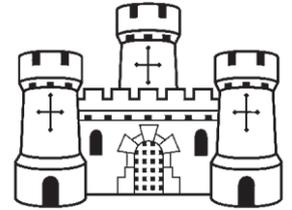


Public Document Pack

Date of meeting Tuesday, 13th December, 2022
Time 7.00 pm
Venue Astley Room - Castle
Contact Geoff Durham 742222



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

Licensing & Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

LICENSING COMMITTEE

- 1 APOLOGIES**
- 2 DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**
To receive declarations of interest from Members on items contained within the agenda
- 3 MINUTES OF A PREVIOUS MEETING** (Pages 5 - 8)
- 4 FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2023-24** (Pages 9 - 14)

PUBLIC PROTECTION COMMITTEE

- 5 DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS**
To receive declarations of interest from Members on items contained within the agenda
- 6 PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2023/2024** (Pages 15 - 22)
- 7 CLEAN AIR ACT 1993 AS AMENDED - REVIEW OF SMOKE CONTROL AREAS AND ENFORCEMENT POWERS** (Pages 23 - 28)
Appendix to follow

8 ENVIRONMENT ACT 1995 - PART IV LOCAL AIR QUALITY MANAGEMENT - ANNUAL STATUS REPORT 2022 (Pages 29 - 34)

9 ENVIRONMENT ACT 1995 Part IV- CONSULTATION ON REVOCATION OF LITTLE MADELEY AQMA (Pages 35 - 40)

10 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 41 - 44)

To consider the minutes of the Public Protection Sub-Committees which have met since the previous Licensing and Public Protection Committee.

11 URGENT BUSINESS

To consider any business which is urgent within the meaning of Section 100B (4) of the Local Government Act 1972

12 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.

Members: Councillors Parker (Chair), Whieldon (Vice-Chair), S White, Barker MBE, Heesom, Sweeney, Wilkes, Skelding, Adcock, Dymond, Wright, Allport, J Williams, G Williams and Brown

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- Where the total membership of a committee is 12 Members or less, the quorum will be 3 members....Where the total membership is more than 12 Members, the quorum will be one quarter of the total membership.

SUBSTITUTE MEMBER SCHEME (Section B5 – Rule 2 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:	Hutchison	Brockie
	Panter	Beeston
	Johnson	Fox-Hewitt
	J Tagg	D Jones
	J Waring	Richards
	Burnett	Stubbs

If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need to:

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place)

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

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Agenda Item 3

Licensing & Public Protection Committee - 18/10/22

LICENSING & PUBLIC PROTECTION COMMITTEE

Tuesday, 18th October, 2022
Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

Present: Councillor Andrew Parker (Chair)

Councillors:	Whieldon	Sweeney	Wright
	S White	Wilkes	J Williams
	Barker	Adcock	G Williams
	Heesom	Dymond	Brown

Apologies: Councillor(s) Skelding and Allport

Substitutes: Councillor David Hutchison
Councillor Lesley Richards

Officers:	Matthew Burton	Licensing Administration Team Manager
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Gillian Taylor	Housing Manager
	Michelle Hopper	Senior Partnerships Officer
	Steve Edge	Partnerships Interventions Officer

1. **DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

There were no declarations of interest stated.

2. **MINUTES OF A PREVIOUS MEETING**

Resolved: That the Minutes of the meeting held on 28 June, 2022 be agreed as a correct record.

3. **BUSINESS AND PLANNING ACT 2020 UPDATE**

The Committee considered a report informing them of updates to the Business and Planning Act 2020 and regulations relating to relaxations in respect of pavement licences and alcohol off-sales. Members were advised of the Government's extension to the provisions for Pavement Licences and alcohol off-sales to 30 September, 2023.

Proposed:

- (i) That the proposed amendments to the Business and Planning Act 2020 and contents of the Regulations be noted.
- (ii) That all Pavement Licences will be granted to expire on 30th September 2023.

[Watch the debate here](#)

4. MINUTES OF LICENSING SUB COMMITTEE MEETINGS

Resolved: That the Minutes of the meeting held on 8 August, 2022 be received.

5. DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS

There were no declarations of interest stated.

6. FOOD SAFETY SERVICE PLAN 2022/23 AND REVIEW OF PERFORMANCE IN 2021/22.

The Committee considered a report outlining the work planned by the Food and Safety Team in 2022/2023 and the previous year's performance.

A copy of the Food Safety Service Plan was appended to the report.

Resolved: That the Food Safety Service Plan for 2022/23 be received and endorsed.

[Watch the debate here](#)

7. PUBLIC PROTECTION SUB-COMMITTEE PROGRAMME

The Committee considered a report outlining the future rota for attendance at Public Protection Sub-Committee meetings.

Resolved:

- (i) That the report be received and the amending of the frequency of meetings from every 3 weeks to monthly, be agreed.
- (ii) That the date and time where attendance at sub-committee is necessary, be noted by Members
- (iii) That Members notify Democratic Services of an available substitute in the event that they are unable to attend a meeting that they are due to attend.

[Watch the debate here](#)

8. PROPOSED AMENDMENTS TO TAXI LICENSING POLICY - 2021-2025

The Committee considered a report seeking approval to implement changes into the Taxi Licensing Policy.

The table at paragraph 2.7 outlined the proposed changes and a tracked-changed version of the Policy was appended to the report.

Resolved: That the proposals contained within the report be implemented into the Policy in line with the proposed implementation dates.

[Watch the debate here](#)

9. PUBLIC SPACE PROTECTION ORDER - PUBLIC CONSULTATION UPDATE

The Committee considered a report giving an update on a consultation that had taken place on two proposed Public Space Protection Orders (PSPO's). The findings were outlined at paragraph 2 which also included proposed additional conditions at paragraph 2.3.

Members were asked to receive the consultation results and approve the draft PSPO's to allow a further 6 week consultation on the final proposals.

It was queried where people went when they were moved away from these two areas with the suggestion that it was moving the problem elsewhere. The PSPO's were a small piece of work allowing behaviours of individuals to be targeted. However, the comments would be taken on board for consideration.

Resolved: That Officers to carry out further public consultation on the Requested amendments to the two proposed PSPO's at the following locations;

- (i) Newcastle Town Centre PSPO (see Appendix 1)
- (ii) Queen Elizabeth Park PSPO (see Appendix 2).

[Watch the debate here](#)

10. UPDATE ON RESULTS OF TAXI LICENSING APPEALS

Members received an update on three appeals against Council decisions all of which were dismissed.

Resolved: That the contents of the report be noted.

[Watch the debate here](#)

11. MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS

Resolved: That the Minutes of the meeting held on 10 August be received.

12. URGENT BUSINESS

There was no urgent business.

**Councillor Andrew Parker
Chair**

Meeting concluded at 7.58 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

Licensing and Public Protection Committee 13 December 2022

Report Title: FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2023-24

Submitted by: Head of Regulatory Services & Licensing Administration Team Manager

Portfolios: Finance, Town Centres & Growth

Ward(s) affected: ALL

Purpose of the Report

For Members to consider the fees to be charged in relation to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues.

Recommendation

That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2023-24

Reasons

Decisions relating to the setting of non-statutory fees and charges for licensing have been delegated from Council to Licensing Committee.

1. **Background**

1.1 The approval of certain fees and charges relating to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues (SEVs) licensing regimes are Council functions.

1.2 Council at their meeting on 22nd February 2017 delegated this function to Licensing Committee.

Gambling:

1.3 The Gambling Act 2005 allows Licensing Authorities to set their own fees for premises licenses, subject to maximum levels which have been specified by Central Government.

1.4 The Councils Gambling Policy was implemented in January 2019, following approval from the Licensing Committee and Council.

Sexual Entertainment Venues:

1.5 The Local Government (Miscellaneous Provisions) Act 1982 ('the Act') introduced a licensing regime to control sex establishments. The Council adopted schedule 3 of the Act on the 31st March 2010 and the schedule took effect on the 3rd August 2010. This means the Council can control and regulate the operation of certain kinds of sex establishments within its area. No sex establishment can operate unless it has obtained a

licence from the Council. Any licence may contain conditions that will restrict how that sex establishment may trade.

- 1.6 The setting of fees for the licensing of sex establishment remains with the Local Authority. The licence is for a one year period. We do not currently have any Sex Establishment Venues.

Scrap Metal Dealers:

- 1.7 The Scrap Metal Dealers Act 2013 ('the SMDA13') introduced a licensing regime to control Scrap Metal Dealers, replacing the registration scheme used previously. The SMDA13 allows Licensing Authorities to set their own fees for both Site and Collectors licences.

2. **Issues**

- 2.1 The European Services Directive states (Art 12.2):

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.

Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

- 2.2 Guidance for Local Authorities on the Provision of Service Regulations States (2nd Edition June 2009 Para 12d):

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.”

3. **Proposal**

- 3.1 That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venue Licensing for 2022-2023. All proposed license fees and charges are detailed in table below:

<u>Licences:</u>	<u>2022-23</u> <u>Fee</u>	<u>2023-24</u> <u>Proposed</u> <u>Fee</u>	<u>Difference</u>
General			
Sex establishments - application fee	3,388.00	3,524.00	4%
Sex establishments - renewal	3,388.00	3,524.00	4%
Sex establishments - variation	1,147.00	1,193.00	4%
Sex establishments – transfer	1,147.00	1,193.00	4%

General			
Scrap metal dealer site licence	289.00	301.00	4%
Scrap metal dealer collectors licence	229.00	238.00	4%
Gambling Act 2005			
Lotteries - application fee	40.00	40.00	All Frozen or Set by Statute unless stated otherwise
Lotteries - annual fee	20.00	20.00	
Bingo - application fee	3,500.00	3,500.00	
Bingo - annual fee	1,000.00	1,000.00	
Bingo - application to vary	1,750.00	1,750.00	
Bingo – application for transfer	1,200.00	1,200.00	
Bingo – application to reinstate	1,200.00	1,200.00	
Track betting - application fee	2,500.00	2,500.00	
Track betting - annual fee	1,000.00	1,000.00	
Track betting - application to vary	1,250.00	1,250.00	
Track betting - application to transfer	950.00	950.00	
Track betting – application to reinstate	950.00	950.00	
Betting premises - application fee	3,000.00	3,000.00	
Betting premises - annual fee	600.00	600.00	
Betting premises - application to vary	1,500.00	1,500.00	
Betting premises - application to transfer	1,200.00	1,200.00	
Betting premises – application to reinstate	1,200.00	1,200.00	
Family entertainment centre - application fee	2,000.00	2,000.00	
Family entertainment centre - annual fee	750.00	750.00	
Family entertainment centre - application to vary	1,000.00	1,000.00	
Family entertainment centre - application to transfer	950.00	950.00	
Family entertainment centre – application to reinstate	950.00	950.00	
Adult gaming centre - application fee	2,000.00	2,000.00	
Adult gaming centre - annual fee	1,000.00	1,000.00	
Adult gaming centre - application to vary	1,000.00	1,000.00	
Adult gaming centre - application to transfer	1,200.00	1,200.00	
Adult gaming centre – application to reinstate	1,200.00	1,200.00	
Copy of any of the above licences (lost, stolen, damaged)	25.00	25.00	
Notice of Intention – 2 or less gaming machines	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines	150.00	150.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Variation	100.00	100.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Transfer	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Annual Fee	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Change of Name	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Copy (lost, stolen, damaged)	15.00	15.00	
Club Gaming/Club Machine Permits – New/Renew	200.00	200.00	

Club Gaming/Club Machine Permits for holders of Club Premises Certificates (under LA03) – New/Renew	100.00	100.00	
Club Gaming/Club Machine Permit – Annual Fee	50.00	50.00	
Club Gaming/Club Machine Permit – Variation	100.00	100.00	
Club Gaming/Club Machine Permit – Copy (lost, stolen, damaged)	15.00	15.00	
UFEC (Unlicensed family entertainment Centre – 10 year permit)	300.00	300.00	
Prize Gaming Permit – New/Renewal	300.00	300.00	
Prize Gaming Permit – Change of Name	25.00	25.00	
Prize Gaming Permit – Copy (lost, stolen, damaged)	15.00	15.00	
Temporary Use Notice (TUN)	200.00	200.00	
Occasional Use Notice (OUN)	0.00	0.00	
Casino Small – New application	7,352.00	7,646.00	4%
Casino Small – Annual Fee	3,676.00	3,823.00	4%
Casino Small - Variation	2,450.00	2,548.00	4%
Casino Small – Application for Transfer	1,576.00	1,639.00	4%
Casino Small – application to reinstate	1,576.00	1,639.00	4%

4. Reasons for Proposed Solution

4.1 The locally set fees can be used to cover the cost of the following:

Administration – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

Third party costs – Some licensing processes will require third party input from experts.

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Web material – The EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

5. Options Considered

5.1 The Council has a duty to set fees for certain regimes where the amount is not set by statute. The SEV and Scrap Metal licensing regimes, alongside part of the Gambling Act, have such fees that can be set locally. All fees set must be proportionate and seek only to recover those areas set out in statute that we may recover. If the Council chose not to set fees then the applications made under these regimes would be subsidised by tax payer funds. This option has not been considered as it is felt that applicants for licences should be able to meet the costs of any application once they have been issued with the appropriate permission.

6. Legal and Statutory Implications

6.1 Hemming v Westminster

The degree to which fees and processes are proportionate has been tested in a legal challenge brought against the fee charged by Westminster City Council for licensing sex establishments. The case established a number of key points about setting fees under the Services Directive.

In Hemming v Westminster, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This means the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee, although the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement found that the annual reviews conducted by an officer of Westminster City Council were no substitute for determinations by the council. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Where fees charged result in a surplus, Hemming v Westminster stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the reinvestment of the surplus over more than one year, but this will need careful consideration about whether contributors may leave the licensing system over that period and therefore lose out on the return. Deficits can similarly be recovered, although

where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of R v Tower Hamlets LBC (1994) is also relevant, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”.

7. **Equality Impact Assessment**

7.1 Not applicable

8. **Financial and Resource Implications**

8.1 Should a challenge be made in relation to the fee level as detailed in the Hemming v Westminster there could be detrimental financial implications for the Council

9. **Major Risks**

9.1 As detailed under Legal and Statutory Implications

10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Cabinet/Committee Resolutions**

12.1 The Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31st March 2010 which came into effect on 3rd August 2011.

12.2 Council delegated the function of setting fees and charges to Licensing Committee on 22nd February 2017.

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 LGA Guidance on Local Fee Setting

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

Licensing and Public Protection Committee 13 December 2022

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2023/2024

Submitted by: Head of Regulatory Services & Licensing Administration Team Manager

Portfolio: Finance, Town Centre & Growth

Ward(s) affected: All

Purpose of the Report

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to consultation, as referred to in the report.

Recommendations

- a) That the Public Protection Committee considers the proposed fees.
- b) That the proposed fees be sent out for consultation.
- c) That following consultation a further report is brought to Committee.

Reasons

Decisions relating to the setting of non-statutory fees and charges for taxi licensing have been delegated from Council to Public Protection Committee.

1. **Background**

- 1.1 The approval of certain fees and charges relating to the licensing of Private Hire and Hackney Carriage licensing regimes are Council functions
- 1.2 Council at their meeting on 22nd February 2017 delegated this function to Public Protection Committee.
- 1.3 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

(1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;
- (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds;
- and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

1.4 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Driver licence fees:

(2) Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

1.5 The Deregulation Act 2015 amended the Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences for hackney carriage and private hire drivers and private hire operators.

Section 10, subsection 2 of the Deregulation Act 2015 changed the law in such a way as to establish a standard duration of three years for hackney carriage and private hire driver licences. The section specifies that a licence may be granted for a period of less than three year but only in circumstances of an individual case, not because of a blanket policy.

Subsection 3 of the Act changed the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of blanket policy.

1.6 **The European Services Directive states (Art 12.2):**

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

1.7 In December 2019 the Court of Appeal in the case “R (on the application of Abdul Rehman, on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening) [2019] EWCA Civ 2166” confirmed that there is no general principle that the taxi licensing fee regime should be self-financing and that the costs associated to enforcing the behaviour of licensed drivers could be recovered via the licence fee set under s53(2) LGMPA76. The judgement stated (para 46):

“In any event, we consider that the costs of enforcing the behaviour of licensed drivers can be recovered through the driver’s licence fee under section 53(2). The relevant words in that provision are “the costs of issue and administration”. The costs of “administration” must be something other than, and in addition to, the costs of “issue”. There is no difficulty in interpreting “administration” in its statutory context as extending to administration of the licence after it has been issued. It naturally includes the costs of suspension and revocation, which are events expressly mentioned in Part II of the 1976 Act. Suspension and revocation rest on non-compliance with the requirements and conditions for continuing to hold the licence. As we have said, it would therefore have been obvious to Parliament, when enacting the 1976 Act, that costs would be incurred by the district council in monitoring compliance with such requirements and conditions.”

2. **Proposal:**

2.1 In February 2022 the Committee determined to agree the proposed fees for 2022-23 following public consultation. The Licensing Department have undergone the annual review and fee setting methodology to propose fees for 2023-24. The table at 2.2 shows:

- Column a – The licence/process the fee is for;
- Column b – The current fee structure;
- Column c – This years proposed fees for 2023-24; and
- Column d – the percentage difference between columns b (current) and d (proposed).

2.2 The proposed fees and charges for 2023-24 are:

a	b	c	d
Private Hire/Hackney Carriage (subject to consultation)	Fee/Charge 2022-23 (£)	Proposed Fee/Charge 2023-24 (£)	% Change
<u>OPERATORS</u>			
PHO Application fee	£267.00	£289.00	8%
Add/Remove Director	£41.00	£44.00	7%
Copy/Replacement Licence	£7.00	£8.00	14%
Basic DBS	£23.00 (set by DBS)	£18.00 (set by DBS)	-
<u>DRIVERS</u>			
Dual Driver Badge - 3 years	£273.00	£275.00	1%
Change of address	£17.00	£18.00	6%
Replacement badge	£13.00	£15.00	15%
Replacement vehicle badge	£13.00	£15.00	15%
Reissue/replacement badge (with amended details)	£29.00	£31.00	7%
DBS (CRB check)	£40.00 (set by DBS)	£38.00 (set by DBS)	-
DBS (CRB check) online	£60.34 (set by DBS and provider)	£64.34	-
Exemption certificates	£13.00	£15.00	15%
Knowledge test	£25.00	£20.00	-20%
Fail to attend Knowledge Test	£25.00	£20.00	-20%
Change of Name	£18.00	£21.00	17%
Replacement vehicle badge holder	£5.00	£6.00	20%
DE Training replacement cert	£0.00 (met by provider)	£0.00	0%
Copy of Paper Licence	£7.00	£8.00	14%
NEW Joint Disability and Safeguarding Training	N/A	£40+VAT	NEW
<u>VEHICLES</u>			
Transfer of vehicle	£41.00	£44.00	7%
Change of vehicle registration	£47.00	£50.00	6%
Failure to attend for vehicle test	£66.00	£74.00	12%
Retest	£30.00	£33.00	10%
Replacement plate carrier – front	£9.00	£10.00	11%
Replacement plate carrier – rear	£11.00	£12.00	9%
Replacement vehicle plate - front	£8.00	£9.00	13%
Replacement vehicle plate - rear	£10.00	£11.00	10%
Replacement vehicle sticker signage	£5.00	£6.00	20%
Copy of paper part of licence	£7.00	£8.00	14%
Change of Vehicle Colour	£47.00	£50.00	6%

HCV test	£70.00	£79.00	13%
HCV test 10yrs+	£70.00	£79.00	13%
PHV test	£70.00	£79.00	13%
PHV test 10yrs+	£70.00	£79.00	13%
HCV application fee	£234.00	£242.00	3%
PHV application fee	£231.00	£238.00	3%
Basic DBS	£23.00 (set by DBS)	£18.00 (set by DBS)	-
Change of Name/Address	£41.00	£44.00	7%
Spot check	£19.00	£22.00	16%
Replacement Internal Plate	£7.00	£8.00	14%

2.3 It is recommended that the fees are set in line with the provisions of the 1976 Act, the Local Government Association fee setting guidance, the Council's taxi licensing policy and the principles outlined in section 7.3 below.

2.4 The majority of the fees have increased slightly due to the recent local government pay agreement. There are some increases that have larger percentages proposed but they are generally smaller real amounts e.g. a replacement badge shows as a 15% increase but it a rise of £2.00 in real terms. The overall amount for new and renewal drivers would reduce. Currently a new driver would pay a total of £433.34 for their application, knowledge test, safeguarding and disability equality training. Under the proposals they would now pay £408.34, a reduction of £25.00. This is similar for renewal drivers whose overall application fees would reduce from £408.34 to £387.34, a reduction of £21.00.

3. **Reason for Proposed**

- 3.1 a) That the Public Protection Committee considers the proposed fees.
b) That the proposed fees be sent out for consultation.
c) That following consultation a further report is brought to Committee

4. **Options Considered**

4.1 The Council is required to set fees for private hire and hackney carriage licenses for 2023/2024. The fees proposed are based on cost recovery.

5. **Legal and Statutory Implications**

5.1 The Local Government (Miscellaneous Provisions) Act 1976 contains the legal provisions and process relating to the setting of fees, this is detailed in sections 1.1-1.7 of this report.

6. **Equality Impact Assessment**

6.1 Not applicable

7. **Financial and Resource Implications**

7.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70.

7.2 There will be financial implications for the Council if full cost recovery is not achieved.

7.3 The fees can be used to cover the cost of the following:

Administration – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

Third party costs – Some licensing processes will require third party input from experts.

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

Enforcement – This includes action required when investigating and enforcing against licensed drivers, vehicle proprietors and private hire operators.

8. **Major Risks**

8.1 The Council will be open to challenge should the calculation of the fees and charges prove to be contrary to the Act.

8.2 Judicial Review of a decision may be made on the following grounds:

- Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
- Wednesbury rules – decision was unreasonable or irrational

9. **Sustainability and Climate Change Implications**

9.1 Not applicable

10. **Key Decision Information**

10.1 Not applicable

11. **Earlier Cabinet/Committee Resolutions**

11.1 Not applicable

12. **List of Appendices**

12.1 Not applicable

13. **Background Papers**

13.1 LGA Guidance on Local Fee Setting

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S
REPORT TO

Licensing and Public Protection Committee
Licensing and Public Protection Committee
05 December 2022

Report Title: Clean Air Act 1993 as amended – Review of smoke control areas and enforcement powers

Submitted by: Head of Regulatory Services & Environmental Protection Team Manager

Portfolios: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To seek authority from Committee to commence a formal review of the effectiveness of the existing smoke control areas currently in force within the Borough along with associated enforcement powers to achieve improvements in air quality emissions from chimney's serving buildings, in order to protect health and compliance with the Council Plan 2022 to 2026.

Recommendation

That

1. Committee approves of an officer led review of the options available to the Council to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.
2. Committee receives a report at its 13th March 2003 meeting outlining options to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.

Reasons

The Department for Environment and Rural Affairs (Defra) has reported that wood and coal fires are the single biggest source of PM_{2.5} pollution in the UK. Solid fuel burning within the Borough contributes significantly to levels of PM_{2.5} emissions in the Borough. PM_{2.5} is considered a particularly harmful pollutant with regard to human health. These tiny particles are able to travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy loss. A review of options and subsequent recommendations to improve emissions from chimney's will also help contribute towards Priority 3 –Healthy, active and safe communities of the Council Plan 2022 to 2026

1. **Background**

- 1.1 Air quality is the largest environmental health risk in the UK. It shortens lives and contributes to chronic illness. Health can be affected both by short-term, high-pollution episodes and by long-term exposure to lower levels of pollution.
- 1.3 In terms of costs to society recent research commissioned by Public Health England, "*found that the health and social care costs of air pollution (PM_{2.5} and NO₂) in England could reach £5.3 billion by 2035. This is a cumulative cost for diseases which have a strong association with air pollution: coronary heart disease; stroke; lung cancer; and childhood asthma.*
- 1.4 *When diseases with weaker evidence of association are also added, including chronic obstructive pulmonary disease; diabetes, low birth weight, lung cancer, and dementia, the costs could reach £18.6 billion by 2035. When all diseases are included, air pollution is expected to cause 2.4 million new cases of disease in England between now and 2035. PM2.5 alone could be responsible for around 350,000 cases of coronary heart disease and 44,000 cases of lung cancer in England over that time.*

- 1.5 *Even small changes can make a big difference, just a 1µg/m³ reduction in PM_{2.5} concentrations this year could prevent 50,000 new cases of coronary heart disease and 9,000 new cases of asthma by 2035.” (Source CLEAN AIR STRATEGY 2019 DEFRA, 2019).*
- 1.6 The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe.
<http://www.euro.who.int/en/mediacentre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-healthimpact-of-air-pollution-in-europe>)
- 1.7 At the local level, estimated costs of the health impacts of air pollution from ultra-fine particulate matter alone is thought to be between £20 - 47 million for Newcastle-under-Lyme and between £39 – 93 million for Stoke-on-Trent. Costs to the NHS and Social Care are thought to be between £96 – 176 thousand for Newcastle-under-Lyme and between £189 – 349 thousand for Stoke-on-Trent. (Source: https://fingertips.phe.org.uk/documents/PHE_Air_Pollution_Setup.exe)
- 1.8 Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy

Issues

- 1.9 Smoke control orders were originally introduced by the Clean Air Act 1956 following the high number of deaths that had occurred during the London smog episode. Now replaced by the Clean Air Act 1993, local authorities can make orders so as to identify and designate land as a smoke control area, meaning that restrictions then apply to all premises within that area to prevent smoke being emitted from appliances or fuel.
- 1.10 In an area subject to a smoke control order, it becomes an offence to:
- allow smoke emissions from the chimney of a building;
 - obtain and use solid fuel, other than authorised fuel; and
 - sell by delivering solid fuel, other than authorised fuel, to premises located within the Smoke Control Area.
- 1.11 Exemptions do apply however. For example authorised fuels (such as anthracite, coke and coalite, and other ‘smokeless fuels’) can be used within smoke control areas because they burn either without causing smoke or that which contains less harmful pollutants. In addition, ‘exempt appliances’, such as ovens, wood burners and stoves, as specifically listed in regulations, can be used in Smoke Control areas as they have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting harmful smoke. It should be noted that authorised appliances can only be used for the fuel for which they are designed.
- 1.12 Unauthorised fuel, such as logs or coal, cannot be burnt in an open fireplace within a smoke control area. These fuels produce smoke containing harmful pollutants which have an impact on health and the environment.
- 1.13 Until recently unauthorised fuels could be bought and sold within a smoke control area because the seller or buyer could reason that it would be used outside the smoke control area or will be burnt in an exempt appliance. 6.
- 1.14 From 1 May 2021 it became an offence to sell an unauthorised fuel for domestic use under [The Air Quality \(Domestic Solid Fuels Standards\) \(England\) Regulations 2020](#). For example, it is now an offence for any person to supply a solid fuel including wood (unless it has a moisture content of less than 20%). It is also now an offence for any person to supply any manufactured solid fuel that has not been authorised and classified as an exempt fuel.

1.15 With a resurgence in the popularity of 'real fires' there are a number of solid fuel burning stoves in the market that comply with the legislation, and many already in use across the Borough are likely to be compliant.

1.16 However, Regulatory Services have noted an increase in the number of complaints and queries relating to smoke from domestic chimneys and wood burning in recent years and more so given the current high costs of gas and electricity caused by the war in the Ukraine. There is also growing public awareness surrounding the impact and harm caused by burning solid fuels and a desire to improve local air quality.

3. **Proposal**

1. Committee approves of an officer led review of the options available to the Council to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.
2. Committee receives a further report at its 13th March 2023 meeting concerning the regulation of smoke from chimneys within the Borough of Newcastle under Lyme.

4. **Reasons for Proposed Solution**

4.1 The Department for Environment and Rural Affairs (Defra) has reported that wood and coal fires are the single biggest source of PM_{2.5} pollution in the UK. Solid fuel burning within the Borough contributes significantly to levels of PM_{2.5} emissions in the Borough. PM_{2.5} is considered a particularly harmful pollutant with regard to human health. These tiny particles are able to travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy loss.

5. **Options Considered**

5.2 Nil

6. **Legal and Statutory Implications**

6.1 The Clean Air Act 1993 (as amended) alongside associated guidance from DEFRA provides mechanisms to put in place modernised smoke control and provides a modern means of enforcement.

7. **Equality Impact Assessment**

7.1 The work does not impact on any protected groups or characteristics.

8. **Financial and Resource Implications**

8.1 There are no direct financial or resource implications coming out of this report with resources being met from the existing service budget.

9. **Major Risks**

9.1 A specific GRACE risk assessment has been prepared for this line of work. Those considered to be the most significant are identified below. Appropriate controls are in place to reduce these risks from being realised.

9.1 Failure to have adequate controls in place to enable the council to comply with its legal obligations under the Clean Air Act 1993 could result in formal intervention by the Government

9.2 Public bodies including local Authorities may also be subject to legal action for breach of a person's human rights specifically Article 2 Right to Life and Article 8: Respect for your private and family life.

10. **UN Sustainable Development Goals (UNSDG) & Council Plan 2022 to 2026**

- 10.1 The monitoring and assessment of local air quality, and the requirement for air quality management areas and associated air quality action plans contributes towards the following UN Sustainable Development Goals <https://sdgs.un.org/goals>



The following areas of the Council Plan 2022 to 2026 <https://www.newcastle-staffs.gov.uk/downloads/download/506/council-plan-2022-26> are also contributed towards

- Priority 1 – One Council delivering for Local People
- Priority 3 – Healthy, active and safe communities

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 There are none relating to this item.

13. **List of Appendices**

Appendix 1 - Map of Current Smoke Control Areas within Newcastle under Lyme

14. **Background Papers**

Statutory guidance - Smoke control area enforcement: local authorities in England
<https://www.gov.uk/government/publications/smoke-control-area-enforcement-local-authorities-in-england>

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**NEWCASTLE-UNDER -LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

**Licensing and Public Protection Committee
05 December 2022**

Report Title: Environment Act 1995 – Part IV Local Air Quality Management – Annual Status Report 2022

Submitted by: Head of Regulatory Services & Environmental Protection Team Manager

Portfolios: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To advise Committee of the findings of the statutory Annual Status Report (ASR) for 2022 which covers the 2021 calendar year in respect of air quality within the Borough.

Recommendation

That

1. Committee notes the content of the ASR 2022 and approves it for submission to DEFRA
2. Committee receives a further report should DEFRA's appraisers not accept the ASR 2022.

Reasons

1. To inform committee of the state of local air quality within the Borough for 2021 and action being taken to monitor and improve local air quality in respect of transport related Nitrogen Dioxide levels and also particulate matter exposure.

1. Background

- 1.1 Air quality is the largest environmental health risk in the UK. It shortens lives and contributes to chronic illness. Health can be affected both by short-term, high-pollution episodes and by long-term exposure to lower levels of pollution.
- 1.2 Local authorities in the UK have a statutory duties for managing local air quality under Part IV of the Environment Act 1995. District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.
- 1.3 The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national air quality objectives prescribed in the Air Quality Regulations http://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national Air Quality Objectives prescribed in the Air Quality Regulations http://ukair.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. In relation to people, the objectives apply at the facades of relevant receptors, generally dwellings, hospitals, schools. Workplaces are excluded.
- 1.4 The Council is also undertaking a separate study for a different regulatory purpose in conjunction with Stoke-on-Trent City Council under a 2018 Ministerial Direction to understand and assess compliance with EU Limit Values under the Ambient Air Quality Directive, across the two local authority areas. The study is principally concerned with assessing compliance with nitrogen dioxide annual mean levels at locations within 4 metres of the roadside, locations within 25 metres of a major junction are out of

scope. Although there is reference to this work in the ASR21, it is not covered by the ASR reporting requirements. The updates to and outcomes of the Ministerial Direction work will be the subject of a future reports to Cabinet.

- 1.5 In terms of costs to society recent research commissioned by Public Health England, “found that the health and social care costs of air pollution (PM2.5 and NO₂) in England could reach £5.3 billion by 2035. This is a cumulative cost for diseases which have a strong association with air pollution: coronary heart disease; stroke; lung cancer; and childhood asthma.
- 1.6 When diseases with weaker evidence of association are also added, including chronic obstructive pulmonary disease; diabetes, low birth weight, lung cancer, and dementia, the costs could reach £18.6 billion by 2035. When all diseases are included, air pollution is expected to cause 2.4 million new cases of disease in England between now and 2035. PM2.5 alone could be responsible for around 350,000 cases of coronary heart disease and 44,000 cases of lung cancer in England over that time.
- 1.7 Even small changes can make a big difference, just a 1µg/m³ reduction in PM2.5 concentrations this year could prevent 50,000 new cases of coronary heart disease and 9,000 new cases of asthma by 2035.” (Source CLEAN AIR STRATEGY 2019 DEFRA, 2019).
- 1.8 The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe.
<http://www.euro.who.int/en/mediacentre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-healthimpact-of-air-pollution-in-europe>)
- 1.9 At the local level, estimated costs of the health impacts of air pollution from ultra-fine particulate matter alone is thought to be between £20 - 47 million for Newcastle-under-Lyme and between £39 – 93 million for Stoke-on-Trent. Costs to the NHS and Social Care are thought to be between £96 – 176 thousand for Newcastle-under-Lyme and between £189 – 349 thousand for Stoke-on-Trent. (Source: https://fingertips.phe.org.uk/documents/PHE_Air_Pollution_Setup.exe)
- 1.10 Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy
- 1.11 The findings of the previous reviews and assessments undertaken by your Officers were last reported to committee in 2021 and are available to view online at <https://www.newcastle-staffs.gov.uk/protection/air-quality-management>

Issues

- 2.1 **Annual Status Report 2022 (ASR'22)**
- 2.2 In accordance with its statutory duties, the Borough Council has recently completed its Annual Status Report for 2022 which is concerned with a retrospective review of air quality within the Borough for the 2021 calendar year. A copy of the report can be found on line at <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-underlyme>
- 2.3 Previous assessments have identified nitrogen dioxide (NO₂) as the pollutant of concern, with a number of locations within the Borough exceeding the NO₂ annual mean objective. This is principally due to road traffic emissions
- 2.4 This ASR22 considers all new monitoring data and assesses the data against the Air Quality Strategy (AQS) objectives.

- 2.5 It also considers any changes that may have an impact on air quality.
- 2.6 The review of new diffusion tube monitoring data has not identified any locations outside of the four existing Air Quality Management Areas (AQMA's), declared in December 2014 within the Borough where the AQS annual NO₂ objective was exceeded in 2021.
- 2.7 Monitoring of NO₂ concentration in the AQMA's and at a variety of locations across the Borough during 2021 shows, that there has been a general decrease in NO₂, with the majority of areas now being under the annual mean objective. There are however a number of hotspots within the Town Centre and Kidsgrove and Maybank, Wolstanton and Porthill AQMA's which have exceeded in previous years or are at risk of exceedance in future years.
- 2.8 The monitoring results for 2021 are to be treated with caution given the emergence from Covid-19 lockdowns

2.8 Town Centre AQMA

- 2.9 Air Quality in this area is influenced by local road traffic and traffic utilising the major arterial routes, which converge on the town centre. There are a number of relevant receptors where the objective applies located at the back of pavement. The network is heavily congested at peak times of the day with high volumes of low speed mixed stop start traffic. The location of this AQMA can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170
- 2.10 Part of the AQMA, the A53 corridor from Sandy Lane to Etruria Roundabout, is covered by two ministerial directions relating to exceedances of the EU NO₂ annual mean limit value. The related work and actions, although discussed in the ASR, do not form part of the of the statutory LAQM function because of the differing criteria for measurement locations.
- 2.11 The town centre is experiencing a period of regeneration with provision for developments to provide around 3000 student bed spaces in the coming years. The former Civic Offices and Sainsburys' site is likely to be redeveloped for mixed use in the future including residential accommodation and car parking / office space.
- 2.12 In addition, a number of office spaces are able to convert to residential use without requiring consideration of air quality. This has resulted in significant increases in the numbers of relevant receptors within the area where the Council is unable to influence development.
- 2.13 The rural areas of the Borough are facing increased demands for applications for residential development, with people in these areas heavily reliant on cars to access services and employment opportunities within the town centre and wider areas.
- 2.14 Within the Town Centre, NO₂ concentrations have generally decreased each year from 2012 onwards. However, for the past five years, results have been within 10% of the UK NO₂ annual mean objective across a number of sites and some have shown exceedances prior to 2020, in particular London Road, King Street, Lower Street (Belong Care Home).
- 2.15 Accordingly, this AQMA is required to remain in place until all sites measure an annual mean NO₂ concentration that is consistently below the NO₂ annual mean legal objective for five years running, we will also maintain our monitoring network and undertake a review of the measures within the associated air quality action plan by 2024.

2.16 Porthill-Wolstanton-Maybank AQMA

- 2.17 Air Quality in this area is influenced by local road traffic and traffic utilising the junctions associated with the A500 dual carriageway. Relevant receptors in this location are mainly located at the back of footway. The main route through the area is single carriageway with traffic lighted junctions, signal controlled crossings, on street bus stops and significant sections of on street parking. Porthill Bank and Grange Lane are on significant gradients which causes strain on engines and an increase in emissions. The location of this AQMA can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170

- 2.18 There has been a steady decrease in NO₂ concentrations at the established diffusion tube monitoring sites within this AQMA over the past 6 years with levels for the past five years being at least 10% below the NO₂ annual mean legal objective.
- 2.19 Air quality modelling undertaken in connection with the Ministerial Direction work for the A53 has not identified any exceedances of the NO₂ annual mean objective from the current traffic schemes in the area (A500 Wolstanton to Porthill junction improvements and widening, Etruria Valley Link Road) nor the introduction of the proposed bus gate restrictions on the A53 at peak times of the day to meet with the Ministerial Direction requirements (impacts on traffic flows and composition around the surrounding road network were factored in).
- 2.20 Based on the potential impacts on traffic in this area, we propose to adopt a precautionary approach to air quality in this area. We recommend that the AQMA remain in place until all sites measure an annual mean NO₂ concentration that is consistently greater than 10% below the NO₂ annual mean legal objective for five years running (once all traffic related schemes identified above are embedded). For this purpose we will also maintain our monitoring network and undertake a review of the measures within the associated air quality action plan by 2024.

2.21 Kidsgrove AQMA

- 2.22 Air Quality in this location is heavily influenced by traffic using the A34 Liverpool Road and local traffic accessing side roads from Liverpool Road within the centre of Kidsgrove. Relevant receptors are located back of footway and in close proximity to junctions and areas of congestion. The location of this AQMA can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170
- 2.23 NO₂ concentrations have decreased each year from 2012 onwards within this AQMA. However the results for the last five years have hovered around the NO₂ annual mean objective.
- 2.24 Staffordshire County Council undertook a number of highway related measures aimed at reducing congestion which it is hoped will also have a complimentary effect on air quality. Plans are in place for Kidsgrove Station to be upgraded to incorporate a transport interchange and additional car parking. This scheme has the potential to increase traffic movements through this AQMA.
- 2.25 We recommend that the AQMA remains in place until all sites measure an annual mean NO₂ concentration that is consistently greater than 10% below the NO₂ annual mean legal objective for five years running. For this purpose, we will also maintain our monitoring network and undertake a review of the measures within the associated air quality action plan by 2023.

2.26 Little Madeley AQMA

- 2.1 Air Quality in this location is heavily influenced by traffic using the M6 motorway which runs within 20 metres of the nearest receptor at Collingwood, 3 Newcastle Road. The location of this AQMA can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170
- 2.2 The NO₂ concentrations at this location dropped dramatically in 2016 and have been greater than 20% below the UK NO₂ annual mean objective for the past five years.
- 2.3 Given that this location has been complaint for the past five years and in accordance with DEFRA guidance and advice to the Council, it is recommended to revoke this AQMA. This is the subject of a further report on this Agenda.

2.4 Wider Borough – Outside AQMA's

- 2.5 There has been a general decrease in the annual NO₂ concentrations across the Borough over the past five years and no new areas of actual or at risk of exceedance have been identified.
- 2.6 We will continue to undertake monitoring and screening of activities across the wider Borough.

2.7 Particulate Matter (PM₁₀ and PM_{2.5})

2.8 Particulate matter, or PM, is the term used to describe particles found in the air, including dust, dirt and liquid droplets. PM comes from both natural and man-made sources, including traffic emissions, burning and Saharan-Sahel dust. These particles can be suspended in the air for long periods of time, and can travel across large distances. PM can aggravate lungs, with the finer fractions, PM_{2.5} and below being able to pass from the lungs into the blood stream, potentially leading to a wide range of health effects including premature mortality, allergic reactions, and cardiovascular diseases.

2.9 Although PM₁₀ and PM_{2.5} levels within Staffordshire remain below the relevant UK objectives and EU Limit values, based on data compiled for Public Health Outcomes Framework indicator D015, and the latest available data for 2019, there were estimated to be 60 deaths in persons over 30 years within the Borough attributable to PM_{2.5}.

2.10 The 2021 Environment Act saw the UK Government formally declare a PM_{2.5} limit based on WHO recommendations and which is more stringent than current EU requirements. Analysis of data from DEFRA and monitoring undertaken for Walleys Quarry does not show any background exceedances or monitored actual exceedances within the Borough.

3. **Proposal**

3.1 Committee notes the content of the ASR 2022 and approves it for submission to DEFRA.

3.2 Committee receives a further report should DEFRA's appraisers not accept the ASR 2022.

4. **Reasons for Proposed Solution**

4.1 The Council is required to take the action outlined in this report in order to fulfil its statutory duties under Part IV of the Environment Act 1995

5. **Options Considered**

5.2 Nil

6. **Legal and Statutory Implications**

6.1 The Council is required to produce and submit to DEFRA an Annual Status Report in partial fulfilment of its duties under Environment Act 1995.

7. **Equality Impact Assessment**

7.1 The Environment Act 1995, Part IV requires the production of the Annual Status Report and submission to DEFRA for approval on an annual basis. The Act also requires the declaration and maintenance of an Air Quality Management Area where the statutory air quality objectives are at risk of / are being breached along with the production of a statutorily required Air Quality Action Plan.

7.2 The work does not impact on any protected groups or characteristics.

8. **Financial and Resource Implications**

8.1 There are no direct financial or resource implications coming out of this report with the production of the ASR currently met from internal budgets. The bodies responsible for delivery and funding the action plan measures are identified. A large number of the measures are reliant on significant financial resources to deliver with all potential funding streams including government grants identified where possible.

9. **Major Risks**

9.1 A specific GRACE risk assessment has been prepared for this line of work. Those considered to be the most significant are identified below. Appropriate controls are in place to reduce these risks from being realised.

9.1 Failure to have adequate controls in place to enable the council to comply with its legal obligations under Part IV of the Environment Act 1990 could see the Council being formally Directed by the relevant minister to undertake any of the actions they see fit, in line with the Act.

9.2 Public bodies including local Authorities may also be subject to legal action for breach of a person's human rights specifically Article 2 Right to Life and Article 8: Respect for your private and family life.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 The monitoring and assessment of local air quality, and the requirement for air quality management areas and associated air quality action plans contributes towards the following UN Sustainable Development Goals.



The following areas of the Council Plan are also contributed towards

- Priority 1 – A clean, safe and sustainable borough •
- Priority 3 – A healthy and active community •
- Council Plan Outcome 1.3 The negative impact that the Council, residents and local businesses have on the environment will have reduce

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 There are none relating to this item.

13. **List of Appendices**

13.1 The Annual Status Report 2021 is available to view online at <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>

14.2 Air quality Management Area Maps for Newcastle under Lyme can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170

14. **Background Papers**

14.1. Environment Act 1995 – Part IV <https://www.legislation.gov.uk/ukpga/1995/25/part/IV>

14.3 Local Air Quality Management Technical Guidance (LAQM.TG.16) (available at <http://laqm.defra.gov.uk/documents/LAQM-TG16-April-16-v1.pdf0>)

14.4 Air Quality Reports completed since 1997 available from <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>



NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S
REPORT TO

Licensing and Public Protection Committee
05 December 2022

Report Title: Environment Act 1995 Part IV– Consultation on revocation of Little Madeley AQMA

Submitted by: Head of Regulatory Services & Environmental Protection Team Manager

Portfolios: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To seek authority from Committee to consult with relevant stakeholders on the revocation of the Little Madeley Air Quality Management Area

Recommendation

That

1. Committee authorises officers to enter into a four week consultation exercise with relevant stakeholders with a view to revocation of the Little Madeley AQMA
2. Committee receives a further report at its February 2023 meeting containing proposals for the Little Madeley AQMA along with details of consultee responses.

Reasons

1. That monitoring of nitrogen dioxide levels against the prescribed annual mean objective have been compliant for the last five years and that DEFRA have advised the Council to revoke this Air Quality Management Area.

1. Background

- 1.1 Air quality is the largest environmental health risk in the UK. It shortens lives and contributes to chronic illness. Health can be affected both by short-term, high-pollution episodes and by long-term exposure to lower levels of pollution.
- 1.2 Local authorities in the UK have a statutory duties for managing local air quality under Part IV of the Environment Act 1995. District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.
- 1.3 The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national air quality objectives prescribed in the Air Quality Regulations http://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national Air Quality Objectives prescribed in the Air Quality Regulations http://ukair.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. In relation to people, the objectives apply at the facades of relevant receptors, generally dwellings, hospitals, schools. Workplaces are excluded.
- 1.4 In terms of costs to society recent research commissioned by Public Health England, "found that the health and social care costs of air pollution (PM2.5 and NO₂) in England could reach £5.3 billion by

2035. This is a cumulative cost for diseases which have a strong association with air pollution: coronary heart disease; stroke; lung cancer; and childhood asthma.

- 1.5 When diseases with weaker evidence of association are also added, including chronic obstructive pulmonary disease; diabetes, low birth weight, lung cancer, and dementia, the costs could reach £18.6 billion by 2035. When all diseases are included, air pollution is expected to cause 2.4 million new cases of disease in England between now and 2035. PM2.5 alone could be responsible for around 350,000 cases of coronary heart disease and 44,000 cases of lung cancer in England over that time.
- 1.6 Even small changes can make a big difference, just a 1µg/m³ reduction in PM2.5 concentrations this year could prevent 50,000 new cases of coronary heart disease and 9,000 new cases of asthma by 2035.” (Source CLEAN AIR STRATEGY 2019 DEFRA, 2019).
- 1.7 The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe.
<http://www.euro.who.int/en/mediacentre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-healthimpact-of-air-pollution-in-europe>)
- 1.8 At the local level, estimated costs of the health impacts of air pollution from ultra-fine particulate matter alone is thought to be between £20 - 47 million for Newcastle-under-Lyme and between £39 – 93 million for Stoke-on-Trent. Costs to the NHS and Social Care are thought to be between £96 – 176 thousand for Newcastle-under-Lyme and between £189 – 349 thousand for Stoke-on-Trent. (Source: https://fingertips.phe.org.uk/documents/PHE_Air_Pollution_Setup.exe)
- 1.9 Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy
- 1.10 The findings of the previous reviews and assessments undertaken by your Officers were last reported to committee in 2021 and are available to view online at <https://www.newcastle-staffs.gov.uk/protection/air-quality-management>

Issues

- 2.1 In accordance with its statutory duties, the Borough Council has recently completed its Annual Status Report for 2022. A copy of the report can be found on line at <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-underlyme>. A report to Committee concerning this features on the agenda for this meeting.
 - 2.2 Previous assessments have identified nitrogen dioxide (NO₂) as the pollutant of concern, with a number of locations within the Borough exceeding the NO₂ annual mean objective. This is principally due to road traffic emissions
- ### **2.3 Little Madeley AQMA**
- 2.4 The Little Madeley Air Quality Management Area was formally declared by the Council in 2016 due to actual measured exceedances of the Nitrogen Dioxide Annual Mean Objective in previous years. This AQMA was declared to comply with the requirements placed upon the Council by virtue of Part IV of the Environment Act 1995. The location of this AQMA can be found online at https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170
 - 2.5 Air Quality in this location is heavily influenced by traffic using the M6 motorway which runs within 20 metres of the nearest relevant receptor at Collingwood, 3 Newcastle Road. The associated Air Quality Action Plan for this AQMA (Appendix 1) takes account of traffic on the nearby M6 being the major

contributor to nitrogen dioxide emissions in this location and sought to assess and bring about improvements and compliance in conjunction with Highways England, (Formerly the Highways Agency).

- 2.6 The NO₂ concentrations at this location dropped dramatically in 2016 and have been greater than 20% below the UK NO₂ annual mean objective for the past five full calendar years and continue to exhibit a downward trajectory. (Appendix B)
- 2.7 Given that this location has been complaint for the past five years and in accordance with DEFRA guidance and advice to the Council, it is now recommended to revoke this AQMA.
- 2.8 Your officers, subject to committee approval, now intend to embark on consultation with key stakeholders (to include occupants of properties within the AQMA, owners of residential dwellings within the AQMA, Borough Councillors for Madeley, Madeley Parish Council, Highways England, Staffordshire County Council Highways and Public Health) concerning this and will bring a report back to this Committee for consideration.

3. **Proposal**

1. Committee receives this report.
2. Committee authorises officers to enter into consultation with relevant stakeholders concerning the proposed revocation of the Little Madeley AQMA.
3. Committee receives a further report at a future meeting with an appropriate recommendation concerning the revocation of the Little Madeley AQMA.

4. **Reasons for Proposed Solution**

- 4.1 The Council is required to take the action outlined in this report in order to fulfil its statutory duties under Part IV of the Environment Act 1995

5. **Options Considered**

- 5.2 Nil

6. **Legal and Statutory Implications**

- 6.1 The Council is required to revoke a designated Air Quality Management Area where it can be robustly demonstrated that the prescribed pollutant achieves ongoing compliance with regulations made under Part IV of the Environment Act 1995. Before doing so, the Council must formally consult with relevant stakeholders.

7. **Equality Impact Assessment**

- 6.2 The Environment Act 1995, Part IV places an obligation on Local Authorities to assess and manage local air quality with the intention of ensuring compliance with relevant regulations Technical and Policy Guidance made under Part IV of the Environment Act 1995.

- 7.2 The work does not impact on any protected groups or characteristics.

8. **Financial and Resource Implications**

- 8.1 There are no direct financial or resource implications coming out of this report with the formal consultation, justification for revocation of the AQMA being met from the service budget.

9. **Major Risks**

9.1 A specific GRACE risk assessment has been prepared for this line of work. Those considered to be the most significant are identified below. Appropriate controls are in place to reduce these risks from being realised.

9.1 Failure to have adequate controls in place to enable the council to comply with its legal obligations under Part IV of the Environment Act 1990 could see the Council being formally Directed by the relevant minister to undertake any of the actions they see fit, in line with the Act.

9.2 Public bodies including local Authorities may also be subject to legal action for breach of a person's human rights specifically Article 2 Right to Life and Article 8: Respect for your private and family life.

10. **UN Sustainable Development Goals (UNSDG) & Council Plan 2022 to 2026**

10.1 The monitoring and assessment of local air quality, and the requirement for air quality management areas and associated air quality action plans contributes towards the following UN Sustainable Development Goals <https://sdgs.un.org/goals>



10.2 The following areas of the Council Plan 2022 to 2026 <https://www.newcastle-staffs.gov.uk/downloads/download/506/council-plan-2022-26> are also contributed towards

- Priority 1 – One Council delivering for Local People
- Priority 3 –Healthy, active and safe communities
- Council Plan Outcome 1.3 The negative impact that the Council, residents and local businesses have on the environment will have reduce

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 There are none relating to this item.

13. **List of Appendices**

13.1 The Annual Status Report 2022 is available to view online at <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>

13.2 Air quality Management Area Map for Little Madeley https://uk-air.defra.gov.uk/aqma/local-authorities?la_id=170

13.3 Little Madeley NO2 annual mean results 2016 to 2021 <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>

14. **Background Papers**

14.1. Environment Act 1995 – Part IV <https://www.legislation.gov.uk/ukpga/1995/25/part/IV>

14.2 Local Air Quality Management Technical Guidance (LAQM.TG.16) (available at <http://laqm.defra.gov.uk/documents/LAQM-TG16-April-16-v1.pdf0>)

14.3 Air Quality Reports completed since 1997 available from <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>

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Public Document Pack Agenda Item 10

Public Protection Sub-Committee - 13/07/22

PUBLIC PROTECTION SUB-COMMITTEE

Wednesday, 13th July, 2022
Time of Commencement: 2.00 pm

Present: Deputy Mayor - Councillor Simon White (Chair)

Councillors: Brockie Heesom J Williams

Officers: Anne-Marie Pollard Solicitor
Melanie Steadman Licensing Officer

1. **APOLOGIES**

There were no apologies for absence.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **DISCLOSURE OF EXEMPT INFORMATION**

Resolved:- That the public be excluded from the meeting during consideration of the following matters because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2 and 7 contained within Part 1 of Schedule 12A of the Local Government Act, 1972

4. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 1**

The Sub-Committee considered an application for a new Private Hire operator's licence. The matter was before the Sub-Committee as the application fell outside of the Council's policy.

After careful consideration of information from the council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows:

Resolved: that the application be refused.

5. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 2**

The Sub-Committee considered a new application for a Hackney Carriage Vehicle Licence. The matter was before the Sub-Committee because the applicant had requested exemption from certain parts of the taxi licensing policy.

After careful consideration of information from the council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows:

Public Protection Sub-Committee - 13/07/22

Resolved: that the application be refused.

6. **URGENT BUSINESS**

There was no urgent business.

**Deputy Mayor - Councillor Simon White
Chair**

Meeting concluded at 3.00 pm

Public Protection Sub-Committee - 10/08/22

After careful consideration of information from the council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows:

Resolved: that the application for a Dual Hackney Carriage and Private Hire Driver's licence be granted subject to successful completion of the Newcastle under Lyme Borough Council Taxi Knowledge Test.

6. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 3

The Sub-Committee considered a new application for a Dual Hackney Carriage and Private Hire Driver's Licence.

After careful consideration of information from the council's Licensing Officer and representations from the applicant and their representative, the Sub-Committee agreed as follows:

Resolved: that the application be deferred for further consideration at a future meeting.

(**Note:** Councillor S White left the meeting at this point and did not return).

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 4

The Sub-Committee considered an application for a Dual Hackney Carriage and Private Hire Driver's licence. The application was before the Sub-Committee as the application process had revealed matters that fell outside the council's Licensing Policy.

After careful consideration of information from the council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows:

Resolved: that the application for a Dual Hackney Carriage and Private Hire Driver's licence be granted subject to:

- (a) A final warning to the driver as to future conduct; and
- (b) Successful completion of the Newcastle under Lyme Borough Council Taxi Knowledge Test.

8. URGENT BUSINESS

There was no urgent business.

**Councillor Andrew Parker
Chair**

Meeting concluded at 5.35 pm