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MEETING	LICENSING & REGULATORY COMMITTEE
DATE	17 MARCH 2008
PRESENT	COUNCILLORS GILLIES (CHAIR), HYMAN, MOORE (VICE-CHAIR), B WATSON AND DOUGLAS (SUBSTITUTE)
APOLOGIES	COUNCILLORS HORTON

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## 18. DECLARATIONS OF INTEREST

At this point Members were asked to declare any personal or prejudicial interests they had in the business on the agenda.

Councillor Hyman declared a personal non-prejudicial interest in Agenda Item 4 (Application to Register Land West of Metcalfe Lane, York as a Town or Village Green) as his father had lived in Meadlands until last year.

## 19. MINUTES

RESOLVED: That the minutes of the meeting held on 4<sup>th</sup> January 2008 be approved and signed as a correct record.

## 20. PUBLIC PARTICIPATION

It was reported that there had been four registrations to speak under the Council's Public Participation Scheme.

Mr Warters addressed the Committee in relation to Agenda Item 4 (Application to Register Land West of Metcalfe Lane, York as a Town or Village Green). He said that he was proud of his efforts to protect this piece of land. He felt that the Inspector's report was not truly independent as the Inspector had been sourced, briefed and funded by the City of York Council.

Mr John Stainthorpe spoke on Agenda Item 6 (Application to Approve Pedicabs for use as a Hackney Carriage) and said that they would provide an environmentally mode of transport and help to make York Greener. He said that all drivers would be provided with training and the route proposed would be within 0.5 miles of the City Centre apart from on race days when they would go as far as the racecourse.

Mr Paul Styles spoke on Agenda Item 6 (Application to Approve Pedicabs for use as a Hackney Carriage) and stated that a previously trialled race day service had proved popular and could help ease traffic congestion as 90% of the journey would be on a cycle only route. He proposed setting up pedicab ranks in St Helens Square and St Sampson's Square and all fares would be agreed before a journey commenced.

Mr Clayton-Chance addressed the Committee in relation to Agenda Item 7 (Medical Assessment of Hackney Carriage and Private Hire Drivers). He said that the existing process was age discriminatory as drivers aged between 45 and 65 only need to have a medical every five years and those under 45 do not need a medical at all. He said that a medical was £150 and was funded by the individual driver.

**21. APPLICATION TO REGISTER LAND WEST OF METCALFE LANE, YORK AS A TOWN OR VILLAGE GREEN**

Members considered a report concerning an application under Section 15(1) of the Commons Act 2006 ('the 2006 Act') to register land to the west of Metcalfe Lane, York as a town or village green. The application relied on the criterion set out in Section 15(2) of the Act.

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 application was made by Mr Mark Warters, Osbaldwick, acting on behalf of the Friends of Osbaldwick Meadows and was dated 28<sup>th</sup> September 2007.

It was for the Applicant to satisfy the Registration Authority (the Council) that the requirements of section 15(2) of the 2006 Act were satisfied. The requirements were as follows:

"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 on the land for a period of at least 20 years; and they continue to do so at the time of the application.'"

A public inquiry was held over 4 days in February 2008 where the evidence of the Applicants, Supporters and Objectors and other interested people was heard. The Inspector also carried out a site inspection of the application land.

Members were presented with the following options:

**Option A** Determine the application following the Inspector's recommendation to reject the application to register land to the west of Metcalfe Lane as a town or village green.

**Option B** Register the land to west of Metcalfe Lane as a town or village green, thereby rejecting the Inspector's recommendation because Members are of the opinion that there are sound and cogent reasons to do so.

**RESOLVED:** That the Licensing and Regulatory Committee accepted the conclusions and recommendations of the Inspector's report and resolved to reject the application.

REASON: For the reasons set out in the Inspector's report dated 1<sup>st</sup> March 2008.

## 22. APPLICATION OF PRIVATE HIRE LICENSING TO STRETCHED LIMOUSINES

Members considered a report that advised them of matters relating to the licensing of stretched limousines. It proposed amendments to existing private hire vehicle conditions to facilitate the licensing of limousines.

Members discussed the following points:

- A question was raised in relation to the information in paragraph 19 of the report regarding the percentage of light transmittance window glass should have. The Head of Licensing agreed to check these figures and correct them if necessary.
- Whether it was necessary to display licence plates on both the front and back of vehicles.
- Whether stretched limousines would need to meet the requirements in relation to luggage capacity and wheelchair storage.
- Various safety issues.
- Lettering on rear windows.
- Whether the conditions would apply retrospectively or not

Members were presented with the following options:

**Option 1** To consider whether to amend existing private hire vehicle licence conditions which would allow the Council to licence stretched limousines.

**Option 2** To approve the changes to the conditions as set out in paragraphs 15 to 44 of the report.

**Option 3** To approve any other amendments to the private hire vehicle licence conditions.

RESOLVED: That both Options 1 and 2, as laid out above, be approved and that all vehicles and drivers of stretched limousines be licensed as private hire vehicles and drivers and that the conditions set out in paragraphs 15 to 44 of the report be implemented.<sup>1</sup>

REASON: To allow the Council to fulfil statutory obligations and ensure that the public interest is served.

### Action Required

1. implement agreed licensing scheme for stretched limousines.

KS

## 23. APPLICATION TO APPROVE PEDICABS FOR USE AS A HACKNEY CARRIAGE

Members considered a report regarding applications received to licence pedicabs as hackney carriage vehicles and were requested to consider the practical consequences regarding the use of this type of vehicle as a hackney carriage in the City of York and in principle of pedicabs should be licensed to operate in the City.

Legally a pedicab can be licensed within the City as a hackney carriage. However there are obstacles to overcome including essential issues around safety, impact on traffic and suitable rank space balanced against the introduction of an environmentally friendly mode of transport and tourism benefits.

Officers updated that the Government Office had no plans to change legislation in relation to pedicabs but Members should note that pedicabs are currently in use in London but outside any London licensing regime. In June 2006 the Public Carriage Office issued a consultation document regarding the possible licensing of pedicabs in London; the results of the consultation exercise have yet to be announced.

The Chair of the Committee asked each of the public speakers how many pedicabs they were proposing and they both replied six.

Members discussed the following:

- Should pedicabs be allowed into pedestrianised zones during footstreet hours.
- Electrically assisted pedicabs
- Whether the unmet demand survey would flag up a need for pedicabs
- Location of taxi ranks
- Problem traffic spots such as Lendal Bridge
- The sustainability of this mode of transport
- The Unmet Demand Survey

Members were presented with the following options:

**Option 1** To approve in principle pedicabs for use as hackney carriages in the City of York. If approved, that Members refer the matter back to Officers for further consideration of appropriate vehicle specification, licence conditions and other relevant matters.

**Option 2** To defer further consideration on this matter until the results of the Unmet Demand Survey are to hand and to consider whether the Council in consequence needs to review its policy on hackney carriages.

**Option 3** Reject the application.

Councillor Gillies proposed and Councillor B Watson seconded a motion to approve Option 3 (reject the application). When put to the vote this motion was lost.

**RESOLVED:** That, in line with Option 2, the application be deferred for further consideration until the results of the unmet demand survey are to hand and to consider whether the Council, in consequence, needs to review its policy on hackney carriages.<sup>1</sup>

**REASON:** To make a decision in relation to the future of pedicabs within the City of York.

Action Required

1. Prepare a report to the Committee once the results of the Unmet Demand Survey are known KS

**24. MEDICAL ASSESSMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

Members considered a report that sought their endorsement of the application of a policy in relation to medical assessment of licensed hackney carriage and private hire drivers (licensed drivers) having regard to age discrimination legislation.

In 1995 the House of Commons Select Committee recommended that licensed drivers should pass a medical examination as part of the licensing process. It was further recommended that Group 2 medical standards be adopted to ensure that fare paying passengers were provided with the maximum protection.

The issue of a Group 2 licence requires the applicant to submit a standard report of medical assessment from a medical practitioner. At present this medical report must be submitted by the driver when first licensed, every five years from 45-65 years and annually thereafter.

If the Council wishes to continue with its existing policy on medical examination it must be able to demonstrate that there is a legitimate aim and that age discrimination is a proportionate means of achieving that legitimate aim.

The Head of Licensing and Bereavement Services updated that a response had now been received from the York Private Hire Association and they were in agreement with the recommendations set out in the report.

Members asked the Officer whether there had been instances of non-notification of medical conditions and he responded that there had. He was also asked how many drivers there were over the age of 70. Whilst he did not have the exact figure to hand he stated that there were a significant number of older drivers and it was generally recognised that with an advance in age there was more chance of an increase in ill health.

Members were presented with the following options:

**Option 1** Retain the existing policy on the basis of the justification set out above.

**Option 2** Remove the requirement for medical examination other than on application for the initial grant of a driver's licence.

**Option 3** Require a medical examination for drivers of all ages at regular intervals, i.e. annually or every 5 years or any other pre-determined frequency.

**RESOLVED:** That the application of the current policy for medical assessment of licensed drivers be approved as set out in Option 1 above.

**REASON:** To provide a legitimate aim of protecting the safety of those travelling in licensed hackney carriage and private hire vehicles and is a proportionate means of achieving that aim. It is in line with the current standards being applied by the government for other classes of driver.

Councillor I Gillies, Chair

[The meeting started at 2.00 pm and finished at 3.10 pm].