

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 26 February 2008 at 2.00 p.m.**

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

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

In attendance: Councillors

91. APOLOGIES FOR ABSENCE

There were no apologies for absence submitted at the meeting.

92. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

93. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

94. MINUTES

RESOLVED: That the Minutes of the meeting held on 29th January, 2008 be approved as a correct record and signed by the Chairman

**95. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION
ORDER FOOTPATH MA16 (PART) IN THE PARISH OF MATHON**

The Rights of Way Manager presented a report about an application for Diversion Order under the provisions of the Town & Country Planning Act 1990 in respect of part of Footpath MA16, Mathon. He advised that the Open Spaces Society had raised some concerns about the application but that arrangements had been put in place to meet the concerns and the applicants had taken care to ensure that the proposed route would be convenient for the public. He was satisfied therefore that the diversion would fulfil all the prescribed requirements. The other statutory consultees had raised no objections and the Local Member and the parish council were happy with it. The applicant had agreed to meet all the costs involved in making the Order and to enter into a maintenance agreement in respect of the retaining wall which was necessary for part of the route.

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

RESOLVED:
that a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of footpath MA16, Mathon as illustrated on drawing number: D384/265-16, at the applicant's expense.

96. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATHS MD13 AND MD16 (PARTS) IN THE PARISH OF MUCH DEWCHURCH

The Rights of Way Manager said that the applicants had withdrawn their application for the diversion of this footpath.

97. CONSIDERATION OF AN APPENDIX TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY PROVIDING GUIDANCE ON THE RELEVANCE OF CONVICTIONS. THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

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

RESOLVED

That the guidelines outlined at Appendix 1 in the report of Head of Environmental Health and Trading Standards be adopted with immediate effect.

98. 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.

99. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING - DEVIATION BY PETER CHARLES FERNEYHOUGH FROM VEHICLE LICENCE CONDITION NUMBER 1.1

A report was presented by the Licensing Officer about an application for a hackney carriage vehicle licence in respect of a vehicle which was more than five years old.

He explained the Council's licensing policy in respect of such vehicles and advised that Mr Ferneyhough had submitted his application for a vehicle which was over five years old and which therefore did not comply with the Council's policy regarding the age limit of vehicles.

Having considered all the circumstances regarding the application, the Committee did not consider that there were any grounds for the vehicle licensing conditions to be breached and that the application should be refused.

RESOLVED THAT:

An application from Mr PC Ferneyhough to deviate from the standard condition number 1.1 for a new application for a hackney carriage vehicle licence be refused.

100. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING - DEVIATION BY STUART PREWER FROM VEHICLE LICENCE CONDITION NUMBER 2.1

A report was presented by the Licensing Officer about an application for a private hire vehicle licence in respect of a vehicle which was more than two years old. He explained the Council's licensing policy in respect of such vehicles and advised that Mr Prewer had submitted his application for a vehicle which did not comply with that policy. Mr Prewer explained that his enterprise was not to provide a private hire or hackney carriage service but a chauffeur driven Jaguar for weddings, executive travel and airport transfers. He said that he had commenced the application process in November 2007 before the introduction of new legislation in January which had extended hackney carriage/private hire licensing regulations to enterprises such as his.

Having considered all the circumstances regarding the application, the Committee felt that in view of the fact that the applicant had commenced the application process before the change in legislation and because of the specialist service he would be providing, an exception could be made to the policy and the application granted. The Committee took the view that a precedent would not be set by giving such approval because each application was considered on its own merits.

RESOLVED THAT:

An application from Mr S Prewer to deviate from the standard condition number 2.1, for a new application for a private hire vehicle licence, be granted.

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.

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

The Licensing Officer referred to agenda item No. 11 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 not satisfied that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he should not be granted a licence at the present time. He was however invited to make a new application after six months had elapsed from the date of the meeting.

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

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

The meeting ended at 3.15 p.m.

CHAIRMAN