

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **Registration and Licensing Committee**

6th December 2018

### **Report of the Head of Legal Services – Craig Griffiths**

#### **Matter for Decision**

**Wards Affected:** All

### **Hackney Carriage Proprietor's Licence - Town Police Clauses Act 1847**

#### **Purpose of the Report**

1. To consider an application from Mr. Wayne Brettle, to renew a hackney carriage proprietor's licence, where the licence has recently expired.

#### **Executive Summary**

2. An application to renew a hackney carriage proprietor's licence, where the licence has expired, was received on the 3rd December 2018; the licence however expired on the 25th November 2018.
3. Officers only have delegated authority to renew a hackney carriage proprietor's licence when the application is submitted prior to the expiry of the licence or where the licence is submitted up to 3 days late with a good reason.
4. The Registration and Licensing Committee are being asked to determine the application taking into consideration the relevant case law of Exeter City Council v Sandle [2011].

## **Background**

5. Hackney carriage proprietor's licences are issued for 1 year, at the end of which it is necessary for the licence holder to apply to renew the licence.
6. In accordance with the Council's Taxi Licensing Policy (Paragraph 3.10 - Renewal of Licence), where an application for renewal is made after the licence expires, the Council will decide whether or not the licence can be renewed taking into account how long after the expiry of the licence the application was made and the reasons why the licence was not renewed prior to the expiry.
7. The above approach is in accordance with Exeter City Council v Sandle [2011], which says that a licence is capable of renewal up to 3 days after the expiry of the licence with a good reason; however beyond that, exceptional circumstances would be required.

## **Officer Report**

8. A letter was sent to Mr. Brettle on the 4th September 2018 inviting him to apply to renew the hackney carriage proprietor's licence in respect of licence 127.
9. No application was received and consequently the licence expired at midnight on the 25th November 2018. Mr. Brettle attended the Licensing Section with a completed application and supporting documentation on the 3rd December 2018.
10. Mr. Brettle told Licensing Officers that he thought his licence expired in December and that he had made a mistake with not applying to renew the licence sooner.
11. Taking into consideration the judgement of Exeter City Council v Sandle [2011], it is suggested that Mr Brettle's licence is not capable of renewal for the following reasons:
  - Mr. Brettle's licence had expired 7 days prior to his application for renewal being received by the local authority; and
  - It is suggested that Mr. Brettle does not have an exceptional reason for failing to renew the licence prior to the expiry.

12. It is proposed that Mr. Brettle's application is instead treated as a new application, however, the Council's Taxi Licensing policy requires that all new hackney carriage proprietor licences must be for a vehicle that is wheelchair accessible; Mr. Brettle's vehicle is a Skoda Superb and therefore does not comply with the policy.
13. Mr. Brettle held the hackney carriage proprietors licence for his vehicle up to and including the 25th November 2018, had he applied for renewal of the licence prior to the expiry, there would have been no reason not to renew the licence; this would have been done by officers under delegated authority.
14. It is therefore proposed that an exemption be provided from the Council's Taxi Licensing policy (that "all new the vehicle must be wheelchair accessible") and that Mr. Brettle's application for a new hackney carriage proprietor's licence be approved.
15. It is suggested that this is an appropriate course of action because the licence expired very recently and because there would have been no reason to not renew the licence had Mr. Brettle applied prior to the expiry of the licence.

### **Equality Impact Assessment**

16. There are no equality impacts associated with this report

### **Legal Impacts**

17. There is a right of appeal to the Magistrates' Court against a decision to refuse to renew a hackney carriage proprietor's licence.
18. There is a right of appeal to the Crown Court against a decision to refuse to grant a new hackney carriage proprietor's licence.

### **Risk Management**

19. There are no risk management associated with this report

### **Consultation**

20. Not applicable

## **Recommendation**

21. That members confirm that the hackney carriage proprietor's licence is incapable of renewal.
22. That members approve the application for a new hackney carriage proprietor's licence.

## **Reasons for Proposed Decision**

23. That the decision is considered to be consistent with the judgment in Exeter City Council v Sandle [2011].
24. That the licence would have been capable of renewal had Mr. Brettle applied for renewal prior to the expiry of the licence and because the licence had expired very recently.

## **Implementation of Decision**

25. Immediate implementation

## **Appendices**

26. Not Applicable

## **List of Background Papers**

27. Hackney Carriage Proprietor's Licence file
28. Neath Port Talbot CBC - Taxi Licensing Policy
29. Mr. Brettle's application for the grant of a hackney carriage proprietor's licence

## **Officer Contact**

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