

REGULATORY COMMITTEE

Minutes of the meeting held on Wednesday 15 August 2007, in the Town Hall, Royal Leamington Spa at 2.30 pm.

PRESENT: Councillors; Mrs Mellor (Chairman); Councillors Crowther, Gallagher, Gill, Mrs Goode, Grainger, Harris and Mobbs.

An apology for absence was received from Councillor Mrs Falp.

343. APPOINTMENT OF VICE CHAIRMAN

RESOLVED that Councillor Gallagher be appointed Vice Chairman for the ensuing year.

344. DECLARATIONS OF INTEREST

Minute Number 347 – Licensed hackney carriage/private hire driver with conviction

Councillor Mrs Mellor declared a personal and prejudicial interest because the applicant was known to her and left the room whilst the item was discussed.

Councillors Crowther and Gill declared a personal interest because the gentleman accompanying the applicant was known to them.

345. 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 items by reason the likely disclosure of exempt information within paragraph 1 of Schedule 12 A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

346. HACKNEY CARRIAGE/PRIVATE HIRE LICENCE APPLICATION

The Committee considered a report from Members' Services on an application received by Warwick District Council on 23 November 2006 for a hackney carriage/private hire drivers' licence where a Criminal Record Bureau's (CRB) check/driving licence revealed convictions.

The CRB disclosure was not able to be submitted immediately by the licensing team because the applicant, MIA, was requested to submit further identification to meet the CRB requirements. This was not submitted for several months resulting in the CRB disclosure not being received by the Council until 4 July 2007.

REGULATORY COMMITTEE MINUTES (Continued)

MIA was written to on 6 July 2007 advising him that due to the nature of the offences his application was rejected and advised that, should he wish to appeal the officer's decision, he must reply in writing to that effect. His reply was attached as an appendix to the report. MIA expressed his desire to appear before the Regulatory Committee and was duly invited to attend on 15 August 2007.

Mr Davies explained to Members that although the agenda stated that numbered copies of the CRB disclosure would be distributed at the hearing, he was unsure as to the Criminal Records Bureau desired procedure when dealing with such sensitive information. He decided that it would be prudent to read out MIA's convictions to the committee rather than giving each of them a paper copy and agreed to investigate the correct procedure for the next meeting.

MIA addressed and appealed to the Regulatory Committee and gave his version of events. The Committee were given the opportunity to ask various questions of MIA.

MIA left the room whilst the Committee considered the report along with the representations made.

It was noted that part (g) of the Councils Guidelines Relating to the Relevance of Convictions should be taken into account when considering this application.

Members were of the opinion that as the applicant had served his sentence and was responsible for supporting his own young family, they could not agree with the Licensing Manager's decision and did not wish to ratify refusal of MIA's application.

RESOLVED that refusal of an application by MIA for a Hackney Carriage/Private Hire Drivers Licence be not ratified and the applicant should be permitted to continue with the application for a hackney carriage/ private hire driving licence.

MIA was then invited back into the room and notified of the decision by the Committee.

347. LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER WITH CONVICTION

The Committee considered a report from Members' Services to consider if the applicant, JMC, was a fit and proper person to hold a licence issued by Warwick District Council to drive a hackney carriage/private hire vehicle.

Councillor Mrs Mellor left the room whilst the item was discussed and Councillor Gallagher took the Chair in her capacity of Vice Chairman.

Members were asked to consider an initial undeclared offence of driving a hackney carriage with bald tyres by JMC who currently held a hackney carriage/private hire drivers licence issued by Warwick District Council in January 2002.

REGULATORY COMMITTEE MINUTES (Continued)

On 27 July 2007 an officer noticed a disclosure in the Leamington Courier that JMC had been fined for driving a hackney carriage with bald tyres when carrying passengers. A copy of the published disclosure was attached as an appendix to the report. When spoken to, JMC denied any knowledge of the offence and was subsequently interviewed by an officer of the Council on 31 July 2007 at Riverside House. He confirmed the information provided in the meeting notes shown as an appendix to the report.

JMC was invited to attend the Regulatory Committee on 15 August 2007 in order to explain his actions. JMC did not report the offence or subsequent fine and failed to notify officers of a change of address, both of which should have been done under the conditions of the driving licence.

JMC attended the meeting, addressed the committee and members were permitted to ask questions of him.

JMC left the room whilst the Committee considered the report along with the representations made.

Members were concerned that JMC failed to realise the seriousness of his actions along with the failure to attend court or notify the Council of his conviction.

A proposal was made and duly seconded that the drivers' licence be revoked. A vote was taken and the motion was lost.

Members agreed that JMC should be made to realise that his actions could have proved to be fatal to his passengers or other members of the public and it was debated as to whether it should be suggested that he attend a short motor maintenance course to increase his knowledge of car safety.

It was proposed and duly seconded that the licence be suspended for a period of one month, to begin on receipt of his badge and would be given a strongly worded warning.

RESOLVED that JMC's licence be suspended for a period of one month and a serious warning be given in writing.

JMC was then invited back into the room and notified of the decision by the Committee. He was informed that he would be written to with the decision and requesting that he hand in his badge and paper licence within 14 days of the letter. His suspension would begin on receipt of his badge. The Chairman took this opportunity to explain to JMC the seriousness of his actions and informed him of his obligation to inform the Council about any conviction and changes of address.

348. CONTINUATION OF HEARING OF A HACKNEY CARRIAGE/PRIVATE HIRE LICENCE HOLDER WITH AN UNDECLARED CAUTION

The Committee considered a report from Members' Services detailing an undeclared caution issued by the police to JDJ who held a private hire driver's licence and to consider whether they were a fit and proper person to hold such a licence.

REGULATORY COMMITTEE MINUTES (Continued)

The report had previously come before the Regulatory Committee in April 2007 where the Committee heard evidence from JDJ and his solicitor regarding an undeclared police caution issued on 8 March 2007 for attempt/possessing a controlled Class A drug.

The Committee deferred the previous hearing to enable further evidence to be located. This was presented and circulated to all who attended the meeting.

JDJ was represented at the hearing by a solicitor, Mr Schiller, but failed to attend in person. As the hearing had been delayed previously, Mr Schiller agreed that he was happy to continue in the absence of his client, as no other information had come to light other than that which was circulated at the hearing.

Mr Schiller addressed the Committee and answered questions from Members. He wished it to be pointed out that his client had been given a caution and was not convicted of an offence. On those grounds, Members should not base their decision on the Council's Guidelines Relating to the Relevance of Convictions.

Mr Schiller left the room whilst the Committee considered the report along with the representations made.

Members were of the opinion that as the caution related to drugs, it should be seen as a serious offence. They also agreed that JDJ had accepted the caution, he had failed to inform the Council of his convictions, had failed to turn up the already delayed hearing and were concerned for public safety if a driver had drugs in his possession whilst driving.

It was proposed and duly seconded that the drivers' licence be revoked with immediate effect under s61 of the Local Government (Miscellaneous Provisions) Act 1976, in the interest of public safety, contained within Section 52 of The Road Safety Act 2006.

RESOLVED that JDJ was not a fit and proper person to hold a licence, and the drivers' licence be revoked with immediate effect under s61 of the Local Government (Miscellaneous Provisions) Act 1976, in the interest of public safety, contained within Section 52 of The Road Safety Act 2006.

Mr Schiller was then invited back into the room and notified of the decision by the Committee.

349. LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER WITH CONVICTION

The Committee considered a report from Members' Services to consider if JSV was a fit and proper person to hold a licence issued by Warwick District Council to drive a hackney carriage/private hire vehicle.

Members were requested to consider an initially undeclared offence of careless driving after an accident by JSV, who had held a driving licence issued by the Council for several years.

REGULATORY COMMITTEE MINUTES (Continued)

Following complaints from members of the public, JSV had been spoken to by officers of the Council about using his mobile phone whilst driving. On each occasion JSV was cautioned about his further conduct but no further action was taken. In June 2007, a court report was published in the Leamington Courier stating that JSV had been convicted for careless driving and a copy of the notice was attached as an appendix to the report. JSV was written to, reminding him of his obligation to notify the Council of any conviction within seven days.

JSV replied on 6 July 2007, admitting that he had had an accident on 9 February 2007 and was subsequently convicted of a Road Traffic offence. A copy of the letter was attached as an appendix to the report and JSV was written to inviting him to attend the Regulatory Committee on 15 August 2007.

JSV addressed the Committee and was accompanied by a friend. Members were then given the opportunity to question JSV.

JSV insisted that he had informed the Council of the accident over the phone but was reminded that any incident should be reported in writing within seven days.

JSV and his friend left the room whilst the Committee considered the report along with the representations made.

Members agreed that as JSV had no previous convictions and he had convinced the committee that he was a responsible driver who used a handsfree kit, he should be given a warning and hoped that the points received on his licence would help him to realise his responsibilities.

RESOLVED that JSV was a fit and proper person to be holding a licence and a strong warning be given.

JSV was then invited back into the room and notified of the decision by the Committee. The Chairman explained that she hoped this incident would ensure that he drove carefully in the future and reminded him of his responsibility to inform the Council in writing if any similar incident should occur. He was also told that if he had to come before the Regulatory Committee in the future, a less lenient course of action may result.

350. HORSE DRAWN HACKNEY CARRIAGES

The Committee considered a report from Members' Services detailing proposals for conditions that should be attached to hackney carriage licences for horse drawn vehicles.

It was reported that an application could be made in the future by a person to licence a horse drawn carriage in Warwick District. As no conditions existed for this type of vehicle, the Licensing Team undertook extensive research into other Council's regulations to ensure that the operation was not detrimental to the area.

The proposed list of conditions was attached as an appendix to the report.

Mr Davies explained that a driving assessment would be undertaken by members of his team, who would assess the driver's ability whilst undertaking a journey in the vehicle.

REGULATORY COMMITTEE MINUTES (Continued)

Members were concerned about the safety of the public whilst inside the carriage as there were no conditions relating to safety belts and whether consulting with the County Highways would be beneficial to establish a safe route. It was also suggested that horse drawn carriage rides may be possible inside the Jephson Gardens, but this would need to be discussed with the Parks and Gardens Manager.

It was agreed that further research was needed into the aspects of using the Jephson Gardens, consulting with County Highways on a suitable route and any safety measures that other Council's had in place that could be implemented. It was also agreed that consultation with other local authorities should be undertaken to find out what their experiences had been.

RESOLVED that the item be deferred for further investigation.

(The meeting ended at 17.30pm)