

A G E N D A

Regulatory Committee

Date: **Tuesday, 7th October, 2008**

Time: **2.00 p.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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Herefordshire Council

AGENDA

for the Meeting of the Regulatory Committee

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

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

	Pages
1. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS	
The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.	
A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.	
Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.	
4. MINUTES	1 - 2
To approve and sign the Minutes of the meeting held on 9 September 2009.	

5. PROCEDURAL ARRANGEMENTS	3 - 4
<p>To note the procedural arrangements for the meeting in respect of the following item (Agenda item No. 6)</p>	
6. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY NICHOLAS JAMES MADDY	5 - 6
<p>To consider an application made by Mr Maddy to deviate from the standard condition number 9.5. Consideration of the matter was deferred at the last meeting for further discussions with the applicant about the technical issues involved.</p>	
7. APPLICATION FOR APPROVAL BY SIX MANUFACTURERS / INSTALLERS OF WHEELCHAIR ACCESS FACILITIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE	7 - 12
<p>To consider approving six independent and separate companies as approved manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.</p>	
8. UPDATE TO COMMITTEE ON RECENT UNDERCOVER TEST PURCHASING SURVEY OF ALCOHOL FOR UNDER AGE	13 - 14
<p>To advise the Committee of the findings of a recent undercover test purchasing survey of alcohol carried out by the Council's Trading Standards Service in conjunction with the West Mercia Constabulary.</p>	

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday, 9 September 2008 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, SPA Daniels, JHR Goodwin, R Mills, A Seldon and DC Taylor

In attendance: Councillors WLS Bowen

39. APOLOGIES FOR ABSENCE

No apologies for absence were submitted at the meeting.

40. NAMED SUBSTITUTES (IF ANY)

No named substitutes were appointed at the meeting.

41. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

42. MINUTES

RESOLVED: That the Minutes of the meeting held on 12th August, 2008 be approved as a correct record and signed by the Chairman.

Arising on Minute 32 (Increase in Hackney Carriage Fares) the Licensing Manager said that the proposals had been advertised and that no objections had been received so far. The closing date was midnight on 10th September.

Arising on Minute 35 (Application to reinstate expired vehicle licence) the Licensing Manager said that the policy issues involved were under investigation and that they would be the subject of a report to a future meeting of the Committee.

43. 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 to the applicants

44. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR SHAHID ALI

A report was presented by the Licensing Officer about an application for the reinstatement of a hackney carriage vehicle licence outside the Councils policies. He said that Mr Ali's licence had expired on 12th July, 2008 and that he had applied to renew it on 24th July. The policy for renewal stated that "All applications received after the date of expiry will be treated as Grants and not renewals and the appropriate conditions and fees will apply". Mr Ahmed, acting on behalf of Mr Ali, said that he had been a few days late with his application due to being out of the

Country and had suffered a period of illness on his return. He had subsequently attempted to renew his licence as soon as he could.

Having considered all the circumstances regarding the application, the Committee was satisfied with Mr Ahmed's explanation and agreed that Mr Ali's application could be treated as a renewal and not a new application. He was urged to deal with his renewals in a timelier manner in the future however.

RESOLVED THAT:

An application from Mr S Ali to deviate from the standard condition number 9.5, in respect of plate No.H313 for a Peugeot 406 be accepted and granted as a renewal.

45. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY NICHOLAS JAMES MADDY

A report was presented by the Licensing Officer about an application for the reinstatement of a hackney carriage hire vehicle licence outside the Council's policies. He said that Mr Maddy's licence had been suspended on 21st December 2007 in line with the blanket suspension of licences for vehicles which had been converted from vans into mini buses. At that time Mr Maddy had been advised that he would have to obtain a VOSA Single Vehicle Enhanced Approval Test for the vehicle. Mr Maddy had submitted his application for renewal in June and the matter had gone to the next meeting of the Committee but been deferred because there were certain issues to be resolved.

Mr Maddy explained that it had been a lengthy and complicated process for him to meet the new requirements of the Council regarding his converted minibus. He had needed to replace some of the seating and anchor points to comply with the requirements of the VOSA test. The Licensing Officer said that Mr Maddy had obtained a VOSA Single Vehicle Approval Test for the vehicle but that he needed to provide an Enhanced Test Certificate to satisfy the Council's requirements.

Having considered all the circumstances regarding the application, the Committee considered the points put forward by the Licensing Officer and Mr Maddy and felt that there was a need for further discussions between him and the officers about the application. It was therefore decided to defer the matter and arrange a further meeting to consider it in approximately two weeks time.

RESOLVED THAT:

Consideration of the application be deferred for further discussion between Mr Maddy and the Officers.

The meeting ended at 2.45 p.m.

CHAIRMAN

REGULATORY COMMITTEE
LICENSING APPEAL PROCEDURE

1. Introduction by Legal Advisor to the Committee.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Committee or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Legal Adviser to the Committee, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant or the officer are needed to furnish additional information, they should all be invited back before the Committee. When the additional information has been furnished, they should all be asked to leave again.
8. The Committee can then reach a decision in the usual way, but in the absence of parties.
9. The applicant and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant will be informed of any right of appeal (if the decision is a refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second application the same way.

**APPLICATION TO RE-INSTATE AN EXPIRED
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE
STANDARD CONDITION 9.5 BY NICHOLAS JAMES
MADDY**

**REPORT BY:
Head of Environmental Health and Trading Standards**

Purpose

1. This report reintroduces an application made by Mr Maddy to deviate from the standard condition number 9.5. This condition states: -

‘All applications received after the date of expiry will be treated as grants and not renewals and the appropriate conditions and fees will apply’.

This application was previously brought to committee on 9 September 2008 and was deferred pending further discussions between the Licensing Team and VOSA, being the body that undertake and advise on the appropriate tests for such vehicles.

Legal Background

2. Under the terms of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles, drivers and operators.
3. The current standard licence conditions were approved at Regulatory Committee on 18 December 2007.

Issues

4. This Authority previously licensed a Nissan Cargo Vanette on Plate No. H024.
5. On 18 December 2007 the Regulatory Committee decided to suspend all converted vans until a satisfactory enhanced VOSA certificate could be produced to cover these vehicles.
6. On 19 December 2007 the Licensing Team wrote to Mr Maddy advising him that his vehicle was a converted van and it would therefore be suspended as of 18:00 on Friday 21 December 2007. He was advised that the suspension would not be removed until a suitable certificate could be produced, i.e. an enhanced VOSA Single Vehicle Approval Test for the vehicle. (See Appendix 1 for copy of suspension notice / correspondence).
7. The licence for plate H024 then expired on 8 January 2008, as no renewal application had been made by the applicant.

8. A standard VOSA certificate was later obtained from the applicant on 4 April 2008. (See Appendix 2 for copy of certificate).
9. The application for the renewal of the plate was then made by Mr Maddy on 5 June 2008. (See Appendix 3 for copy of application).
10. The applicant requests to re-licence this vehicle.

Matter for Committee

11. In light of the above account the licence has still not been granted, but instead referred to this Regulatory Committee for consideration and determination as to whether the plate should be issued. This decision can now be made having regard to updated guidance from VOSA which the Licensing Officer can now offer to the Committee.

Options

It is for the Regulatory Committee to decide whether the vehicle licence: -

- **can be granted outside of the standard conditions and or policy.**
- **cannot be granted and the licence be refused.**
- **can be further deferred in order to get more information before a fully informed decision can be made.**
- **or reach some other decision.**

Appendix 1 – suspension notice / correspondence

Appendix 2 – copy of standard VOSA certificate

Appendix 3 – copy of application form

**APPLICATION FOR APPROVAL BY SIX
MANUFACTURERS / INSTALLERS OF WHEELCHAIR
ACCESS FACILITIES FOR HACKNEY CARRIAGE AND
PRIVATE HIRE VEHICLE**

**REPORT BY:
Head of Environmental Health and Trading Standards**

Purpose

1. To consider approving six independent and separate companies as '*approved manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire*'. The six companies who have applied are:
 - i. Allied Vehicles Ltd, Glasgow
 - ii. GM Coachwork Ltd, Newton Abbot, Devon
 - iii. LDV Group Ltd, Birmingham
 - iv. Oughtred & Harrison (Facilities) Ltd, Goole, Humberside
 - v. Ponting & Betty Ltd, Northampton
 - vi. Stanford Coachworks Ltd, Essex

Background

2. On 15 May 2008 the Regulatory Committee met to update the conditions for licensed vehicles in respect to the required test to ensure that converted vehicles that had wheelchair access facilities were safe and fit for use. However, on this occasion a decision could not be agreed for the final wording of a revised condition.
3. On 15 July 2008 the Regulatory Committee therefore reconsidered the matter. The Committee agreed that the Council would normally approve wheelchair access vehicles for hackney or private hire *only* if they met the following criteria:-
 - i. The manufacturer must have a vehicle prototype that has passed the 'VOSA –SVA Single Vehicle Approval Standard Test', including class D (disabled) and class P (for import)
 - or
 - ii. The manufacturer must prove to the Council that its vehicle has relevant safety standards and is able to demonstrate consistent manufacture to that standard
4. After this decision was made, the licensing section wrote to all known installers / manufacturers of wheelchair facilities of Herefordshire's taxi fleet in August 2008 and

invited them to apply for consideration by the Regulatory Committee as approved manufacturers as per item 3 (ii) above. (See Appendix 1 for copy of letter).

5. The licensing team simultaneously sent letters to Herefordshire's taxi trade advising them of the committee decision on 15th July, whilst also asking them to notify the Council of any manufacturers that may have been missed off the list, so that they could be consulted too. (See Appendix 2 for copy of letter).
6. As a result of this exercise, the above mentioned six companies have applied to Herefordshire Council under 3(ii) above, i.e. they wish their vehicles to be approved by the Council's Regulatory Committee because they feel that they have *relevant safety standards and are able to demonstrate consistent manufacture to that standard*.

Manufacturers' Tests and Quality Procedures

7. The six companies were asked to produce evidence for their wheelchair access vehicle in the following categories:
 - i. Details of any test certificates that would help demonstrate that their vehicle meets the industry standard for the installation of wheelchair access facilities (e.g. a 'Status' test or a 'Mira' test). If unavailable, they were asked to provide a VOSA Single Vehicle Approval Standard Test, for class D (disabled) and P (import).
 - ii. Quality assurance certification.
 - iii. Documentation to demonstrate that there are procedures in place to ensure consistent installation of the wheelchair facility in accordance with the prototype which complies with the test certificates mentioned in (i) above.
 - iv. The list of vehicles seeking approval and their approval certificate numbers from the VCA.
8. The documentation supplied by the six companies in answer to the above list is given in Appendix 3. For ease of reference, Table 1 below also summarises the information provided against the criteria requested:

Table 1: Summary of Information Provided to Herefordshire Council

	Test Certificates submitted	Quality Assurance docs / info received	Documents / procedures submitted to show consistency	List of vehicles for approval and VCA Type Approval docs submitted
Allied	<p>'Status' Wheelchair Accessible Vehicle Test report for <u>Fiat Doblo (high roof version)</u> - Wheelchair restraints complied with motability standard on 1.6.2005</p> <p>'Status' Wheelchair Accessible Vehicle Test Report for <u>Peugeot Expert G9 LWB & SWB</u> versions – Wheelchair restraints complied with EU Directive on 19.12.2006</p> <p>'Status' Seat Belt Anchorage Test Report for <u>Peugeot Expert Taxi</u> – In June 2005 the vehicle seats complied with EU Directive for strength and position and the wheelchair restraints complied with Motability standards.</p>	<p>ISO 9001:2000 covering customisation and conversion of donor vehicles</p> <p>First registered 6.3.1997</p> <p>Last issued 4.6.2008</p> <p>Expires 18.8.2009</p>	Examples of E7 and Fiat Freedom quality control checklists received	<p>Current E7 Taxi EC Type approval No. ell*2001*116*0315*00</p> <p>Fax from VCA to show that above type approval ell*2001*116*0315 to be extended to cover the Eurobus and Eurobus SE.</p> <p>Previous E7 Taxi EC Type approval No. ell*2001*116*0232*01</p> <p>Fiat Freedom (Doblo) Taxi EC Type approval No. LC/369/A/072</p>
GM Coachworks	<p>5 x seemingly identical VCA certificates dated November 2004 certifying compliance to the 'Seat Belt Anchorage on M2 Vehicles' for the GM floor system for Mercedes Sprinter & VW Long wheelbase vehicles.</p> <p>5 x self published leaflets on various models manufactured by GM</p>	<p>ISO 9001:2000 covering production and sales of vehicles / conversions and servicing passenger lifts</p> <p>First issued 3.12.2005</p> <p>Expires 3.12.2008</p>	None submitted	<p>GM Aspen (based on Fiat Doblo) EC Type approval No. LC/379/A/082V</p> <p>GM Dakota & Arizona (based on Fiat Scudi Combi) EC Type approval No. LC/353/A/054</p> <p>GM Montana (based on Peugeot, Citroen & Fiat models) EC Type approval No. LC/447/A/150V</p>
LDV Group	No test certificates submitted, only the PSVC minibus type approval documentation	<p>ISO 9001:2000 covering the design and manufacture of commercial vehicles</p> <p>First registered 16.6.1992</p> <p>Last issued 1.10.2006</p> <p>Expires 30.9.2009</p>	29 x QA Production control sheets submitted	<p>Minibus type approvals authenticated by PSVC (No. 'PSV 0199') for two vehicles relevant for hackney or private hire, i.e.</p> <p>LDV Maxus minibus for (d) 4 passengers seats + 4 wheelchairs with internal lift (e) 4 passengers seats + 4 wheelchairs with external lift</p>

Oughtred & Harrison	4 x 'Status' Wheelchair & Occupant Securement Anchorage Tests on Fiat Doblo shell, Fiat Scudo shell, Renault Trafic & Renault Master – all complied with between 2004 & 2005. Status' Wheelchair Ramp/Tail Lift Test on Renault Kangoo – complied Feb 2006.	ISO 9001:2000 covering vehicle bodybuilding and conversions and mechanical/electrical activities First registered 13.5.2005 Last issued 30.5.2008 Expires 20.8.2011	None submitted	Fiat Doblo shell, Fiat Scudo shell, Renault Trafic & Renault Master No type approval certificates submitted
Ponting & Betty	An extract from an undated 'Status' test was submitted for their VW 'T5' taxi conversion only. No independent verification of compliance.	No externally accredited QA system in place. Application states intention to apply for ISO 9001:2000	No QA documentation submitted	VW Unique Cab EC Type approval No. LC/382/A/085V VW Town Cab EC Type approval No. LC/383/A/086V VW Caravelle Cab EC Type approval No. LC/383/A/086V VW City 7 EC Type approval No. LC/382/A/085V Mercedes Town Cab EC Type approval No. LC/360/A/062V Mercedes BM8 EC Type approval No. LC/360/A/062V Ford Unique Cab EC Type approval No. LC/359/A/061V
Stanford Coachworks	Only 1 x self certification of a lift test supplied	Stanford literature implies manufacture to ISO 9000:2000, but no QA certification submitted	No supporting documentation submitted	Stanford seem to convert a number of models although the application (via City Taxis and not from Stanford itself), seems to relate to a VW 'LT' conversion reg. GX05 KHO (plate H380) only.

Options

- A) To approve all six manufacturers.
- B) To approve all six manufacturers, but on the basis of receiving written verification from each manufacturer as to the actual vehicle to be licensed in Herefordshire (i.e. request a list of the registration numbers of each vehicle with an undertaking that each has been found to be compliant with the appropriate submitted tests and certification).
- C) Approve specified manufacturers only (with or without the above mentioned caveat in B above) and require further information from those not approved, should they wish to be reconsidered.
- D) To approve none of the six who have applied and require further information should they wish to be reconsidered.
- E) To come to some other conclusion.

Appendix 1 - copy of letter to manufacturers

Appendix 2 - copy of letter to taxi trade

Appendix 3 – bundle of documentation received from all 6 manufacturers

**UPDATE TO COMMITTEE ON RECENT UNDERCOVER
TEST PURCHASING SURVEY OF ALCOHOL FOR
UNDER AGE****REPORT BY:****Head of Environmental Health and Trading Standards****Purpose**

1. The purpose of this report is to summarise the findings of a recent undercover test purchasing survey of alcohol carried out by the Council's Trading Standards Service in conjunction with the West Mercia Constabulary. This report is for information purposes only.

Background

2. On 9 May 2008 the Council's Regulatory Sub Committee heard four reviews in relation to shops that were found to be selling alcohol to under age purchasers following an earlier survey being carried out. As a consequence of this hearing the Committee imposed conditions to suspend the shops' licences for varying periods of time ranging from 24 hours to 7 days, in accordance with the licensing objectives. These restrictions for the sale of alcohol were imposed on the following premises:
 - i. 'The Local' (Threshers Off Licence), Leominster
 - ii. Spar, Leominster
 - iii. Nisa, Kington
 - iv. M & G Wines, Commercial Road, Hereford
3. During the recent survey undertaken these four premises were revisited along with more than fifty other similar premises countywide, using 16 year-old volunteers.
4. Although the survey found that 19 out of 56 shops were found to be selling alcohol to underage test purchasers, the Licensing Team is pleased to report that the four premises previously restricted by the Regulatory Committee did not.

Issues

4. Clearly the premises that previously had been found to be selling to underage purchasers now appear to be complying with the law, as they did not repeat the offence.
5. This report therefore demonstrates how joint working between Herefordshire Council's Trading Standard Service and the police can then successfully interact with the functions of the Licensing Team and powers of the Regulatory Committee.
6. The findings of this recent survey lend weight to the previous decision made by the Committee to restrict alcohol sales, as it obviously has had a marked effect.

7. It is likely that West Mercia Constabulary will request reviews for at least four of the new premises found to be 'repeat' selling of alcohol to the underage, although this has yet to be raised with the Council and will therefore be the subject of a future committee hearing.

RECOMMENDATION

That the contents of this report be noted and the effectiveness of the previous action taken should reviews for underage sales be brought before the Committee again.