

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 20th November, 2007 at 2.00 p.m.**

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

Councillors: CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter,
JHR Goodwin, R Mills, A Seldon and DC Taylor

57. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs SPA Daniels

58. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

59. DECLARATIONS OF INTEREST

Councillor A Seldon declared a prejudicial interest in respect of Agenda item 11 (minute No.67) and left the meeting for the duration of this item.

60. MINUTES

RESOLVED: That the Minutes of the meeting held on 23rd October, 2007 be approved as a correct record and signed by the Chairman

**61. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION
ORDER FOOTPATHS SP19 (PART) AND SP20 (PART) IN THE PARISH OF
STOKE PRIOR.**

The Rights of Way Manager presented a report and explained the circumstances surrounding an application for the making of a Public Path Diversion Order for part of Footpaths SP19 and SP20, Stoke Prior, under Section 119 of the Highways Act 1980. He also outlined the pre consultation work that had been undertaken by the applicant and provided the results of those consultations. The Local Member and the parish council had also been consulted and were agreeable to the proposals. The applicant had agreed to meet the costs of the Order, confirmation and associated adverts. The proposed diversion met the specified criteria as set out in section 119 of the Highways Act 1980 in that it would be of greater convenience to users.

The Committee agreed with the course of action suggested by the Rights of Way Manager that the Diversion Order should be made.

RESOLVED:
that a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of parts of footpaths SP19 and SP20 as illustrated on drawing number D264/361 – 19/20.

62. HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER TO DIVERT PART OF FOOTPATH HN6 IN THE PARISH OF HENTLAND

The Rights of Way Manager presented a report and explained the circumstances surrounding previous attempts to make a Diversion Order under the provisions of the Town & Country Planning Act 1990 in respect of part of Footpath HN6, Hentland by the former Council. Although some progress had been made with it, there was no evidence to show that the Order had been confirmed or certified. The applicant was under the impression that it had been dealt with and had carried out the diversion works on site. The statutory consultees had raised no objections to the diversion at the time, and the Local Member and the parish council were happy with it. The applicant had previously paid for the order, confirmation and associated adverts and the proposals met the necessary criteria. The Diversion was in place and being used by the public with no problems having been encountered. The Rights of Way Manager explained why the Order could not be completed under the provisions of the Town and Country Planning Act 1990 but that it could be dealt with under Section 119 of the Highways Act 1980 at no further cost to the applicant.

The Committee agreed with the course of action suggested by the Rights of Way Manager that the Diversion Order should be made.

RESOLVED:

that a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of footpath HN6, Hentland as illustrated on drawing number: D378/177-6, at the Council's expense.

63. AMENDMENT AND ADDITION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS

The Licensing Manager presented a report suggesting the implementation of revised vehicle licence conditions following abuse of the current; private hire and hackney carriage vehicle conditions by some of the trade. She said that the Licensing Section had received a number of complaints from members of the trade regarding the following matters:-

- (a) Operators are purchasing Wheel Chair accessible vehicles which are under five years of age. They are then replacing these vehicles with much older vehicles very soon after. The original vehicle is then being sold or used again to purchase another plate;
- (b) there used to be a condition where any replacement vehicle had to be the same or higher standard both in age and vehicle type, this was removed following the consultation at the recommendation of the Licensing Steering Group; which felt that it was too restrictive. The Licensing Section agreed to do this but advised the Group that if the system was abused the condition would need to be reconsidered; and
- (c) wheelchair accessible vehicles are being tested with a full capacity of eight seats, which means that the rear row of seats have to be removed to accommodate a wheelchair. Only wheelchair accessible vehicles, which are under 5 years of age, can get a new hackney carriage plate. The increase in numbers was made to provide a better service to disabled users. Many of these vehicles are not being used with disabled access, but are being used predominantly for larger groups of passengers, mainly for migrant farm workers based around the County. This is impacting on the rest of the trade who are running their vehicles with a reduced number of seats as they are maintaining the wheelchair accessibility and is causing unfair advantage to parts of the trade. The newer vehicles are being replaced in some cases with significantly older and poorer conditions vehicles, which reduce the quality of the fleet. It is clear

from government guidance that older vehicles tend to be more polluting than newer ones, and this has been proven by air quality modelling undertaken for the Council. Therefore, as many taxis and private hire vehicles frequent the air quality management areas in Hereford City, Bargates in Leominster and the A40 near Ross-on-Wye it is essential to encourage less polluting vehicles.

The Licensing Manager presented revised conditions which she felt would help to overcome the problems which had been encountered. The Committee considered the proposals and agreed that they should be introduced. The Licensing Manager said that needs assessment survey work would be undertaken in due course in respect of the trade and the public to determine the demand for wheelchair accessible vehicles. This would enable her to determine the provision of such vehicles which would be needed to comply with the requirements of the 1995 Disability Discrimination Act.

RESOLVED THAT the following amendments be made to the licensing conditions in respect of hackney carriage and private hire vehicles licensed by the Council:-

Current Condition	New Condition
1.2 New condition to be added	1.2 Once a vehicle has been issued with a hackney carriage licence the vehicle cannot be re-used to get a new licence plate within Herefordshire.
2.3 New condition to be added	2.3 Once a vehicle has been issued with a private hire licence the vehicle cannot be re-used to get another licence plate within Herefordshire.
3.3b The replacement vehicle shall be less than 8 years of age for a non wheel chair access vehicle and less than 15 years old for a disabled access vehicle.	3.3b The replacement vehicle shall be no more than 2 years older than the outgoing vehicle, and have at least 30,000 less miles on the clock. All vehicles must be replaced at 8 years for non wheel chair and 15 years for wheel chair access vehicles.
20.11 Wheelchair accessible hackney carriages must remain wheelchair accessible at all times when plying for hire.	20.11 Wheelchair accessible hackney carriages must remain wheelchair accessible at all times.
20.12 New condition	20.12 Any wheelchair provision will be counted as a permanent passenger seat and this will be marked on the licence plate.

64. **AMENDMENT TO FEES FOR SPARE AND REPLACEMENT VEHICLE APPLICATIONS**

The Licensing Manager presented a report about a proposed amendment of licence fees for spare and replacement hackney carriage vehicles. She advised that since the fees were increased in April 2007, it had become evident that two of the application fees needed adjustment. Complaints have been received from the trade because they were finding that if they needed to keep a backup vehicle or replace a

vehicle, the fee was too much of a financial burden, particularly if they had recently re-licensed the vehicle being replaced. She therefore proposed that the fees be reduced to cover the administrative costs to the Council and be more realistic. The Committee agreed with her proposal that the adjustment to the fees should take immediate affect and that appropriate refunds should be given for applicants who had paid the higher price since April 2007.

RESOLVED THAT the changes to the fees set out below be implemented with immediate effect and that appropriate refunds issued to existing applicants who have paid the higher charge since April 2007:-

Application to licence a spare vehicle	Current fee £210 + £42 (test fee) = £252	Proposed fee £120 + £42 (test fee) = £162
Change of vehicle on plate	£210 + £42 (test fee) = £252	3 months or less left on licence = £190 + £42 = £232 6 months or less left on licence = £155 + £42 = £197 9 months or less left on licence = £120 + £42 = £162

65. GUIDANCE POLICY ON CONVICTIONS

A report was presented by the Licensing Manager about a proposed policy for the way in which applications for hackney carriage and private hire licences are dealt with from those who have relevant criminal convictions. She explained the relevant legislation and guidelines about determining whether an applicant for a licence was a fit and fit and proper person and said that the Committee had previously requested a report about the relevance of convictions regarding issuing and retaining dual drivers licences. She advised that as part of the process, applicants must undertake an enhanced criminal records bureau (CRB) check at the time of application and thereafter at least every three years. The guidance has been based upon advice from the DOT Circular 2/92, HO Circular 123/92 and CRB guidance. She outlined the rights of appeal to the Magistrates Court in the event of an application being refused or a licence being suspended or revoked. She also said that during the period allowed for an appeal to be lodged, and up to the time the appeal is determined, a licensee has a statutory right to continue working as a dual driver. This however was due to change in January when the right would be removed and a refusal, suspension or revocation would take immediate effect. She had prepared guidelines for the way in which these issues could be dealt with by the Committee and suggested that the Head of Legal and Democratic Services and the Police should be consulted. The Committee was agreeable to this approach and also that the results could then be considered further at the next meeting.

RECOMMENDATION

THAT the draft guidance be noted and that the arrangements for the consultation process

66. 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 item of business on the grounds that it involves 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.

67. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE – TO REVIEW A SUSPENSION NOTICE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Manager referred to agenda item No. 11 and provided the Committee with the circumstances which had given rise to the suspension of a dual Hackney Carriage/Private Hire driver's licence. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to continue to hold the licence.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that the applicant had given sufficient evidence that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his dual driver's licence could be reinstated.

68. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Manager referred to agenda item No. 12 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to become a licence holder.

Having considered all of the facts put forward by the Licensing Officer and the applicant, 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 he should be granted a licence.

The meeting ended at 3.23 p.m.

CHAIRMAN