

REGULATORY COMMITTEE

Minutes of the meeting held on Thursday 29 July 2010 at Town Hall, Royal Leamington Spa at 2.30pm.

PRESENT: Councillors Mrs Gallagher, Mrs Goode, Illingworth, Mrs Knight, Pratt and Vincett.

An apology for absence was received from Councillors Mrs Falp, Harris and Mobbs.

The Committee services Officer explained to the Committee and the members of the public present, that in accordance with the committees' decision on 6 May 2009, the meeting would be recorded.

1. APPOINTMENT OF CHAIRMAN

Councillor Pratt was appointed as Chairman for the ensuing municipal year.

2. APPOINTMENT OF VICE CHAIRMAN

Councillor Vincett was appointed as Vice-Chairman for the ensuing municipal year.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES

Minutes from the meeting held on 22 April 2010 were taken as read and were signed by the Chairman as a correct record.

5. STREET TRADING CONSENTS ON A46 AND OTHER CLEARWAYS

The Committee considered a report from Community Protection which requested that two Street Trading Consents, which had been issued for traders on the A46, be revoked following representations being made by Warwickshire Police. The report also asked members to delegate authority to the Licensing Services Manager to refuse all future Street Trading Consent applications made to trade on the A46 or any other designated clearway within the District and that the Council's Street Trading Consent Policy be modified to include a reference to trading on dual carriageways and clearways.

The Local Government (Miscellaneous Provisions) Act 1976 governs the issuing of Street Trading Consents. Under Schedule 4, section 10 of this Act a Street Trading Consent can be revoked at any time.

Since the issuing of the Street Trading Licenses on the A46 Warwickshire Police had reviewed their policy and had submitted a letter to the Licensing Department objecting to the two licenses currently issued for the A46.

If the recommendations were agreed and delegated authority given to the Licensing Services Manager, their decision may be appealed by the applicants to the Regulatory Committee and the Consent Policy would be updated immediately.

The Chairman asked Mr Moor who attended for Warwickshire Police to outline their representation. He explained to the panel that they had concerns regarding the safety of the location of the current Street Trading Consents issued for the A46 and felt that all trading on this road should be banned. Mr Moor then answered questions from the Committee.

Having heard the report and listening to the representation made by Warwickshire Police the Committee were of the opinion that the recommendations as set out in the report be agreed with the inclusion that the traders be reimbursed for their fee, pro-rotta.

RECOMMENDED that delegated authority be given to the Licensing Services Manager to refuse all future Street Trading Consent applications made to trade on the A46 or any other designated clearway within the District.

RESOLVED that:

- (1) the Committee revoke the two current Street Trading Consents issued for traders on the A46 and that they be reimbursed, pro-rotta, for the licence fee already paid; and
- (2) that the Councils Street Trading Consent Policy be modified to include a reference to trading on dual carriage ways and clearways.

The Committee also requested that Warwickshire Police provide the Committee with a list of all Clearways within the District.

6. **PUBLIC AND PRESS**

RESOLVED that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following five items by reason of the likely disclosure of exempt information within paragraph 1 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

7. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS

The Committee considered a report from Community Protection with regard to an application for a hackney carriage/private hire driver's licence from a person with convictions.

BS applied for a hackney carriage/private hire driver's licence with WDC in December 2009. On the application form BS answered no to the question regarding previous convictions. BS submitted a letter to the Licensing Department which explained that the applicant had not filled in the convictions part of the form correctly. Also circulated as an appendix to the report were two accounts from Warwick District Council staff members regarding BS's behaviour. BS had been asked to attend the Regulatory Committee which took place on 22 April 2010. At this meeting, the Committee decided that this item should be deferred to allow further information to be provided (minute number 63).

A copy of BS's disclosure, including the Chief Officer of Police's comments, was circulated at the meeting.

The applicant, solicitor, Mr Sadiq and their representative, Mr Warwick were present at the meeting. They addressed the Committee and answered questions from the members confirming that BS had been confused when filling out the application form and that the applicant had not intended to tick the wrong box in relation to previous convictions. Their solicitor explained that this had been because the applicant did not complete the form themselves due to the applicants lack of literacy. They also pointed out that the comment made by the Chief Officer of Police could not be proved and were untrue. BS confirmed that had lost their previous licence with Warwick District Council in 2005 as they had been disqualified for driving.

The Licensing Services Manager pointed out to BS that, when he had attended the previous meeting of the Committee on 22 April 2010, the Members had asked why his hackney carriage/private hire licence had been removed, he had replied that it was only because he had had three penalty point on his licence.

BS showed the Committee his previous licence he had held with WDC, which he had not returned upon it being revoked in 2005. BS told the Committee that he did not agree that he was rude or aggressive to members of staff and that if he had been this may have been due to frustration caused by receiving the wrong information from staff members.

Having heard the report and considering all the information before them the Committee had concerns regarding reports of aggressive and rude behaviour displayed by the applicant towards Council staff and their failure to declare convictions. It also had concerns in relation to the offences disclosed on the applicant's CRB report.

Having heard the evidence from BS and their representatives, the committee were not satisfied that BS was a fit and proper person to hold a Hackney Carriage/Private Hire drivers licence.

RESOLVED that BS's application not be allowed to proceed because they considered the applicant not to be a fit and proper person, based on the evidence submitted to them.

All parties were advised that they had 21 days from the notification of this decision to appeal to the Magistrates Court.

(Councillor Pratt left the meeting at the conclusion of this item and in his absence Councillor Vincett took them chair for the remainder of the meeting)

8. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS**

The Committee considered a report from Community Protection, with regard to an application for a hackney carriage/private hire driver's licence from a person with convictions.

HA applied for a hackney carriage/private hire driver's licence with WDC in April 2010. They answered yes to the question regarding previous offences, but did not declare a caution they had received and penalty points on their driving licence. HA informed the Licensing Department that their DVLA licence was incorrect.

HA addressed the Committee and answered questions from the members confirming that they had now received their new licence from the DVLA with the error taken off, this was passed around for members of the Committee to view.

Having heard the report and considering all the information before them, including the applicant's CRB, and having heard the evidence from HA, the Committee were satisfied that HA was a fit and proper person to hold a hackney carriage/private hire drivers licence.

RESOLVED that the application be allowed to proceed.

9. **SEX ENCOUNTER LICENSES**

The Committee considered a report from Community Protection, which was presented to the Committee by the Licensing Services Manager.

The report set out a recommendation for Council to re-adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which would incorporate the amendments made to it since its original adopting. It also asked for the Committee to formulate a policy that clearly stated the Council's position with regard to sex encounter establishments.

In July 1983 the Council adopted Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which were the

provisions for dealing with the licensing of sex establishments. Schedule 3 of this act was amended under Section 27 of the Policing and Crime Act 2009. This permitted the licensing of "sexual entertainment venues" where "relevant entertainment" was provided before a live audience for the financial gain of the organizer or entertainer. Warwick District Council currently has one establishment of this nature.

If the Council did not adopt Schedule 3 within twelve months of the new legislation taking effect, it then must carry out a full public consultation exercise before formally adopting. Any existing operators, once Schedule 3 was adopted, would have to apply for a sex encounter licence within a prescribed timeframe.

RECOMMENDED that:

- (1) Council re-adopts Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (The Act) which will incorporate the amendments made to it since its original adopting; and
- (2) the Licensing Services manager formulates a draft policy to be submitted to the next meeting of the Regulatory Committee.

(The meeting finished at 5.40pm)