

REGULATORY COMMITTEE

Minutes of the meeting held on Monday 27 June 2011 at Town Hall, Royal Leamington Spa at 3.30pm.

PRESENT: Councillor Pratt (Chairman); Councillors Cross, Mrs Falp, Gill, Mrs Goode, Guest, Illingworth, Weed and Wreford-Bush.

The Chairman 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.

6. **DECLARATIONS OF INTEREST**

Minute Number 6 – Petition for a Community Governance Review – Burton Green Ward of Stoneleigh Parish

Councillor Illingworth declared a personal interest because Burton Green was in his Ward.

Minute Number 10 – Existing licensed driver who has had his Hackney Carriage/Private Hire Driver's Licence suspended

Councillor Mrs Falp declared a personal interest because one of the witnesses lived in her Ward.

Councillor Gill declared a personal interest because one of the witnesses lived near to his residence, although he did not know her.

7. **PETITION FOR A COMMUNITY GOVERNANCE REVIEW – BURTON GREEN WARD OF STONELEIGH PARISH**

The Committee received a report from Electoral Services which sought agreement that the Chief Executive be delegated authority to arrange for the appropriate review to be undertaken if and when a valid petition was received.

A petition was received from the electors of Burton Green Ward of Stoneleigh Parish asking for a parish council to be established for Burton Green. Unfortunately the petition could not be accepted because the wording did not comply with the appropriate legislation. It was expected that, following advice from officers of the Council, a new petition would be submitted in due course. Any decisions following a review would normally take effect on the following 1 April and, if the review resulted in a decision to establish a parish council, the organisers of the petition also wanted it to come into effect on 1 April 2012.

In view of the time involved in conducting a review and other matters required to establish a parish council, time would be of the essence if 1 April 2012 was to be met. Consequently, to make sure the review was progressed quickly it was suggested that authority to commence the review be delegated to the Chief Executive, rather than having to wait for a report to be submitted requesting the necessary authority.

The Council was required to start a review on the creation of a parish council if it received a petition that met the terms of the legislation so there were no alternative options to be considered.

The report detailed the costs that had been incurred in researching the options and in preparing the report and these were met from within the electoral register general expenses budget. Further costs would be incurred in carrying out the review and making an order which could be met from within the electoral register general expenses budget.

Members were happy to agree the recommendations as printed in the report.

RESOLVED that if and when a valid petition is received from the electors of Burton Green Ward of Stoneleigh Parish asking for a parish council to be established for Burton Green, authority be delegated to the Chief Executive to arrange for the appropriate review to be undertaken.

8. **COMMUNITY GOVERNANCE REVIEW – BOUNDARY BETWEEN BARFORD AND WASPERTON PARISHES**

The Committee received a report from Electoral Services which sought agreement that informed members of a request from the Barford Sherbourne and Wasperton Joint Parish Council for a change to the boundary between Barford and Wasperton Parishes. A copy of the relevant minute of the Joint Council was attached as an appendix to the report. The Joint Parish Council had subsequently agreed to the proposed change of boundary and terms of reference referred to below.

It was accepted that there had been development over the existing boundary between Barford and Wasperton Parishes and an amendment to the boundary could be justified. Under the provisions of the Local Government and Public Involvement in Health Act 2007 the Council had the power to make Orders about matters, such as the creation of parishes and their electoral arrangements including boundaries, but before making such an Order the Council had to undertake a community governance review.

As this was a minor alteration which only affected a small number of properties it was felt that it would be appropriate to carry out the review on its own and not delay it until other possible changes to parishes had been identified.

Members requested clarification as to whether Ward Councillors had been consulted and were assured by the officer present, Colin Tubbs, that they would be consulted as part of the process but presently the Parish Councils involved were aware of the request.

RESOLVED that:

- 1) a community governance review of the boundary between Barford and Wasperton Parishes be undertaken; and

2) the following terms of reference be approved:

- the Barford/Wasperton parish boundary be reviewed between points A and B on the plan attached as Appendix 2 to the report, with a suggested amendment to show a revised boundary between points A and C on the plan, attached to the report;
- the review be carried out by officers in accordance with the relevant legislation.

9. **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 two 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.

10. **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 being received for a hackney carriage / private hire driver's licence from a person with serious driving convictions.

AP applied for a hackney carriage/private hire driver's licence in July 2007. The Licensing Services Manager rejected the application under delegated authority due to the serious motoring offences declared by him on the form. AP appealed the decision to the Council's Regulatory Committee who resolved to reject the application in November 2007.

AP applied for a licence again in November 2010 and this application was attached as an appendix to the report. The motoring offences and disqualification from driving were declared on the form.

The Licensing Services Manager rejected the application in writing and AP appealed the officer's decision by email, copies of which were attached as appendices to the report.

A copy of AP's CRB was circulated to Members at the meeting.

AP's representative, Mr Mohammed, addressed the Committee and advised that the convictions detailed in the report were spent and his client had not been in trouble for the past seven years. He explained that AP was very ashamed of his convictions and would like the opportunity to be more independent, instead of living with relatives.

Mr Mohammed and AP then answered questions from Members confirming that the application form was complete and that he had recently been

working for a family friend, taking his children to school and this person had also sent a letter of support. AP stated that the reason he wanted to work in Warwick District was so that he could be closer to his son in Sutton Coldfield.

The Licensing Services Manager advised AP that he may wish to take legal advice as to whether he needed a licence to be driving individuals around, for payment.

AP confirmed that he did not have a taxi driving job lined up with any firms in the District as yet but was hoping to buy his own vehicle with some inheritance money soon.

When asked to sum up, AP explained that he was younger when he broke the law, was shameful of his actions and highlighted that he had not received any convictions in the past seven years.

Having considered the report, the representation of AP and all the information before them including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions the Committee were satisfied that AP was a fit and proper person to hold a hackney carriage/private hire driver's licence but had concerns regarding his current activities involving the school run and strongly advised that he take legal advice regarding this.

RESOLVED that AP's licence application be granted.

All parties were advised that they had 21 days from today to appeal to the magistrates court.

11. **EXISTING LICENSED DRIVER WHO HAS HAD HIS HACKNEY CARRIAGE / PRIVATE HIRE DRIVER'S LICENCE SUSPENDED**

The Committee considered a report from Community Protection with regard to an existing hackney carriage/private hire driver's licence which had been suspended under delegated authority by the Licensing Services Manager.

AH applied for a hackney carriage/private hire driver's licence with Warwick District Council in August 2009.

Officers were alerted to information detailed in a local newspaper report stating that AH had admitted fraud and perverted the course of justice and a copy of this report was attached as an appendix to the report. AH was jailed for seven months, suspended for 18 months, ordered to carry out 100 hours of community service and ordered to pay £680 costs. AH did not inform the Council of the offence.

When questioned by officers, AH stated that he had not gained any money from the fraud.

AH's licence was suspended by the Licensing Services Manager, in consultation with a council solicitor, under delegated powers, with

immediate effect and it was agreed that AH should be brought before the Regulatory Committee.

In addition to the above, AH was investigated by Warwickshire Police on separate charges of assault. Licensing officers did not bring AH before the committee until the investigation was complete. The alleged assault was not taken forward because the Crown Prosecution Service decided there was insufficient evidence.

The wife of the injured person wrote to officers outlining the nature of the alleged assault and stated that she wished to attend the Regulatory Committee because she felt that the public should be protected from any similar incident. The injured person did not feel able to attend. A copy of the lady's letter was attached as an appendix to the report.

The Licensing Services Manager advised that the wife of the injured person had contacted him recently to advise she would no longer be attending the hearing.

AH was represented by Mr Lall and Mr Ahmed was also in attendance, to act as an interpreter if needed.

Mr Lall addressed the Committee and stated that he had some concerns with the report. The first incident detailed in the report, was regarding the conviction for fraud and perverting the course of justice. Mr Lall advised that AH had pleaded guilty to this, received a suspended sentence, was in the process of paying the fine and had completed his community service.

However, he felt that incident two, regarding the alleged assault, should not be taken into account because the police had found no grounds to prosecute on two separate occasions. He advised that his client gave a very different version of events to those described in the officer's report. Mr Lall detailed AH's family background and advised that he was the main carer for his wife and daughter, who both had medical conditions.

AH and Mr Lall answered questions from the committee regarding the timings of his recent conviction and details of what had happened during the alleged assault.

Members were not satisfied with AH's explanation of his recent conviction and felt that both incidents were of relevance to the hearing.

The Committee had serious concerns about AH's convictions for fraud and perverting the course of justice and furthermore, that he failed to disclose or notify officers of the convictions.

Drivers of hackney carriage and private hire vehicles were expected to be persons of trust. It was comparatively easy for a dishonest driver to defraud the public, for example by demanding more than the legal fare or giving incorrect change. Overseas visitors could be confused by the change in currency and become "fair game" for an unscrupulous driver. Similarly, any customer could be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

The overriding consideration of the members of the Committee was to protect the travelling public. Having considered and applied the appropriate guidelines, the following question was applied;

“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”

Having applied the question, the committee agreed they would answer “no”. Therefore the committee did not feel that AH was a fit and proper person to hold a hackney carriage / private hire driver’s licence and, therefore, resolved to revoke the licence.

RESOLVED that the licence be revoked.

All parties are advised that they have 21 days from today to appeal to the magistrates court.

(The meeting finished at 5.30 pm)