

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 4 May 2010 at 2.00 pm

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

Councillors: DJ Benjamin, PGH Cutter, JHR Goodwin, RC Hunt, PJ McCaull, A Seldon and JD Woodward

119. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors CM Bartrum and SPA Daniels.

120. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

121. DECLARATIONS OF INTEREST

Councillor PJ McCaull declared a personal interest in Agenda item no 9 (Minute no. 127) regarding a private hire operator's licence for a proprietor in Leominster.

122. MINUTES

RESOLVED: THAT the Minutes of the meeting held on 6th April 2010 be approved as a correct record and signed by the Chairman.

123. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WZ1 (PART) IN THE PARISH OF WALTERSTONE

The Interim Parks, Countryside and Leisure Development Manager presented a report about a proposal to make an Order under Section 119 of the Highways Act 1980, to divert part of footpath WZ1 in the parish of Walterstone. He said that an Order had originally been made in 1995 by the former Herefordshire and Worcestershire Council to make a diversion but had not been confirmed because of objections from the Ramblers' Association and the Open Spaces Society. When the Order was finally sent to the Secretary of State for confirmation in 2008 the Secretary of State declined to confirm it, mainly due to the time delay involved. The applicant had subsequently made a fresh application to divert the path along a new route to overcome the objections to the first proposal. The applicant wanted the diversion to move the route of the footpath from his property to improve the convenience to walkers and to himself.

The new proposals have received no objections at pre-order consultation stage and have the support of the Local Ward Member. The neighbouring landowners whose land the new route will partly pass through have agreed in writing to the proposals and have signed a form to waive any claim for compensation or expenses. The applicant has agreed to pay all

advertising costs together with those of bringing the new route into being. Longtown Group Parish Council is satisfied with the intended route but prefers the use of stiles and not pedestrian gates. This would not be possible however because Council policy states that all new routes should only include furniture that will comply with the Disability legislation which requires that access be provided with gates and not stiles.

The Committee was satisfied with the proposals presented by the Interim Parks Countryside and Leisure Development Manager and decided that the application should be approved.

RESOLVED THAT

An Order be made to divert footpath Walterstone 1 (WZ1, part) under Highways Act, section 119 as illustrated on plan No D394/397-1 set out in the report of the Interim Parks Countryside and Leisure Development Manager.

124. PROCEDURAL ARRANGEMENTS

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

125. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED: THAT under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.

126. PRIVATE HIRE OPERATOR LICENCE - TO REVIEW THE SUSPENSION OF A PRIVATE HIRE OPERATOR LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Principal Lawyer and the Licensing Officer referred to agenda item No. 8 and presented a report about the circumstances which had led to the suspension of a Private Hire Operator's licence and the matter being referred to the Committee. It was noted by the Committee that the licence had been suspended because the driver who had conveyed one of the Operator's vehicles for a licence renewal inspection did not hold a dual hackney carriage/private hire driver's licence. The Licensing Officer said that she had been presented with no alternative but to suspend the licence.

The Committee took into consideration the fact that the proprietor had said that he had inherited the drivers when he took over the business and had assumed that they all held the appropriate licences because the particular driver involved had been doing school contracts for a number of years. The proprietor had carried out an immediate check of all his drivers and get copies of their licences to stop this happening again. The Licensing Officer said that the proprietor had been fully compliant with the matter and that there had been no other complaints about the Operator and recommended that the licence be reinstated subject to him accepting a written warning. The Committee agreed with this approach.

RESOLVED THAT:

- (a) a written warning be issued to the Operator; and**

- (b) **the Operator Licence be reinstated subject to the written warning being accepted**

127. PRIVATE HIRE OPERATOR LICENCE - TO REVIEW THE SUSPENSION OF A PRIVATE HIRE OPERATOR LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Principal Lawyer and the Licensing Officer referred to agenda item No. 9 and presented a report about the circumstances which had led to the suspension of a Private Hire Operator's licence and the matter being referred to the Committee. It was noted by the Committee that the licence had been suspended because the driver who had conveyed one of the Operator's vehicles for a licence renewal inspection did not hold a dual hackney carriage/private hire driver's licence. The Licensing Officer said that she had been presented with no alternative but to suspend the licence.

The Committee took into consideration the fact that there had been no other complaints about the Operator and agreed that the licence could be reinstated subject to him accepting a written warning.

RESOLVED THAT:

- (a) **a written warning be issued to the Operator; and**
- (b) **the Operator Licence be reinstated subject to the written warning being accepted**

128. APPLICATION TO LICENCE A VEHICLE OUTSIDE STANDARD POLICY (LATE RENEWAL) - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

A report was presented by the Principal Lawyer and the Licensing Officer at Agenda item No.10 about an application from a proprietor to renew a private hire vehicle licence outside the Councils standard licensing conditions, which stipulated that a renewal after a licence had expired would be treated as a new application. The Licensing Officer said that the applicant's licence had expired whilst the vehicle was in need of repairs and that the proprietor had said that he had been unaware of the need to renew by the due date when a vehicle was off the road. He had applied to renew it as soon as he could and the Licensing Officer had fully explained the licensing requirements to him. She recommended that on this occasion, the application should be granted, and the Committee concurred with this view

RESOLVED THAT:

an application to deviate from the hackney carriage/private hire vehicle licence conditions regarding a late renewal for private hire vehicle licence No. P128 in respect of a Peugeot 307 be approved.

129. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Principal Lawyer and the Licensing Officer referred to agenda item No. 11 and said that an applicant for a dual hackney carriage/private hire licence had not attended the meeting. The Committee noted that this was the third time the applicant had failed to appear and decided that the application should be refused.

RESOLVED THAT:

an application for a dual hackney carriage/private hire drivers licence be refused because the applicant had failed to appear before the committee for the third time running.

130. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Principal Lawyer and the Licensing Officer referred to agenda item No. 12 regarding an application for a dual hackney carriage/private hire licence. It was noted that at a previous meeting the Committee was minded to find the applicant not to be a fit and proper person under the meaning of the Miscellaneous Provisions Act 1968 and instructed that he be written to an given 14 days to make representation in writing to the Licensing Authority as to why he should be invited to appear before the Committee. He had done this and his letter was included in the Agenda.

The applicant provided the Committee with details of the circumstances regarding his failure to disclose previous convictions. He said that because the majority were more than ten years old, he was not aware that he had to disclose them and that he had no intention of deceiving the Committee. He explained the reasons why he felt that he should be granted a licence.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided 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 Hackney Carriage/Private Hire driver's licence could be granted, subject to him first providing satisfactory references to the Licensing Section.

RESOLVED THAT:

the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence, subject to the applicant first providing references to his satisfaction.

131. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 19764

The Principal Lawyer and the Licensing Officer referred to agenda item No. 13 regarding an application for a dual hackney carriage/private hire licence. The applicant provided the Committee with details of the circumstances regarding an unspent conviction. He explained the reasons why he felt that he should be granted a licence.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that further information was required about the convictions and that consideration of the application should be deferred for a period of three months.

RESOLVED THAT:

consideration of the application be deferred for a period of three months to enable more information to be obtained about the applicant's convictions.

132. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Principal Lawyer and the Licensing Officer referred to agenda item No. 14 and said that an applicant for a dual hackney carriage/private hire licence had not attended the meeting. The Committee decided to defer consideration of the application until the next meeting.

RESOLVED THAT:

an application for a dual hackney carriage/private hire drivers licence be deferred until the next meeting.

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

A report was presented by the Principal Lawyer and the Licensing Officer at agenda item No 15 which set out the circumstances which had led to a driver having his dual hackney carriage/private hire licence suspended, and the matter being referred to the Committee. The applicant provided the Committee with details of the circumstances which had led to him receiving a police caution. The Licensing Officer referred to the driver's previous good record and recommended that his licence should be reinstated.

Having considered all of the facts put forward by the Licensing Officer and the driver, and noted his previous good record, 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 hackney carriage/private hire driver's licence should be reinstated.

RESOLVED THAT:

a dual hackney carriage/private hire drivers licence be reinstated to a driver.

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

A report was presented by the Principal Lawyer and the Licensing Officer at agenda item No 16 which set out the circumstances which had led to a driver having his dual hackney carriage/private hire licence suspended, and the matter being referred to the Committee. The applicant provided the Committee with details of the circumstances regarding a domestic incident which had led to an investigation by the police. He explained the reasons why he felt that his licence should be reinstated.

Having considered all of the facts put forward by the Licensing Assistant and the applicant, the Committee decided that until the results of the police investigation were known, the suspension should remain in place. The Committee was of the view that the matter should not have to wait until another meeting and that the Regulatory Services Manager should be authorised to reinstate this licence if the driver was cleared.

RESOLVED: THAT the Regulatory Services Manager be authorised to reinstate the hackney carriage/private hire driver's licence provided that he is satisfied with the outcome the police investigation.

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

The Assistant Director (Environment and Culture) referred to Agenda Item No.17 and presented the report of the Regulatory Services Manager about an application for the reinstatement of a hackney carriage/private hire driver's licence. The Committee was also provided with information that had been circulated at the previous meeting. At that meeting it had been decided to defer determining the matter so that the Committee could be provided with the transcript of a Magistrates Court hearing when the applicant had made an appeal about a previous revocation. The Assistant Director (Environment and Culture) said that notwithstanding the previous successful appeal by the driver, the officer's view was that there was sufficient cumulative evidence against the driver which had led to the officers recommending that the licence should not be reinstated. The Committee noted that on the evidence available to him, the Head of Environmental Health & Trading Standards believed that the driver was not a fit and proper person to be licensed because of his threatening behaviour which was likely to intimidate the public and staff.

The representative of the driver contested the view of the officers and felt that the driver had been treated unfairly by having his licence revoked for the lengthy time that investigations were underway. He was of the view that because the Magistrates Court had upheld the driver's appeal, coupled with the decision of the police not to take recent allegations any further; this demonstrated that on the balance of probabilities, the driver was a fit and proper person to hold such a licence. The Committee carefully considered all the facts regarding the appeal together with the views of the Assistant Director (Environment and Culture) and the driver's representative. The Committee also received guidance from the council's legal adviser about the legal points that were raised during the discussion and the legal framework under which the matter was being dealt with. The contents of a letter from the Governors at a school where an incident had taken place were also noted. The driver also gave a full and frank presentation about the events preceding the revocation and explained the reasons why he felt that the licence should be reinstated.

Having carefully considered all the information and views presented at the meeting, the Committee was satisfied that the driver was a fit and proper person under the meaning of the Miscellaneous Provisions Act 1976 and that his licence be reinstated.

RESOLVED: THAT an application to reinstate a hackney carriage driver's licence be granted.

The meeting ended at 5.10 pm

CHAIRMAN