

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 7 December 2010 at 2.00 pm

Present: Councillor JW Hope MBE (Chairman)
Councillor PGH Cutter (Vice Chairman)

Councillors: CM Bartrum, SPA Daniels, JHR Goodwin, RC Hunt,
Brig P Jones CBE, PJ McCaull, SJ Robertson, A Seldon and JD Woodward

83. APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillor GA Powell.

84. NAMED SUBSTITUTES (IF ANY)

Councillor SJ Robertson was appointed named substitute for Apologies for Councillor GA Powell.

85. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

86. MINUTES

RESOLVED: That the Minutes of the meeting held on 18th November, 2010 be approved as a correct record and signed by the Chairman.

87. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER, FOOTPATH FWD10 (PART) IN THE PARISH OF FOWNHOPE

The Parks, Countryside and Leisure Development Manager presented a report about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of Footpath FWD10 in the parish of Fownhope.

He said that Public footpath FWD10 has been closed a number of years because of the collapse of the river bank which rendered it impassable. The appropriate engineering works would cost approximately £120,000 and even then, further collapse may need additional work.

The affected section of footpath formed part of a longer riverside walk which was popular with local people and visitors. The Parks, Countryside and Leisure Development Manager had therefore prepared proposals for a diversion of the affected section to enable it to be taken it away from the area of erosion and brought back into use. He explained that the eroded section was considered to have been extinguished on legal grounds and that the 'diversion' would therefore have to be carried out by concurrent creation and extinguishment Orders, rather than by a Diversion Order. He advised that the landowner did not oppose the proposal in principle. He had, however, submitted applications to divert part of footpaths FWD4 and FWD7 and wanted these to be dealt with at the same time as FWD10.

The Parks, Countryside and Leisure Development Manager read out the contents of an e-mail which had been received from the Local Ward Member who said that she fully supported

the three proposals within the application. She also said that the focus appeared to be on the Lea Brink section of the footpath but she considered that the matter has been around for so long that there was justification in dealing with the entire problem at this time. A letter had also been received from the local parish council in a similar vein.

The Parks, Countryside and Leisure Development Manager informed the Committee that the FWD10 proposals had been prioritised because they were to be in the public interest. Informal consultation had taken place about the FWD4 & FWD7 proposals and some significant objections had been received. The proposals for footpaths FWD4 and FWD7 were solely in the interests of the landowner, not the public and would be dealt with as a separate matter in due course. Because of the length of time that it had already taken to get to the current position regarding FWD10, he recommended that it should be dealt with independently of the other applications.

The Committee discussed the proposals and asked questions about them. Consideration was given to whether it was preferable for the three applications to be dealt with together but the advice of the officers was accepted and it was agreed that they should be dealt with separately. The Committee felt that the landowner should however be encouraged to submit formal applications for the other two footpaths to help to progress matters.

RESOLVED THAT:

- (i) **a Public Path Order be made to create a section of path under Section 26 of the Highways Act 1980, and a further Order be made to extinguish the ends of FWD10 where it has fallen into the river, under Section 118 of the Highways Act 1980, as illustrated on drawing number: D249/149-D10(i); and.**
- (ii) **the landowner be encouraged to submit revised applications for the diversion of part of Footpaths FWD4 & FWD7.**

88. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION & EXTINGUISHMENT, FOOTPATHS BM12 AND BM13 (PART) IN THE PARISH OF BODENHAM

A report was presented by the Rights of Way Manager about a proposal to make a Public Path Diversion Order to divert part of footpath BM12 and a Public Path Extinguishment Order to extinguish two parts of footpath BM13 at Bodenham. The matter had originally been considered by the Committee in October 2009 when officers were instructed to commence the process for a Public Path Order to extinguish the sections of Public Footpath BM13 marked A-B and F-G on the plan attached to his report. He outlined the progress made into the investigations which had led to the conclusion being made that section A-B of the footpath should be diverted and that steps should be taken to remove the obstruction to section F-G, thereby enabling the footpath to be brought back into use again. He outlined the procedure that would be followed to achieve this aim and advised on the possible alternatives available. He also said that Footpath BM12 was also obstructed following the development of Orchard Close in the 1970s. As part of the consideration of BM13, it had also been necessary to develop concurrent proposals to divert BM12 to provide an appropriate alternative route. He provided information about the pre-order consultation process and the responses that had been received from the consultees. It was also noted that a number of letters had been received from the local community and parish council in support of the extinguishment of Footpath BM13 which they said had been out of use for a considerable number of years, and the diversion of footpath BM12.

Councillor KG Grumbley, the Local Ward Member, outlined the events that had led to the footpaths being obstructed by development. He felt that there was adequate provision for walkers who could use Footpath BM 12 from point B on the map to Chapel Lane, which would be just as convenient to them as using a diverted Footpath BM13. He felt that there were some difficulties facing the latter due to opposition from the landowners but that the diversion of Footpath BM12 where it was obstructed by Orchard Close would provide a satisfactory solution. He said that this option was favoured by local people.

The Committee discussed the proposals put forward by the officers and noted the comments of the Local Ward Member. Having considered all the facts and options, the Committee felt that on balance it would be preferable to divert Footpath BM12 and take it out of the gardens of properties, rather than attempt to overcome the problem of diverting and bringing BM13 back into use.

RESOLVED THAT

The Parks Countryside and Leisure Development Manager be instructed to consider to

- (i) **make an Order under S.118 of the Highways Act 1980 extinguish the full length of Footpath BM 13 between points A – B and F – G shown on revised plan 2010-08-17 attached to his report; and**
- (ii) **make an Order under S.119 of the Highways Act 1980 to divert footpath BM12 from point C – D to point C – E as set out on revised plan 2010-08-17.**

89. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER, FOOTPATH LV11 (PART) IN THE PARISH OF LLANVEYNOE

The Parks, Countryside and Leisure Development Manager presented a report about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of Footpath LV11 in the parish of Llanveynoe. He outlined the process which had been followed and led to the application being submitted to the Committee. He advised that the owners of the land had made the application to divert a section of the footpath which ran between the farmhouse and a barn which had been converted to living accommodation. The diversion would give the owners greater privacy. Informal consultations had been carried out and there were no outstanding objections to the proposal which complied with all the required criteria for a diversion to be made under the Act.

Having considered all the facts regarding the application, the Committee agreed with the recommendation of the Parks, Countryside and Leisure Development Manager that the application should be granted.

RESOLVED:

That a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath LV11 at Llanveynoe, as illustrated on drawing number D382/244-11.

90. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER, FOOTPATH CH20, CLEHONGER (PART) AND FOOTPATH EB25 (PART) IN THE PARISH OF EATON BISHOP

A report was presented by the Parks, Countryside and Leisure Development Manager about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of Footpaths CH20 at Clehonger EB 25 Eaton Bishop. He outlined the process which had been followed and led to the application being submitted to the Committee. He said that originally an Order was made to divert the paths in 1995 but could not be confirmed due to objections received. The new proposals have been prepared to address the objections and provide a route acceptable to all parties. The reasons given for making the application were that EB25 was obstructed by a pond and CH20 was impassable for much of the year due to it being wet and boggy. The area in question was a Site of Special Scientific Interest and Natural England have been involved in the process and support the proposal. It was proposed that the costs of the diversion and associated works would be split between the Landowner, Natural England and the Council. The Parks, Countryside and Leisure Development Manager said that the proposals complied with all the required criteria for a diversion to be made under the Act.

Having considered all the facts regarding the application, the Committee agreed with the recommendation of the Parks, Countryside and Leisure Development Manager that the application should be granted and that the previous Order should be abandoned.

RESOLVED THAT:

- (i) **a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of footpaths CH20 (part) at Clehonger, and EB25 (part) Eaton Bishop, as illustrated on drawing number: D19/88-201/130-25(i); and**
- ii) **That the, 'County of Hereford and Worcester, Footpath no CH20 Clehonger and Footpath No EB25 (part) Eaton Bishop Public Path Diversion Order 1995' made under Section 119 of the Highways Act 1980 in 1995 is abandoned.**

91. HACKNEY CARRIAGE VEHICLE CAPPING

The Regulatory Services Manager said that a report had been prepared for consideration by the Cabinet Member (Environment & strategic Housing) about proposals to cap the number of hackney carriages licensed in Herefordshire. He outlined the likely timetable involved in progressing with matters.

92. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangement for an appeal to be heard.

93. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR SHAHID ALI

The Regulatory services Manager presented a report about an application to licence a vehicle outside the standards vehicle licence conditions. He explained that the licence had expired on 12th November, 2010 and that the applicant had applied to renew it on 24th November, 2010. The Committee noted that the delay had arisen because of some serious family matters that the applicant had been faced with. The Committee accepted the explanation given by the applicant and decided that the licence could be renewed outside the Council's standards vehicle licence conditions.

RESOLVED THAT:

- (i) **hackney carriage vehicle licence No.H328 be renewed in respect of VW Passat registration number NG53 PFX with effect from 18th November 2010 outside the standard conditions on this occasion; and**
- (ii) the applicant, Mr S Ali, be advised that any future late application may be refused.

94. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE - TO DETERMINE WHETHER A LICENCE HOLDER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Regulatory Services Manager referred to agenda item No. 13 regarding the holder of a dual hackney carriage/private hire licence who had been temporarily disqualified from driving by the Magistrates Court following a speeding offence. The licence holder had notified the officers about the matter and he explained the circumstances which had given rise to his driving licence being suspended.

The Committee took into consideration all of the facts presented by the Regulatory Services Manager and the licence holder. It also received advice from the Senior Litigator about the provisions of Department of Transport Circular 2/92 regarding minor traffic offences. The Committee was minded to reinstate the hackney carriage/private hire drivers licence and invited the licence holder to appear before it again when the suspension of his driving licence was lifted.

RESOLVED:

That the dual hackney carriage/private hire driver's licence holder be invited appear before the Committee again when the Magistrates' suspension of his driving licence had expired.

95. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE - TO DETERMINE WHETHER A LICENCE HOLDER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

A report was presented by the Regulatory Services Manager in respect of agenda item No. 14 regarding the holder of a dual hackney carriage/private hire licence who had been temporarily disqualified from driving by the Magistrates Court following a minor speeding offence. The licence holder had not notified the officers about the matter but he explained the circumstances which had given rise to his driving licence being suspended.

The Committee took into consideration all of the facts presented by the Regulatory Services Manager and the licence holder. It also received advice from the Senior Litigator. The Committee decided that the licence holder 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 licence. The Committee also decided that the Regulatory Services Manager should be authorised to issue penalty points to those drivers who were in breach of the Council's licensing conditions.

RESOLVED THAT:

- (a) the licence holder remains a fit and proper person under the meaning of**

the Local Government (Miscellaneous Provisions) Act 1976 and can continue to hold a dual driver's licence;

(b) a formal warning be issued to him about his future conduct, particularly in relation to the non disclosure of a motoring offence; and

(c) the Regulatory services Manager be instructed to issue penalty points to those who do not comply with the Council's hackney carriage/private hire drivers conditions.

96. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE - TO DETERMINE WHETHER A LICENCE HOLDER CONTINUES TO BE A FIT AND PROPER PERSON TO HOLD A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Regulatory Services Manager presented a report in respect of agenda item No. 15 regarding the holder of a dual hackney carriage/private hire licence who had received penalty points from the Police for a minor motoring offence but had not notified the officers about the matter. He said that he thought that he did not have to notify until he applied to renew his licence and he explained the circumstances which had given rise to his driving licence being suspended.

The Committee took into consideration all of the facts presented by the Regulatory Services Manager and the licence holder. It also received advice from the Senior Litigator. The Committee decided that the licence holder 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 licence.

RESOLVED THAT:

(d) the licence holder remains a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and can continue to hold a dual driver's licence; and

(e) a formal warning be issued to him about his future conduct, particularly in relation to the non disclosure of a motoring offence.

97. DATES OF FORTHCOMING MEETINGS

4th & 11th January 2011.

The meeting ended at 4.10 pm

CHAIRMAN