

**MINUTES of the meeting of Regulatory Committee held at  
The Council Chamber, Brockington, 35 Hafod Road,  
Hereford on Tuesday, 30th January, 2007 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:** Councillor J Stone

**76. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors JW Newman and PG Turpin.

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

There were no substitutions present at the meeting

**78. DECLARATIONS OF INTEREST**

Councillor R Preece declared a personal interest in Agenda item 12 – Application for dual hackney carriage & private hire drivers licence – Local Government (Miscellaneous Provisions) Act 1976

**79. MINUTES**

The Licensing Officer referred to minute No 66 – Alcohol consumption in public places, designation of Public Places in Hereford and said that two locations had been inadvertently omitted from the schedule in the report in respect of Ledbury. The Committee decided that these should be added to the Order

**RESOLVED: That**

- (i) **the Minutes of the meeting held on 28th November, 2006 be approved as a correct record and signed by the Chairman; and**
- (ii) **New Street (from its junction with Woodleigh Road to its junction with High Street; and The Southend (from its junction with High Street to its junction with Mabels Furlong be added to the Order designating those areas as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001**

**80. 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 reminded the Committee that at its meeting on 31<sup>st</sup> January, 2006 it had been decided to defer a decision on the application for a period of six months to allow the applicants further time to resolve the outstanding issues. Despite some attempts by the applicants to resolve the matter, no further progress had been made in obtaining landowner consent for the diversion. He also said that the applicants had failed to confirm that they would indemnify the Council against any possible claim for compensation in respect of land ownership if an Order was made. Because neither requirement had been fulfilled, the applicants had been informed that it would be recommended to the Committee that it be rejected.

Councillor GW Davis, the Local Ward Member, said that he had discussed the matter with the applicants who had said that the diversion route had been in existence and used regularly since the latter half of the 1980s. He said that a 3m strip had been retained for the diverted route when the land had been sold at that time. He had enquired about the possibility of a Modification Order being made regarding the diverted route. The rights of Way Manager said that there were still the compensation issues which the Council needed to be indemnified for although it may be possible for the route to become established under different legislation after it had been in place for twenty years. Having considered all the aspects of the application, the Committee decided that the matter should be deferred for further investigation.

**RESOLVED:**

**that consideration of the application be deferred for further investigation to be made about whether the revised route of Footpath LW4 (part) Llanwarne could be deemed to be in existence after twenty years.**

**81. HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LV46 GOLDEN VALLEY SOUTH (PART) IN THE PARISH OF LLANVEYNOE**

The Rights of Way Manager presented a report about an application for a Public Path Diversion Order to divert part of Footpath LV46 Llanveynoe, under Section 119 of the Highways Act 1980. He advised that the application had been made to move the footpath out of the applicants garden for privacy and security. The proposal had general agreement from those consulted at the time although there were implications for an adjoining landowner whose consent had not been obtained. The applicant had agreed to pay for advertising and to reimburse the Council's costs incurred in making the Diversion Order but when the officers attempted to progress matters, no further replies were received to correspondence to him. Further investigation revealed that the local parish council believe that he has left the area and that the property seems to be infrequently lived in, if at all and a check with the Land Registry had revealed that the land was unregistered. In view of these circumstances the Committee agreed with the course of action suggested by the Rights of Way Manager that the diversion order should not be made.

**RESOLVED:**

**that a Public Path Diversion Order be not made under Section 119 of the Highways Act 1980 in respect of footpath LV46 (part), as illustrated on drawing D262/244-46 and that the application is rejected.**

**82. APPLICATION FOR AN AMUSEMENT WITH PRIZES MACHINES PERMIT FOR OVER TWO MACHINES - SECTION 34 THE GAMING ACT 1968**

A report was presented by the Licensing Manager about an application for an Amusements With Prizes Permit for three gaming machines at The Grandstand, Grandstand Road, Hereford. She said that responsibility for issuing such permits to pubs and other alcohol-licensed premises was transferred to licensing authorities in November 2005 under the provisions of the Licensing Act 2003 and subsequently the Gambling Act 2005. Green King Brewing & Retail Ltd of Westgate Brewery, Bury St, Edmonds, Suffolk had applied for a permit for three gaming machines. The Committee had previously endorsed a process where applications for two machines could be dealt with by the Licensing Officers but that applications for more than two should be brought before it. The applicant had not previously been issued with a permit although the premises had previously been issued with a permit for three machines by the Clerk to the Licensing Justices when under different management. The police had been consulted and had no objections to the application.

Having considered all the facts about the application, the Committee had some concerns about the location of the machines and the way in which they would be supervised to ensure that the requirements of the Gambling Act 2005 were met. It was therefore decided that a site inspection should be held.

**RESOLVED:**

**that consideration of the application be deferred for a site inspection to be made of the premises.**

**83. 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.

**84. HACKNEY CARRIAGE AND PRIVATE HIRE REQUEST FROM JOHN WHEADON (CITY TAXIS) TO DEVIATE FROM STANDARD CONDITION 1.1 (NEW HACKNEY VEHICLE LICENCE). TOWN POLICE CLAUSES ACT LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager presented a report about a request from Mr J Wheadon, a hackney carriage and private hire proprietor, for three saloon cars with wheelchair friendly swivel front passenger seats to be licensed as hackney carriages, contrary to condition number 1.1 in the Council's vehicle licence conditions. She said that the condition had been introduced in 2001 to limit the increase in numbers of hackney carriages following de-regulation and to meet the requirements of the Disability Discrimination Act (DDA). The Committee noted that under Section 32 of the DDA the Secretary of State had the power to make regulations to ensure that disabled persons could enter and leave taxis safely and comfortably whilst remaining in their wheelchairs. It was also noted that the Council had been identified as a first phase Local Authority which meant that the provisions of the DDA 1995 would be introduced between 2010 and 2020. Following this, licences could only be granted for hackney carriages which were wheelchair accessible. The Principal Lawyer advised the Committee of recent court cases which had reinforced the need for Local Authorities to ensure that the hackney carriages they licensed could provide easy access for those who wished to remain in their wheelchairs.

Mr Murphy spoke on behalf of the applicant Mr Wheadon and said that there was some resistance from user groups to all the licensed hackney carriages being purpose built vehicles to accommodate persons in wheelchairs. He felt that these

vehicles had to have the wheelchairs secured in a way that they often had to face backwards and passengers found them uncomfortable, particularly if having to travel some distance into a rural area. The vehicles put forward by Mr Wheadon offered a more flexible and comfortable option for passengers who were not fully mobile yet did not need to travel in their wheelchairs.

In answer to a question from Councillor JW Hope, the Licensing Officer said that some 17% of the hackney carriages licensed by the Council were wheelchair accessible and that she often received complaints that there were not enough available to cater for the demand at peak times.

Having considered all of the facts put forward by the Licensing Officer, the applicant and his representative, the Committee decided that it would be unwise to permit the request in view of the requirements of the DDA and in the interests of the public who needed to use hackney carriages. It was noted that there was nothing to prevent the vehicles being licensed as private hire vehicles because they did not have the same licensing conditions as hackney carriages.

#### **RESOLVED THAT**

**An application from Mr J Wheadon for three saloon cars with the disabled friendly swivel front passenger seats to be licensed as hackney carriages be refused.**

#### **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.**

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

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

The Licensing Officer referred to agenda item No. 10 and 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 and unspent convictions. The applicant provided the Committee with details of the circumstances which had given rise to his convictions, his character since then and the reasons why he felt that he should be granted a licence.

Having considered all of 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 the application should be refused.

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

The Licensing Officer referred to agenda item No. 11 and 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 and unspent convictions. The applicant provided the Committee with details of the circumstances which had given rise to his conviction, his character since then and the reasons why he felt that he should be granted a licence.

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

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

The Licensing Officer referred to agenda item No. 12 and said that the applicant had decided to withdraw his application.

The meeting ended at 3.30 p.m.

**CHAIRMAN**