

DINAS A SIR ABERTAWE

HYSBYSIAD O GYFARFOD

Fe'ch gwahoddir i gyfarfod

PWYLLGOR TRWYDDEDU CYFFREDINOL

Lleoliad: Siambr y Cyngor, Neuadd y Ddinas, Abertawe

Dyddiad: Dydd Gwener, 11 Rhagfyr 2015

Amser: 10.00 am

Cadeirydd: Cyngorydd Penny Matthews

Aelodaeth:

Cyngorwyr: A C S Colburn, D W Cole, A M Cook, J P Curtice, P Downing, V M Evans, P Lloyd, K E Marsh, H M Morris, C L Philpott a/ac T H Rees

AGENDA

Rhif y Dudalen.

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| 4 | Deddf Lywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i newid cerbyd hurio preifat - Ford Focus (EU60 CGX) - A Star Mini Travel - Mr Lee Jones. | 6 - 10 |
| 5 | Deddf Lywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais i drwyddedu cerbyd hurio preifat cyfyngedig - Ford Transit (CV10 ZVA) - Mr Simon Stern. | 11 - 15 |
| 6 | Gwahardd y cyhoedd. | 16 - 19 |
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Cyfarfod Nesaf: Dydd Gwener, 8 Ionawr 2016 ar 10.00 am



Patrick Arran
Pennaeth Gwasanaethau Cyfreithiol a Democrataidd
Dydd Iau, 3 Rhagfyr 2015

Cyswllt: Gwasanaethau Democrataidd - tel: (01792) 637292

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A “financial interest” is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON FRIDAY,
13 NOVEMBER 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn D W Cole P Downing	P Lloyd K E Marsh	H M Morris C L Philpott

Officers:

L Anthony	-	Divisional Licensing Officer
R Jenkins	-	Licensing Officer
L Thomas	-	Senior Lawyer
S Woon	-	Democratic Services Officer

65 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors J P Curtice and V M Evans.

66 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

67 **MINUTES.**

RESOLVED that the minutes of the General Licensing Committee held on 9 October, 2015 and the Special General Licensing Committee held on 23 October, 2015 be agreed as correct record.

68 **TOWN POLICE CLAUSES ACT 1847 - APPLICATION FOR THE SUBSTITUTION AND RENEWAL OF A HACKNEY CARRIAGE VEHICLE LICENCE - REGISTRATION MARK SF53 BBJ - MR S WILLIAMS.**

The Divisional Officer, Licensing, Food and Safety, advised that an application for the substitution and renewal of a hackney carriage vehicle licence had been received from Mr Williams. The vehicle was a black Peugeot Expert, Registration Mark SF53 BBJ and was capable of carrying 7 passengers.

Members' noted that the matter had been deferred from the General Licensing Committee on 9 October, 2015, as Mr Williams had confirmed that there had been difficulties taxing the vehicle.

Members' noted the background, current application, vehicle history, current considerations, Department of Transport – Taxi and Private Hire Licensing; Best Practice Guidance March 2010 and Hackney Carriage Vehicle Policy.

Members' asked questions of Mr Williams who responded accordingly.

RESOLVED, that the application made by Mr Williams to substitute and renew the Hackney Carriage Vehicle Licence in respect of the Peugeot Expert vehicle registration Mark SF53 BBJ be **APPROVED**.

69 **EXCLUSION OF THE PUBLIC.**

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

It was **RESOLVED** that the public be excluded for the following items of business.

(CLOSED SESSION)

70 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - JM.**

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of JM.

JM explained the background and circumstances of his request and answered Members' questions.

RESOLVED that JM's request for a Hackney Carriage and Private Hire Driver's Licence be **REFUSED**.

Reason for Decision

The Committee were not satisfied JM was a fit and proper person because:-

- The safety of the public was a paramount consideration for the Members;
- The nature and number of offences committed in close proximity since 2010;
- The number of offences involving dishonesty which were committed within 3-5 years. JM did not have the minimum of 3 years free from convictions.

- Members were not satisfied it was appropriate or reasonable to depart from the guidelines having regard to all the circumstances of the case as set out in the report and having heard JM; and
- The limited explanations provided by JM to mitigate his position when asked about the offences were insufficient to satisfy the members he was acting out of character and therefore would not commit further offences going forward.

71 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY
CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - AJR.**

The Divisional Officer, Licensing, Food and Safety, detailed the background information in respect of AJR.

Members' asked questions of the Officer who responded accordingly.

AJR explained the background and circumstances of his request and answered Members' questions.

RESOLVED that AJR's request for a Hackney Carriage and Private Hire Driver's Licence be **REFUSED**.

Reason for Decision

The Committee were not satisfied AJR was a fit and proper person because:

- The safety of the public was a paramount consideration for the Members;
- The number of speeding offences within 3 years committed by AJR which he admitted;
- Members' noted he was disputing a further offence which was pending ,but they found in light of AJR's response and representations made that he was putting Police to proof of the alleged speed. He admitted going 30 or 31 mph. The Member's found it was more likely than not he had been going in excess of 30 mph in light of the other offences;
- Members were not satisfied he was acting out of character in the absence of any real mitigation and/or remorse and/or any attempt by AJR to address his propensity to speed; and
- All convictions were committed when he was driving a taxi although the Members noted he denied he had any passengers at the time of the ones for which he was convicted. AJR admitted he had passengers for the offence he was disputing.

The meeting ended at 10.44 am

CHAIR

Agenda Item 4

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
11th DECEMBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION FOR THE SUBSTITUTION OF A PRIVATE HIRE VEHICLE,
FORD FOCUS, REGISTRATION MARK EU60 CGX
A-STAR MINI TRAVEL LTD – MR LEE JONES

1. INTRODUCTION

- 1.1 An application for substitution of private hire vehicle licence has been received from Mr Lee Jones of A Star Mini Travel Ltd. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age.
- 1.2 At the General Licensing Committee of 17th December 2014, Members agreed that any vehicle that does not comply with the current licensing criteria and/or is over 5 years continue to be considered by Committee. However, in future Members of the General Licensing Committee would not inspect the vehicle. The vehicle would be inspected by Licensing Officers prior to the Licensing Committee and Members would consider a written report.

2. BACKGROUND

- 2.1 Mr Jones has notified the Licensing Division that private hire vehicle licence number 4692, a White Ford Focus vehicle registration mark EU10 ETA has been involved in a road traffic accident and is to be written off by the insurance company. This vehicle was first registered on 1st July 2010 and is therefore 5 years and 5 months old. The private hire vehicle licence expires in March 2016.

3. CURRENT APPLICATION AND RELEVANT CONSIDERATIONS

The Vehicle

- 3.1 Mr Jones wishes to apply for a private hire licence for a White Ford Focus to replace the vehicle involved in the road traffic accident. This vehicle was first registered on 1st November 2010 and is 5 years and 1 month old. The registration mark of the vehicle is EU60 CGX and is capable of carrying 4 passengers.

Inspections and Documents

- 3.2 The vehicle passed the Council's inspection at CTU and an inspection by Licensing Officers at the Civic Centre on 18th November 2018 where the vehicle was considered to be of suitable standard for licensing as a

private hire vehicle The mileage recorded at this time was 123,319 miles.

- 3.3 Mr Jones has supplied dates of service checks carried out together with the recorded mileage on these dates from March 2011 to August 2015 and Service History up to 118,916 miles. Mr Jones has also supplied an up to date vehicle history check for the vehicle which is satisfactory.
- 3.4 The available MOT history check for the vehicle registration EU60 CGX is as follows:

DATE OF MOT	RECORDED MILEAGE
17 th November 2015	123,300

- 3.5 Members are therefore being asked to consider whether the Ford Focus, Registration Number, EU60 CGX is suitable for licensing as a private hire vehicle.

4. **THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010**

- 4.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

“It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.”

5. **LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES**

- 5.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

“Licensing of private hire vehicles

48 (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to

use the vehicles as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is –
 - (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable

that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—
 - (a) the name and address of—
 - (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
 - (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;

- (c) the conditions attached to the grant of the licence; and
- (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
 - (a) be signed by an authorised officer of the council which granted it;
 - (b) relate to not more than one private hire vehicle; and
 - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
 - (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.
- (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

5.2 It is evident from section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have discretion. Section 48(1)(a) and (b) also includes specific situations where a council must not grant a licence.

6. **RECOMMENDATION**

- 6.1 It is recommended that after careful consideration of the detail of this report and hearing from Mr Jones, Members determine whether to:
- a. Grant the application made by Mr Jones to substitute registration mark EU60 CGX, a white Ford Focus onto private hire vehicle licence number 4692 and that this licence is renewed on merit. OR
 - b. Refuse the application made by Mr Jones a Private Hire Vehicle licence in respect of the Ford Focus, registration mark EU60 CGX giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Committee's instructions are requested.

Background Papers: Licence Application and General Licensing
Committee Report of 17th December 2014

Contact Officer: Richard Jenkins

Extension: 5600

Legal Contact: Aled Gruffydd

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
11TH DECEMBER 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD TRANSIT, REGISTRATION MARK CV10 ZVA
MR SIMON STERN

1. **INTRODUCTION**

- 1.1 An application for a restricted private hire vehicle licence has been received from Mr Simon Stern. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age. Mr Stern wishes to use the restricted private hire vehicle, if licensed, for the purposes of school transport, airport travel and or executive hire only.
- 1.2 At the General Licensing Committee of 17th December 2014, Members agreed that any vehicle that does not comply with the current licensing criteria and/or is over 5 years continue to be considered by Committee. However, in future Members of the General Licensing Committee would not inspect the vehicle. The vehicle would be inspected by Licensing Officers prior to the Licensing Committee and Members would consider a written report.

2. **RELEVANT CONSIDERATIONS**

The Vehicle

- 2.1 Mr Stern wishes to apply for a restricted private hire vehicle licence for a silver Ford Transit. The vehicle was first registered on 9th April 2010 and is therefore 5 years and 8 months old. The registration of the vehicle is CV10 ZVA and is capable of carrying 8 passengers.

The Purpose

- 2.2 It is proposed that the vehicle will be used for School Transport, Airport Travel and or Executive Hire Only.

Inspections and Documents

- 2.3 The vehicle passed the Council's inspection at CTU on 17th November 2015 and the mileage recorded at this time was 146,689 miles.
- 2.4 Mr Stern has supplied dates of service checks carried out together with the recorded mileage on these dates from 16th July 2012 to 29th October 2015 and an up to date vehicle history check.

2.5 MOT history check for vehicle registration CV10 ZVA:

Date of MOT	RECORDED MILEAGE
19/07/2012	10,822
17/11/2012	29,298
01/11/2013	67,865
05/11/2014	106,505
29/10/2015	145,971

- 2.6 A Licensing Officer also inspected the vehicle on 23rd November 2015 at the Civic Centre where the vehicle was considered to be of suitable standard for licensing as a restricted private hire vehicle.

3. **CURRENT LICENSING CRITERIA**

- 3.1 The Council's current age criteria states:

“ Vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration. Vehicles will be relicensed on merit.”

- 3.2 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, WA06 NFC is suitable for licensing as a restricted private hire vehicle.

4. **RESTRICTED PRIVATE HIRE VEHICLES**

- 4.1 In 2008 the creation of the 'restricted private hire licence' came about as a result of a change in legislation that removed the 'contract exemption' contained in section 75 of the Local Government (Miscellaneous Provisions) Act 1976.

- 4.2 The contract exemption previously permitted the use of a vehicle, under a contract for hire of more than seven days, to operate legally without the need for the operator or the driver of the vehicle to be licensed.

- 4.3 The restricted vehicle licence has since been issued for a number of vehicles for the purposes of school contract, airport travel and executive hire. Restricted vehicle licences were introduced in response to the change in legislation to allow those vehicles that were affected by the removal of the contract exemption, to carry on their existing business and not be adversely affected. These vehicles did not comply with this Council's policy for private hire vehicles in design

or age and therefore could not be licensed as such.

- 4.4 The conditions attached to restricted vehicle licences issued ensured existing businesses could be licensed and continue with their normal operations without affecting their livelihood or creating undue expense. In particular restrictions were not applied in relation to the age or colour of the vehicles to be licensed.

5. **THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010**

- 5.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

“It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.”

6. **LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES**

- 6.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

“Licensing of private hire vehicles”

48 (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicles as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is –
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

- (iii) in a suitable mechanical condition;
- (iv) safe; and
- (v) comfortable

that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—
 - (a) the name and address of—
 - (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
 - (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
 - (c) the conditions attached to the grant of the licence; and
 - (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
 - (a) be signed by an authorised officer of the council which granted it;
 - (b) relate to not more than one private hire vehicle; and

- (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
 - (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
 - (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
(b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.
 - (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.
- 6.2 It is evident from section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have discretion. Section 48(1)(a) and (b) also includes specific situations where a council must not grant a licence.

7. RECOMMENDATION

- 7.1 It is recommended that after careful consideration of the detail of this report and hearing from Mr Stern, Members determine whether to:
- a. Grant Mr Stern a restricted Private Hire Vehicle licence in respect of the Ford Transit, registration mark CV10 ZVA and that this licence is renewed on merit. OR
 - b. Refuse Mr Stern a restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark CV10 ZVA giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Committee's instructions are requested.

Background Papers: Licence Application and General Licensing Committee Report of 17th December 2014
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Aled Gruffydd

Agenda Item 6

Report of the Head of Legal, Democratic Services

General Licensing Committee – 11 December 2015

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item No.	Relevant Paragraphs in Schedule 12A
	7, 8, 9, 10, 11 & 12	12, 13 & 18
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal & Democratic Services (Monitoring Officer)	

1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, **Council / Cabinet / Committee** will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to

the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

3. Financial Implications

- 3.1 There are no financial implications associated with this report.

4. Legal Implications

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
 - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
 - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
 - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

Background Papers: None

Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
12	Information relating to a particular individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <ul style="list-style-type: none"> a) Whilst he was mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts. <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
15	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the

	Crown and employees of, or office holders under, the authority.
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
	No public interest test.
17	Information which reveals that the authority proposes: (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
18	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
18c	The deliberations of a Standards Committee or of a sub committee of a Standards Committee established under the provisions of the Local Government Act 2000 in reaching any finding of a matter referred to it.

Agenda Item 7

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 8

By virtue of paragraph(s) 12, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 9

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 10

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A
of the Local Government Act 1972
as amended by the Local Government (Access to
Information) (Variation) (Wales) Order 2007.

Document is Restricted

Agenda Item 12

By virtue of paragraph(s) 12, 13, 18 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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