

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 9 September 2009 at 2.00 pm

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

Councillors: CM Bartrum, DJ Benjamin, SPA Daniels, DW Greenow, RC Hunt, PJ McCaull, A Seldon and JD Woodward

In attendance: Councillors

27. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor PGH Cutter.

28. NAMED SUBSTITUTES (IF ANY)

Councillor DW Greenow was appointed named substitute for Councillor PGH Cutter.

29. DECLARATIONS OF INTEREST

Councillor JD Woodward declared a prejudicial interest in Agenda item 8 (Minute No. 33 and left the meeting for the duration of this item.

Councillor A Seldon declared a personal interest in Agenda item 9 (Minute No. 34)

30. MINUTES

RESOLVED: That the Minutes of the meeting held on 11th August, 2009 be approved as a correct record and signed by the Chairman.

31. PROPOSED CHARITABLE COLLECTION POLICY

The Acting Regulatory Services Manager presented his report about a proposed Charitable Collection Policy for Herefordshire. He said that The Charities Act 2006 had come into effect on 1 April 2009 and had replaced a variety of legislation which dealt with the regulation of charitable collections in public places. Although the Act did not require a Licensing Authority to have a policy for collections, in order to demonstrate fairness and consistency it was considered to be good practice and appropriate to have a policy in place. Advice from the Local Government Ombudsman following his investigation of a complaint about a refused application was also that there should be a policy in place. He presented details about the proposed policy and informed the Committee about the responses which had been received from those who had been consulted internally and externally.

The Committee discussed the policy and some Members questioned if it may be too prescriptive. The Licensing assistant said that the Policy would provide considerable guidance and information for charitable organisations and also help to regulate and control collections that were held each week so that the public was not faced with an unacceptable

number. The Committee agreed with the proposals as set out in the report.

RESOLVED THAT

the Charitable Collection Policy for Herefordshire set out in the report of the Assistant Director Environmental and Culture be approved.

32. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for the following items to ensure that Officers and applicants received a fair hearing.

33. APPLICATIONS TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5

The Licensing Assistant introduced a report about an application from Mr PR Davies to renew a hackney carriage vehicle licence outside the Councils standard condition 9.5. which stipulated that an application for the renewal of a vehicle license after it had expired would be treated as a new application. She said that Mr Davies's licence had expired on 1st August 2009 and that he had applied to renew it on 4th August. Mr Davies had been granted a temporary renewal until midnight on the day of the Regulatory Committee meeting. Mr Davies said that he had started the process for renewal in advance of the expiry date but that arranging for his vehicle to be inspected at the Council's testing centre and then submitting the paperwork to the Licensing Section had led to a small delay.

Having considered the matter, the Committee decided that in view of the short time that had elapsed between expiry of the licence and the application made by Mr Davies, the licence could be renewed. He was however reminded to be more timely with his applications in future to allow sufficient time for the vehicle to be tested and the paperwork to be processed.

RESOLVED THAT:

an application from Mr Davies to deviate from the standard condition number 9.5, for the renewal of Hackney Carriage Licence No. H017 in respect of Citroen C5 registration number HA02 XKD, be approved.

34. APPLICATIONS TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 3.3B

The Acting Regulatory Services Manager introduced a report about an application from Mr BM Kaye to renew a hackney carriage hire vehicle licence and transfer it to another vehicle outside the Councils standard condition 3.3b. The condition stipulated that a replacement vehicle should be no more than 2 years older than the outgoing vehicle, and have at least 30,000 less miles on the clock. Mr Kaye's outgoing vehicle had a last recorded mileage of 100,431 but the proposed replacement had a mileage of 149,450 and therefore did not therefore meet the licensing criteria.

Mr J Jones the Chairman of Herefordshire Hackney Carriage and Private Hire Association further explained the details of Mr Kaye's application. Having considered the matter, the Committee decided that in view of the particular circumstances involved, Mr Kaye's application could be approved but that he needed to be more mindful of the Council's licensing conditions in the future. The Committee refused a request to reimburse the fee charged for the application to be brought before it.

RESOLVED THAT:

an application from Mr BM Kaye to vary from standard condition no. 3.3b regarding the transfer of Hackney Carriage Licence No. H334 to Ford Mondeo FE 53 HNL, be approved.

35. APPLICATION TO CONVERT TWO HACKNEY CARRIAGE LICENCES TO PRIVATE HIRE LICENCES AND THEREFORE DEVIATE FROM CONDITION 3.3

The Licensing Assistant introduced a report about an application from Mr DJ Hufton to convert two hackney carriage vehicle licences to private hire vehicle licences. A letter from Mr Hufton in support of his application was also circulated to the Committee at the meeting. There were issues regarding wheelchair accessibility and age of vehicles if the licences were transferred, which needed to be considered by the Committee.

Mr Hufton explained that he now only needed the licence for his Volkswagen Caravelle minibus to be changed from hackney carriage to private hire. The vehicle had provision for wheelchair access when required but the nature of his business had changed more towards pre-arranged bookings, mainly for corporate and wedding functions. On such events the clients did not want to have vehicles with hackney carriage signs in the background of photographs, and changing the vehicle to private hire would overcome this.

Having considered all the implications of the application, the Committee felt that there was some flexibility within the licensing conditions to allow for the licence to be changed in respect of the one vehicle. The Committee refused a request to reimburse the fee charged for the application to be brought before it.

RESOLVED THAT:

an application from Mr DJ Hufton to convert hackney carriage vehicle licence No. H129 in respect of Volkswagen Caravelle H4 FTY, be approved.

In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered.

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 involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.

36. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER A DRIVER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976[8] COMMITTEE REPORT HERBERT 8.9.09

The Acting Regulatory Services Manager referred to agenda item No. 10 and provided the Committee with the circumstances which had given rise to a dual Hackney Carriage/Private Hire driver's licence holder receiving a conviction. The licence holder had informed the Council about the matter and had voluntarily surrendered his driver licence and badge. The driver gave a full explanation to the Committee about the events which had led to him receiving a conviction.

Having considered all of the facts put forward about the matter, the Committee was satisfied that the driver was a fit and proper person under the meaning of the Local

Government (Miscellaneous Provisions) Act 1976 and that his licence should be reinstated.

37. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER A DRIVER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Assistant referred to agenda item No. 11 and provided the Committee with details of the circumstances which had given rise to an applicant for a dual Hackney Carriage/Private Hire driver's licence holder receiving a caution. The applicant provided the Committee with an account of the incident from his perspective and said that he had not appreciated the legal standing of a caution and had therefore not declared it on his application form.

Having considered all of the facts put forward by the applicant and the officers about the matter, the Committee was satisfied that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a drivers licence should be granted.

The meeting ended at 4.12 pm

CHAIRMAN