users.

(c) Any congestion or hazard to public safety.

(d) The consent holder will move on immediately the last customer has been served and no permission is granted to trade from a fixed site or position except the Newton Beach site.

4.4.2

2. **The consent to apply to fixed trading at the Newton Beach Car Park.**

4.4.3

3. **The consent to apply to mobile trading in Porthcawl but with the following exclusions:**
 - (a) **No trading outside any Primary School during school hours or at the beginning or end of the school day or in Park Avenue, Victoria Avenue or Severn Road, Porthcawl.**
 - (b) **No trading on the Eastern Promenade, Porthcawl.**
 - (c) **No trading on the Esplanade, Porthcawl from the Grand Pavilion to Cosy Corner.**
 - (d) **No trading in any venue which is within the curtilage of the Splash Up event except with the written permission of the Council.**
 - (e) **No trading on the Wales Coast Path or in any area likely to obstruct access to the Coast Path.**

4.5 The consultees have responded and some revisions to the streets have been proposed and a request for additional information submitted. The applicant was notified in writing on 15 July 2015 of the proposed terms of the consent, if granted, which included the list of streets where it was proposed that mobile trading would not be permitted. These relate mainly to Porthcawl, Bridgend and Maesteg Town Centre streets, as follows:

- James Street Porthcawl
- John Street Porthcawl
- Dock Street Porthcawl
- Well Street Porthcawl
- The Esplanade Porthcawl, from Cosy Corner to The Seabank Hotel
- Rhych Avenue Porthcawl
- Nolton Street Bridgend
- Derwen Road Bridgend
- Rhiw Hill Bridgend
- Commercial Street Maesteg, from the Police Station to the traffic lights)
- Talbot Street Maesteg

4.6 However, the Rhych Avenue site was also included within the restricted streets as the applicant had not at that time provided the land owner's consent to occupy the site. To ensure continuity of trading, it was suggested that the application proceed excluding the Rhych Avenue site, with a review once satisfactory documentation was produced. At the time this report was prepared this had not been agreed by the applicant.

4.7 Paragraph 5.1 of the Council's street trading policy sets out the issues for consideration before determining an application.

"5.1 The granting or renewal of a street trading consent is subject to standard and/or special conditions relating to such issues as:

- Obstructions
- Nuisance or annoyance
- Location of trading
- Operation times
- Litter control
- Any other conditions as are reasonable and proportionate to include consent being limited to a single location."

4.8 Paragraph 6.3 of the Council's policy sets out the pre-licensing requirements:

"6.3 The applicant will be responsible for obtaining any other permissions, including permissions from the planning and highway authority and the land owner's consent to trade on the street. The applicant will be required to provide written confirmation of the land owner's consent to trade on the street."

4.9 If the Sub-Committee is minded to grant the application, it is requested to consider including the special conditions set out in paragraph 4.4.1 above, a stipulation regarding the location of any fixed trading sites as set out in paragraph 4.4.2 above, together with a list of streets specifically to be excluded from the consent.

5. Effect upon Policy Framework & Procedure Rules.

5.1 None

6. Equality Impact Assessment.

6.1 There are no implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief or sexual orientation

7. Financial Implications.

7.1 None. The annual fee for the grant of consent has been paid.

8. Recommendation.

8.1 The powers available to the Sub-Committee are as follows:-

8.1.1 To grant the consent subject to the standard conditions and any other conditions the Sub-Committee deems reasonably necessary. A street trading consent may be granted for any period not exceeding 12 months.

8.1.2 To refuse the application. Members are advised that there is no statutory right of appeal against the decision to refuse a street trading consent but an internal means of redress has been established within the policy.

Andrew Jolley
Assistant Chief Executive Legal and Regulatory Services

12 August 2015

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Licensing and Registration Officer

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Background documents

Application for Street Trading Consent
Criminal Record Subject Access Search
Council's Street Trading Policy

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BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING SUB COMMITTEE

18 August 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

APPLICATION TO LICENCE HACKNEY CARRIAGE VEHICLE

1. Purpose of Report.

- 1.1 To ask the sub-committee to consider the application to grant a licence for a hackney carriage vehicle.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 None

3. Background.

- 3.1 It is the duty of the Local Authority to determine applications made under the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847. These applications are referred to Licensing Sub-Committee for determination.

4. Current situation / proposal.

- 4.1 Application is made by Forge Travel Ltd, to licence a vehicle registration number EK64ESY as a hackney carriage vehicle to seat 4 persons. The date of first registration of the vehicle is 31 October 2014. The vehicle is pre-owned.
- 4.2 The applicant submitted the application on 31 July 2015. The applicant has stated that the vehicle has not reached sufficient mileage for a service to be required.
- 4.3 The vehicle is submitted for consideration under the Council's Hackney Carriage Vehicle Policy.
- 4.4 Policy Guidelines

The vehicle policy applicable to this application was approved by the Licensing Committee on 10 March 2008. The relevant extract from the policy is as follows:

(2.1) "Applications for the first licensing of a hackney carriage or private hire vehicle should be submitted to the Council within 14 days of the first registration of the vehicle at the DVLA. The mileage at the time of application should be no greater than 500 miles. The applicant may be the second or a subsequent registered keeper but the applicant must demonstrate that there is no more than 14 days between the first registration and transfer to the applicant's name. Applications will normally be dealt with under the Scheme of Delegation to Officers.

(2.2) Applications for the first licensing of vehicles falling outside the above policy guidelines will normally be refused but a relaxation of the policy may be considered in exceptional circumstances.” The vehicle does not fall within the published guidelines for relaxing the policy, so this case must be dealt with on its merits.

4.5 This case is referred to the Licensing Sub-Committee as the vehicle falls outside the vehicle policy for the first licensing of a hackney carriage.

5. Effect upon Policy Framework & Procedure Rules.

5.1 None.

6. Equality Impact Assessment.

6.1 This vehicle is not for wheelchair use. There are no other implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation.

7. Financial Implications.

7.1 None for the Authority. The Applicant has purchased the vehicle and paid the application fee.

8. Recommendation.

8.1 The Sub-Committee is asked to determine the application having regard to the information contained within this report.

Andrew Jolley
Assistant Chief Executive Legal and Regulatory Services
12 August 2015

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Background documents

Hackney Carriage Vehicle Application Form
Hackney Carriage Policy Guidelines

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING SUB COMMITTEE

18 AUGUST 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

APPLICATION TO LICENCE PRIVATE HIRE VEHICLE

1. Purpose of Report.

- 1.1 To ask the sub-committee to consider the application to grant a licence for a private hire vehicle.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 None

3. Background.

- 3.1 It is the duty of the Local Authority to determine applications made under the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847. These applications are referred to Licensing Sub-Committee for determination.

4. Current situation / proposal.

- 4.1 Application is made by Forge Travel Ltd, to licence a Hyundai I40 vehicle registration number EK14FPT as a private hire vehicle to seat 4 persons.
- 4.2 The vehicle is pre-owned and was first registered at the DVLA on 27 March 2014. The applicant has stated that the vehicle has not reached sufficient mileage for any service of the vehicle to required.
- 4.3 The vehicle is submitted for consideration under the Council's Private Hire Vehicle Policy.
- 4.4 Policy Guidelines

The vehicle policy applicable to this application was approved by the Licensing Committee on 10 March 2008. The relevant extract from the policy is as follows:

“(Policy 2.1) Applications for the first licensing of a hackney carriage or private hire vehicle should be submitted to the Council within 14 days of the first registration of the vehicle at the DVLA. The mileage at the time of application should be no greater than 500 miles. The applicant may be the second or a subsequent registered keeper but the applicant must demonstrate that there is no more than 14 days between the first registration and transfer to the applicant's name. Applications will normally be dealt with under the Scheme of Delegation to Officers.

(Policy 2.2.5) A relaxation of the policy will also be considered in exceptional circumstances for applications relating to the first licensing of private hire vehicles. The Council does not seek to limit or define a particular vehicle which is suitable but will adhere to the minimum standards for the size of seats and legroom etc which are available on request. Irrespective of the age of the vehicle it must be capable of satisfying the general licensing conditions and be fit for purpose as a private hire vehicle in terms of passenger safety and comfort. Each application will be reported to the Licensing Sub-Committee for determination on its merits having regard to the following criteria:

- *That the vehicle presented is in an exceptional condition in relation to its exterior and interior appearance with no evidence of defects, chips, marks or other evidence of unreasonable wear and tear or damage.*
- *That the vehicle presented offers an exceptional standard of safety and comfort for passengers in terms of features offered for example ABS, passenger airbags and ability to meet current requirements on emissions testing.*
- *That the application includes evidence that the vehicle has been serviced at the intervals recommended by the manufacturer and at an approved garage. Other relevant documentations such as an MOT certificate should also be provided.*

(Policy 2.4) All applicants should be satisfied that they can meet all current policy requirements before submitting an application and are advised that they submit an application which falls outside the above policy guidelines at their own risk. Acceptance of an application does not infer that it will be granted. Applicants are strongly advised not to purchase a vehicle or make any other financial commitment until the application is determined.”

5. Effect upon Policy Framework & Procedure Rules.

5.1 None

6. Equality Impact Assessment.

6.1 This vehicle is not for wheelchair use. There are no other implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation.

7. Financial Implications.

7.1 None for the Authority. The Applicant has paid the application fee.

8. Recommendation.

8.1 The Sub-Committee is asked to determine the application having regard to the information contained within this report.

Andrew Jolley

**Assistant Chief Executive Legal and Regulatory Services
12 August 2015**

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Background documents

Private Hire Vehicle Application
Private Hire Vehicle Policy Guidelines

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