

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 8 December 2009 at 2.00 pm

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

Councillors: CM Bartrum, PGH Cutter, SPA Daniels, RC Hunt, PJ McCaull, A Seldon and JD Woodward

63. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors DJ Benjamin and JHR Goodwin.

64. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

65. DECLARATIONS OF INTEREST

Councillor CM Bartrum declared a prejudicial interest in Agenda item No 6 (Minute No.68) and left the meeting for the duration of this item.

66. MINUTES

RESOLVED: That the Minutes of the meeting held on 3rd November, 2009 be approved as a correct record and signed by the Chairman.

67. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for the following items to ensure that Officers and applicants received a fair hearing.

68. APPLICATION TO RE-INSTATE AN EXPIRED PRIVATE HIRE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR LANE

The Licensing Officer introduced a report about an application from Mr MC Lane to renew a hackney carriage vehicle licence outside the Council's standard condition 9.5 which stipulated that an application for the renewal of a vehicle licence after it had expired would be treated as a new application. She said that Mr Lane's licence had expired on 4th October, 2009 and that he had applied to renew it on 5th October. Mr Lane had been granted a temporary renewal until midnight on the day of the Regulatory Committee meeting. Mr Lane said that he had started the process for renewal in advance of the expiry date but that his vehicle had not passed the inspection at the Council's testing centre on the first occasion. He had submitted his application at the first opportunity thereafter.

Having considered the matter, the Committee decided that in view of the short time that had elapsed between expiry of the licence and the application made by Mr Lane, the

licence could be renewed. The Committee decided that a contrary decision would be unfair and disproportionate. He was however reminded to be more timely with his applications in future to allow sufficient time for the vehicle to be tested and the paperwork to be processed.

RESOLVED THAT:

an application from Mr Davies to deviate from the standard condition number 9.5, for the renewal of Private Hire vehicle Licence No. P105 in respect of Ford Mondeo registration number NC05 PJJ, be approved.

69. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR HUFFER

The Licensing Officer introduced a report about an application from Mr AB Huffer to renew a hackney carriage vehicle licence outside the Council's standard condition 9.5 which stipulated that an application for the renewal of a vehicle licence after it had expired would be treated as a new application. She said that Mr Huffer's licence had expired on 27th November, 2008 but that he had not applied to renew at the time because of the terminal illness of a family member. He was now in a position to operate the vehicle again and had asked if the application could be considered as a renewal rather than a fresh one. In view of the exceptional circumstances the Committee decided that an exception could be made to the Council's policies in respect of this particular application and that the application could be treated as a renewal. The Committee had considerable sympathy with Mr Huffer's circumstances and felt that any other decision would be unfair and unjustified.

RESOLVED THAT:

an application from Mr AB Huffer to vary from standard condition no. 9.5 regarding the renewal of Hackney Carriage Licence No. H078 in respect of Ford Tourneo DU03 FZM, be granted.

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.

70. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Acting Regulatory Services Manager referred to agenda item No. 8 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended. The applicant provided the Committee with a full and frank account of the incident which had led to allegations being made against him and investigated by the police. He also drew attention to the fact that following the investigation, all charges against him had been dropped. He therefore asked for his licence to be reinstated.

Having considered all of the facts put forward by the applicant and the officers about the matter, the Committee was still not satisfied that the applicant was a fit and proper

person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and decided that his licence should be revoked. The Committee carefully considered all the circumstances together with the advice of the Senior Litigator who referred them to the decision of Bingham, Lord Chief Justice, in the cases of McCool and Hussain, and in particular the test of fitness and propriety. The Committee also noted the issue of the licence holder's own possible future safety, though this did not affect their decision.

71. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE AN INCIDENT REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 9 and provided the Committee with details of an incident involving a licensed hackney carriage/private hire driver. The matter had been to court and although the driver had been acquitted, he had not reported the incident to the licensing Section, and the Acting Regulatory Services Manager had some doubts about whether he continued to be a fit and proper person. The licence holder provided the Committee with an account of the incident from his perspective and the stress that the allegation had caused him since.

Having considered all of the facts put forward by the applicant and the officers about the matter and the fact that the licence holder had been licensed for many years with no previous complaints about his conduct, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that licence should remain in force. He was however warned to be more circumspect in the way he approached his passengers in the future.

72. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER A MATTER REGARDING A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Acting Regulatory Services Manager referred to agenda item No. 10 and provided the Committee with details of the circumstances which had given rise to the licence of a dual hackney carriage/private hire driver being suspended. A letter from the licence holder and an e-mail from the Chairman of the Hereford Taxi Association in support of the licence holder had been forwarded to Members of the Committee. The licence holder also submitted a further letter which was circulated at the meeting and the Secretary of the Association also attended and spoke in support of the licence holder. The Acting Regulatory Services Manager said that the licence had been suspended because of police investigation into a case of alleged assault and the licence holder allegedly using threatening words and behaviour to and about Council staff. The licence holder explained about both incidents from his perspective.

Having considered all of the facts put forward by the applicant and the officers about the incidents, the Committee was of the view that it was not in a position to decide if the licence holder was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 until information was received from the police about the results of their investigations. The Committee was mindful of the time that had elapsed since the alleged incidents but had to balance the public safety issues against any inconvenience or financial loss suffered by the licence holder. The Committee was however prepared to reconvene before Christmas if the required information was received from the police in time.

73. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE AN APPLICATION FOR A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 11 and provided the Committee with details of an application for a dual hackney carriage/private hire driver's licence from an applicant who had received a police caution in 2005. The applicant provided the Committee with an account of the incident from his perspective.

Having considered all of the facts put forward by the applicant and the officers about the matter, 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 his application for a drivers licence should be granted. He had, however, previously received fixed penalty points using a mobile phone whilst driving and was warned about the dangers of doing this.

74. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 12 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence holder appearing before Hereford Magistrates and being fined for a motoring offence. The licence holder explained the events which had led to the offence being committed from his perspective. A letter which had been received from the applicant's lawyer about the incident was read out at the meeting.

Having considered all of the facts put forward by licence holder and the officers about the matter, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could continue to hold his driver's licence.

75. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 13 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended because he had received a custodial sentence after being convicted of assault. The licence holder explained the events which had led to the offence being committed from his perspective and provided letters which gave character references. The person who was the subject of the assault was also present and gave support to the licence holder.

Having considered all of the facts put forward by licence holder and the officers about the matter, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his licence could be reinstated. The Committee noted the gravity of the offence but was satisfied that it was an isolated incident and was out of character for the licence holder who was of previously good character.

The meeting ended at 5.17 pm

CHAIRMAN