

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 31st January, 2006 at 10.00 a.m.**

Present: Councillor R.I. Matthews (Chairman)

Councillors: Mrs. S.P.A. Daniels, G.W. Davis, D.J. Fleet, J.G.S. Guthrie,
J.W. Hope MBE, T.W. Hunt, J.W. Newman, R. Preece, D.C. Taylor and
P.G. Turpin

In attendance: Councillors P.J. Edwards

52. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Brig P Jones CBE.

53. NAMED SUBSTITUTES (IF ANY)

There were no substitutions made.

54. DECLARATIONS OF INTEREST

There were no declarations of interest made.

55. MINUTES

RESOLVED: That the Minutes of the meeting held on 29th November, 2005 be approved as a correct record and signed by the Chairman.

56. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LW4 (PART) IN THE PARISH OF LLANWARNE

A report was presented by the Public Rights of Way Manager about an application under the Highways Act 1980, Section 119, to make a Public Path Diversion Order to divert part of footpath LW4 in the parish of Llanwarne. He explained the events which had given rise to the application and the legal requirements which the applicants needed to fulfil in respect of land ownership before an Order could be made. He said that since 2003 numerous attempts had been made to obtain the landowners consent or to get the applicants to confirm that they would indemnify the Council against any possible claim for compensation, so that the Order could be made. He advised that because neither requirements had been fulfilled, the applicants had been informed that Rights of Way Section could not proceed with the application and would recommend its rejection to the regulatory Committee.

Councillor GW Davis, the Local Ward Member, said that he had discussed the matter with the applicants and that they had said that they were near obtaining the necessary land ownership permissions. He therefore requested that the matter be held in abeyance for a period of six months to allow the legal requirements to be fulfilled. Having considered all the aspects of the matter, the Committee agreed with

the course of action suggested by Councillor Davis.

RESOLVED: That consideration of making a Public Path Diversion Order under Section 119 of the Highways Act 1980 in respect of part of footpath LW 4 in the parish of Llanwarne be deferred for a period of six months from the date of this meeting, during which time the outstanding issues must be resolved by the applicants.

57. SUMMARY OF THE LICENCES ISSUED BY THE LICENSING DEPARTMENT

The Head of Environmental Health and Trading Standards presented his report about Taxi licensing in the County. At the meeting of Council on 4th November, 2005 some concern had been expressed about the number of taxi licenses being granted for Hereford City and whether there was an adequate number of taxi ranks to support them. His investigation revealed that the licensing legislation permitted local licensing authorities to place a limit on the number of vehicle licences granted but not driver licences. However it was not possible to set an arbitrary limit without being first satisfied that there was no significant unmet demand for hackney carriages. The way of assessing demand was by means of a survey and if one has not been undertaken, applicants had a right of appeal to the Crown Court against a decision to refuse a licence. The onus is then on the licensing authority to demonstrate to the court that there was no significant unmet demand. Furthermore the Office of Fair Trading had taken the view that in the interests of passengers and market freedom, Licensing Authorities should not impose a limit on vehicle licences.

The Committee noted the situation and felt that regulating the number of hackney carriages in the County would not address some of the problems encountered at certain times within the City, which need to be tackled by other means.

RESOLVED: That the report be received and noted.

58. HACKNEY CARRIAGE AND PRIVATE HIRE REQUEST FROM MR WILTSHIRE TO DEVIATE FROM STANDARD CONDITION 3.1 (AGE OF VEHICLE). TOWN POLICE CLAUSES ACT LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Manager explained that an application had been received from Mr R Wiltshire to allow his vehicle to remain licensed on reaching 8 years of age contrary to condition number 3.1 in the Council's hackney carriage and private hire vehicle licence conditions. The condition stipulated that existing vehicles should be replaced upon reaching eight years of age with the only exception being "purpose built" vehicles which could be licensed until reaching fifteen years of age. Mr Wiltshire said that he kept the vehicle as a spare to ensure that he could meet his contractual commitments and voluntary ambulance work. He asked if the licence could be allowed to run until June 2006 when he intended replacing the vehicle. Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that given the circumstances an exception could be made and the application granted, but that it should not set a precedent.

RESOLVED: That the licence in respect of the hackney carriage bearing plate No. H405 remain in force until 1 June 2006 whereupon that vehicle must be replaced with one which complies with vehicle licence condition 3.1.

59. HACKNEY CARRIAGE AND PRIVATE HIRE - REQUEST FROM MR PULLIN TO DEVIATE FROM STANDARD CONDITION 3.2 (STANDARD OF THE VEHICLE) - TOWN POLICE CLAUSES ACT LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Manager presented the report of the Head of Environmental Health and Trading Standards regarding an application which had been received from Mr M Pullin to permit his disabled access hackney carriage vehicle to be replaced with a standard saloon car contrary to condition number 3.2 in the hackney and private hire vehicle licence conditions. She said that the condition stipulated that licence plates may only be transferred at the discretion of the Licensing Authority, where the proposed new vehicle is deemed by the Licensing Authority to be of the same or higher standard, specification as the current out going vehicle. In this case Mr Pullin had concerns that the wheelchair accessible ramps in his vehicle were not strong enough for the task and he had removed them and continued to use the vehicle as an ordinary saloon car. He said that he had reported the matter to the licensing office five months ago and been advised that he would be contacted if there was a problem. In the absence of any further contact he had assumed that the Council was satisfied with the arrangements and he therefore requested that the Committee grant his request.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that given the circumstances an exception could be made and the application granted, but that it should not set a precedent. The applicant had also made a number of points about enforcement of the licensing conditions and the Committee asked the Cabinet Member (Environment) to look into the matter with the officers

RESOLVED: That

- (i) the wheelchair access vehicle bearing plate No. H073 can be replaced with a salon car but the original vehicle cannot be licensed as a Hackney Carriage or Private Hire Vehicle in Herefordshire again. In addition when the saloon car is replaced it must be replaced with a wheelchair accessible vehicle as specified in the licensing conditions: and**
- (ii) the Cabinet Member (Environment) be requested to discuss the arrangements for enforcement of the licensing conditions with the officers.**

60. 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 for applicants and to the Licensing Officers.

61. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for a Hackney Carriage/Private Hire driver's license had a conviction which did not become unspent until 2009 and that she had therefore referred the matter to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the

applicant, the Committee decided that he was not a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could not be granted a licence.

In response to a request from the Committee, The Cabinet Member (Environment) said that he would review the situation regarding penalty points on licences with the officers.

62. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for a Hackney Carriage/Private Hire driver's license had previous convictions which he had not disclosed on his application form and that she had therefore referred the matter to the Committee in accordance with the Council's licensing terms and conditions. The applicant gave details of the circumstances which had given rise to the convictions and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was not a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he should therefore not be granted a licence.

63. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for renewal of a Hackney Carriage/Private Hire driver's license had previous a convictions and that she had therefore referred the matter to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was not a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he should therefore not be granted a licence.

64. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an application for renewal a Hackney Carriage/Private Hire driver's license had been referred to the Committee because the applicant had moved addresses and did not receive his renewal forms which included application for a criminal records check. The applicant said that there had been a misunderstanding about his new address and confirmed that there were no convictions to be revealed on the record check. He explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could be granted a licence with the proviso of revocation if the CRB response was not satisfactory.