

**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

