

Notice of meeting of

Licensing & Regulatory Committee

To: Councillors Firth, Gillies (Chair), Horton, Looker and Moore (Vice-Chair)

Date: Friday, 5 March 2010

Time: 2.00 pm

Venue: Guildhall

AGENDA

1. Declarations of Interest

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 8 January 2010.

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Thursday 4 March 2010**.

**4. Application to Register Land known as (Pages 5 - 38)
Fulford Cross Green, York, as a Town or
Village Green.**

The purpose of this report is to consider an application under Section 13 of the Commons Registration Act 1965 to register land known as Fulford Cross Green, York, as a town or village green.

**5. Suitability Criteria for New Hackney (Pages 39 - 48)
Carriage and Private Hire Drivers.**

Various policies relating to the licensing of Hackney Carriage and Private Hire drivers have been approved over the years. Operationally, Officers have adopted various work practices to apply the policies. This report seeks to consolidate those policies and procedures and to obtain Member's approval to update and amend where necessary.

**6. Competency Assessment and Disability (Pages 49 - 56)
Equality Training for Driver's of Wheelchair
Accessible Hackney Carriages and Private
Hire Vehicles.**

This report seeks Members' approval for the introduction of an assessment for the driver's of all licensed Hackney Carriage and Private Hire wheelchair accessible vehicles.

**7. Amendments to Hackney Carriage and (Pages 57 - 60)
Private Hire Licensing Criteria.**

This report requests Members to consider amending the Council's existing policy for Hackney Carriage and Private Hire vehicle inspection requirements in relation to the carrying of a spare wheel.

**8. Any other business which the Chair decides is
urgent under the Local Government Act 1972.**

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the
Democracy Officer responsible for servicing this meeting Laura
Bootland Democracy Officer

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports (please note annex 2 of item 4 is available on request).

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City of York Council

Committee Minutes

MEETING	LICENSING & REGULATORY COMMITTEE
DATE	8 JANUARY 2010
PRESENT	COUNCILLORS FIRTH, GILLIES (CHAIR), HORTON, LOOKER AND MOORE (VICE-CHAIR)

26. DECLARATIONS OF INTEREST

RESOLVED: That the minutes of the meeting held on 4 September 2009 be approved and signed by the Chair as a correct record.

27. MINUTES

RESOLVED: That the minutes of the meeting held on 6 November 2009 be approved and signed by the Chair as a correct record.

28. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's public participation scheme on general issues within the remit of the Committee.

The Head of Licensing reported that he had received further written submissions from York Taxi Association and York Hackney Carriage Association. Copies were distributed to Members.

29. ISSUE OF NEW HACKNEY CARRIAGE VEHICLE LICENCES.

Members considered a report, which required their views on the issue of two new hackney carriage vehicle licences in January 2010, in line with established policy.

In May 2008 the Council adopted a policy to release 15 new Hackney Carriage vehicle licences followed by a further release of two licences each 6 months after the first year. This was subject to review in 3 years. In January 2009 the York taxi Association requested the Council curtail this policy due to the economic climate. A snapshot survey was conducted by Halcrow, which identified that there was no unmet demand at that time. In May 2009, following advice from the Council's legal department Members resolved to continue with the policy but Officers were instructed to continue to consult with taxi proprietors and Halcrow to review the situation and the evidence base prior to the release of licences in January 2010.

Officers updated that there has been little change in the situation since May 2009 and referred to The Department of Transport's advice, contained in paragraph 5 of the agenda report. Written submissions received from individuals and taxi associations indicate that the majority are happy for the current policy to continue.

Members felt that due to there being no change in the situation since May 2009, then the current policy should continue.

RESOLVED: That Members approved the issue of two new Hackney Carriage vehicle licences in accordance with the established policy of the Council.

REASON: To maintain the growth in the number of Hackney Carriage vehicle licences in line with the guidance issued by the Department of Transport.

30. STREET TRADING AND PEDLAR LAWS: A CONSULTATION ON MODERNISING STREET TRADING AND PEDLAR LEGISLATION.

Members considered a report which asked them to consider the contents of a recently published Government consultation document on street trading and pedlar laws. It seeks Members views to enable officers to complete the consultation on modernising street trading and pedlar legislation.

In 2008 the Government commissioned Durham University to look at the way in which licensing and enforcement practices were applied in relation to street trading and pedlary laws. This was in response to an increasing number of local authorities seeking to extend their enforcement options in relation to street trading and to limit the activities of certified pedlars within their areas. On publication of the research in 2009, the consumer Minister announced that the Government would launch a full public consultation on national guidance and options for possible legislative changes to street trading and pedlar laws. The UK and Scottish Governments are consulting on the case for amending and modernising the law.

Officers advised members that street trading and pedlary is a major problem for York and up to 10 street traders or pedlars can often be seen in York's main streets. They use a 100 year law that allows them to take advantage of a rule which makes it difficult for the Council or Police to move them on and exempts them from more recent trading laws. In York's narrow streets they create obstructions which make it difficult for the public to pass up and down.

Members made the following comments:

- Whether there could be a way of limiting the number of street traders or pedlars in a specified area.
- Trolley sizes – could the size of the trolleys used by street traders and pedlars be a specified smaller size.
- Fines for pedlary should be relative to the money earned by them.

- York has rules for Buskers – could some of the rules be applied to street traders and pedlars.
- Some areas of the City could be more appropriate for street traders and pedlars than other areas.
- Members asked Officers to think about how to word the response to reflect that organised gangs are exploiting the old laws to make money from street trading and pedlary.

RESOLVED: That Members approved the Officer's response to the Government consultation.

REASON: To reflect the of City of York in respect to the consultation paper.

Councillor Gillies, Chair

[The meeting started at 2.00 pm and finished at 2.20 pm].

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Licensing and Regulatory Committee**5 March 2010**

Report of the Director of City Strategy

APPLICATION TO REGISTER LAND KNOWN AS FULFORD CROSS GREEN, YORK AS A TOWN OR VILLAGE GREEN**Summary**

1. The purpose of this report is to consider an application under Section 13 of the Commons Registration Act 1965 (“the 1965 Act”) to register land known as Fulford Cross Green, York as a town or village green. The extent of the application is illustrated on the plan attached to the application at Annex 1 (outlined in green). Copies of all the documents submitted in connection with the application are annexed as 1 to 5.

Background

2. The procedure for submitting and determining the application is set out in The Commons Registration (New Land) Regulations 1969 (“the Regulations”). If the application land comes within the statutory definition of a town or village green, the Commons Registration Authority must register the land as such in the register of town or village greens maintained by it in accordance with the 1965 Act.
3. The Council, acting as the Commons Registration Authority, must determine the application. The responsibility is to decide whether or not the land subject to the application satisfies the statutory criteria for registration based on the evidence submitted. The Council’s Constitution provides for the application to be determined by this Committee.
4. Consideration of applications for town or village green registration is a quasi-judicial matter. Therefore the Committee is not allowed to make a decision based simply on what it thinks would be the best outcome. The decision must be based strictly on the evidence and take into account only the material considerations and ignore all irrelevant matters. In this case, the Council is also the freehold owner of the application land. In determining this application, the Council must separate its duty as Registration Authority from its function as landowner. Members must not permit the fact that the Council owns the land to influence their decision.
5. In anticipation of any argument that the Council has a conflict of interest as landowner and cannot independently determine the application, this

application has been carefully handled. It would not be appropriate for the same officers to be involved in objecting to the proposal as landowner and then advising the Committee on how the application should be determined. Therefore, a strict division – or Chinese wall – has been set up amongst the officers and this separation has been observed by officers of the Council since the application was received.

6. The application was made by Dr Fiona Johnson of 23 Fulford Cross, Fulford, and York to register land known as Fulford Cross Green (the 'application land') as a town or village green.
7. The applicant claimed that the land became a village green on 31 August 2003. It is claimed that it has been used by local residents for recreational activities such as football, cricket and children playing. These activities are claimed to have been exercised as of right for a period in excess of 20 years. The application was supported by a statutory declaration by Dr Johnson, a statement, photographs and 31 statements of use from supporters (including the applicant) in the form of completed proforma questionnaires. There was also a plan showing the application land (annexes 1 and 2). Annex 2 available on request.
8. The Council is freehold owner of the application land. A statement of objection was received from the Head of Property Services on behalf of the Council as landowner (Annex 3). The Council denied that the activities set out above have taken place in the way stated by the applicant for the relevant period by a particular neighbourhood within a locality, and argued that the recreational use of the application land had been permissive. The applicant responded to the Council's objection that residents have never been given permission to use the land or been discouraged or prevented from doing so for the relevant period; that the Council's maintenance of the land does not undermine their use of the land 'as of right'; that Fishergate Ward is an administrative unit and that Fulford Cross represents a distinct neighbourhood by virtue of its isolation and strong community spirit (Annex 4).
9. It is understood that the applicant moved to London at around the end of 2006, with the application unresolved. The applicant did not leave a forwarding address and the Registration Authority has been unable to contact her in connection with this application. It is, however, incumbent on the Registration Authority to determine the application, even if the applicant does not pursue it. In circumstances where the applicant has moved away, Defra advises Registration Authorities that those individuals whose evidence questionnaires supported the application should be given the opportunity to take over the application. Letters have accordingly been sent to all the original supporters but none has been willing to take on this function.
10. As the application must be determined, it is therefore necessary for the Registration Authority to determine the application on the basis of the information that has been put forward on behalf of the applicant and the objector. Although a practice has developed amongst local authorities whereby the Registration Authority appoints a legally qualified independent inspector to conduct a non-statutory public inquiry into a disputed application and to report whether it should be accepted or not, there is no legal

requirement to do so. Given the absence of the applicant, and the absence of any supporter who wishes to take over the application, it is not considered that this is a case which warrants an inquiry to be held. It is considered appropriate to determine the application on the basis of the written evidence submitted.

11. While new applications to register town or village greens would be made and considered under the Commons Act 2006, this application falls to be considered under section 13 of the 1965 Act. In order for the application to succeed, the applicant must demonstrate that the application land has become a town or village green as defined in section 22 of the 1965 Act (as amended by section 98 of the Countryside and Rights of Way Act 2000). The burden of proof lies upon the applicant to satisfy the Registration Authority (the Council) on the balance of probabilities that all the requirements of section 22 of the 1965 Act are satisfied. These are that the application land is land on which “a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes for a period of at least 20 years; and they continue to do so at the time of the application”.

12. This can therefore be broken down into a number of elements:-

- A significant number of the inhabitants
- Of any locality or of any neighbourhood within a locality
- Have indulged as of right
- In lawful sports and pastimes on the land
- For a period of at least 20 years and
- They continue to do so at the time of the application.

13. It is imperative that all the above requirements are fulfilled and the burden of proof is upon the applicant. Failure on a single point fails the whole application.

Consultation

14. The application was received on 10 October 2003 and validated on 15 October 2003 and given the unique identifying number NEW/VG/20. A notice was published in the Yorkshire Evening Press on 11 February 2004 and also sent to all parties with an interest in the land. These were identified as City of York Council as Landowner.

15. The appropriate procedures were followed by the applicant for making the application and by the Registration Authority for advertising the application and for consultation.

Options

16. Option A - To accept the application and to register the application land as a town or village green.

17. Option B - To reject the application on the ground that having taken into account all the evidence and submissions put forward on behalf of the applicant and the objector, there is insufficient evidence that all the necessary elements of the registration criteria have been satisfied.

Analysis

18. The applicant must establish each of the following factors if their application is to succeed. They must show that:
- A significant number of the inhabitants
 - Of any locality or of any neighbourhood within a locality
 - Have indulged as of right
 - In lawful sports and pastimes on the land
 - For a period of at least 20 years
 - And they continue to do so at the time of the application.

The burden of establishing these factors lies on the applicant and all of the factors must be strictly proved. The standard of proof is the balance of probabilities. Each of these factors is considered below (and slightly out of turn) on the basis of the information referred to in Annexes 1 to 5.

a) The locality or neighbourhood within a locality

i) Applicant's submission

The applicant describes the neighbourhood as Fulford Cross, within the locality of Fishergate Ward and claims that this is a distinct neighbourhood by virtue of its isolation from other residential land and its strong community spirit.

ii) Objector's submission

The objector comments that the applicant has failed to demonstrate either that those using the application land inhabit a locality that is an administrative unit known to law, or else a neighbourhood that is demonstrably a cohesive unit within a single such administrative unit.

iii) Assessment

Case law relating to village green applications has found that the locality to which a town or village green relates must be an administrative area known to law, such as a parish or borough. The area outlined in red and asserted by the applicant on Map 'FJ1' at Annex 1 could not be considered to be a locality.

Therefore that the applicant has to satisfy the criteria 'neighbourhood within a locality'. A neighbourhood within a locality need not be recognised administrative unit. A housing estate can be a neighbourhood. However, a neighbourhood cannot just be any area drawn on a map; it must be a

cohesive, identifiable and recognisable area and must fall within a locality. It can span more than one locality. A significant number of the users must come from the neighbourhood.

The applicant has described the neighbourhood as Fulford Cross within the locality of Fishergate Ward and has delineated this area on map FJ1. There is no evidence to explain why part of Fulford Road falls within the area selected, other than by reason of its geographical proximity to the application land. On balance, however, it would seem reasonable to conclude that the majority of users live within a cohesive neighbourhood in the vicinity of the application land, as the questionnaire evidence suggests that most of the individuals claiming use of the application land are from Fulford Cross.

The Committee may therefore conclude that this element of the registration criteria is satisfied.

b) A significant number of inhabitants

i) Applicant's submission

31 statements in the form of completed questionnaires submitted as evidence in support of the application have been completed by residents of Fulford Cross, Fulford Road and Homeyork House.

ii) Objector's submission

The objector comments generally that the applicant has failed to demonstrate that the predominant use of the site is by the inhabitants of a particular locality, or of a particular neighbourhood within a locality.

iii) Assessment

Whether the evidence establishes qualifying use by a significant number of inhabitants is a matter for the judgement of the decision maker. The law has not prescribed a set percentage in these cases. The correct approach is that the number of persons using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation rather than occasional use by individuals. The use has to be by a significant number of inhabitants all the way through the 20 year period.

There are 89 dwellings in the neighbourhood as defined by the applicant (comprising 25 dwellings in Fulford Cross, 62 in Homeyork House and 3 in Fulford Road). The applicant provided 31 evidence questionnaires (including her own) in support of the application. Of these, 13 claim to have used the land for the full 20 years, 9 users claim to have used the land daily, 4 state 'nearly every day', and the others state their use is either once or more a week or frequent or regular or do not indicate their level of use. The conclusion reached as to whether use has been by a significant number of the inhabitants of the neighbourhood must have an evidential basis and not be based upon vague statements and speculation as to the intensity of the use. Evidence collected by proforma questionnaires is, by its nature, of less

assistance than, for instance, an individually drafted and detailed witness statement. It is not possible to conclude from the proforma evidence that the number of persons using the land was sufficient to signify to the landowner that the land was in general use by the local community for informal recreation.

The committee may therefore conclude that the applicant has failed to demonstrate that a significant number of the inhabitants of the neighbourhood within the locality have used the application land for the requisite period.

c) Indulged in lawful sports and pastimes

i) Applicant's submission

The evidence questionnaires refer to a number of activities that are claimed to have been carried out on the land. These include children playing, ball games and picnics.

ii) Objector's submission

The objector has not commented specifically on this element.

iii) Assessment

'Lawful sports and pastimes' is an expression not just restricted to organised games and activities. It has been held by the House of Lords that informal activities such as playing with children and informal cricket and football are sufficient to satisfy this element. The recreational activities claimed to have been indulged in on the land can be considered to constitute lawful sports and pastimes.

d) As of right

i) Applicant's submission

The information provided in the evidence questionnaires claims that residents have had free and open access to the land to carry out the various activities and have not been discouraged from using the land through fencing, notices or other means. They also claim that they have never sought or been given permission to use the land.

The applicant refers to the case of *Sunderland City Council v Beresford* which was considered by the House of Lords in 2003. The applicant refers to the encouragement of the use of the application land by provision of play equipment, planting of trees, and maintenance and states that in the *Beresford* case it was decided that this reinforced rather than undermined the impression that members of the public were using the land as of right.

ii) Objector's submission

The objector argues that it is a matter of fact that the Council and the school have during the period relied upon made it clear both by their own uses and

management of the site that specific permission would be required and was duly obtained for the planting of trees and for the installation of play equipment. Therefore the use cannot be as of right.

iii) Assessment

This element of the criteria generally causes the most difficulty in determining applications. To establish that the use of the application land is “as of right”, it is necessary for the applicant to provide evidence that the inhabitants have used the land without force, without secrecy and without permission.

It has been held by the courts that ‘as of right’ does not require users of the land to give evidence of their personal belief in their right of use. Further, use which is apparently as of right, cannot be discounted merely because users were subjectively indifferent as to whether a right existed or even had private knowledge that it did not. User is ‘as of right’ if it would appear to the reasonable landowner to be the assertion of a legal right.

Permission can be express or implied, but permission cannot be implied from inaction or acts of encouragement by the landowner. Toleration by the landowner, as distinct from permission, will not defeat a claim that use has been ‘as of right’.

The objection received from City of York Council as landowner states that the Council has been the freehold owner of the land since 1914. It does not appear to be in dispute that the Council is the landowner.

There is mention in some questionnaires of a fence around the application land but it is accepted that this was removed some time in the 1960s and therefore before the start of the 20 year period relied upon. There is no information to suggest that formal or informal recreation was enjoyed on the application land by force or secrecy. Nor is there any suggestion that the landowner prohibited the use of the land.

In this case, however, there is an issue about whether use of the application land was undertaken with the permission of the landowner. There is no evidence of an express licence to the users, so consideration must therefore centre on whether use was pursuant to an implied licence. The objection claims that during the 20 year period relied upon, permission was sought by the users to erect children’s play equipment and plant trees on the land and that such permission was duly granted. The objector has supplied to the Registration Authority documentary evidence to support its assertion that the school and the Council’s views and consents were sought by residents and the Ward Committee on the planting of trees and the installation of play equipment on the application land. This is at Annex 5.

The argument in the Beresford case referred to by the applicant was directed as to whether it was ever possible to imply a licence by a landowner to use land, and if so whether the facts of the case could properly be held to give rise to such an implication. It was decided that in principle it might be possible to imply a licence where the facts warranted such an implication. In this case, in view of the information provided by the objector, it is considered that the

evidential burden as to whether the user was as of right or by implied licence has not been discharged by the applicant.

In the circumstances, it would be reasonable for the Committee to conclude that the applicant has provided insufficient evidence to satisfy it that this element of the criteria has been discharged.

e) A period of at least 20 years continuing up to the date of application and continuing.

i) Applicant's submission

The applicant relies on continuous use during the twenty year period to 31 August 2003. Of the 31 questionnaires submitted in support of the application, all of them indicate use throughout some or all of the qualifying period. Seven of the users claim to have used the land for the 20 year qualifying period or more. Any use by the school of the land has been at most rare and minimal and has not impeded the continuous use of the land by local residents.

ii) Objector's submission

The objector comments that the applicant is unable to demonstrate uninterrupted user of the application land for the twenty year period prior to 31st August 2003 because:

The land has always been considered and used as part of the adjacent Fulford Cross School site. It has been actively managed by the school and the Council over that time including regularly cutting the grass and maintaining landscaping, and from time to time the removal of unauthorised occupiers and parked cars and applications from local residents to use the site.

Local residents have sought the Council's views and consents on the planting of trees and installation of play equipment on the site.

iii) Assessment

The Committee needs to satisfy itself that the activities were taking place as of right continuously from at least 1983 without a significant break. This finding must have a factual basis and cannot be based on speculation that the use has continued to a sufficient intensity throughout the relevant period. The proforma nature of the questionnaire evidence is insufficient to demonstrate a clear and compelling picture of the period or duration and frequency of any use of the application land. It is an inadequate evidential basis for finding that a significant pattern of recreational activity on a regular basis was sustained throughout the relevant period.

In the circumstances, it is considered that the applicant has not discharged the evidential burden of this test.

Conclusion

For the application to succeed, the applicant must prove her case on all of the elements set out paragraphs 11 and 12 above. The evidence suggests that, on the balance of probabilities, the claimed use of the application land was (a) by inhabitants of a neighbourhood within a locality and (d) for lawful sports and pastimes. On the question of whether the usage was (b) by a significant number of the inhabitants of the neighbourhood, (c) as of right and (e) occurred for 20 years, the evidence is far from conclusive. It would therefore be reasonable for the Committee to conclude that the applicant has not provided sufficient evidence to demonstrate that, as a matter of fact, these elements are properly and strictly proved. Only if the Committee is satisfied that all the registration criteria are satisfied, can it agree to registration. The Committee must refuse the application if it considers that not all the necessary elements have been satisfied.

Corporate Priorities

19. The Council as Registration Authority has an obligation to properly determine the claim that the land should be registered as a town or village green, regardless of the Council's corporate priorities.

20. Implications

Financial Such matters should not form part of the Committee's consideration.

Human Resources (HR) None

Equalities None

Legal For an application to succeed, each of the elements required by section 22 of the 1965 Act must be established. The burden of proof lies firmly on the applicant, who must provide sufficient evidence to prove, on the balance of probabilities, that as a matter of fact, all of the elements required to establish that the application land has become a town or village green are properly and strictly proved.

The decision as to whether the land should be added to the register of town and village green rests with the Registration Authority whose decisions are exercised by Members of the Licensing and Regulatory Committee. The decision of the Committee is a legal decision and is not a matter of policy. The 1965 Act gives the Registration Authority no discretion. If all of the conditions set out in section 22 of the Act are met, then the land is a village green and must be registered. If any one or more of the conditions is not met, the land is not a village green and the application must be refused.

Under the 1965 Act there is no statutory right of appeal to the Secretary of State against the Council's decision and the only challenge to a decision made by this committee would be through the process of judicial review of the procedure and processes that have been applied to the determination.

Officers have applied the legal criteria referred to in paragraphs 11 and 12 above to the information put forward on behalf of the applicant and the objector. Officers' recommendations and conclusions are based on relevant legal principles and case law and in order to avoid any legal challenge, members are strongly advised to accept the recommendation in this report.

- **Crime and Disorder** None
- **Information Technology (IT)** None
- **Property** None
- **Human Rights Act 1998**

It is unlawful for a public authority to act in any way which is incompatible with a Convention right. A matter to be considered is whether the Council's role as Registration Authority and owner of the application land is compatible with Article 6 of the European Convention on Human Rights.

It is considered that there is no violation of Article 6 (right to a fair trial) for the following reasons:

- a) any decision taken by the Council is subject to subsequent control by judicial review. Although the statutory provision for judicial review is limited to the legality of the decision and not its merits, it constitutes sufficient compliance with the Convention; and
- b) primary legislation, namely the Commons Registration Act 1965, requires the Council to take the decision. Section 6(2) of the 1998 Act provides that public authorities can act in a way incompatible with Convention rights where the public authority must act because of the provision in primary legislation.

- **Other.** None

Risk Management

21. Potential risks are those of judicial review of the procedure and processes that have been applied to the determination.

Recommendations

22. That the Committee refuses the application on the ground that there is insufficient evidence to satisfy it that all the necessary elements of the registration criteria have been satisfied, in particular that it is not satisfied that usage of the application land for recreational sports and pastimes was by a significant number of the inhabitants of the neighbourhood as of right and occurred for 20 years.

Contact Details

Authors:

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Chief Officer Responsible for the report:
Michael Slater

Assistant Director City Strategy (Planning
and Sustainable Development)

Report Approved **Date** 22 February 2010

Yes

Specialist Implications Officer(s)

Legal

Name: Sandra Branigan

Title: Senior Assistant Solicitor

Tel No: 55 1040

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

Application for registration referred to in paragraph 1

Annexes

- Annex 1 Application plan showing the application land and neighbourhood
- Annex 2 User evidence questionnaires – available on request.
- Annex 3 Objection
- Annex 4 Applicant's response to Objection
- Annex 5 Objector's supporting evidence

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Official stamp authority indicating date of receipt

Application No

Register Unit No(s)

VG

VG

This section for official use only

COMMONS REGISTRATION ACT 1965, SECTION 13

APPLICATION FOR THE REGISTRATION OF LAND WHICH BECAME A TOWN OR VILLAGE GREEN AFTER 2 JANUARY 1970

IMPORTANT NOTE:- Before filling in this form, read carefully the notes at the end. An incorrectly completed application form may have to be rejected.

1 Insert name of registration authority

To the 1 NORTH YORKSHIRE COUNTY COUNCIL

Application is hereby made for the registration as a town or village green of the land described below, which became so registrable after 2 January 1970.

Part 1

Name and address of the applicant or (if more than one) of every applicant.

(Give Christian names or forenames and surname or, in the case of a body corporate or unincorporate, the full title of the body. If part 2 is not completed all correspondence and notices will be sent to the first named applicant.)

DR FIONA JOHNSON
23 FULFORD CROSS
YORK
YO10 4PB

Part

Name and address of solicitor, if any.

(This part should be completed only if a solicitor has been instructed for the purposes of the application. If it is completed, all correspondence and notices will be sent to the solicitor.)

Particulars of the land to be registered, i.e. the land claimed to have become a **Page 18** green.

Name by which usually known

FULFORD CROSS GREEN

Locality

NEIGHBOURHOOD OF FULFORD CROSS, WITHIN THE LOCALITY OF ASHERGATE, YORK. (COLOURED RE

Colour on plan herewith

~~RED~~ **GREEN**



Part 4

On what date did the land become a town or village green?

31ST AUGUST 2003

Part 5

How did the land become a town or village green?

USE OF THE LAND BY LOCAL INHABITANTS FOR LAWFUL SPORTS AND PASTIMES AS OF RIGHT FOR MORE THAN 20 YEARS. SEE ATTACHED STATEMENT.

Part 6

Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to have become a town or village green. (If none are known, write "none".)

OWNER :

**CITY OF YORK COUNCIL, EDUCATIONAL SERVICES,
MILL HOUSE, NORTH STREET
YORK, YO1 6JD.**

Part 7

For applications to register substituted land (see Note 5); to be disregarded in other cases.

Particulars of the "taken land", i.e. the land which ceased to be a town or village green (or part thereof) when the land described in part 3 became a town or village green (or part).

Name by which usually known

Locality

Colour on plan herewith (if any)

If registered under the 1965 Act, register unit No(s).

Part 8

List of supporting documents sent herewith, if any. (If none are sent, write "none".)

- 1) SUPPORTING STATEMENT: REGISTRATION OF FULFORD CROSS GREEN UNDER COMMONS REGISTRATION ACT 1965.
- 2) COPIES OF 12 PHOTOGRAPHS SHOWING USE OF THE LAND BY LOCAL INHABITANTS.
- 3) EVIDENCE FORMS COMPLETED BY LOCAL INHABITANTS DETAILING THEIR USE OF THE LAND. (31)

If there are any other facts relating to the application which ought to be brought to the attention of the registration authority (in particular if any person in the neighbourhood is believed to dispute the claim that it has become a town or village green) full particulars should be given here.

²The application must be signed by or on behalf of each individual applicant, and by the secretary or some other duly authorised officer of any applicant which is a body corporate or unincorporate.

Date..... 07/10/03 2003

Signatures² fiana johnson
.....
.....
.....
.....

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor or by the person who signed the application.

¹Insert full name (and address if not given in the application form).

²Delete and adapt as necessary.

³Insert name if applicable.

I¹,
solemnly and sincerely declare as follows:-

1.² I am ((the person) (~~one of the persons~~) who (has) (~~have~~) signed the foregoing application)) ((~~the solicitor to~~ (the applicant) (³
~~one of the applicants~~)).

2. I have read the Notes to the application form.

3. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 8 and 9 of the application form.

4. The plan now produced and shown to me marked ⁴ FJ1 " is the plan referred to in part 3 of the application.

5. ~~The statement referred to in part 5 is produced to me~~

⁵ ~~The plan now produced and shown to me marked ⁴ " " " is the plan referred to in part 7 of the application.~~

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said DR. FIONA JOHNSON
OF 23 PULFORD CROSS
at ST OSWALDS RD PULFORD
in the CITY of YORK
this 7th day of OCTOBER 2003

Fiona Johnson
Signature of Declarant

Before me,

Signature J.M. KNIGHTS

Address ST OSWALDS HALL

ST OSWALDS RD PULFORD YORK

Qualification SOLICITOR

REMINDER TO OFFICER TAKING DECLARATION: Please initial all alterations and mark any plan as an exhibit.

NW 5920

23 Fulford Cross
York
YO10 4PB

9th October 2003

N.Y.C.C.
ENVIRONMENTAL SERVICES

Recd. 10 OCT 2003 JB

Pass to

Ackd.

Ans'd.

.....

.....

Dear Sir or Madam,

RE: Application for the registration of Fulford Cross Green under the Commons Registration Act 1965

I enclose an application form for the registration of land under the above Act. Please find enclosed a completed Form 30, including a plan of the land and a statement as to how the land became a green, together with documentary evidence from local residents (31 evidence questionnaires, and 12 photographs of use of the green).

I look forward to hearing from you.

Yours faithfully,

Fiona Johnson

Dr Fiona Johnson

N.Y.C.C.
ENVIRONMENTAL SERVICES

.....

.....

.....

Supporting Statement: Registration of Fulford Cross Green under the Commons Registration Act, 1965

(Ref. Form 30, Part 5)

Background information, and locality

Intensive use of the land indicated in red on the plan herewith is made by the residents of Fulford Cross, a neighbourhood within the locality of Fishergate, York. Fulford Cross itself comprises a group of 25 cottages built in 1914 to house tramworkers. The neighbourhood also includes three further tramworkers' cottages situated on Fulford Road, a bungalow and Homeyork House: a block of sheltered housing accommodation for the elderly.

Fulford Cross represents a distinct neighbourhood in part due to characteristics of the built environment that surrounds it. Fulford Cross itself is a no-through road with no access for cars or pedestrians to the North. On all other sides, the neighbourhood is surrounded by non-residential land, including two schools, an army barracks and a supermarket complex. Fulford Cross is now a combination of council-owned and privately owned housing, with a very strong community ethic. A large proportion of residents play an active part in the life of the neighbourhood, which ranges from community celebrations, some of which are seasonal and others occasional, to a more informal support and friendship network. Residents share a wide range of goods and services with each other, for example childcare, care of the local environment, household and gardening assistance for elderly neighbours, sharing of allotment and garden produce.

Residents' use of Fulford Cross Green

The land came into existence in its present form in 1963 when Fulford Cross special school opened on the site of a previous 'open-air' school. The evidence accompanying this statement includes the testimony of neighbourhood residents that from this date through to the present day:

- the green has been in uninterrupted use by the residents of Fulford Cross for sports and lawful pastimes;
- they have had free and open access to the land and that they have never been prevented or discouraged from using the land through fencing, notices or other means;
- residents have never sought or been given permission to use the land, but have used it 'as of right'.

Evidence is submitted from 31 residents of the neighbourhood of Fulford Cross, testifying to their own use of the green and that of their families. In addition, 12 photographs of use of the green by local residents are enclosed. The evidence submitted here is not exhaustive, and the right to add further to this body of evidence as it is gathered is reserved.

A wide range of activities taking place on Fulford Cross Green are described in residents' testimonies and depicted in the photographs. These include (but are not confined to):

- Children playing, both supervised and unsupervised by adults. Examples of the games and activities include, a variety of ball games, riding bicycles, playing on a rope swing, chatting with friends, and (in winter) sledgeing, snowballing and building snowmen.
- Sporting and recreational activities between adults, including chatting to neighbours, reading, sunbathing, kite flying, frisbe, and improvement of the green by planting spring bulbs and maintaining the grass verges (carried out both for the benefit of the environment and for enjoyment).
- Use of the green as a venue for neighbourhood children's birthday parties and picnics.
- Seasonal community events taking place over several years, including an annual children's easter egg hunt, and fireworks displays on 5th November.
- Occasional larger community celebrations, most notably celebrations of the Queen's Silver and Golden Jubilees in 1977 and 2002.

For these reasons I believe that Fulford Cross Green satisfies the definition of 'Town or Village Green' defined in the Commons Registration Act 1965, as land -

'on which the inhabitants of any locality have indulged in [lawful] sports and pastimes as of right for not less than 20 years.'

And should therefore be registered as a town or village green under the above Act.

Signed

Fiona Johnson

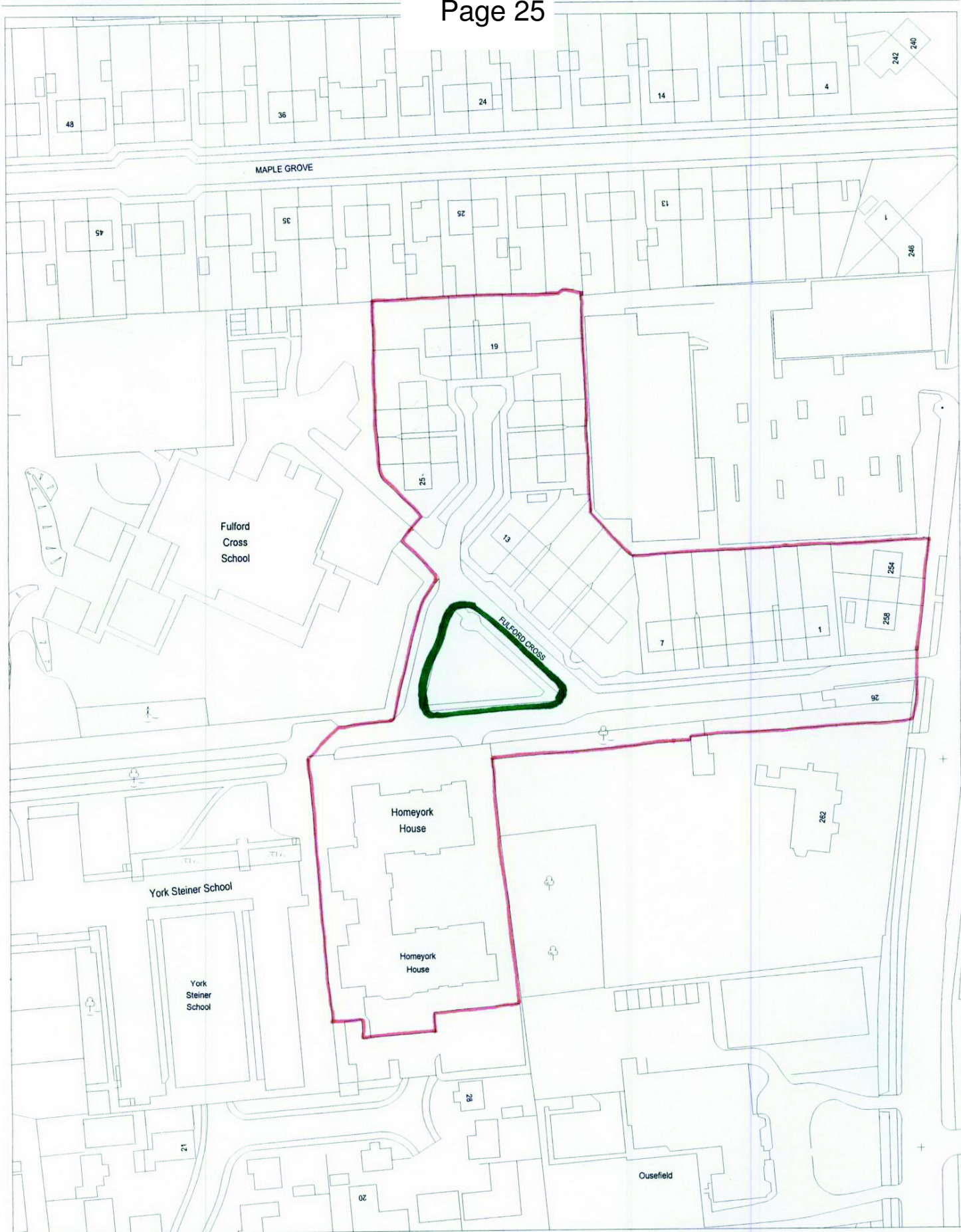
Dr Fiona Johnson



Date

07/10/03

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FJ "1"
 Fiona Johnson
[Signature]

Fulford Cross

SCALE: 1:1250 DRAWN BY: AV
 Originating Group: Organisation

DATE: 7/10/2003
 Drawing No.



Produced from the 1993 Ordnance Survey 1:1250 mapping with the permission of the Controller of Her Majesty's Stationery Office
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COMMONS REGISTRATION ACT 1965 – SECTION 13

APPLICATION FOR REGISTRATION OF LAND CLAIMED TO HAVE BECOME A TOWN OR VILLAGE GREEN ON 31 AUGUST 2003

LAND AT FULFORD CROSS, YORK

OBJECTION OF CITY OF YORK COUNCIL

1. On 7th October 2003, Doctor Fiona Johnson applied to City of York Council (the Registration Authority) to register land at Fulford Cross, York as a town or village green.
2. City of York Council (the Council) is also the current freehold owner of the land at Fulford Cross and it has been the freehold owner since 1914.

Onus of Proof

3. The onus of proof when seeking registration pursuant to the Commons Registration Act 1965 rests on the person making the application and the test for considering whether the rights are established is a stringent one: R v Suffolk CC ex parte Steed and Steed (1995) 70 P&CR 487 at 500, on appeal (1996) 75 P&CR 102 at 115.

Relevant Period

4. The Applicant appears to rely upon the period of twenty years prior to 31 August 2003 for the purposes of the Application. The Applicant is unable to demonstrate uninterrupted user of the Application Site for that period because:
 - The Application Site has always been considered and used as part of the adjacent Fulford Cross School Site. The Application Site has been actively managed jointly and at times individually by both the school and the Council over that period time including regularly cutting the grass and maintaining the landscaping, removal of unauthorised

occupiers and parked cars from time to time and dealing with, again from time to time, applications from local residents and others to use the site on particular occasions.

- In particular in the recent past the school and the Council's views and consents have been sought by local residents and others on the planting of trees on the site and also the installation of play equipment. Representatives from the school and the Council have discussed with local residents both of these projects and an agreement was reached as to where the trees should be planted and the play equipment sited which was then approved by the Council and representatives from the school. In respect of the play equipment further agreement was reached that, if required by the Council, the play equipment could be moved at a future date.

Locality

5. The Applicant must demonstrate that the predominant use of the site is by the inhabitants of a particular locality, or of a particular neighbourhood within a locality.
6. The Applicant must demonstrate either that those using the Application Site inhabit a locality that is an administrative unit known to law, or else a neighbourhood that is demonstrably a cohesive unit within a single such administrative unit (see R (on the application of Cheltenham Builders Ltd) v South Gloucestershire District Council – (Unreported 10 November 2003)) This she has failed to do.
7. In the event that the Applicant seeks to rely upon a period of twenty years other than that immediately preceding 31 August 2003 the Applicant must demonstrate that such persons whose use of the Application Site is relied upon, inhabit a single administrative unit known to law (see again R (on the application of Cheltenham Builders Ltd)). This she has failed to do.

As of Right

8. The Applicant must demonstrate that use of the Application Site during any twenty year period was 'as of right'.
9. It is a matter of fact that the Council and the school have during the twenty year period prior to 31st August 2003 made it clear both by their own uses and management of the site that specific permission would be required and was duly obtained for the planting of trees and the installation of play equipment.
10. Accordingly, the Applicant is unable to demonstrate use of the Application Site as of right during the period relied upon.

Reservation

- 11 The Council reserve the right to add to and amend this Objection whether the Applicant exercises the right she has reserved to similar effect in the supporting statement annexed to the Application.

Public Hearing

11. Given the matters alleged in this Objection, the Registration Authority ought to hold an oral hearing, in the form of a Non-Statutory public Inquiry to determine the Application.

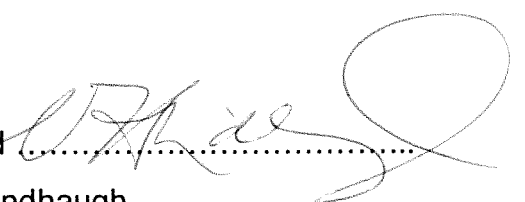
26 March 2004

Signed

Neil Hindhaugh

Head of Property Services

City of York Council



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Application for registration of land at Fulford Cross, York becoming a village green on 31st August 2003

Response to the objection of the City of York Council

Objection 1 – Relevant period

The evidence submitted includes statements from current and past residents of Fulford Cross testifying to the continuous use of the land over a period of time exceeding the twenty years required. Statements are accompanied by photographic evidence, and many of these residents will be happy to make further statements to an enquiry if necessary. None of the current and past residents we spoke to reported the school making any use of the land during the twenty year period. We would like to know what kind of use is being claimed. Certainly, if there has been any use by the school of the green, it has been at most rare and minimal, and has not impeded the continuous use of the land by local residents.

Objection 2 – The use of the land ‘as of right’.

The council’s maintenance of the land including grass cutting, the planting of trees and erecting of play equipment does not undermine the use of the land ‘as of right’. On the contrary, following the House of Lords judgement *Regina v City of Sunderland (respondents) ex parte Beresford (appellant)* [2003] UKHL 60, encouragement by the landowner of the use of the land by improvements of this kind reinforce the impression of members of the public that their use is as of right.

We would like to know on what occasion the council has given permission for use of the land, or ‘removed unauthorised occupiers’, as none of the current or past residents of the neighbourhood we have spoken to recall ever being given permission to use the land for any purpose, or being discouraged or prevented from using the land. On one occasion a resident notified the school that a Jubilee party was to take place on the land, but they received no reply. A landowner’s silent passive acquiescence in persons using his land cannot have the same effect as permission communicated to those persons (*Regina v City of Sunderland (respondents) ex parte Beresford (appellant)* [2003] UKHL 60).

Objection 3 – Locality

The land has been consistently used by residents of Fulford Cross, a neighbourhood within Fishergate ward, York. Fishergate ward is clearly an ‘administrative unit known to law’. Fulford Cross represents a distinct neighbourhood by virtue of its isolation from other residential land and its strong community spirit, as detailed in my original application.

30th May 2004

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James, Sarah

From: O'Connell, Mik
Sent: 26 October 2005 13:42
To: James, Sarah
Subject: FW: Fulford X -- Swings

Sarah,
Some bits and pieces about the green at Fulford Cross.
Bests
Mik



Play Equip
MEMO.DOC

-----Original Message-----

From: Williams, Brian
Sent: 20 January 2004 15:45
To: O'Connell, Mik
Subject: RE: Fulford X -- Swings

I was approached by the ward committee about May of last year with this scheme to put a small amount of play equipment, a bench seat and a small plating scheme on the triangular piece of land at Fulford Cross. At this stage funding had been granted through the ward committee process. As the scheme was a little vague and there was, relatively speaking only a small amount money available I had a very useful meeting, on site with about eight of the householders who were all in support of the proposal. The purpose of the meeting was to establish what the residents wanted and to inform them what was realistic with the available funding allocated to this scheme.

Consequently, I went away, found some pieces of equipment within the price range and handed them to a representative for her to show the rest of the group who then informed me of their choice.

The next thing was to discuss the issue with you and the rest you know.

For further information Kay Hoare in the citizens unit who was involved in the discussions along with one of the local cllrs. If I recall they gave me the final go ahead.

Brian.

-----Original Message-----

From: O'Connell, Mik
Sent: 14 January 2004 17:17
To: Williams, Brian
Subject: Fulford X -- Swings

Brian,
I having some fun with Fulford X school over the play equipment on the green.
Sorry to be a pain, but could you let me have something that charts the progress of how they got there, consultation, ward committee, any notifications etc. Basically I just need to brief my AD with the full story.
All help appreciated
Bests
Mik

Mrs J Lock,
Fulford Cross School
Fulford Cross
Fulford Road
York
YO10 4PB
28th November 2003

A handwritten signature in black ink, appearing to be 'J. Lock', written over a horizontal line.

Dear Joan,

Thank you for your letter of the 13th regarding the play equipment that has been erected on the fulford cross roundabout.

I am sorry that governors were unaware of this development, I had assumed that as Fulford Cross has such a good relationship with local residents and the ward committee, that governors would have been involved. The equipment has been erected in response to local demand and was fully discussed at the local ward committee.

As to your comments on the management of and responsibility for the land, I would argue that while the area is technically under the ownership of the LEA and within the school boundary, in all practical sense the piece of land is open and public. The triangle of land is outside of the school's practical boundaries and I am sure that neither Fulford Cross governors or the LEA would want to restrict local parents and children from using it.

I am assured by the Parks and Open Spaces Team that the equipment will be checked on a very regular basis and meets all health and safety requirements.

As to the governors request for a rental income. I would be happy to investigate this option. I should however advise governors that in my view the maintenance costs and responsibility for the play equipment, would outweigh any benefits brought by a small rental income.

Yours

FULFORD CROSS SCHOOL,
Fulford Cross,
Fulford Road,
YORK.
YO10 4PB

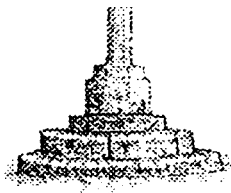
Mrs J Lock BA (Hons) Adv.Dip.Ed.
Headteacher

E-mail: joan_lock@talk21.com

Tel: 01904 653219

Fax: 01904 622935

E-mail: fulford.cross@york.gov.uk



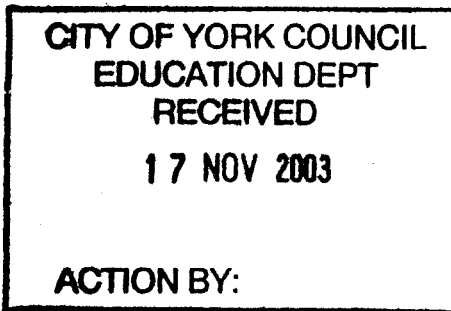
"A highly effective special school," HMC 19 February 1999

*Maggie,
Can you draft a
suitable response please*

Run 19/11.

13 November 2003

Mr Kevin Hall
Assistant Director
Education & Leisure Services
Mill House
North Street
YORK



Dear Kevin

At our Governors meeting last night (12 November 2003) we noted that some swings had been erected on Fulford Cross land on the transport turning circle. Governors were not aware how this had happened although they assumed it had been the Council who had put the swings in place.

Governors had not been consulted about this and wished to put on record that they had not approved the erection of these swings and could take no responsibility for them. If there are any health and safety problems with these swings and their positioning on a traffic island it is a matter for the local authority and not the school.

Governors did ask if there was any possibility that the local authority would like to pay rent for the use of this piece of land as an area of public recreation?

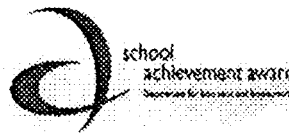
I would be grateful for your comments.

Yours sincerely

Mrs J Lock
Headteacher



INVESTOR IN PEOPLE





Education and Leisure

Internal Memorandum

To: Mik O'Connell Group: Education
From: Brian Williams Group: Parks and Open Spaces Officer Ext: 3392
Our Ref: Your Ref:
Subject: Fulford Cross Ward Committee Scheme
Date 18 July 2003 Copy distribution:

Following on from our telephone conversation last week regarding the proposed Ward Committee Scheme I have enclosed a plan highlighting the land where the locals want to place the play equipment, bench and small shrub border.

As the land in question is owned by the Education department, the scheme may have implications on the proposed development of Fulford Cross School. Consequently, I thought it was prudent to inform and consult with you before I implement the scheme and invite you to comment.

As I have indicated, the scheme comprises of installing two or three balance beams, a bench seat and plant a small shrub border incorporating a small tree. The cost of the scheme will be no more than £1300 which I hope will provide you with a scale of the scheme.

Any comments you have would be very useful. I look forward to hearing from you.


Brian Williams



Licensing and Regulatory Committee

5th March 2010

Report of the Director of Neighbourhood Services

Suitability Criteria for New Hackney Carriage and Private Hire Drivers.

Summary

1. Over the years various policies relating to the licensing of hackney carriage and private hire drivers have been approved by Members. Operationally, officers have adopted various work practices to apply the policies. This report seeks to consolidate those policies and procedures and to obtain members' approval to update and amend where necessary.

Background

2. Legislation requires that a local authority should not grant a licence to any person to drive a licensed hackney carriage or private hire vehicle unless it is satisfied that the person is fit and proper to hold such a licence. The applicant must also have held a driving licence for at least 12 months.
3. In determining whether an applicant is fit and proper, licensing authorities apply certain criteria. In York, taxi licensing officers examine:-
 - the applicants eligibility to work
 - relevant criminal convictions
 - medical fitness
 - topographical and licensing knowledge
 - references
 - driving ability (members have recently included a requirement for applicants to undertake the Driving Standards Agency private hire and hackney carriage assessment from 1st April 2010)
4. Eligibility to Work in the UK – Applicants are required to produce either a UK birth certificate, a valid passport and/or a work permit. In cases where there is any doubt, reference is made to the Home Office Immigration Service.
5. Relevant Criminal Convictions – All applicants are subject to an enhanced level Criminal Records Bureau (CRB) Disclosure. Since 2002 hackney carriage and private hire drivers have been included in the list of occupations that are exempt from the requirements of the Rehabilitation of Offenders Act. This means that previous convictions are never considered spent when assessing

an applicant's suitability to become a licensed driver. However, only relevant offences must be considered.

6. To assist officers in this assessment members have previously approved guidance on this issue. The guidelines are attached at Annex 1. As these guidelines are included in the new applicants' information packs, it is proposed that they be updated to provide more information. It is also proposed that offences relating to discrimination be added to the list. Proposed new guidelines are attached at Annex 2.
7. The CRB check does not report on offences committed outside the UK. Where applicants have spent some time outside this country officers use other means, as appropriate, to obtain the necessary assurances. These might include the issue of a Certificate of Good Conduct from a foreign embassy or a signed declaration of good behaviour from the applicant.
8. Having regard to the length of the application process, it has been officers' practice to require the CRB Disclosure to be dated within six months of the date of issue of the licence.
9. Medical Fitness – In accordance with the Driver and Vehicle Licensing Authorities (DVLA) and guidance in the Department for Transport's Best Practice Guidance on Taxi and Private Hire Licensing, applicants are required to reach Group 2 medical standards.
10. It is current practice to require each applicant to visit their own GP practice to be assessed against this standard and produce a certificate to the Licensing Authority. Certificates must be dated within six months preceding the issue of the licence. This is in line with the procedure adopted by the DVLA with regard to HGV and PSV driver licensing.

Any queries raised on the certificate are referred to the council's medical advisers.

11. Topographical and Licensing Knowledge – All applicants must be able to demonstrate knowledge of the city and of the legislation covering their trade as a licensed driver. This is assessed by means of a written test which contains multi-choice questions on licensing law, local traffic regulations, e.g. foot-street restrictions, and the highway code. It also requires applicants to describe routes to and from various locations in the city.
12. It is proposed to remove the highway code questions from the test as these are covered in the Driving Standards Agency test that will be introduced from 1st April this year.
13. At a recent internal appeal the issue was raised as to whether private hire drivers needed the same level of local knowledge as a hackney driver as they only took pre-booked work and were under the direction of an operator. This issue is also raised in the Best Practice guidance. As a result of this, officers conducted a survey of all private hire operators. All operators were asked

whether the topographical element of the knowledge test for private hire drivers should be removed or retained. All respondents stated that it should be retained.

14. Members are asked to confirm that the knowledge test should include topographical questions for private hire drivers as well as hackney carriage drivers. It should be noted that drivers frequently transfer between the two sectors of the trade.
15. Applicants currently pay £15 for each test they sit. They may take as many attempts as necessary to secure success subject to the licensing manager reviewing each case on an individual basis. The review involves the officer contacting the applicant after six attempts to assess where the applicant is struggling and offering advice on how they can achieve success. If he considers that the applicant will not achieve the required standard he may decide to refuse the application on the grounds that the applicant is not a fit and proper person.
16. This approach is resource intensive and the decision to refuse is at the subject to the judgment of the licensing manager. That said, this intervention is much appreciated by most applicants that are struggling and assists them achieve success. Discussion with other authorities indicates that most will allow an applicant to take as many tests as they wish in order to pass.
17. Officers believe our existing approach strikes the right balance as any applicants who are refused may appeal, at no cost, to members of the environment appeals panel.
18. References – It is current practice to require an applicant to supply two references as part of their application. One being from their last employer and the other a personal reference. Along with the reference the referee is asked to confirm the identity of the applicant from a submitted photograph.
19. It is now proposed that this requirement be deleted as it no longer provides any value in the licensing process.
20. The introduction of the enhanced CRB Disclosure contains a thorough check on the individual's identity negating the need for a referee to perform that task. Comments made by referees on an individual's character and suitability have never formed any useful function in determining his/her suitability.
21. The continued inclusion of this requirement adds to the bureaucracy of the process for no practical value adding to the burden of both applicant and officers.
22. Driving Ability – It has been a recent decision of members (4th September 2009) that all new drivers must have passed the driving standards assessment for taxi drivers as provided by the Driving Standards Agency before being licensed.

23. Proposed new requirement for Disability Equality Training – In developing the taxi accreditation scheme, a web based disability equality training package is being produced specifically for taxi drivers (DET level 1 [taxi]). It is based on the council's generic disability equality training course available to all staff. This will provide no cost training and an assessment which can be taken in the user's own time. It provides background statistics and information, considers relevant legal implications of disability legislation and seeks solutions to practical scenarios. Members will note from another report on this agenda that it is proposed this training be considered the minimum for the drivers of all wheelchair accessible hackney carriage and private hire vehicles whether currently licensed or future new applicants.
24. Officers are also proposing that all new applicants, whether they are to drive an accessible vehicle or not, should successfully complete this training package. It is envisaged that the training package will be available from 1st April 2010.
25. Members are requested to approve the requirement for all applicants to successfully complete the DET level 1 (taxi) training package as a condition of the granting of a private hire or hackney carriage driver's licence.

Consultation

26. Members of three Hackney Carriage Associations and the Private Hire Association were consulted on the proposal to introduce disability equality training for new applicants at liaison meetings on 26th January 2010. At those meetings all representatives were fully in support of the proposal for new applicants but requested that the training package also be made accessible to existing drivers.

Options

27. Option 1 – Approve the criteria and procedures for the assessment of the suitability of licensed hackney carriage and private hire drivers as listed in paragraphs 4 to 25 with the deletion of the requirement to provide references and the addition of the requirement for new applicants to complete DET level 1 (taxi) training prior to being licensed.

Option 2 – Amend the criteria and/or procedures listed above for the assessment of the suitability of licensed hackney carriage and private hire drivers.

Analysis

28. Taxi and private hire drivers perform a very important role in the City. They provide door to door transport for many vulnerable people, they support the night time economy providing the only form of public transport available late at night, they are often the first contact a visitor has when arriving in the city and provide a key link in the public transport network. It is essential for the safety of

passengers and the reputation of the City that drivers have the necessary skills and integrity.

29. The purpose of hackney carriage and private hire licensing is to protect the public and it is the responsibility of the licensing authority to take reasonable steps to ensure that those who enter the trade are “fit and proper” to hold a licence.

Corporate Strategy

30. Ensuring the integrity of licensed hackney carriage and private hire drivers will contribute to the council’s Safer City objective whilst a greater awareness of the needs of disabled people will help make York an Inclusive City.

Implications

31. **Financial:** There are no financial implications for the council in relation to this report.

Human Resources (HR): None.

Equalities: Option 1 supports the council in meeting the duty it has under the DDA to promote equality of opportunity for disabled people and also help the council to meet its own Fairness and Inclusion objectives working with partners.

Legal: It is a statutory duty for licensing authorities to satisfy themselves that a person is “fit and proper” to hold a hackney carriage or private hire driver’s licence. Legal services consider the proposals set out in this report are reasonable and proportionate to enable the council to discharge this duty.

Crime and Disorder: None.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

32. In coming to any decision on this matter the council can minimise risk by ensuring it takes all factors into consideration in coming to its decision. The decision should be reasonable in the light of the information available.

Recommendations

33. Members are recommended to:

Approve Option 1 to amend the criteria and licensing procedures in line with those set out in paragraphs 4 to 25 of this report in relation to the licensing of hackney carriage and private hire drivers.

Reason: To ensure that all drivers licensed by this licensing authority are fit and proper to hold a hackney carriage or private hire driver's licence.

Author:
Richard Haswell
Head of Licensing

Chief Officer Responsible for the report:
Andy Hudson
**Assistant Director of Neighbourhoods and
Community Safety**

**Neighbourhoods and
Community Safety**

Report Approved Date 16th Feb 2010

Tel No. 01904 551515

Specialist Implications Officers:

Legal – Martin Blythe
Tel No. 01904 551044

Equalities – Evie Chandler
Tel No. 01904 551704

Wards Affected:

For further information please contact the author of the report.

Background Papers:

None

Annexes:

Annex 1 – Existing guidelines for assessing applicants' suitability with criminal convictions.

Annex 2 – Proposed guidelines for assessing applicants' suitability with criminal convictions.

**GUIDELINES FOR ASSESSING APPLICANTS FOR
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCES**

Under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, Schedule 2 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendments) Order 2003, *taxi driver licences are listed under Excepted Licences and under Schedule 3, proceedings relating to a taxi driver licence are listed as Excepted Proceedings. This means that the Rehabilitation of Offenders Act 1974 does not apply to any person applying for a private hire or hackney carriage driver's licence on initial grant or on renewal. You are therefore required to declare every offence for which you have been convicted or received a formal caution from the Police, whether or not it is spent within the terms of the Rehabilitation of Offenders Act 1974.

* "taxi" driver is defined as both hackney carriage and private hire

When considering the effect a conviction or convictions may have on an application for a private hire or hackney carriage licence, each individual case will be decided on its own merits. The overriding consideration will be the protection of the public. In addition to their right of appeal to the Magistrates' Court under the Local Government (Miscellaneous Provisions) Act 1976, applicants will be offered an opportunity to appeal against the refusal of an application to the Council's Environment Appeals Committee.

Offences of Indecency

Applicants with unspent convictions for offences involving indecency will not normally be considered fit and proper.

Offences of Violence

Applicants with unspent convictions for offences involving violence will not normally be considered fit and proper.

Offences of Dishonesty

Applicants with unspent convictions for offences involving dishonesty will not normally be considered fit and proper.

Offences involving Drugs

Applicants with unspent convictions for offences involving drugs will not normally be considered fit and proper.

Offences of Driving Under the Influence of Alcohol or Drugs

Where a fine has been imposed, the rehabilitation period is five years. Where an applicant is convicted of this offence they will normally not be considered fit and proper until the expiry of five years.

Traffic Offences

An applicant with an unspent conviction for a serious road traffic offence will not normally be considered a fit and proper person.

Convictions During the Currency of a Licence

A current licence holder who is convicted of any offence contained within these guidelines during the course of the currency of a licence will normally have his/her licence suspended pending consideration of its revocation.

**GUIDELINES FOR ASSESSING APPLICANTS FOR
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCES**

Under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, Schedule 2 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendments) Order 2003, *taxi driver licences are listed under Excepted Licences and under Schedule 3, proceedings relating to a taxi driver licence are listed as Excepted Proceedings. This means that the Rehabilitation of Offenders Act 1974 does not apply to any person applying for a private hire or hackney carriage driver's licence on initial grant or on renewal. You are therefore required to declare every offence for which you have been convicted or received a formal caution from the Police, whether or not it is spent within the terms of the Rehabilitation of Offenders Act 1974.

* "taxi" driver is defined as both hackney carriage and private hire

When considering the effect a conviction or convictions may have on an application for a private hire or hackney carriage licence, each individual case will be decided on its own merits.

The offences listed below are examples of those considered particularly relevant but are not exhaustive and all convictions will be considered including those which are spent. Regard will be had both to the serious of an offence and to repeated offending.

The overriding consideration will be the protection of the public. In addition to their right of appeal to the Magistrates' Court under the Local Government (Miscellaneous Provisions) Act 1976, applicants will be offered an opportunity to appeal against the refusal of an application to the Council's Environment Appeals Committee.

Offences of a sexual nature or involving indecency or involving obscene materials

These will include consensual sex with others under the age of consent. It is recognised that drivers carry great numbers of underage persons who could be vulnerable to improper advances. Applicants with unspent convictions for these offences will not normally be considered fit and proper.

Offences of Violence

A driver with violent tendencies, whether it is violence towards men or women or sexual aggression, may not be a suitable person to drive the public. The public may on occasions be difficult and unco-operative and on other occasions may be travelling on their own and be very vulnerable.

Applicants with unspent convictions for offences involving violence will not normally be considered fit and proper.

Offences of Dishonesty

Drivers are in a position to illegally obtain money or property whilst carrying out their work. This could range from over charging to burglary. For example, drivers often become aware of when properties are empty and when the occupants are expected to return.

Applicants with unspent convictions for offences involving dishonesty will not normally be considered fit and proper.

Offences involving Drugs

Drivers are in a position to be involved in the dealing and transportation of controlled drugs.

Applicants with unspent convictions for offences involving drugs will not normally be considered fit and proper.

Offences of Driving Under the Influence of Alcohol or Drugs

Offences involving substance abuse may indicate an inability to control the use of such substances with a potential to affect the driver's safety on the roads.

Where a fine has been imposed, the rehabilitation period is five years. Where an applicant is convicted of this offence they will normally not be considered fit and proper until the expiry of five years.

Traffic Offences

Motoring offences are important in relation to someone who intends to earn their living driving the public.

An applicant with an unspent conviction for a serious road traffic offence or repeated minor offences will not normally be considered a fit and proper person.

Offences involving Discrimination

Offences concerning discrimination are a concern to all in society and drivers are in a position to discriminate against selected groups or individual passengers.

An applicant with an unspent conviction for discrimination against any sector of the community will not normally be considered a fit and proper person.

Convictions During the Currency of a Licence

A current licence holder who is convicted of any offence contained within these guidelines during the course of the currency of a licence will normally have his/her licence suspended pending consideration of its revocation.



Licensing and Regulatory Committee

5th March 2010

Report of the Director of Neighbourhood Services

Competency Assessment and Disability Equality Training for Drivers of Wheelchair Accessible Hackney Carriages and Private Hire Vehicles.

Summary

1. This report seeks members' approval for the introduction of an assessment of competency for the drivers of all licensed hackney carriage and private hire wheelchair accessible vehicles.

Background

2. Information has recently been received regarding the tragic death of a 14 year old schoolgirl who was a passenger in a Birmingham licensed hackney carriage. The girl suffered from a condition which made her spine very unstable and had been a wheelchair user for many years.
3. When travelling in the taxi the wheelchair was placed in a sideways position, the passenger was strapped to the wheelchair but the wheelchair itself was not secured within the taxi. During the journey the taxi had cause to brake resulting in the wheelchair jerking and caused what proved to be a fatal injury to the young passenger.
4. Subsequently an inquest was held and various people were called to give evidence. These included the taxi driver and the Head of Licensing at Birmingham City Council.
5. The Coroner confirmed in his findings that it was clear from the evidence that the death may well have been avoided if the wheelchair had been properly secured in the taxi. He further recommended that council give serious consideration to requiring all taxi drivers operating in Birmingham to secure wheelchairs in their vehicles and that training under the Disability Discrimination Act be extended to all licensed drivers (previously only applied to new drivers). A copy of the Coroners letter is attached at Annex 1 (re-typed for clarity).
6. In the City of York we have 37 wheelchair accessible hackney carriages and 27 wheelchair accessible private hire vehicles. Currently we do not require drivers

to have any relevant training nor do we have any assessment of their competency to safely transport passengers in wheelchairs. Whilst it is recognised that some drivers have undertaken training on a voluntary basis, the Birmingham incident highlights the necessity for the licensing authority to ensure that all drivers are suitably trained and skilled to transport their passengers safely.

7. Officers have examined various training and assessment schemes available and are proposing that the minimum level of competency in the handling of wheelchairs should be the Driving Standards Agency (DSA) wheelchair exercise. This assessment is available at many of the country's test centres and will be made available at the DSA test centre in York from 1st April 2010. In making this recommendation it is recognised that there are other assessments which are more exhaustive than that of the DSA which the council would also recognise. Each would be evaluated on its own merit.
8. Drivers may feel that they are able to achieve this standard without further training but if not, there are various training options available commercially. If demand is such the council may be able to develop a local training scheme.
9. The completion of this assessment will provide both the driver and the licensing authority with the confidence that the driver has sufficient knowledge to operate the vehicle and equipment in the way intended by the manufacturer but does not address any of the legal issues of disability equality or meeting the needs of the customer. In order to address these matters it is proposed that further training is provided by the council.
10. In developing the taxi accreditation scheme, a web based disability equality training package is being produced specifically for taxi drivers. It is based on the council's generic disability equality training course available to all staff. This will provide no cost training and assessment which can be taken in the user's own time. It provides background statistics and information, considers relevant legal implications of disability legislation and seeks solutions to practical scenarios. It is proposed that this training be considered the minimum for the drivers of all wheelchair accessible hackney carriage and private hire vehicles.
11. In introducing these requirements it is proposed the following condition be attached to vehicle licences at the time of their next renewal:

"Where a vehicle is licensed as a wheelchair accessible vehicle it shall only be driven by a licensed driver who has:

- a) Completed and passed the Driving Standards Agency wheelchair exercise or equivalent, and
- b) Completed and passed the City of York Council Disability Equality Training Level 1 (Taxi) or equivalent."

If approved, this will be introduced from 1st June 2010 for hackney carriage vehicles and 1st November 2010 for private hire vehicles.

Consultation

12. These proposals were circulated to the three Hackney Carriage Associations and the Private Hire Association prior to the scheduled liaison meeting with council officers on 26th January 2010. At that meeting all representatives were fully in support of the proposals. Following that, the owners and drivers of each licensed wheelchair accessible vehicle has been written to and asked for their views on the proposals. Two responses were received, one from a hackney carriage driver confirming that the assessment was a practical test. The second was from a driver and representative of a private hire company supporting the proposal.
13. The City of York Council Disability Equality Training Level 1 (Taxi) or equivalent was developed with the direct input of disabled people including disabled children and their parents.

Options

14. Option 1 – Approve the proposals to introduce an assessment of competency for drivers of wheelchair accessible hackney carriage and private hire vehicles in the carriage of wheelchairs based on that provided by the Driving Standards Agency.

Option 2 – Approve the proposals to introduce disability equality training based on the DET Level 1 (Taxi) on-line training package for all drivers of wheelchair accessible hackney carriage and private hire vehicles.

Option 3 – Make no changes to the current licence conditions relating to the drivers of hackney carriage or private hire vehicles.

Analysis

15. The Birmingham incident has highlighted the role of the Licensing Authority in ensuring that drivers of wheelchair accessible licensed vehicles are properly equipped to safely transport passengers confined to wheelchairs.
16. The direction of the Coroner in Birmingham City Council is equally valid for all licensing authorities. Whilst the proposals for training and competency that officers have made in this report do not mirror those in Birmingham, it is believed they are practical and appropriate to introduce in York. The NVQ used in Birmingham does not include a practical assessment of competency in loading, securing and unloading a wheelchair which officers feel is essential in providing both the driver and the licensing authority with confidence that the driver has the necessary skills to undertake these tasks.
17. The Disability Discrimination Act 2005 places a duty on taxi drivers to ensure disabled people are not discriminated against. In the latest draft of the Department for Transport's Best Practice Guidance on Taxi and Private Hire, licensing authorities are encouraged to do what they can to work with operators,

drivers and trade bodies in their area to improve drivers' awareness of the needs of disabled people.

18. The use of the on-line Disability Equality Training will provide a targeted, flexible, no cost training package which can be accessed by drivers at any time to suit them.

Corporate Strategy

19. The improvement in the safety of wheelchair passengers who travel in hackney carriage and private hire vehicles will contribute to the council's Safer City objective whilst a greater awareness of the needs of disabled people will help make York an Inclusive City.

Implications

20. **Financial:** There are no financial implications for the council in relation to this report.

Human Resources (HR): None.

Equalities: Options 1 and 2 support the council in meeting the duty it has under the DDA to promote equality of opportunity for disabled people and also help the council to meet its own Fairness and Inclusion objectives working with partners.

Legal: Sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 provide for licensing authorities to attach conditions to hackney carriage and private hire vehicle licences which they consider reasonably necessary. Given the tragic circumstances in Birmingham, the conditions proposed in this report appear both necessary and reasonable. Any proprietor aggrieved by the imposition of these conditions may appeal to the Magistrates' Court.

Crime and Disorder: None.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

21. In coming to any decision on this matter the council can minimise risk by ensuring it takes all factors into consideration in coming to its decision. The decision should be reasonable in the light of the information available.

Recommendations

22. Members are recommended to:

Approve Options 1 and 2 and add to the vehicle licence conditions for hackney carriage and private hire vehicles the following condition at their next renewal:

Where the licensed vehicle is so constructed or adapted as to be a wheelchair accessible vehicle it shall only be driven by a licensed driver who has:

- a) Completed and passed the Driving Standards Agency wheelchair exercise or equivalent, and
- b) Completed and passed the City of York Council Disability Equality Training Level 1 (Taxi) or equivalent.

Reason: To ensure the safety of wheelchair reliant passengers when travelling in licensed hackney carriage and private hire vehicles and promote general disability equality awareness for drivers of wheelchair accessible vehicles.

Author:
Richard Haswell
Head of Licensing

Chief Officer Responsible for the report:
Andy Hudson
Assistant Director of Neighbourhoods and Community Safety

Neighbourhoods and Community Safety

Report Approved Date 16th Feb 2010

Tel No. 01904 551515

Specialist Implications Officers:

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Tel No. 01904 551704

Wards Affected:

For further information please contact the author of the report.

Background Papers:

None

Annexes:

Annex 1 – Report of HM Coroner Birmingham and Solihull (re-typed for clarity).

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Aiden Keith Cotter LL.B., M.B.A., C.M.D.

Her Majesty's Coroner for the City of Birmingham and the Borough of Solihull,
Coroner's Court, 50 Newton Street, Birmingham B4 6

Our ref: AKC/lmh
31st July 2009

Mr Peter Barrow
Head of Licensing
Birmingham City Council
Ladbroke House
Bordesley Street
Digbeth
Birmingham B5 5BL

Dear Mr Barrow

Re: Ramzan Begum (deceased)

I am reporting this matter to you in accordance with rule 43 Coroners Rules 1984 (as amended by the Coroners (Amendment) Rules 2008). I enclose a copy of the Rule (as amended).

In accordance with rule 43, a copy of this report is being sent to the Lord Chancellor and all the other properly interested persons identified at the inquest (together with other people who I believe may find I useful or of interest). A list of copy recipients can be found at the end of this report. Your response to this report will also be shared with those listed.

I enclose herewith a copy of the **Inquisition**.

It was clear from the evidence that Ramzan's death may well have been avoided if her wheelchair had been secured in the taxi.

I hope that Birmingham City Council will give serious consideration to requiring all taxi drivers operating within the City to secure wheelchairs within the vehicle.

I understand that taxi drivers applying for a licence after June 2004 are required to attend a course of training under the Disability Discrimination Act. I can see no justification to restricting that necessary and invaluable information to a small group of the taxi drivers. I would be grateful if Birmingham City Council would arrange for all taxi drivers operating within the City to undergo that training.

It may well be that the City have already put these matters in hand. I look forward to hearing from you.

Yours sincerely

Aiden Keith Cotter
H. M. Coroner
Birmingham and Solihull Districts



Licensing and Regulatory Committee5th March 2010

Report of the Director of Neighbourhood Services

AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING CRITERIA**Summary**

1. This report requests members to consider amending the council's existing policy for hackney carriage and private hire vehicle inspection requirements in relation to the carrying of a spare wheel.

Background

2. The current inspection for hackney carriage and private hire vehicles is carried out by council employed mechanics at the council workshop at Hazel Court, James Street, York and conforms to the standards of MOT test requirements. In addition there are over 24 conditions of compliance that the council impose. This includes a requirement that a spare wheel must be carried at all times with the appropriate tools to change a wheel.
3. Both hackney carriage and private hire vehicle proprietors have commented on the difficulty of buying new vehicles or adapting vehicles to greener fuels that adhere to the council's current policy. They state that many new vehicles are now being manufactured without spare wheels, instead being supplied with a space-saver tyre or puncture repair kit or vehicles are being manufactured with run flat tyres. In doing so, the vehicle manufacturers must comply with strict safety testing standards (M1 type approval) and therefore we must assume that these alternatives are adequate for emergency situations. Vehicles fitted with run flat tyres have a specially tuned suspension to compensate for the increased tyre rigidity that is a feature of run flat tyres, therefore, this type of tyre cannot be used on vehicles other than those that have been specifically manufactured for use with run flat tyres.
4. A spare tyre is not part of the MOT test, therefore, vehicles can legally be used on a road without a spare tyre. However, it is clear that the alternative type of tyres and repair kits are for emergencies only and must be used only in order to complete a journey and get the vehicle to the nearest repair site. The space-saver tyre and run flat tyres (when punctured) carry limitations on distance and speed. The licence holder must comply precisely with the manufactures' recommendations.

5. Many other local authorities have amended their licence requirements, which were originally similar to York's, in light of the developments within the motor manufacturing industry and the introduction of greener fuels and wheelchair accessible approved conversions.
6. It is therefore proposed to amend the hackney carriage and private hire vehicle licensing criteria and inspection as follows:-
 - The use, in emergencies only, of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit for all vehicles that are manufactured and delivered with such tyres or kits as standard.
 - That in the event of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit being used, it is only to complete a fare and must comply precisely with the manufacturers' recommendations. Any such defective wheel should be replaced before taking another fare to ensure passenger safety.
 - In cases where a rear loading wheelchair accessible conversion or a LPG conversion where the tank occupies the usual site of the spare wheel, is considered suitable, the vehicle should be exempt from the requirement to carry a spare wheel matching those fitted to the vehicle. This would be subject to the vehicle meeting the luggage criteria and being approved by the specialist converters. In these instances an alternative space saver tyre or puncture repair kit must be carried on the vehicle for emergencies.
 - All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle and an appropriate means of changing the wheel.

Consultation

7. **Department for Transport's Best Practice Guidance for Taxi and Private Hire Licensing – Published October 2006**

The Licensing Section has consulted with the Department for Transport's Best Practice Guidance for Taxi and Private Hire Licensing which indicates that licensing authorities should adopt the principle of specifying as many different types of vehicles as possible. It also suggests that careful consideration should be given to any policy which automatically rules out particular types of vehicles. This could give rise to complaints of restrictive practices and possible legal challenges.

8. **York Hackney Carriage Associations**

This matter was discussed at the most recent meeting of the Associations held on 26th January 2010. They fully support these proposals, pointing out the fact that many new vehicles suitable for taxi work now come with a space saver tyre or puncture repair kit.

9. **York Private Hire Association**

This matter was discussed at the most recent meeting of the Association held on 26th January 2010. They fully support option 2 stating that the authority should adopt these advances in the motor industry. Any policy must highlight the use of a space saver tyre, run flat tyres on specifically manufactured vehicles and puncture repair kits are for emergency use only.

Options

10. Option 1 - To make no changes to the existing policy.
- Option 2 - That the hackney carriage and private hire vehicle licence criteria and inspection be amended so as to include the conditions set out at paragraph 6.

Analysis

11. The reasoning and analysis of the proposal has been set out in previous paragraphs. In addition, there are a number of issues why manufacturers are not always supplying a spare wheel. The extra weight affects economy and Co2 emissions which can push the car into a higher tax bracket. No spare tyre equals less cost, weight, cuts down on fuel consumption and gives more luggage space. Manufacturers are saying that not supplying a spare tyre reflects the fact that complete tyre failure or blowouts are very rare on properly maintained and inflated tyres and given the advances in technology, space-saver tyres, run flat tyres and puncture repair kits are adequate.

Corporate Priorities

12. An efficient, high quality, taxi service will reduce the dependence on the private car for short journeys in and around the city contributing to making York a sustainable city.
13. Taxis also remain the key transport out of the city late at night. The safe transportation out of the city of those enjoying the late night economy contributes significantly to the reduction of crime and disorder and anti social behaviour making York a safer city.

Implications

14. **Financial:** None.

Human Resources (HR): None.

Equalities: None.

Legal: Under sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976, licensing authorities may attached conditions to the granting of a licence for a hackney carriage or private hire vehicle.

A person who is aggrieved by the amended licence conditions has the option to appeal against them to the local Magistrates' court.

Crime and Disorder: To ensure that members of the public are transported safely in appropriately licensed vehicles.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

15. In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

In coming to any decision on this matter the Council can minimise risk by ensuring it takes all factors into consideration in coming to it's decision. The decision should be reasonable in the light of the information available.

Recommendation

16. Members are asked to approve Option 2.

Contact Details

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Chief Officer Responsible for the report:

Andy Hudson
Assistant Director of Neighbourhoods and
Community Safety
Neighbourhood Services

Report Approved **Date** 10.2.2010

Wards Affected:

All

For further information please contact the author of the report

Background Papers

Department for Transport's Best Practice Guidance for Taxi and Private Hire Licensing.

Annexes None