

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 3 November 2009 at 2.00 pm

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

Councillors: CM Bartrum, PGH Cutter, SPA Daniels, JHR Goodwin, RC Hunt, PJ McCaull, A Seldon and JD Woodward

48. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor DJ Benjamin.

49. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes appointed at the meeting.

50. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

51. MINUTES

RESOLVED: That the Minutes of the meeting held on 6th October, 2009 be approved as a correct record and signed by the Chairman, subject to the replacement of the word 'prepare' with the word 'consider' in the resolution of Minute 42 (Footpath BM 13 Bodenham).

52. HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH SD1 (PART) IN THE PARISH OF ST. DEVEREUX

The Interim Parks, Countryside and Leisure Development Manager presented a report about an application under Section 119 of the Highways Act 1980, to make a Diversion Order on part of footpath SD1 in the parish of St. Devereux, which was obstructed by farm buildings. He said that the landowner had submitted a proposed alternative route which had the support of the local community and user groups. The proposed diversion met the specified criteria as set out in section 119 of the Highways Act 1980 in that:

- there would be benefit to the owner of the land crossed by the existing path;
- it did not alter the southern point of termination of the path; and
- whilst it truncated the original northern termination point onto the A465, access to the footpath from this point had not been available for many years ever since the route of the A465 was realigned.

The applicant had carried out all pre-order consultation and the proposal had the general agreement of the user groups, parish council and Local Ward Member.

Having considered the details of the application and all the points which had been raised about it, the Committee decided that it should be granted.

RESOLVED THAT

The Interim Parks Countryside and Leisure Development Manager be instructed to make an Order under Section 119 of the Highways Act 1980, as illustrated on drawing number: D391/333-1 set out in his report submitted to the Committee.

53. REVIEW OF THE THREE YEARLY TAXI DRIVER BADGE RENEWAL

The Acting Regulatory Services Manager presented a report about problems arising from drivers who had failed to renew their driver's licences; or provide the necessary evidence of a CRB check; or medical renewal when necessary. He said that the current three-year rolling programme for dual hackney carriage/private hire driver's licences was introduced in April, 2007. This had included a requirement that drivers needed to provide an annual self-declaration regarding the status of their medical and their CRB. The Council's budgeting arrangements also required drivers to pay an annual fee, rather than a single payment to cover each three-year period. This also helped to spread the costs for drivers. He said that despite sending two reminder letters, 149 drivers had failed to pay the annual fee which equated to a loss in revenue of £6,705. There were also 74 drivers who had failed to renew their medicals and 50 who had overdue CRBs. This corresponded to a non-return rate of approximately 25%.

The Committee discussed the issues involved and agreed with the view of the Acting Regulatory Services Manager that the Council should revert back to the previous arrangements whereby drivers applied to renew their licences each year with a requirement that they undertake an enhanced CRB every three years and a medical every five years. Those drivers who held a three-year licence would be subject to the new arrangement on the expiry of that licence. Those who had not renewed their licences or provided the necessary information to the Acting Regulatory Services Manager would be required to do so by 30th November, 2009.

RESOLVED THAT :

- (a) **dual hackney carriage/private hire driver's licences revert back to being issued for a 12 month period; and**
- (b) **those drivers with outstanding payments, Criminal Record Bureau Checks or medicals be given until 30th November to provide the necessary information, otherwise their licences will be suspended.**

54. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for the following items to ensure that Officers and applicants received a fair hearing.

55. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE OF STANDARD CONDITION 9.5 BY MR LM OAKLEY-DAVIES

The Licensing Officer presented a report about an application from Mr Oakley Davies for the re-instatement of a hackney private hire vehicle licence outside the Council's standard condition 9.5. which stipulated that an application for the renewal of a vehicle licence, after it had expired, would be treated as a new application. He said that Mr Oakley-Davies's licence in respect of a Peugeot 406 GTX HDI registration number Y454 BAC on Plate No.H066, had expired on 4th September, 2009. Mr Oakley-Davies had applied to renew it on 11th September. He was advised that because of the delay the matter would have to be considered by Regulatory Committee and a temporary licence

was issued. Mr Oakley Davies said that the delay had arisen because of the procedure for arranging for his vehicle to be inspected and then submitting the application to the Licensing Section, which was only open at certain times during the week. He said that this was purely unintentional. The Committee accepted his explanation but warned him to be timelier with starting the process in future.

RESOLVED THAT:

an application by Mr LM Oakley-Davies's to renew hackney carriage licence No.H066 in respect of a Peugeot 406 GTX HDI Y454 BAC be granted outside the standard conditions on this occasion, but that he needs to be more timely with his applications in future.

56. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 3.3B BY MR SD JUCKES

The Licensing Officer presented a report about an application from Mr SD Jukes to transfer a hackney carriage vehicle licence to another vehicle which did not comply with the Council's standard condition 3.3b which stipulated that a replacement vehicle should have a mileage which is 30,000 less than the vehicle it was replacing. He said that the outgoing vehicle had a recorded mileage of 180,072 and that its replacement had a recorded mileage of 163,017, making the difference less than the required 30,000 miles. Mr Jukes pointed out that there was an error in the mileage recorded at the testing station and that the recorded mileage on the replacement vehicle was in fact 16,317. In view of this, the Licensing Officer withdrew his report and said that the fee charged to Mr Jukes for the matter to be heard should be refunded. The Committee agreed with this course of action and also noted that this licensing condition would hopefully be deleted when the new conditions came into force in the New Year.

RESOLVED: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.

57. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER A LICENCE HOLDER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 10 and provided the Committee with details of the circumstances which had given rise to the licence of a Hackney Carriage/Private driver being suspended. The applicant provided the Committee with an account of the incident from his perspective and explained the hardship that he was suffering because he was not able to drive. It was noted that he was on police bail until 1st December 2009 whilst the police were pursuing their enquiries. In view of this, the Committee felt that there was no option but to defer further consideration of the matter until the outcome of the investigation was known.

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

The Licensing Officer referred to agenda item No. 11 and presented the Committee with a report about an applicant for a dual Hackney Carriage/Private Hire driver's licence who had a recent conviction for a case of harassment. The Senior Litigator read out a letter which had been received from the applicant's solicitor in support of his application. Two character reference letters were also circulated at the meeting and the applicant provided the Committee with an account of the incident from his perspective.

Having considered all the circumstances about the conviction, the Committee was satisfied that the incident would not have a bearing on the way in which the applicant would conduct himself as a licensed driver. The Committee therefore decided 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 Hackney Carriage/Private Hire driver's licence.

59. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER TO REINSTATE A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Senior Litigator referred to agenda item No. 12 and explained the difficulties in judging whether the applicant, who had applied to have a hackney carriage/private hire driver's licence reinstated, could be considered to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976. He said that there were certain issues arising from the fact that the applicant had recently been the subject of a police investigation, even though all the matters against him had been dropped. He therefore suggested that the matter should be deferred to enable expert legal advice to be obtained about all those issues so that further guidance could be given to the Committee. The Committee agreed to this approach.

60. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER THE HOLDER OF A DUAL LICENCE CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Chairman referred to agenda item No. 13 and suggested that there was a need to defer making a decision on whether a Hackney Carriage/Private Hire driver continued to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976. Earlier this year the applicant had been discharged at Worcester Crown Court following allegations of a certain nature which were alleged to have occurred whilst he worked as a taxi driver. He did not however report this incident to the Licensing section either verbally or in writing. The Senior Litigator said that although the driver had been discharged, there were still issues regarding whether he could still be considered to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976. The Committee agreed to defer the matter for legal advice to be obtained.

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

The Licensing Officer referred to agenda item No. 14 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 because the applicant had a conviction. The applicant provided the Committee with details of the circumstances which had given rise to the conviction and said that it was purely a domestic matter, out of character, and totally unrelated to work.

Having considered all of the facts put forward about the incident, the Committee decided 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 Hackney Carriage/Private Hire driver's licence.

62. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER AN APPLICANT IS A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S 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 because the applicant had previous convictions. The applicant provided the Committee with details of the circumstances which had given rise to the convictions and said that it was unrelated to work and that he had held a licence with a neighbouring authority for the past 10 years without any problem.

Having considered all of the facts put forward about the convictions, the Committee decided 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 Hackney Carriage/Private Hire driver's licence.

The meeting ended at 4.45 pm

CHAIRMAN