

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 26th September, 2006 at 2.00 p.m.**

Present: Councillor R.I. Matthews (Chairman)
Councillor Brig. P. Jones CBE (Vice Chairman)

Councillors: H. Bramer, Mrs. S.P.A. Daniels, G.W. Davis, D.J. Fleet,
J.W. Hope MBE, T.W. Hunt, G. Lucas and R. Preece

In attendance: Councillors (none)

31. APOLOGIES FOR ABSENCE

Apologies were received from Councillor PG Turpin.

32. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

33. DECLARATIONS OF INTEREST

There were no declarations of interest made.

34. MINUTES

RESOLVED: That the Minutes of the meeting held on 9th August, 2006 be approved as a correct record and signed by the Chairman, subject to the inclusion of the name of Councillor H Bramer in the list of those present.

35. THE GAMBLING ACT 2005

The Licensing Officer presented a report about the draft licensing statement of principles and the consultation process for the implementation of the Gambling Act 2005. She said that Section 349 of the Act required all licensing authorities to prepare and publish a statement of the principles that they proposed to apply in exercising their functions under the Act during the three-year period to which the policy applied. She advised that the main aims of the Act 2005 were to:

- prevent gambling being a source of crime or disorder;
- ensure that gambling is conducted in a fair and open way; and
- protect children and the vulnerable from being harmed or exploited by gambling.

The Licensing Officer explained the types of licences that would be covered by the Act, the premises that would be involved and the impact of the work on her section. She advised that the implementation date had been postponed until April, 2007 but that there was much preparatory work to be done in the meantime and the Policy needed to be in place by the beginning of January, 2007. She said that a Seminar about the Act had been arranged in October for Members.

RESOLVED:

that the report and draft policy be noted.

36. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LW10 (PART) IN THE PARISH OF LLANWARNE

A report was presented by the Rights of Way Manager about an application for a Public Path Diversion Order in respect of part of Footpath LW10, Llanwarne, under Section 119 of the Highways Act 1980. He advised that the application had been made to improve land management, regularise common usage and to improve walker's views of the surrounding countryside. He said that the applicant had carried out pre-order consultation and that the proposal had general agreement from the Parish Council. The Ramblers Association and the Open Spaces Society had objected because they felt that the diversion would reduce the openness of the footpath and make it longer. The Rights of Way Manager had concerns that the proposal would increase the maintenance burden on the Council, increase the likelihood of the route being enclosed by a fence and require more maintenance by the landowner which could become neglected. He therefore recommended that the application should be rejected.

Councillor GW Davis, the Local Ward Member, was of the view that the proposal followed a more attractive route for walkers, taking them through a copse and affording some spectacular views. He therefore supported the application.

Having considered all the facts in respect of the diversion, the Committee supported the views of the Local Ward Member and decided that the application should be granted.

RESOLVED:

That a Public Path Diversion Order be made in respect of Footpath LW10 Llanwarne under the provisions of Section 119 of the Highways Act 1980.

37. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH BD8 (PART) IN THE PARISH OF BREDWARDINE

The Rights of Way Manager presented a report about an application for a Public Path Diversion Order to divert part of Footpath BD8, Bredwardine, under Section 119 of the Highways Act 1980. He advised that the application had been made to move the footpath out of a farmyard and away from the house and farm buildings, one of which had been built across it. The applicant felt that this would increase his privacy and user safety, as animals were kept in the farmyard. The proposal had general agreement from the Open Spaces Society, the Ramblers Association, the Byways and Bridleways Trust and the Local Ward Member. The applicant had agreed to pay for advertising and to reimburse the Council's costs incurred in making the Diversion Order. He said that it was felt by the officers that the diversion met the tests set out in Section 119 of the Highways Act in that it benefited the owner of the land crossed by the path and that it was not substantially less convenient to the public.

Having considered all the facts in respect of the diversion, the Committee agreed with the course of action suggested by the Rights of Way manager.

RESOLVED:

That a public path diversion order is made in respect of Footpath BD8 in the parish of Bredwardine under Section 119 of the Highways Act 1980 as illustrated on drawing D236/52-8

38. 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.

EXCLUSION OF THE PUBLIC AND PRESS

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 items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

These items disclose information relating to any particular applicant for or recipient of or former recipient of, any service provided by the authority.

39. PUBLIC RIGHTS OF WAY REVIEW OF CHARGES FOR PUBLIC PATH ORDERS

The Rights of Way Manager presented a report about proposed changes to way costs are calculated following the new Public Path Order Policy. He said that prior to the approval of the new Policy, the Council's charges for diverting public rights of way under either the Highways Act 1980 or the Town and Country Planning Act 1990 were a composite of administrative, legal and advertising charges. This could be up to £2,000 depending on the complexity of the application. The administration and legal fees included pre-order consultations with landowners, prescribed organisations, site inspections, posting notices on site, research, negotiations with applicants and preparation of reports, orders and notices. The advertising charges were based on placing the required number of adverts in a local paper and the size of the advert. He said that the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 lifted the ceiling for administrative charges and allowed Local Authorities to charge reasonable costs but that such charges could not exceed the costs actually incurred. The Council was also excluded from charging costs for contested orders and could only charge up to the point where the Order was submitted to the Secretary of State for determination.

He provided the Committee with a proposed schedule of costs which had been prepared in line with the requirements of the new legislation and explained how they had been arrived at. He said that the next stage would be to submit the proposals to the Cabinet Member for Policy and Community Services. The Committee was in agreement with the proposals put forward by the Rights of Way Manager and suggested that the situation should be reviewed after twelve months.

RESOLVED

That the report and schedule of costs be noted and it be recommended to the Cabinet Member for Policy and Community Services that the matter be reviewed after 12 months.

40. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer provided the Committee with the circumstances which had given rise to an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The Committee decided to take into consideration the applicants spent and unspent convictions.

The applicant gave an explanation of his personal circumstances, his previous convictions and explained why he felt that his application should be granted. The applicant's representative gave a detailed explanation of the applicant's character, the circumstances which had given rise to the conviction, the situation regarding the taxi trade and the support for the applicant from the trade and from his previous customers. The Council's Race Equality Development Officer spoke in support of the applicant and the applicant also submitted written references in support of his application.

Having considered all of the facts put forward by the Licensing Officer, the applicant and his representative, 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 the Licence should not be granted.

41. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer provided the Committee with the circumstances which had given rise to an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The Committee decided to take into consideration the applicant's spent convictions.

The applicant gave an explanation of his personal circumstances, employment and his previous convictions, explaining that all the problems had arisen in his youth and that he was now a responsible family man without any convictions since 1997. He explained why he felt that his application should therefore be granted.

Having considered all of the facts put forward by the Licensing Officer and the explanation of the applicant, the Committee decided that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that the Licence should be granted.

42. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer provided the Committee with the circumstances which had given rise to an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The Committee decided to take into consideration the applicant's spent conviction.

The applicant's wife gave an explanation of his personal circumstances and employment and the circumstances which had given rise to the conviction. She explained why she felt that the application should be granted and what it would mean to her family.

Having considered all of the facts put forward by the Licensing Officer and the explanation of the applicant's wife, the Committee decided that he was a fit and

proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that the Licence should be granted.

43. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

In the absence of the applicant, the Committee decided to defer consideration of the application.

44. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer provided the Committee with the circumstances which had given rise to an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The Committee decided to take into consideration the applicant's unspent conviction.

The applicant gave an explanation of his personal circumstances and employment and the circumstances which had given rise to the conviction. He explained why he felt that the application should be granted and provided the Committee with a letter which set out the events leading to the offence being committed.

Having considered all of the facts put forward by the Licensing Officer and the explanation of the applicant, the Committee decided that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that the Licence should be granted.

45. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

In the absence of the applicant, the Committee decided to defer consideration of the application.

46. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

In the absence of the applicant, the Committee decided to defer consideration of the application.

The meeting ended at 4.30 p.m.

CHAIRMAN