

MINUTES of the meeting of Regulatory Committee held at Committee Room 1, The Shirehall, Hereford on Tuesday, 28th November, 2006 at 10.00 a.m.

Present: Councillor R.I. Matthews (Chairman)
Councillor Brig. P. Jones CBE (Vice Chairman)

Councillors: Mrs. S.P.A. Daniels, G.W. Davis, D.J. Fleet, Mrs. A.E. Gray, J.W. Hope MBE, T.W. Hunt, G. Lucas and R. Preece

In attendance: Councillors T.M. James and Ms. G.A. Powell

61. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors H Bramer and PG Turpin.

62. NAMED SUBSTITUTES (IF ANY)

Councillor Mrs AE Gray was appointed named substitute for Councillor H Bramer.

63. DECLARATIONS OF INTEREST

Councillors GW Davis, Brig P Jones and R Preece declared personal interests in respect of Agenda items 8, 9 10 & 11 (Minutes 68,69, 70 & 71).

64. MINUTES

RESOLVED: That the Minutes of the meeting held on 31st October, 2006 be approved as a correct record and signed by the Chairman

65. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CS10 (PART) IN THE PARISH OF CASTLE FROME

The Rights of Way Manager presented a report about an application for a Public Path Diversion Order to divert part of Footpath CS10 Castle Frome, under Section 119 of the Highways Act 1980. He advised that the application had been made to move the footpath out of a farmyard and a cattle shed which had been built over it in the past. The proposal had general agreement from the Open Spaces Society, the Ramblers Association and the Byways and Bridleways Trust and the Local Ward Member. The applicant had agreed to pay for advertising and to reimburse the Council's costs incurred in making the Diversion Order. He said that it was felt by the officers that the diversion met the tests set out in Section 119 of the Highways Act in that it benefited the owner of the land crossed by the path and that it would provide a better route for users.

Having considered all the facts in respect of the diversion, the Committee agreed with the course of action suggested by the Rights of Way manager.

RESOLVED:
that a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of footpath CS10, as illustrated on drawing D236/52-8

66. ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD

The Environmental Health Manager (Commercial) presented a report about the proposed designation of certain public places in Herefordshire to control anti social drinking in public places. He said that Local authorities had for some time had the power to bring in Byelaws to control the consumption of alcohol in streets, roads and other such places within their areas. The powers were strengthened by the Criminal Justice and Police Act 2001 which made it easier for the Police to take action in respect of those engaged in anti-social drinking. The Council and its predecessor Councils had previously brought Byelaws into effect in parts of the City of Hereford, Ross-on-Wye, Ledbury, and Bromyard. He also said that the powers within the 2001 Act had brought about a change in town centres by helping to reduce loutish and anti-social behaviour. A 'tool' was therefore available to control such behaviour and to reduce the chances of drinking vessels being used in acts of violence. Since 2001 Herefordshire Council had made four such Orders relating to areas within Hereford City, Bromyard, Madley and Peterchurch. He said that approaches had been made to the Council in respect of the designation of an area in Whitecross, Hereford; Coppin Rise Hereford; the conversion (with some changes) of the existing byelaw areas covering Ledbury and Ross-on-Wye and the designation of Leominster and Kington. He also said that the aim of the Orders was not to bring about a comprehensive ban on drinking in the open air but to stop alcohol consumption by a small number of people who directly or indirectly caused problems to the residents neighbouring, or those others wishing to use the areas of land for recreation and enjoyment. He advised that the Police had confirmed that the proposed areas had often been the subject of reports to the police of drink-related anti-social behaviour and nuisance.

The Environmental Health Manager (Commercial) outlined the advertising process for Orders, the case for designation, the effects of making an Order and the financial implications. He also said that the proposals accorded with initiatives already commenced by the Herefordshire Community Safety Partnership with respect to crime and disorder and in particular tackling alcohol-associated problems.

The Committee concurred with the proposals put forward by the Environmental Health Manager (Commercial) to introduce a further Order to designate various areas in Belmont, Whitecross, Lebury, Leominster and Ross-on-Wye. Councillor PJ Edwards a Local Ward Member for Belmont said that local residents welcomed the proposals for Coppin Rise but had some concerns about the Police having sufficient manpower to enforce them. PC Thomas said that the introduction of the Order would assist the police with enforcement. Councillor JW Newman had concerns that the automatic till at Tesco, Belmont was not always supervised and that there was a danger of under-aged persons purchasing alcohol there. It was agreed that the Trading Standards Manager be asked to look into the matter.

The Committee discussed the proposals for Kington and Councillor James the Local Ward Member said that there was considerable opposition from local organisations and the public. It was felt there that there was not a problem of anti-social drinking in public places in Kington and that an Order would have an adverse affect on community social events. It was therefore agreed that the Environmental Health Manager (Commercial) should hold further consultations regarding Kington.

RESOLVED

THAT (i) an Order be made designating those areas detailed in Appendix 1 of the report of the Head of Environmental Health and Trading Standards for the following areas as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001:-

Belmont, Hereford

Whitecross, Hereford

Ledbury

Leominster

Ross-on-Wye; and

(ii) the proposals for Kington be deferred for further consultations.

67. THE GAMBLING ACT 2005

The Legal Practice Manager introduced a report about a proposed Statement of Principles Policy and consultation process for the implementation of the Gambling Act 2005. He said that Section 349 of the Act required all licensing authorities to prepare and publish a statement of the principles that they proposed to apply in exercising their functions under the Act during the three-year period to which the policy applied. He advised that the main aims of the Act 2005 were to:

- prevent gambling being a source of crime or disorder;
- ensure that gambling is conducted in a fair and open way; and
- protect children and the vulnerable from being harmed or exploited by gambling.

The Legal Practice Manager explained the types of licences that would be covered by the Act, the premises that would be involved and the impact of the work on the Licensing Section. He proposed when the policy should take effect and suggested that delegated powers should be given to Licensing officers to granted a certain number of gaming machines in approved premises.

RESOLVED THAT

(i)- Licensing Officers be granted delegated powers to grant licences for up to four gaming machines in alcohol licensed premises;

(ii) the current process where two machines are automatically granted by Licensing Officers and any application for more than two machines will be brought before the Regulatory sub Committee be retained; and

(iii) The Gambling Act 2003 Statement of Principles be adopted

68. STANDARD CONDITIONS FOR FAYRE OAKS CARAVAN PARK IN RELATION TO SEPARATION DISTANCES AND THE POLICY DECISION ON CARAVAN SITE LICENCE CONDITIONS ENFORCEMENT

The Licensing Officer presented a report about an application to vary the standard licensing condition for Fayre Oaks Caravan Park, Kings Acre Road, regarding Section 8 of the Caravan Sites and Control of development Act 1960 in relation to separation distances between caravans and the Council's policy for enforcing any non-compliance. He explained the conditions of the Licence and said that the Council had powers to issue caravan site licences with conditions considered to be necessary in the interests of the safety of residents, staff or visitors to the site. The application for variation was had been put before the Regulatory Committee on 31st October, 2006 and was deferred for further discussion with the Fire Authority, as it was unclear whether 'The Regulatory Reform (Fire Safety) Order 2005' applied to residential sites. Investigation had revealed that it did not and that the powers to vary the site licence conditions still applied. He said that site owners had previously been given three years to comply with the conditions. He advised that the owners had done a considerable amount of work to the site and that only a small number of units needed to comply. Mrs Hurst explained the work that had been undertaken over a rolling programme and that only three – four units were outstanding. She said that a reasonable extension of time would enable the work to be completed.

Having considered all the facts regarding the application and received the views of the Licensing Officer, the Fire Officer and the applicant, the Committee decided that an extension of time could be granted.

RESOLVED THAT

a further period of six months from 28th November, 2006 be granted to the owner of Fayre Oaks Caravan Park, Kings Acre Road, Hereford to comply with Section 8 of the Caravan Sites and Control of development Act 1960 in relation to separation distances between caravans, non-combustible sheds and enclosed porches.

69. APPLICATION FOR VARIATION OF CARAVAN SITE LICENCE FOR 'FAYRE OAKS, CARAVAN PARK, KINGS ACRE ROAD, HEREFORD. HR 4 0SU' - CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1950

A report was presented by the Licensing Officer about an application to vary the standard licensing condition for Fayre Oaks Caravan Park, Kings Acre Road, Hereford to enable the removal of a public telephone. He explained the conditions of the Licence and said that the Council had powers to issue caravan site licences with conditions considered to be necessary in the interests of the safety of residents, staff or visitors to the site. The application for variation was had been put before the Regulatory Committee on 31st October, 2006 and was deferred for further discussion with the Fire Authority, as it was unclear whether 'The Regulatory Reform (Fire Safety) Order 2005' applied to residential sites. Investigation had revealed that it did not and that the powers to vary the site licence conditions still applied. He said that the request was for condition 5.11 be removed from the rent licence Condition which required that an immediately accessible telephone should be available on site for calling the emergency services. He advised that the Fire and Rescue Authority have been consulted and felt that given the relative speed of likely fire development in the caravans a telephone on-site would have little benefit in terms of life-saving from fire. A letter had been received from a resident on the site objecting to the removal of the telephone.

The Committee noted that a number of the caravans had land-lines and felt that in view of this together with the spread of mobile phones that the application could be granted.

RESOLVED THAT

an application to vary the standard licensing condition 5.11 for Fayre Oaks Caravan Park, Kings Acre Road, Hereford to enable the removal of a public telephone from the site be approved

70. APPLICATION FOR VARIATION OF CARAVAN SITE LICENCE FOR 'COTTAGE PARK CARAVAN PARK LEDBURY ROAD, ROSS - ON - WYE HR9 7BD' - CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1950

The Licensing Officer presented a report about an application to vary the standard licensing conditions to allow a caravan on Plot 23 at Cottage Park, Ledbury Road, Ross-on-Wye to have a closed porch and reduced permitted separation space from 6 metres to 5.65 metres. He explained the conditions of the Licence and said that the Council had powers to issue caravan site licences with conditions considered to be necessary in the interests of the safety of residents, staff or visitors to the site. The application for variation was had been put before the Regulatory Committee on 31st October, 2006 and was deferred for further discussion with the Fire Authority, as it was unclear whether 'The Regulatory Reform (Fire Safety) Order 2005' applied to residential sites. Investigation had revealed that it did not and that the powers to vary the site licence conditions still applied. He said that site owners had previously been given three years to comply with the conditions but had requested the variation because it was not practicable for them to comply without incurring considerable expense.

Councillors MR Cunningham and Mrs AE Gray, two of the ward Members for Ross-on-Wye, drew attention to the well-kept condition of the caravans and suggested that the variation be granted for the lifetime of the two caravans involved. The Fire Officer felt that the shortfall was relatively low and that although it could pose a problem for the caravans, it did not constitute a risk to life

Having considered all the facts regarding the application and received the views of the Licensing Officer, the Fire Officer and the applicants, the Committee decided that the variation could be granted.

RESOLVED THAT

the variation of Caravan Site Licensing Conditions be approved so that an enclosed porch be permitted to remain at 23 Cottage Park, Ledbury Road, Ross-on-Wye and that a reduced permitted separation space from 6 metres to 5.65 metres be allowed between 23 and 24 Cottage Park, Ledbury Road, Ross-on-Wye for the life of the unit.

71. APPLICATION FOR VARIATION OF CARAVAN SITE LICENCE FOR 'SALTMARSH CASTLE CARAVAN PARK STOURPORT ROAD, BROMYARD HR7 4PN' - CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1950

The Licensing Officer presented a report about an application in respect of Saltmarsh Castle Caravan Park, Stourport Road, Bromyard to vary the standard licensing conditions by removing conditions 5.2 and 5.4 and replace them with a single condition to allow 1KG powder extinguisher only to be provided at each fire point, and a further condition stating that a suitable and sufficient fire risk assessment shall be recorded and maintained for the whole site. He explained the conditions of the Licence and said that the Council had powers to issue caravan site licences with conditions considered to be necessary in the interests of the safety of residents, staff or visitors to the site. The application for variation was had been put before the Regulatory Committee on 31st October, 2006 and was deferred for further discussion with the Fire Authority, as it was unclear whether The Regulatory Reform (Fire Safety) Order 2005 applied to residential sites. Investigation had revealed that it did not and that the powers to vary the site licence conditions still applied.

The Fire Officer felt that a single fire extinguisher was not adequate and that if changes were made to the fire points each should be provided with a minimum of two 1KG fire extinguishers.

Having considered all the facts regarding the application and received the views of the Licensing Officer and the Fire Officer, the Committee decided that the variation could be granted but that it should comply with the Fire Officer's requirements.

RESOLVED THAT

the application in respect of Saltmarsh Castle Caravan Park, Stourport Road, Bromyard be granted to vary Caravan Site Licensing Conditions by removing conditions 5.2 and 5.4 and replace them with a single condition to allow two 6KG dry powder extinguishers at each fire point to be housed in such a way that they are accessible but not subject to corrosion.

72. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for hearing appeals to ensure that the laws of natural justice were followed to give a fair hearing for applicants and to the Licensing Officers.

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

In the absence of the applicant, the Committee decided refuse the application set out in agenda Item No. 13 because this was the third time that the applicant had failed to appear before the Committee for the matter to be determined.

74. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD A DUAL DRIVERS 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 suspension of a dual Hackney

Carriage/Private Hire driver's licence being referred to the Committee. The Committee decided to take into consideration the applicant's spent and unspent convictions. The driver and his legal representative explained the circumstances which had led to him being charged with a public order offence. The driver's legal representative suggested that it would be unreasonable for the suspension to continue until the case had been to Court because it was pre-judging the matter

Having considered all of the facts put forward by the Licensing Officer, the applicant and his representative, the Committee decided to lift the suspension and consider the matter further when the outcome of the Court hearing was known.

75. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A 'FIT AND PROPER PERSON' TO HOLD 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 suspension of a vehicle licence being referred to the Committee. The Committee heard an explanation from the vehicle owner about the circumstances which had given rise to the suspension.

Having considered all of the facts put forward by the Licensing Officer and the owner, the Committee decided that the suspension should remain in place pending the outcome of legal proceedings.

The meeting ended at 12.20 p.m.

CHAIRMAN

