

REPORT OF THE REGULATORY COMMITTEE

Meetings Held on 12 August, 9 September and 7 October 2008

Membership:

Councillors: P Jones CBE (Chairman), JW Hope MBE (Vice-Chairman) CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter, SPA Daniels, JHR Goodwin, R Mills, A Seldon, DC Taylor.

APPLICATION TO REGISTER LAND AT ARGYLL RISE, BELMONT, HEREFORD AS A TOWN GREEN

1. An application has been made to the Council by Newton Farm Town Green Action Group to determine whether land at Argyll Rise, Belmont, Hereford should be registered as a Town Green. The land is part of a larger area purchased for housing purposes in 1959 by the former Hereford City Council under the powers of the Housing Act 1957 and laid out as open space as part of the surrounding housing development during the 1970s. In November 2002 the land was one of a number of open spaces included in a transfer of the Council's housing stock to Herefordshire Housing Limited (HHL). In line with a procedure followed by other Registration Authorities, the Council arranged for a non-statutory Public Inquiry, conducted by a barrister, to hear evidence and legal arguments from the applicants and HHL. If the land is registered as a Town Green this would effectively prevent any development of land that would interfere with recreational use. The view of the Inspector was that, because the land had been laid out as open space for the benefit of local residents in connection with the Housing Act powers, people who used the land did so under an implied statutory permission and so could not claim to have used it "as of right" which is one of the tests that need to be satisfied to establish Town Green status.. The Inspector also considered that the statutory process followed when the land was transferred to HHL defeated the claim.
2. The Committee heard submissions from the spokespersons of the applicants, HHL and the Local Ward Councillors. The Committee also took into consideration a second opinion obtained from a different barrister and the views from the Council's Legal Team. . The Committee accepted the findings of the Inspector regarding the factual evidence i.e. that the land has been used by a significant number of local residents for various recreational sporting and leisure purposes for a period of more than twenty years. However, the Committee also agreed with the Inspector that as the site had been laid out, managed and maintained as open space for the benefit of the surrounding housing estate, use had been with permission rather than "as of right" and so the application failed..

EARLY INCREASE IN HACKNEY CARRIAGE FARES 2008/2009 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

3. Following a request from the Herefordshire taxi and private hire trade, the Committee has agreed to an early increase in the level of fares charged within the County. The fares are usually reviewed in October each year but the trade had requested an earlier increase to reflect the substantial increase in fuel and operational costs that they have been faced with. The Committee has decided that there should be an increase of 10% in fares with effect from 8 September 2008, which will remain in force until the next scheduled review in October/November 2009.

APPLICATION FOR APPROVAL BY SIX MANUFACTURERS / INSTALLERS OF WHEELCHAIR ACCESS FACILITIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

4. The Committee has considered applications from six independent and separate companies as approved manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire. The six companies who have applied are:
 - i. Allied Vehicles Ltd, Glasgow
 - ii. GM Coachwork Ltd, Newton Abbot, Devon
 - iii. LDV Group Ltd, Birmingham
 - iv. Oughtred & Harrison (Facilities) Ltd, Goole, Humberside
 - v. Ponting & Betty Ltd, Northampton
 - vi. Stanford Coachworks Ltd, Essex
5. The supporting documentation provided by each applicant has been considered against Quality Assurance ISO 90001 as the benchmark for acceptability. Examination has also been made of the way in which each manufacturer had demonstrated that they could fulfil the requirements of the Council regarding the safety standards for wheelchair accessibility. Having considered the documentation put forward by each applicant, the Committee was satisfied that applicants (i) and (iv) fulfilled the Council's criteria. Further information was required from applicants (ii), (iii) & (v) but subject to the officers subsequently being satisfied, those manufacturers can be approved. The Committee was not satisfied that applicant (vi) could comply with the requirements and was refused.
6. The Committee next considered what action it wished to take in respect of the other issues regarding wheelchair accessible vehicles and decided upon the following course of action: -
 - (i) in the case of vehicles licensed by the Council which have wheelchair equipment fitted but the manufacturer or installer has applied for the approval of the Council and has been refused, the vehicles be allowed to continue to operate until such time as a voluntary standard VOSA Single Vehicle Approval Test is passed, provided that it is passed by no later than 31 December, 2008. After this date the licences of such vehicles still operating will be suspended until the Test has been passed; and
 - (ii) in the case of vehicles licensed by the Council which have wheelchair equipment fitted and either the manufacturer or installer is not known or has not applied to the Council for approval, the vehicles be allowed to continue to operate until such time as a voluntary standard VOSA Single Vehicle Approval Test is passed, provided that it is passed by no later than 31 December, 2008. After this date the licences of such vehicles still operating will be suspended until the Test has been passed.

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

7. Two applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire driver's licences have been referred to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions and medical requirements. Four applications for the renewal of vehicle licenses have also been submitted to the Committee because the applications were

late in submitting their applications and were in breach of the Councils licensing conditions and policies.

8. The applicants, licence holders and their representatives gave details of the grounds for their applications and provided the Committee with their personal circumstances. In the case of the applications for vehicle licences, the applicants explained the circumstances which had prevented them from renewing their licences within the Council's prescribed timescale. The applications were dealt with as follows:
 - (a) the two driver applications were granted because the Committee is satisfied that evidence had been given that the applicants are fit and proper persons to be licensed;
 - (b) the four vehicle applicants were allowed to renew their vehicle licences outside the prescribed timeframe because of their particular circumstances, they had obtained the necessary VOSA certification, or the fact that the Committee felt that the timeframe between expiry and the application for renewal was small enough to be acceptable.

**P JONES CBE
CHAIRMAN
REGULATORY COMMITTEE**

BACKGROUND PAPERS Agenda papers from the meetings of the Regulatory Committee held on 12 August, 9 September and 7 October 2008.