

**MINUTES of the meeting of Regulatory Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Tuesday, 18th December, 2007 at 2.00 p.m.**

Present: Councillor JW Hope MBE (Chairman)

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

69. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs SPA Daniels, Brig P Jones and DC Taylor

70. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

71. DECLARATIONS OF INTEREST

There were no declarations made at the meeting.

72. MINUTES

RESOLVED: That the Minutes of the meeting held on 20th November, 2007 be approved as a correct record and signed by the Chairman

73. BRIEFING ON STREET TRADING

The Trading Standards Manager and the Licensing Officer (Street Trading) gave a presentation to the Committee about the work of the Council's Street Trading Panel which helped to manage the control of street trading across the county. They outlined the remit of the Panel under the provisions of the Local Government (Miscellaneous Provisions) Act 1982, relating to street trading. They advised that the Panel met approximately every six weeks and was comprised of representatives from Trading Standards, Environmental Health, Highways and Transportation, Licensing, Economic Development, Markets and Fairs, and Legal Services. The Hereford City Manager also attended in an ex-officio capacity. A policy was in place for the administration and enforcement of street trading which was not permitted legally to be used a method of raising excess revenue service within Herefordshire. Applications for street trading consents were submitted to the Panel and were considered on their individual merits, taking into account a variety of factors including:

- existing trader/product supply in the vicinity
- precedents already set by the Panel; and
- suitability of proposed stall/unit/product range

He The Trading Standard Manager stressed the importance of diversity of product range with regard to Street Trading in High Town and that traders selling identical products did not assist in achieving this aim. Committee was given a Street Trading

information pack to aid it about street trading issues.

74. 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.

75. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING - DEVIATION BY DIANA KAY KINSEY 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. She explained the Council's licensing policy in respect of such vehicles and advised that the DK Travel had been obliged to submit her application for a vehicle licence because of a recent change in legislation. Previously it had not been necessary for DK Travel to be licensed because the company was a long established local business which provided transfers to Airports as an additional service to its Travel Agent activities. One of the proprietors, Mrs Kinsey, addressed the Committee and said that the vehicle was solely used for this purpose and that the company was not involved in any private hire or hackney carriage activities. The change in legislation had meant that the service provided by such proprietors now fell within the hackney carriage/private hire regulations.

Having considered all the circumstances regarding the application, the Committee noted that the application was from a well run reputable company with a high standard of vehicle which was only necessitated by a change in legislation. The Committee also appreciated the fact that Mrs Kinsey had submitted an application as soon as she had been made aware of the new requirements. It was agreed that because of the particular circumstances, an exception could be made to the Council's licensing policies and that the application could be granted.

RESOLVED THAT:

An application from Mrs D Kinsey of DK Travel to deviate from the standard condition number 2.1, for a new application for a private hire vehicle licence, be granted

76. TO REVIEW LICENSED 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 a report about vehicles which had been modified for hackney carriage and private hire use. She said that it had been brought to her attention that certain vehicles originally manufactured as panel vans had been converted to mini-buses and licensed for hackney carriage/private hire. Outwardly the vehicles looked like any other minibus but doubts had been raised about their structural safety, seating anchor points and braking systems. Their registration documents still specified them as panel vans and there were no test certificates to establish that the work had been safely carried out. Advice from the Department of Transport was that the vehicles would need to be tested at one of its inspection centres and obtain the necessary safety certification. The DVLA would also need to be notified about the modifications and the vehicle registration documents altered accordingly. She said that there was also a further 70 purpose-built vehicles which

had subsequently been modified for wheelchair access which would need to be subject to Department of Transport and DVLA inspection and certification.

The Committee discussed the situation and noted that the majority of the converted panel vans were used on school and social services contract work. The Committee concurred with the view of the Licensing Manager that because of the safety concerns, the licences should be suspended until such time as the Council was provided with confirmation that the vehicles had complied with the requirements of the Department of Transport and the DVLA. It was agreed that the suspension would take place with effect from 6:00 pm on 21st December, 2007. The Licensing Manager said that she would notify by telephone those affected by the suspension as soon as possible after the meeting. In the case of the purpose-built vehicles adapted for wheelchair accessibility, there were not the same urgent safety issues involved and more time could be allowed for the proprietors to comply with the requirements of the Department of Transport and the DVLA. It was decided that two months from the date of the meeting should be allowed for proprietors to comply with the requirements.

RESOLVED THAT

- (i) in the case of panel vans converted to minibuses, all vehicles that have not notified DVLA of the modification be suspended until such time the registration has been issued with the modification added, and the vehicles have been tested and pass the requirements of the Department of Transport in accordance with the Voluntary Single Vehicle (enhanced) Approval**
- (ii) in the case of factory manufactured wheelchair vehicles without M1 standard, the following be required within two months of the date of this meeting:-**
 - a) the vehicle proprietors provide evidence to the satisfaction of the Licensing Manager that the wheelchair accessible facilities are safe, and**
 - b) the Local Licensing Authority arrange for its test centre to carry out checks of the operation, security and condition of the disabled access facilities.**

77. AMENDMENT HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS IN RELATION TO MODIFIED VEHICLES: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

The Licensing Manager presented a report about the suggested implementation of revised vehicle licence conditions to deal with the problem of panel vans which have been converted to minibuses for private hire or hackney carriage use, as outlined in the previous item (minute No 77). The Committee agreed with the proposals which were put forward by the Licensing Manager.

RESOLVED

that the Council's private hire & hackney carriage vehicle licence conditions be revised so that:-

- (i) for vehicles that have been modified**

- (a) in order to accept an application to licence the vehicle, any modification must be listed on the Registration Document in accordance with Road Traffic Legislation;
 - (b) the vehicle must be registered as a passenger vehicle;
 - (c) If there is a structural modification to the vehicle, the vehicle shall have a satisfactory test certificate issued by DVLA to show that it complies with the Road traffic (construction and use) Regulations 1986, or have a Voluntary Single Vehicle Approval (enhanced) certificate tested by VOSA or an equivalent test certificate as agreed by the Local Licensing Authority;
 - (d) any modification must be notified to DVLA and the registration document amended accordingly prior to submission for a licence; and
- (ii) no vehicle other than one originally manufactured for the purpose of carrying people will be accepted as part of an application for a new hackney carriage/private hire vehicle.

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 it involves 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.

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

The Licensing Manager referred to agenda item No. 10 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 should be granted a licence.

79. 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 it. The applicant was not present at the meeting.

Having considered all of the facts put forward by the Licensing Officer and in the application submitted by the applicant, the Committee was not satisfied that he 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. The Committee also decided that in future it would only consider applications when the applicant was present, and that the Licensing Manager should arrange for the guidance which was issued to applicants to be revised accordingly.

The meeting ended at 3.50 p.m.

CHAIRMAN