

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 4 November 2008 at 2.00 p.m.**

Present: Councillor P Jones CBE (Chairman)
Councillor JW Hope MBE (Vice Chairman)

Councillors: CM Bartrum, ME Cooper, JHR Goodwin, PJ McCaull,
A Seldon and DC Taylor

54. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors DJ Benjamin, PGH Cutter and SPA Daniels.

55. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

56. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

57. MINUTES

RESOLVED: That the Minutes of the meeting held on 7th October, 2008 be approved as a correct record and signed by the Chairman.

58. MINISTERIAL LETTER TO LOCAL AUTHORITIES

A report was presented to the Committee regarding the contents of a letter dated 19th September, 2008 to Chief Executive's from Gerry Sutcliffe MP, Ministry of Sport, Department of Culture Media and Sport. The letter dealt with the Licensing Act 2003 and particularly focused on reviewing licensed premises, sale of alcohol to the under aged and the introduction of a red/yellow card scheme for licensed premises.

RESOLVED THAT: the Committee notes the contents of the letter with a view that it may be used in relation to any reviews of premises which may be called for in the future.

59. ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN KINGTON

The Licensing Officer presented a report to the Committee regarding the Herefordshire (Alcohol Consumption in Designated Places) Order (No.6) 2007 in respect of Kington. He said that at its meeting on 31st July, 2007 the Committee had decided that the Order should be made which designated certain streets and public places in Kington to control the consumption of alcohol; and that the matter should be reviewed after twelve months had elapsed. He explained that all relevant parties,

organisations, licensed premises and individuals had been consulted and that there had been no objections raised about the Order since its introduction. He also said that Kington Town Council remained in support of the Order and had asked for it to be made permanent. West Mercia Constabulary had requested that the Order remain in force and was also of the view that was no need for the area it covered to be extended. The Committee was in agreement with the view of the Licensing Officer that the Order should be made permanent.

RESOLVED THAT the Herefordshire (Alcohol Consumption in Designated Places) Order (No.6) 2007 in respect of Kington be made permanent and that it should remain in the same form as previously agreed by the Committee at its meeting on 31st July, 2007.

60. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE, DRIVER AND OPERATOR PENALTY POINT SCHEME.

The Acting Regulatory Services Manager presented a report about a review of the penalty points system in respect of Hackney Carriages, Hackney Carriage & Private Hire Driver Licences and Operators Licences. The scheme originally appeared before the Regulatory Committee on 20 March 2007 and the Committee had approved it for a trial period which had been renewed for a further six-months in April 2008. He advised that the purpose of the system was to deal with minor breaches of the conditions or byelaws in a more cost effective way. This avoided the need to involve formal prosecution procedures but still gave the Council the right to take formal action if the circumstances dictated. He said that during the past six months the system had been used to good effect. The standard of the vehicles had further improved to the point where it was unusual to see a vehicle that did not comply with the conditions. The system continued to result in a substantial resource savings for the Council and was the most effective way of dealing with minor breaches, whilst still retaining the option to take more formal action. It therefore reduced the need to refer matters to the magistrate's court, but remained a very effective and speedy alternative. The Committee discussed the scheme and in answer to a question from Councillor Seldon, the Acting Regulatory Services Manager said that it was flexible so that if proprietors were able to give sound reasons why they should not be penalised, the Officers were quite prepared to take this into consideration. The Committee agreed that the scheme should be made permanent.

RESOLVED THAT the penalty points system be adopted on a permanent basis and the "Draft Penalty Points Scheme" guidance document be ratified so that it is no longer a 'draft'.

61. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for hearing appeals to ensure that the laws of natural justice were followed to give a fair hearing to the applicants and to the Licensing Officers.

62. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE

A report was presented by the Licensing Officer about an application to reinstate an expired hackney carriage vehicle licence outside the Council's licensing policy 9.5. He said that Mr Maddy's licence had expired on 9th April, 2008 but that he had not applied to renew it until 5th June. The policy for renewal stated that "All applications received after the date of expiry will be treated as Grants and not renewals and the appropriate conditions and fees will apply". Mr Maddy explained that he had attempted to renew the licence much earlier but that he had needed to book the vehicle in to be tested at the Council's Rotherwas Centre. He explained all the circumstances in respect of his application which he appreciated was late but hoped that it could still be dealt with as a renewal.

Having considered all the circumstances regarding the application, the Committee was satisfied with Mr Maddy's explanation and agreed that the application could be treated as a renewal and not a new application.

RESOLVED THAT:

An application from Mr NJ Maddy to deviate from the standard condition number 9.5, in respect of plate No.H332 for a Skoda Octavia be accepted and granted as a renewal.

63. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE

A report was presented by the Licensing Officer about an application to reinstate an expired hackney carriage vehicle licence outside the Council's licensing policy 9.5. He said that Mr Pavi's licence had expired on 6th October, 2008 and that he had applied to renew it on 9th October. Because he was only a few days late in applying for renewal, the licence had been renewed until midnight on the day of the Committee.

Having considered all the circumstances regarding the application, the Committee was satisfied with that the licence could be renewed until 6th October 2009.

RESOLVED THAT:

An application from Mr R Pavi to deviate from the standard condition number 9.5, in respect of plate No.H065 for a Skoda Octavia be accepted and granted as a renewal.

64. APPLICATION TO DEVIATE FROM STANDARD CONDITION 3.3A HACKNEY CARRIAGE VEHICLE LICENCE

A report was presented by the Licensing Officer about an application to transfer a hackney carriage vehicle licence to a vehicle that did not have wheelchair access and was therefore contrary to the Council's licensing condition 3.3. He said that the condition stated that: -

the proposed new vehicle must comply with the following:-

a wheel chair access vehicle cannot at any time be replaced with a non-wheelchair access vehicle. A saloon may be replaced with a saloon or upgraded to a wheel chair access vehicle.

He also said that Mr Gudas had not yet stipulated the type of vehicle he wished to transfer the licence to. Mr Gudas explained that he had made the application purely

on cost grounds because of the expense of obtaining a replacement vehicle which had wheelchair access and would satisfy the licensing conditions of the Council. Having considered all the circumstances regarding the application, the Committee was sympathetic towards the situation regarding the applicant but felt that the licensing condition was particularly important to help with the needs of the disabled. If it was granted, there was the strong likelihood that similar applications could be received from other proprietors thereby undermining the aims of the Councils licensing objectives in meeting the requirements of the Disability Discrimination Act 1995.

RESOLVED THAT:

An application from Mr J Gudas to deviate from the standard condition number 3.3 to transfer plate No.H239 to a non-wheelchair accessible vehicle be refused.

65. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING AN EXISTING DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to Agenda item 12 and requested that the matter be deferred because the licence-holder was on holiday. The Committee agreed to this request.

66. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING AN EXISTING DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to Agenda item 13 and requested that the matter be deferred because the licence-holder was on holiday. The Committee agreed to this request.

67. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 14 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to become a licence holder.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee considered that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could be granted a Hackney Carriage/Private Hire driver's licence.

68. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 15 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The

applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to become a licence holder.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee considered that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could be granted a Hackney Carriage/Private Hire driver's licence for a period of six-months, as recommended by the applicant's g.p.

69. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 16 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to become a licence holder.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee considered that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could be granted a Hackney Carriage/Private Hire driver's licence.

70. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 17 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to become a licence holder.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee considered that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could be granted a Hackney Carriage/Private Hire driver's licence.

The meeting ended at 3.30 p.m.

CHAIRMAN