

**MINUTES of the meeting of Regulatory Sub Committee held at Council Chamber, Brockington on Tuesday 27 November 2012 at 10.00 am**

**Present:** Councillor JW Hope MBE (Chairman)

**Councillors:** Brig P Jones CBE and GA Powell

**87. ELECTION OF CHAIRMAN**

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

**88. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

**89. NAMED SUBSTITUTES (IF ANY)**

There were no substitutes present at the hearing.

**90. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**91. APPLICATION TO ALTER AND EXTINGUISH PARTS OF FOOTPATH MM25 IN THE PARISH OF MUCH MARCLE**

The Parks, Countryside and Leisure Development Manager presented a report about an application under the Highways Act 1980, section 118, to make a public path extinguishment order and Highways Act 1980, section 26, to make a public path creation order to alter part of footpath MM25 in the parish of Much Marcle. He felt that the proposed route was acceptable for the public; and advised that the Local Ward Member, parish council and consultees were in agreement with it.

He further advised that the applicant had agreed to meet costs associated with the diversion and that the proposal also met the criteria set out in the legislation and in particular that:

- The proposal benefitted the owner of the land crossed by the existing path.
- The proposal did alter the point of termination of the path, but only to a point which was equally as convenient.
- The proposal was not substantially less convenient to the public.

Mr Lee, representing the Rambler's Association, advised the Sub-Committee that he was happy with the application as it removed a cul-de-sac.

Having considered all aspects of the application, the Sub-Committee concurred with the view of the Parks, Countryside and Leisure Development Manager that the application should be approved.

## **RESOLVED**

**THAT a Public Path Diversion Order be made under section 118 of the Highways Act 1980 in respect of part of Footpath MM25 in the parish of Much Marcle.**

### **92. APPLICATION TO DIVERT FOOTPATH ZC86 IN THE PARISH OF LEOMINSTER**

The Parks, Countryside and Leisure Development Manager presented a report about an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ZC86 in the parish of Leominster. He felt that the proposed route was acceptable for the public; and advised that the Local Ward Member, parish council and consultees were in agreement with it. He did advise Members that due to a change in levels a small flight of steps was required. He added that this was not ideal but was the best possible solution.

He further advised that the applicant had agreed to meet costs associated with the diversion and that the proposal also met the criteria set out in the legislation and in particular that:

- The proposal benefitted the owner of the land crossed by the existing path.
- The proposal did alter the point of termination of the path, but only to a point which was equally as convenient.
- The proposal was not substantially less convenient to the public.

Members discussed the application and had some concerns regarding the proposed steps. They discussed the possibility of a ramp but were advised that this would require major engineering works. It was also noted that due to the enclosed nature of the area it would not be possible to stagger the steps either.

Mr Lee, representing the Rambler's Association, advised the Sub-Committee that he was happy with the application.

Having considered all aspects of the application, the Sub-Committee concurred with the view of the Parks, Countryside and Leisure Development Manager that the application should be approved.

## **RESOLVED**

**THAT a Public Path Diversion Order be made under section 119 of the Highways Act 1980 in respect of part of Footpath ZC86 in the parish of Leominster.**

### **93. PROCEDURAL ARRANGEMENTS**

The procedural arrangements were noted.

### **94. EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED: That under section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below.**

- 1 Information relating to any individual. (Item 8 and 9)**
- 2 Information which is likely to reveal the identity of an individual. (Item 8 and 9)**

**7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. (Item 8)**

**95. REVIEW OF THE SUSPENSION OF A DUAL DRIVER HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

**SUMMARY OF THE PROCEEDINGS OF EXEMPT INFORMATION**

The Sub-Committee gave consideration to a recommendation from the Taxi and County Transport Badge Officers Panel that a Hackney carriage/private hire driver's licence should be revoked.

The matter had been referred to the Panel because the licence holder wished to appeal about the suspension of her licence. The licence was suspended when the officers were notified by the Police in respect of a caution issued due to the assault of a Police Officer.

Both the licence holder and her legal advisor addressed the Sub-Committee with a detailed account of the incident and the mitigating circumstances which had led to the incident occurring.

After hearing from the licence holder and taking into account the written documentation submitted by the police and contained within the Agenda pack the Sub-Committee was of the opinion that the appellant's suspension should continue until it received a satisfactory medical report to assure it that the licence holder was fit to continue as a taxi driver. The Sub-Committee was minded to consider her a fit and proper person once a satisfactory report was before it.

The Sub-Committee considered the relevant case law and regulations that were put before it. It did not form a view on the incident of 12 September 2012 since the appellant admitted that the assault took place although the exact circumstances were in dispute.

The Sub-Committee considered it important that the same three members should consider the above medical report as soon after receipt as was practicable in the circumstances.

**RESOLVED**

**THAT the suspension of the Hackney carriage/private hire driver's licence remains in place until a medical report is received and considered by the Sub-Committee.**

**96. REVIEW OF THE SUSPENSION OF A DUAL DRIVER HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

**SUMMARY OF THE PROCEEDINGS OF EXEMPT INFORMATION**

The Sub-Committee gave consideration to a recommendation from the Licensing Officer that a hackney carriage/private hire driver's licence should be suspended. The recommendation of a suspension was brought to the Sub-Committee in accordance with the Council's Penalty Points Scheme after the licence holder had accrued in excess of 12 penalty points in a 12 month period.

Prior to making their decision the Sub-Committee heard from the licence holder, who explained the reasons which had led to him receiving 15 penalty points since April 2012. The Sub-Committee noted that the licence holder's penalty points had been accrued over a short period of time with a number of similar offences. It was concerned that he

had been issued 3 points on 15 September, 22 September and 6 November for the same offence.

In view of the evidence put before it, the Sub-Committee decided that the licence should be suspended for a period of one month and that the licence holder be required to take the Council's Knowledge Test given that some of the breaches related to breaches of licence conditions. This decision was made in accordance with the Council's Penalty Points Scheme with particular reference made to paragraph 2.1(a) which stated that:

- a) On the accumulation of 12 or more penalty points in a 12 month period a driver or a vehicle proprietor will be subject to a recommendation to suspend his/her licence for a period of 1 month. If the points issued are connected to breaches of licence conditions, there will be an additional requirement to sit and pass the Council's knowledge test.

The licence holder was advised that any suspension would not come into force until 19 December 2012, the end of the period allocated to appeal the decision.

### **RESOLVED**

**THAT the Hackney carriage/private hire licence be suspended for a period of one month and that the licence holder be required to re-take the Council's Knowledge Test.**

The meeting ended at 12.05 pm

**CHAIRMAN**