

A G E N D A

Regulatory Committee

Date: **Tuesday, 12th August, 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

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| 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. | |
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- | | | |
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| | To consider an application for the reinstatement of an expired vehicle licence. | |

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 involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

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|-----|---|---------|
| 11. | DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 | 37 - 40 |
| | To consider an application for a hackney carriage/private hire driver's licence. | |

**12. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - 41 - 44
TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE -
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

To consider an application for a hackney carriage/private hire driver's licence.

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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, 15 July 2008 at 2.00 p.m.

Present: Councillor P Jones CBE (Chairman)

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

10. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors ME Cooper, SPA Daniels, JW Hope and A Seldon.

11. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

12. DECLARATIONS OF INTEREST

There were no named substitutes present at the meeting.

13. MINUTES

RESOLVED: That the Minutes of the meeting held on 17th June, 2008 be approved as a correct record and signed by the Chairman, subject to the deletion of the following in Minute 4 – “Resolution 17.6 and 17.8 - replace ‘and the SVA VOSA test’ with ‘or the SVA VOSA test.’”

14. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEPATH CO1 AND FOOTPATHS CO1A AND CO4 IN THE PARISH OF COLLINGTON; FOOTPATHS ER3 AND ER26 IN THE PARISH OF EDWYN RALPH

The Rights of Way Manager presented a report about an application for a Footpath Diversion Order in respect of parts of bridle path CO1 and footpaths CO1A and CO4 in the parish of Collington and parts of footpaths ER3 and ER26 in the parish of Edwyn Ralph. He said that the original application included changes to ten paths in total and was made for one extinguishment Order under section 118 of the Highways Act 1980 and one creation Order under section 26 of the Highways Act 1980. The proposal was that each of the Orders would include a number of paths, thus reducing the advertising costs incurred. It was intended that the two Orders should be considered concurrently to result in the desired diversion of the paths. The application was made by Thornbury Group Parish Council with a view to it paying for advertising and the landowners meeting the other costs on a pro-rata basis. The reasons given for making the application were that the proposed reorganisation of

the paths would improve the rights of way network in the area, in terms of user safety and convenience and of land management practices. Some landowners also felt that the proposals would benefit them by increasing their privacy and security.

The Rights of Way Manager outlined the history of the proposals which had first arisen in 1990, the negotiations that had taken place and the changes that had been made to the proposals since then. The representative acting for the applicants and the landowners had proposed that the diversions should be made under a single Order. He advised that although it was possible to include a number of paths in any one creation or extinguishment Order, provided that the legal tests were met for each path, the risk of failure was increased because an objection to the proposal for one path may result in the whole Order not being confirmed. The representative was advised in 1992 that individual diversion Orders for each of the proposals was more likely to result in success. Following a considerable amount of correspondence about the procedure to be used and the costs involved, a Definitive Map Modification Order application was made in 2004 in respect of one path and separate diversion applications had been made for a number of the other proposals. 2004. The view of the Rights of Way Manager was that the proposals would not meet the legal tests for a diversion under section 119 of the Highways Act 1980 in their current form. He explained why he had taken this view and said that the Local Ward Member also shared his reservations. He said that if the application was rejected or withdrawn, the landowners would be able to make new applications for diversions in their own right, if they so wished. These would be processed under the current policy and procedures and at current costs. The Committee decided that in view of the circumstances the best option at this stage would be to refuse the application.

RESOLVED

That a public path diversion order be not made under Section 119 of the Highways Act 1980, as illustrated on Drawing no D121/94-1/1A/4 and Drawing no D121/133-26/3 and that the application is rejected.

15. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GW3 (PART) IN THE PARISH OF GARWAY

A report was presented by The Rights of Way Manager about an application for Diversion Order under the provisions of the Town & Country Planning Act 1990 in respect of footpath GW3 in the parish of Garway. He advised that the original application was made in November 1996 to remove the path from the garden at Nantewain, thus increasing the privacy and security of its residents. The proposal had the general agreement of interested parties and the Local Ward Member and no objections were received from statutory undertakers. Some years elapsed and although an Order was drafted, it was never sealed or advertised. This may have been due to the presence of a building, which aerial photographs suggested might have been built on the proposed diversion route. By 2003, Nantewain had been sold and the new owners decided to take over the application but alter the proposed route to move it away from the farm buildings completely. He provided the Committee with plans of the proposed route and described the events which had taken place with the application and the consultation process involved and the correspondence with the applicants. He said that the proposal had the general agreement of the Ramblers' Association, Open Spaces Society, Byways and Bridleways Trust, Cyclists Touring Club Offroad section, the Council's Highways Area Manager and Garway Parish Council. No objections had been received from statutory undertakers. There had been some further minor changes to the route but it has not been felt necessary to carry out further pre-Order consultation. The applicants have agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the

Order. They had also given their written agreement to meet the costs of any compensation that may be claimed when the diversion came into operation and the Local Ward Member supports the application. He added that the proposed diversion met the specified criteria as set out in section 119 of the Highways Act 1980 regarding convenience to those using it.

The Committee agreed with the recommendations of the Rights of Way Manager and decided that the application could be granted.

RESOLVED

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D237/153(i)

16. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE BEEN MODIFIED: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

The Licensing Manager presented her report regarding the proposed setting of a standard test for manufacturers or installers which would be required by the Council to ensure that vehicles with wheelchair access installed were fit for use as licensed vehicles. She reminded the Committee that at its meeting on 15 May 2008 the conditions for licensed vehicles had been updated to include a test ensuring that vehicles with wheelchair access facilities and converted vehicles were fit for use as licensed vehicles. However it was decided that further investigation should be made into the standard of test for those vehicles fitted with wheelchair access facilities by a specialist firm post-manufacture. She provided the Committee with further information about the suitability of the Status Mobility Test and the Single Vehicle Approval Test and described the standards which were adhered to by each one. She presented the Committee with the options which were available for vehicle testing and recommended that option B set out in her report should be adopted. She felt that this would provide the Council and the public with assurances that the vehicles with wheelchair accessible facilities met the standards which had been set by the Government.

The Committee asked questions of the Licensing Manager about the approach that had been taken, the procedures employed by other Local Authorities, public safety issues and the implications for the trade. The Committee then asked Mr J Jones, chairman of the local private hire and hackney carriage association, for his views on the proposals. Mr Jones had a number of concerns about the approach used by the Council and was of the view that the wrong sections of the Local Government (Miscellaneous Provisions) Act 1976 had been used following on from the December 2007 meeting. He had grave concerns about the requirements which had been imposed upon purpose built vehicles which had been adapted for wheelchair access. He said that these had been produced by specialist firms who had to meet stringent safety requirements and that it was unrealistic to insist on the VOSA inspection for all the vehicles, regardless of which company had manufactured or converted them.

Having discussed the matter in some detail and considered the views of the Officers and the trade, the Committee felt that notwithstanding the concerns that had been raised, a decision could now be made on the appropriate option to be chosen which would meet the Council's public safety obligations. It was decided that option A set out in the report of the Licensing Managers report would provide the Council with the greatest flexibility to deal with the issues involved.

RESOLVED THAT:-

manufacturers who 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 relevant safety standards and are able to demonstrate consistent manufacture to that standard be approved for the purposes of satisfying the Councils vehicle testing requirements for wheelchair access and converted vehicles.

17. APPLICATION FORM LTI – LONDON CABS FOR APPROVAL AS A WHEELCHAIR ACCESS VEHICLES MANUFACTURER - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

A report was presented by the Licensing Manager suggesting that LTI – London Cabs become an approved manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire. The Committee concurred with her proposals.

RESOLVED THAT

LTI – London Cabs become an approved manufacturer for Herefordshire with the proviso that a prototype vehicle first passes the VOSA Single Vehicle Approval Standard test (including class P and class D) and that the Council will pay for the first test - if the vehicle fails the manufacturers will have to pay for any subsequent tests.

18. HOME BOARDING STABLISHMENTS - IMPLEMENTING CONDITIONS FOR DOG HOME BOARDING ESTABLISHMENTS - ANIMAL BOARDING ESTABLISHMENTS ACT 1963

The Licencing Officer presented a report about the suggested introduction of licensing conditions for Home Boarding Establishments (private homes rather than kennels for the boarding of cats and dogs). He advised that in 2005 LACORS (the Local Authorities Coordinators of Regulatory Services) had issued guidance and Model Conditions to local authorities on home boarding and whether host families or agencies required a Boarding Establishment Licence. The conditions had been adopted in respect of the boarding of dogs to ensure that accommodation is of a suitable size and construction, has exercising facilities and that aspects such as temperature, lighting, ventilation, cleanliness, food and water, safety and the prevention of disease are satisfactory. He said that the situation regarding the boarding of cats was a little different because the view of DEFRA and the Feline Advisory Bureau that the home boarding of cats was not to be encouraged. Secondary legislation would be introduced to prevent the home boarding of cats on the grounds of animal welfare.

Having considered the proposals put forward by the Licensing Officer, the Committee decided that they should be adopted.

RESOLVED THAT:-

- (a) the proposed licence conditions as set out in Appendix 1 to the report of the Licensing Manager be approved;**
- (b) such conditions shall come into force on 1 August 2008;**

- (c) that any application to home board cats will be refused on the grounds of consideration for Animal Welfare, based on the advice from Defra and the Feline Advisory Board.
- (d) that the fee for home boarding shall be £80.00.

19. 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 and to the Licensing Officers.

20. APPLICATIONS TO GRANT OF PRIVATE HIRE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 4.1C BY VICTOR TIMOTIN

A report was presented by the Licensing Officer about an application for a private hire vehicle licence in respect of a vehicle which did not comply with the Council's vehicle licence conditions. He explained that the conditions stated that vehicles could not be licensed unless they had an engine rating of not less than 1600cc, without written authorisation from the Council. Mr V Timotin had applied to licence a new Toyota Prius vehicle on a private hire vehicle plate. The vehicle was a hybrid fitted with a 1500 cc petrol engine and a 1000 cc electric engine. It complied with all other licensing conditions.

Having considered all the circumstances regarding the application, the Committee felt that in view of the importance of energy efficiency and environmental impact, an exception could be made to the Council's vehicle engine size requirements and the application granted.

RESOLVED THAT:

An application from Mr V Timotin to deviate from the standard condition number 4.1c for a private hire vehicle licence in respect of a Toyota Prius, be granted.

21. APPLICATIONS TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 1.1 BY MR MOHAMMED SAYYAB

A report was presented by the Licensing Officer about an application for the re-instatement of a hackney carriage hire vehicle licence outside the Council's policies. He said that Mr Sayyab's licence had expired on 28th May, 2008 and that he had applied to renew it on 5th June, 2008. 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 Sayyab explained the situation regarding his application and that he had paid an additional £85 fee as requested.

Having considered all the circumstances regarding the application, the Committee was satisfied with Mr Sayyab's explanation and that the application could be treated as a renewal and not a new application. It was also decided that the £85 should be refunded.

RESOLVED THAT:

An application from Mr M Sayyab to deviate from the standard condition number 1.1, for a new application for a hackney carriage plate in respect of

plate No.H403 for a Volkswagen Passat be granted and he be refunded the sum of £85.

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 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.

22. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5

It was decided that in view of the fact that there were issues relating to the application which needed further investigation, consideration of the application be deferred.

23. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5

It was decided that in view of the fact that there were issues relating to the application which needed further investigation, consideration of the application be deferred.

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

The Licensing Officer referred to agenda item No. 15 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 she 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 did not consider that the applicant was 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.

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

The Licensing Officer referred to agenda item No. 16 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. He also provided the Committee with a letter in support of her application which was read out by the Licensing Officer.

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 could be granted a licence.

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

The Licensing Officer referred to agenda item No. 17 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 could be granted a licence.

The meeting ended at 3.24 p.m.

CHAIRMAN

**APPLICATION TO REGISTER LAND AT ARGYLL RISE,
BELMONT , HEREFORD AS A TOWN GREEN****REPORT By: Assistant Chief Executive – Legal & Democratic****Wards Affected**

Belmont

Purpose

To determine whether land at Argyll Rise, Belmont, Hereford (“the Land”) should be registered as a town green.

Key Decision

This is not a key decision.

Recommendation(s)

That the Council Register Argyll Rise as a town green

Reasons

- 1.The Council is the registration authority for determining applications to register land as town or village greens.
2. Notwithstanding the recommendation from the Inspector referred to in section E below and the second opinion from Counsel referred to in section H, officer recommendation is that the Land should be registered as a town green.

Considerations**A. The Land**

1. The Land is a grassed area of approximately 1.5 hectares bounded by Waterfield Road, Argyll Rise, Pixley Walk, Muir Close and Dunoon Mead in the Belmont Ward and is shown cross-hatched on the attached plan. The application initially included a play area at the south-western corner of the site but the “Applicants” (three local residents on behalf of the Newton Farm Town Green Action Group) subsequently agreed that this would not qualify as town green and it was removed from the application.
2. The Land is part of a larger area of land purchased for housing purposes in 1959 by the City of Hereford under the Housing Act 1957 and was subsequently laid out as open space as part of the surrounding housing development during the 1970s. On the 26th November 2002 the Land was one

of a number of open spaces included in a transfer of the Council's housing stock to Herefordshire Housing Limited ("HHL")

B. The Applications

1. The Council has received two applications, from the same Applicants, to register the Land. The first application was received on the 6th February 2006 and the Council placed notices for two weeks in the Hereford Times and on the Land stating that the application had been made and requesting any objections to be sent to the Council. The only objection received was from HHL.
2. The second application is dealt with in section K below.
3. In line with a procedure followed by other registration authorities the Council arranged for a non-statutory public inquiry conducted by a barrister ("the Inspector") to hear evidence and legal arguments from the Applicants and HHL.

C. Consequences Of Town Or Village Green Status

1. When land is registered as a town or village green the local community have a right to use it for all "lawful sports and pastimes", not just those enjoyed at the time of registration. So if land had only been used for playing football then, following registration, it could also be used for cricket, dog walking and the like, subject to any restrictions which might be lawfully imposed on its use, e.g. by bye-laws.
2. Although the landowner remains the legal owner, registration effectively prevents any development of land that would interfere with recreational use. The court has held that this is not inconsistent with the European Convention on Human Rights when balanced against the purpose of registration which is to preserve open space in the public interest.

D. The Legal Test

1. The first application was made under section 13 of the Commons Registration Act 1965. The relevant definition of a town or village green in section 22 of the 1965 Act is:

"land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either;

(a) continue to do so, or

(b) have ceased to do so for not more than such period as may be prescribed, or determined in accordance with prescribed provisions"

No provisions were prescribed under section 22 (b) and it is sufficient that use was continuing when the application was made.

3. The following tests should be used when applying the section 22 definition;
 - (a) if there is a relevant “locality” (a legally recognised division of the County such as a ward),
 - (b) if a significant number of the inhabitants of the locality, or of a neighbourhood (such as a housing estate) within the locality, have used the land,
 - (c) for lawful sports or pastimes (such as playing games, walking, picnics)
 - (d) for at least 20 years up to the date of the application, and
 - (e) that the use has been “as of right”.

Test (e), and the consequences of the statutory process followed when transferring the Land to HHL, are the crucial issues here.

E. The Inspector’s Recommendation

1. Following the public inquiry the Inspector’s conclusion was that tests (a), (b), (c) and (d) in section D above were met in that a significant number of the people from the Newton Farm neighbourhood in the Belmont Ward had used the Land for lawful sports and pastimes for at least 20 years up to the date of the application
2. However, as regards test (e) the Inspector considered that, since the Council had laid out the Land as open space for the benefit of local residents in connection with the Housing Act power used to develop the surrounding housing, use of the Land had been by an implied statutory permission rather than “as of right” and so the Land should not be registered as a town green (see section F below).
3. The Inspector also considered that the statutory procedure followed under section 123 of the Local Government Act 1972 when the Council transferred the Land to HHL would have defeated the application in any event (see section G below).

F. As Of Right

1. Use “as of right” means use which is;
 - (a) not by force (such as by breaking down a fence or intimidating the landowner)
 - (b) not by stealth (such as only using the land when the landowner is away and would not be aware of the use)
 - (c) not by permission (which might be express or implied)
2. The Inspector was satisfied that the use had not been by force or stealth but he considered that use had been by permission, in the light of judicial comments regarding that expression.
3. Permission to use land is normally given by a landowner by way of a written or verbal consent, or by a formal licence document. However the courts have decided that a permission can also be implied from a landowner’s conduct, but

there needs to be something beyond mere inaction or tolerance on the part of the landowner to give rise to such an implication.

4. In the Inspector's view, since the Land had been acquired, laid out and maintained under Housing Act powers as an amenity for local residents it followed that its use had been "by right" (i.e. with permission) rather than "as of right" (i.e. as if permission had been given).
5. The Inspector also felt persuaded to follow a view expressed by Lord Scott in R (Beresford) v City of Sunderland [2003] that the statutory process followed (see section G below) when transferring the Land to HHL would have overridden any public rights of use.

G. Section 123 (2A) Local Government Act 1972

1. Before disposing of an open space a council is required under section 123 to advertise its intention in a local newspaper for two weeks and consider any objections, which the Council did before transferring the Land to HHL in 2002.
2. In the Sunderland case Lord Scott thought that a disposal of land in accordance with section 123 would override any town or village green status that the land may have. His reason was that, under section 122 of the same Act, if a council holds land for a purpose which is no longer required then it can appropriate the land for another purpose. Lord Scott considered that if an appropriation did not override any public rights over the land then it would be ineffective, because the continuance of those rights might prevent the new use for which the land had been appropriated and so the statutory power would be frustrated. He felt that a disposal under section 123 must have the same consequence, i.e. that it would trump any town green status.

H. The Second Opinion

1. A second opinion was requested on the two key legal issues,
 - (i) if use of an open space that has been laid out and maintained under Housing Act powers for use by local residents can amount to use "as of " right; and
 - (ii) if a disposal of land in accordance with section 123 overrides rights on which town or village green status could be claimed.
2. the second opinion agreed with the Inspector's recommendation that the Land should not be registered as a town green since it had been acquired, laid out and maintained as open space under Housing Act powers so the use had been "by" right rather than "as of" right, but
3. it differed from the Inspector's view that a disposal under section 123 would override any town or village green rights

I. Determination of the Application

1. The Committee must determine the application solely on the basis of applying the legal tests described above.
2. The Committee's decision must not be influenced by matters such as a loss of amenity to local residents if the application is refused, or an obstacle to the Land being developed for housing if the application is approved.

J. Reasons For Recommendation

1. As Of Right

- (i) The Inspector's advice and the second opinion, that the use of the Land had not been "as of right" due to its statutory background can be supported by comments from Lord Walker in the Sunderland case. Where an open space is acquired by a local authority under the Open Spaces Act 1906 then it holds the land on trust for the public's enjoyment, so that people using the land do so "by" right as beneficiaries of a statutory trust, rather than as trespassers using the land "as of" right. Lord Walker felt that the position would be the same where land has been appropriated for public recreation under other statutory powers.
- (ii) However, although the comments carry considerable weight they are not binding and the issue still need to be judicially determined.
- (iii) The officer's view is that when the courts eventually come to make a binding decision on whether use of open spaces held under Housing Act powers is use "as of" right, rather than "by" right under an implied statutory permission, the following considerations would be relevant;
 - (a) whether the authority had indicated, either expressly or implicitly, that the right to use land was intended to be permanent or that it could be withdrawn at any time. If for example there had been a notice on the Land that local residents could use it for recreation until such time as the Council required it for other purposes, or that they could use it for certain activities but not for others, this would have signalled that use was by permission. However, there is no evidence of that sort of express notice.
 - (b) as regards any implicit indication that a right to use could be withdrawn, a witness for HHL said that during the 1980s the Land was one of a number of open spaces owned by Hereford Council where permission to have bonfires on the 5th of November was permitted by advertisement in the Hereford Times. This could be construed as implying that all recreational

use was under a permission that could be withdrawn. However the officer considers that this would be taking the possible implication too far and is outweighed by the absence of evidence of indications that the other uses, such as games and picnics were under a permission that could be withdrawn.

- (c) if tenancy agreements had stated that rents included an amount towards the upkeep of the Land for so long as the tenants were allowed to use it, that too would indicate that use was by the Council's licence, as would a similar provision in conveyances to tenants purchasing under the Right to Buy. However, there was no evidence that tenancies or conveyances during the relevant 20 years period included any indication that the right could be withdrawn. The officer's view is that a court might well prefer to draw the opposite inference, i.e. that the right was generally understood to be permanent, albeit without any consideration as to why this was so, particularly in relation to Right to Buy purchasers whom, it seems reasonable to assume, would have regarded the availability of the Land for recreation as one reason for deciding to buy.

- (d) a revocable right might also be implied if a person paid for the right, e.g. someone paying their neighbour a periodic fee for a right to use an access way across their property. It is arguable that if the upkeep of the Land was paid for from tenants' rents then that element of their rents could be regarded as a fee for the right to use the Land, meaning that use was not "as of" right but rather in return for the maintenance contribution. It has not been established exactly which Council budget paid for the upkeep of the Land during the relevant 20 years. To the best recollection of a former Council officer who dealt with housing accounts and transferred to HHL in 2002, the upkeep was paid for from the Housing Revenue Account, with a contribution from the General Fund based on the County wide proportion of Council tenants to taxpayers. Another former Council employee from the Council's finance department thought that, although the General Fund made a contribution towards some Council owned open spaces which were close to privately owned housing, it is unlikely that the General Fund contributed towards Argyll Rise which was surrounded by Council owned properties. In either case the officer's view is that, since no permission to use the Land was expressed in tenancy agreements, nor any element of rents identified as a contribution towards its upkeep, it would not be reasonable to treat whatever amount of rents went into the pot towards maintaining the Land as a payment for a permission to use it.

- (e) with respect to Lord Walker's view that the rights of users of any land held by a local authority for the purpose of public

recreation may be the same as those using land held under the Open Spaces Act 1906, in that they enjoy use as beneficiaries of a statutory trust of a public nature, the officer feels that the Land can be distinguished in that it was acquired and laid out in connection with the surrounding housing development, unlike a park which is intended for the use of the public generally. If Parliament had intended that open spaces laid out in connection with housing development should be held on trust it could have legislated in the same terms it did with respect to spaces intended for general public use.

- (f) although different legal tests apply when determining town or village green status to those applicable to highway rights, and to those required to assert ownership through adverse possession, there is one common test, which is that the right claimed did not arise from a permission which the landowner communicated, either expressly or by implication, might be withdrawn. The officer considers that the absence of evidence of either an express or implied revocable licence would be likely to sway a court against finding that the Housing Act background of the Land was sufficient to conclude that use had been “by” right rather than “as of” right.

2. Section 123 Disposal

- (i) with respect to the Inspector’s advice that the use of section 123 when transferring the Land to HHL in 2002 defeats the claim, in accordance with the view of Lord Scott referred to in Section G above, the officer considers that the second opinion is more likely to be decided as correct by the court. Although Lord Scott’s view would carry significant weight when the question eventually comes to be decided, it is not binding since the particular question was not an issue for decision in the case. The second opinion was that a section 123 disposal does not result in town or village green rights being overridden.

- (ii) the officer agrees with the second opinion for the following reasons;

- (a) section 123 requires a local authority intending to dispose of open space to advertise the intention and consider any objections. Provided it does so then the land can be disposed of free from any trust arising solely from any trust arising from it being held for public use under the Open Spaces Act 1906 or the Public Health Act 1875 which enables the provision of pleasure grounds. In the officer’s view this releasing provision does not apply to town green rights claimed over the Land because firstly, if Parliament had meant for housing open space intended to be available for local residents rather than the public generally to be held on trust it could have legislated so.

- (b) secondly, even if as Lord Walker suggested open spaces not expressly held for the purposes of the Open Spaces Act or the

Public Health Act could be deemed to be so held as a result of the actual use of the land, section 123 only frees the land from any trust arising solely by virtue of it being held on trust. The town green rights are claimed, not on the basis that people using the land did so by virtue of a statutory trust, but because they used it as they did in the absence of any such entitlement.

- (c) as mentioned in Section G above, Lord Scott's reasoning was that an appropriation under section 122 must override any public rights as otherwise its object, to enable a local authority to change the purpose for which land is held, would be defeated if people could continue to assert rights in respect of the former purpose. However, section 122 provides that, subject to the appropriated land being freed of any trust arising solely by virtue of the Open Spaces Act and the Public Health Act, the appropriation is subject to the rights of other persons in, over and in respect of the land. Although section 123 reflects the freeing from trust provisions of section 122 it does not expressly protect other rights in the way section 122 does. In the officer's view the absence of an express protection of third party rights in section 123 should not be regarded as an intention that such rights are not protected. If that were the intention then the officer considers that would need to have been clearly stated in section 123, particularly to distinguish it from the consequences of an appropriation under section 122 under which an appropriation is subject to third party rights.
- (d) The Inspector considered that the question of third party rights did not arise in relation to the Land because land can only achieve town or village green status once it is registered, and since the Land is not registered there can be no town green rights. Although the officer agrees with the Inspector on that, he also considers that the ability to claim town green status through 20 years' use is in itself a right and that, although town green rights had not been established by registration on the date the Land was transferred in 2002, the right to establish village green status through the type of use enjoyed up to the transfer was not extinguished by the section 123 disposal.

To summarise, the second opinion accords with the officer's view in relation to the section 123 disposal to HHL, which is that it does not defeat the application, but this differs from the Inspector's advice on the point.

However the second opinion agrees with the Inspector's advice that the Land was not used "as of right" but the officer considers use was as of right.

The Committee could refuse the application on either or both of the above points. However, for the reasons set out above the officer recommends that the Land should be registered as a town green.

K. Second Application

- (1) The second application, received on the 16th October 2007, was made in order to overcome the obstacle to registration which the Inspector felt resulted from the section 123 disposal to HHL in 2002. The second application was made under the Commons Act 2006 which replaced the Commons Registration Act 1965 under which the first application was made.
- (2) The 2006 Act allows applications to be made within 5 years in relation to use as of right which ceased before the 6th April 2007. If the Inspector is correct that any use as of right ceased when the Land was transferred to HHL in 2002 then the Applicants case is that they can still claim town green status by 20 years use as of right up to the transfer.
- (3) If the Committee accepts the officer's recommendation that the first application should succeed then it should not be necessary to consider the second application.
- (4) If the Committee decides not to register the Land under the first application the officer will arrange for the second application to be advertised. However, since the evidence of use sent in support of the second application is essentially the same as for the first the officer considers that another public inquiry would be unnecessary and that the second application could be determined on the basis of any new legal arguments.

Risk Management

Either party might seek to have the Committee's decision judicially reviewed and so it is important that the decision is made with regard to the legal considerations described above and not on the basis of any perceived benefits of one outcome over the other.

Options

The Council could seek a declaration from the courts as to the law on the two key issues. However, it is recommended that the Committee makes a determination and leaves it to the dissatisfied party to seek judicial review if it wishes.

Consultees

People who attended the public inquiry.

Appendices

Plan showing the Land

Background Papers

Evidence and legal submissions from both parties

The Inspector's report and further advice

Second opinion

The above papers are available for inspection the Members Room

Further information on this report is available from Peter Crilly on 01432 261853



Printed 03 Feb 2006 from Ordnance Survey digitally derived data.

Produced using significant survey information from Ordnance Survey basic-scales digital data, and incorporated into Landplan Sep 2002.

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Administrative boundaries revised to Jul 2002.

Additional boundaries information:

This Landplan plot is enlarged from derived mapping produced at 1:10000 scale.

Contours are at 5 metre intervals.

Heights are given in metres above Newlyn Data. The representation of a road, track or path is no evidence of a right of way.

The alignment of tunnels is approximate.

A Landplan symbols leaflet is available on request from Ordnance Survey Options out lets.

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Plot centre coordinates: 349512 237981

Supplied by: Hereford Map Centre

Plot serial number: 00758300

Scale 1:5000

**TO CONSIDER THE ADOPTION OF AN EARLY
INCREASE IN HACKNEY CARRIAGE FARES 2008/2009
LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1976**

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

Wards Affected

County-wide

Purpose

1. To consider an early review for Hackney Carriage Fares in Herefordshire.

Legislation

2. Section 65(1) The Local Government (Miscellaneous Provisions) Act 1976 allows the local authority to fix the rates/fares within the Authority for time, distance and all other charges in connection with the fare of a vehicle or with the arrangements for the hire of a vehicle, by means of a table of fares.
3. Section 65(2)(a) dictates a minimum of 14 day period of advertisement, if no objections are received fares increase can take effect from the specified date, if objections are made or if objections are not withdrawn the Local Authority shall set a further date not later than two months after the date specified for the increase in fares to take effect following consideration of the objections at Regulatory Committee.

Background

4. The current taxi fares were reviewed at Regulatory Committee on 23rd October 2007 and increased in November 2008 (appendix 1). This process is carried out on an annual basis.
5. A table showing % increase on the starting fare can be seen at (appendix 2)
6. John Jones (Trade Member) has requested consideration be given to an early fares increase due to the rises in fuel costs (appendix 3).
7. It is proposed that the early fares increase should take effect from 8 September 2008, following 14 days of advertisement and remain in force until a scheduled review in October/November 2009.

Considerations

Further information on the subject of this report is available from
Paul Nicholas Acting Head of Environmental Health and Trading Standards 01432 261989.

8. In the year to June, the price of fuel increased by 31.9%, according to Government statistics taken from statistics.gov.uk.
9. Pre-consultation has not been carried out owing to the urgent nature of this matter. Therefore, the Licensing Unit has produced the table of % increases on the starting fare as an indicator of increases.

Risk Management

10. If the fares are not increased this could affect the number of taxis available for the public to use. With increasing costs to the taxi trade and a finite number of customers they will need to make their businesses viable in order to continue providing the service. Therefore if the fees are not set at an appropriate level the Herefordshire ambition to provide an integrated transport system for Herefordshire may not be achieved.
11. There are no nighttime buses and with the constant reduction of the daytime bus service within Herefordshire the only means of transport for some is by taxi.
12. Vehicle proprietors can decide not to alter their meters if they feel the increase would adversely affect their business.
14. An advert will be placed for 14 days in the Hereford Times and all vehicle proprietors will be sent notification of the Regulatory Committee's decision.

Options

- **To agree in principal to the % fare increase (appendix 2), providing there are no public objections during the consultation period ending 4 September 2008; delegating the implementation of the fare increase on 8 September 2008 to the Acting Head of Environmental Health and Trading Standards. If any objections are received the matter should be brought back to the Regulatory Committee.**
- **To agree in principal to Mr Jones' proposal for fare increase (appendix 3), providing there are no public objections during the consultation period ending 4 September 2008; delegating the implementation of the fare increase on 8 September 2008 to the Acting Head of Environmental Health and Trading Standards. If any objections are received the matter should be brought back to the Regulatory Committee.**
- **To reject the proposed fares and keep them at the present level.**
- **To set an alternative fare increase.**

Documents:

Appendix 1 Current taxi fares

Appendix 2 Provides for examples of the fare increases in terms of % increase on starting fare.

Appendix 3 Mr Jones' proposal for fare increase.

Appendix 1

COUNTY OF HEREFORDSHIRE
DISTRICT COUNCIL

HACKNEY CARRIAGE FARES

2007/2008

| TARIFF ONE | INCLUSIVE OF VAT |
|---|------------------|
| For each journey not exceeding 965 metres | £2.40 |
| For each subsequent 90 metres or part thereof | £0.10 |
| WAITING TIME FOR EACH PERIOD OF 28 SECONDS OR PART THEREOF | £0.10 |
| TARIFF TWO | 150% OF |
| For hirings begun between 11.00pm and 8.00am and public Holidays other than Christmas and New Year | Tariff One |
| TARIFF THREE | 200% of |
| For hirings begun between 11.00pm on 24 th December to 8.00am On 27 th December and 11.00pm on 31 st December to 8.00am On 2 nd January | Tariff One |
| Extra Charges | |
| For each package other than hand luggage | £0.20 |
| For each bicycle or perambulator | £0.20 |
| For each person in excess of two | £0.50 |
| For cleaning a vehicle where it has been fouled by passengers | £50.00 |



MR M HAINGE
DIRECTOR OF ENVIRONMENT

**IT IS AN OFFENCE TO CHARGE MORE THAN THE AMOUNT
SHOWN ON THE METER EXCEPT AS EXPRESSLY
ALLOWED BY THE ABOVE TABLE OF FARES**

Appendix 2

| Starting fare | % increase | New fare |
|---------------|------------|----------|
| £2.40 | 5% | £2.50 |
| £2.40 | 10% | £2.60 |
| £2.40 | 15% | £2.80 |
| £2.40 | 20% | £2.90 |
| £2.40 | 25% | £3.00 |
| £2.40 | 30% | £3.10 |
| £2.40 | 35% | £3.20 |

Appendix 3

Further information on the subject of this report is available from
Paul Nicholas Acting Head of Environmental Health and Trading Standards 01432 261989.

Mr Jones – “I’ve copied the proposed tariff increase and the working out.”

| | |
|--|-------|
| ExistingTariff. For each journey not exceeding 965 metres | £2.40 |
| For each subsequent 90 metres or part thereof | £0.10 |
| Waiting time for each period of 28 seconds or part thereof | £0.10 |

|1 mile =1609.344 metres (1760yds)
 1609.344mtr divided by 90 = 17.8816 times by £1.79
 0.10P

| | |
|-----------------------|--------------|
| Current running mile | £1.79 |
| increase of | £0.18 |
| 10% | |
| proposed running mile | <u>£1.97</u> |

| | |
|---------------------|-------|
| Waiting time 28secs | £0.10 |
| increase of | |
| 10% of 25secs | £0.10 |

| | |
|-----------------------------|--------------|
| 1st flag (drop) = 965mtrs = | £2.40 |
| increase of | |
| 10% | <u>£0.24</u> |
| new flag | £2.64 |
| would be | |

make flag £2.6 then deduct .04 of .10P drop from flag
 making flag 930 mtrs

Continued...

| start | | | start | | |
|-------------|-------|--------------|---------------|---------|--------------|
| METRES | by 90 | EXISTING | METRES | by 81.5 | PROPOSED |
| 965 | | £2.40 | 930 | | £2.60 |
| 1055 | | £2.50 | 1011.5 | | £2.70 |
| 1145 | | £2.60 | 1093 | | £2.80 |
| 1235 | | £2.70 | 1174.5 | | £2.90 |
| 1325 | | £2.80 | 1256 | | £3.00 |
| 1415 | | £2.90 | 1337.5 | | £3.10 |
| 1505 | | £3.00 | 1419 | | £3.20 |
| 1595 | | £3.10 | 1500.5 | | £3.30 |
| 1685 | | £3.20 | 1582 | | £3.40 |
| 1775 | | £3.30 | 1663.5 | | £3.50 |
| 1865 | | £3.40 | 1745 | | £3.60 |
| 1955 | | £3.50 | 1826.5 | | £3.70 |
| 2045 | | £3.60 | 1908 | | £3.80 |
| 2135 | | £3.70 | 1989.5 | | £3.90 |
| 2225 | | £3.80 | 2071 | | £4.00 |
| 2315 | | £3.90 | 2152.5 | | £4.10 |
| 2405 | | £4.00 | 2234 | | £4.20 |
| 2495 | | £4.10 | 2315.5 | | £4.30 |
| 2585 | | £4.20 | 2397 | | £4.40 |
| 2675 | | £4.30 | 2478.5 | | £4.50 |
| 2765 | | £4.40 | 2560 | | £4.60 |
| 2855 | | £4.50 | 2641.5 | | £4.70 |
| 2945 | | £4.60 | 2723 | | £4.80 |
| 3035 | | £4.70 | 2804.5 | | £4.90 |
| 3125 | | £4.80 | 2886 | | £5.00 |
| 3215 | | £4.90 | 2967.5 | | £5.10 |
| 3305 | | £5.00 | 3049 | | £5.20 |
| 3395 | | £5.10 | 3130.5 | | £5.30 |
| 3485 | | £5.20 | 3212 | | £5.40 |
| 3575 | | £5.30 | 3293.5 | | £5.50 |

Further information on the subject of this report is available from
Paul Nicholas Acting Head of Environmental Health and Trading Standards 01432 261989.

**AMENDMENT AND ADDITION OF HACKNEY
CARRIAGE AND PRIVATE HIRE VEHICLE
CONDITIONS: LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976, TOWN
POLICE CLAUSES ACT 1847**

**REPORT BY: Assistant Chief Executive - Legal and
Democratic**

Purpose

1. To consider implementing a revised vehicle licence condition due to interpretation problems with condition 3.3 as currently worded. To consider the position of current applicants for new vehicles.

Legal Background

2. Under the terms of the Local Government (Miscellaneous Provisions) Act 1976 s 47 (Private Hire Vehicle), Town Police Clauses Act 1847 s 42 (Hackney Carriage), local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles.
3. Any person aggrieved by any conditions, which have been imposed, has a right of appeal to the Magistrates Court.

Background

4. The licence conditions were last reviewed in April 2007 following full consultation.

Condition 3 relates to existing vehicle licences and confirms that written authorisation must be obtained from the Taxi Licensing team before any new or replacement new vehicle is purchased and tested.

Under 3.3 the conditions state that the proposed new vehicle must comply with the following: “a licence with a wheelchair access vehicle cannot at anytime be replaced with a non-wheelchair access vehicle. A saloon may be replaced with a saloon or upgraded to a wheelchair access vehicle”.

This has given rise to interpretation problems as to “like for like” and in particular in relation to saloon cars.

Current and Proposed conditions

- 5.

| Current Condition | Proposed Condition |
|--------------------------|---|
| 3.3(a) To be modified | A licence for a wheelchair access vehicle cannot at anytime be replaced with a non-wheelchair access vehicle. Licences for all other types of vehicle must have a |

| | |
|--|--|
| | maximum seating capacity of nine passengers or less. |
|--|--|

Issues

6. Issues of interpretation have arisen in particular between what constitutes a saloon car and a multi-purpose vehicle (MPV). In particular this interpretation issue has been further clouded by development in the MPV field.
7. "Saloon" cars generally take four passengers. The original MPV's generally took four passengers (e.g. Picasso's and Scenic's) or seven (e.g. Zafira's, Galaxy's and Peugeot 806). Recently, however, versions of "stretched" MPV's have come on to the market, for example one can now purchase a five or seven seat Picasso.
8. The essential purpose of condition of condition 3.3 was to ensure that Herefordshire's fleet of taxi/private hire fleet contained an adequate and growing number of wheelchair accessible vehicles.
9. By amending the condition as proposed the protection for wheelchair accessible vehicles is preserved but the unnecessary distinction between the wide variation of other types of vehicles is removed. This will empower Licensing staff to permit vehicle changes quickly and efficiently without the need to refer matters to Regulatory Committee in future.
10. At least one applicant has been caught by this difference in interpretation to their detriment, previously owning an MPV (7 seat) replacing it with a saloon (4 seat) and unable to repurchase an MPV (7 seat) without applying for a deviation to standard conditions, necessitating an appearance before the Regulatory Committee.

Options

Conditions

It is for the Regulatory Committee to decide whether the condition 3.3 should be amended and how: -

- **To reject the amendment**
- **To accept the amended wording as proposed**
- **To amend the condition in some other form.**

Current Applications

If the Regulatory Committee do not amend the wording of condition 3.3.

- To reject current applications for changes of vehicle which increases seating capacity
- To approve applications for changes of vehicle which increase seating capacity as a deviation for the standard condition.

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 MR BEN SMITH**

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

Purpose

1. The report introduces an applications made by Mr Smith 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’.

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 standard licence conditions were approved at Regulatory Committee on the 18th December 2007.

Issues

4. This Authority previously licensed a Skoda Superb on Plate No. H256.
5. This licence expired on 12th July 2008.
6. The application for transfer of the plate was made 15th July 2008.
7. The application requests to re-licence this vehicle.

Matter for Committee

8. In light of this the application and the above condition the licence has not been granted but instead referred to this Regulatory Committee for consideration and determination whether the plate should be issued.

Options

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

- **Can be granted outside of the standard conditions and or policy.**
- **Cannot be granted and the licence be refused.**

- **Deferred decision in order to get more information.**
- **Or reach some other decision.**

Appendix 1 – standard vehicle licence conditions

Appendix 2 – copy of application forms

**APPLICATION TO RE-INSTATE AN EXPIRED
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE
STANDARD CONDITION 9.5 BY MR RICHARD ERNEST
INGRAM**

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

Purpose

1. The report introduces an applications made by Mr Ingram 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’.

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 standard licence conditions were approved at Regulatory Committee on the 18th December 2007.

Issues

4. This Authority previously licensed a Skoda Octavia on Plate No. H266.
5. This licence expired on 7th July 2008.
6. The application for transfer of the plate was made 10th July 2008.
7. The application requests to re-licence this vehicle.

Matter for Committee

8. In light of this the application and the above condition the licence has not been granted but instead referred to this Regulatory Committee for consideration and determination whether the plate should be issued.

Options

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

- **Can be granted outside of the standard conditions and or policy.**

- **Cannot be granted and the licence be refused.**
- **Deferred decision in order to get more information.**
- **Or reach some other decision.**

Appendix 1 – standard vehicle licence conditions

Appendix 2 – copy of application forms

Document is Restricted

Document is Restricted

