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MEETING	LICENSING & REGULATORY COMMITTEE
DATE	5 MARCH 2010
PRESENT	COUNCILLORS FIRTH, GILLIES (CHAIR), HORTON, MOORE (VICE-CHAIR) AND B WATSON (SUBSTITUTE)
APOLOGIES	COUNCILLOR LOOKER

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## **21. DECLARATIONS OF INTEREST**

At this point in the meeting Members were asked to declare any personal or prejudicial interests in the business on the agenda. None were declared.

## **22. MINUTES**

RESOLVED: That the minutes of the meeting held on 8 January 2010 were approved and signed by the Chair as a correct record.

## **23. PUBLIC PARTICIPATION**

It was reported that there had been one registration to speak.

Councillor D'Agorne had registered to speak on item 4.

## **24. APPLICATION TO REGISTER LAND KNOWN AS FULFORD CROSS AS A TOWN OR VILLAGE GREEN.**

Members considered a report which outlined a village green application. The application had been made 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 procedure for submitting and determining an application is set out in The Commons Registration (New Land) Regulations 1969 and was detailed at page 7 of the agenda.

Officers provided an update which informed Members of the following information and amendments:

- The application had been made by Dr. Fiona Johnson in 2003 who since then had been absent. No other supporters had been willing to pursue the matter.
- The Council had an obligation to pursue the application.
- It is a legal decision not a matter of policy.

- The application must be refused if any of the elements are not met.
- The Commons Registration Officer then advised that she had managed to make contact with the applicant Dr. Johnson that morning. Dr. Johnson had agreed she should have notified the Council of her whereabouts. When advised of the conclusion, Dr. Johnson had not agreed with the reference to the lack of conclusive evidence for 20 years use of the land.

The following amendments to the report were highlighted:

- Page 11 of the agenda, last paragraph should be amended to read “as to whether it was ever possible to imply a licence by a landowner to use the land, which could be a use as of right..”
- Page 12 of the agenda, section E be amended to read “ A period of at least 20 years and continuing up to the date of application”

Councillor D’Agorne spoke as Ward Councillor. He stated that he was disappointed that he had not been informed that the application for Fulford Cross was being brought to this meeting and felt more could have been done by the Council to keep himself and local residents informed. He advised that following the Legal Officer’s update he accepted the legal position although he did not agree with the recommendation to refuse the application.

In response, the Assistant Director of City Strategy (Planning and Sustainable Development) advised that there had been no desire to conduct the matter in a secretive manner. In future Officers will ensure that Ward Councillors are informed on any such applications.

The applicant was not present and no representative was in attendance for the applicant. Martin Blythe, Legal Representative, was present to speak on behalf of the Registration Authority. In reference to the criteria detailed at page 7 of the agenda numbered 1 to 6, he advised he had no comment against criterion 4 and 6. In relation to the following criteria, it was argued as follows:

- Criterion 1 - the applicant had failed to demonstrate that a significant number of the inhabitants of the neighbourhood within the locality had used the application site.
- Criterion 2 – the majority of users live within a cohesive neighbourhood in the vicinity of the application land, rather than a locality as the applicant suggests.
- Criterion 3 – Insufficient evidence provided by the applicant to satisfy this criterion ‘Have indulged as of right’.
- Criterion 5 – Applicant is unable to demonstrate uninterrupted use of the application land for the 20 year period prior to 31 August as the site had been actively managed by the Council and the nearby Fulford Cross school.

In answer to Committee Members questions Officers responded as follows:

- Local residents had been aware of the application. All local residents who had submitted a User Evidence Questionnaire had been written to and asked if they would take the application over.
- The Legal Officer confirmed there is no obligation to inform Ward Members as it is a legal process and the responsibility of the applicant to prove the claim.
- The application had taken 7 years to get to this stage due to the applicant being un-contactable since 2006. Had the applicant being involved or another individual being willing to take over the application then it may have gone to enquiry. As the application was not pursued by the applicant, the Council progressed other village green applications first which were being pursued.
- The applicant must show that the claimed land is within a neighbourhood or locality. In this case, the applicant claimed the land to be within a neighbourhood within a locality.

After discussions, Members decided that as it was doubtful as to whether three of the 6 criterion had been met by the applicant, and as the applicant had not pursued the application, nor had any other supporters taken over the application, then the Officers recommendation of refusal was supported.

RESOLVED: That the application be refused.

REASON: It was considered that there is insufficient evidence to satisfy 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.

## **25. SUITABILITY CRITERIA FOR NEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS.**

Members considered a report which requested them to consider approving the consolidation of policies and procedures and the updating and amending of procedures relating to the licensing of hackney carriage and private hire drivers.

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 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. In determining if an applicant is fit and proper, licensing authorities apply the following criteria; eligibility to work, relevant criminal convictions, medical fitness, topographical and licensing knowledge, references and driving ability.

Officers presented the report and asked members to note the following proposed changes:

- Remove the requirement for an applicant to supply two references. The introduction of the enhanced CRB check ensures a thorough check on an individual's identity and comments made by individuals known by the applicant have served little purpose.
- Introduction of a new requirement for applicants to undergo web based equality training which provides information and seeks solutions to practical scenarios. This would be available from 1<sup>st</sup> April 2010 and Officers would like applicants to successfully complete the Driver Equality Training level 1. Once successfully completed applicant will need to print off a pass certificate.

Members commented it may be useful to produce a checklist for applicants and officers to ensure that applicants have met all the requirements, and were happy to approve the recommendation.

**RESOLVED:** That Members approved Option 1 and agreed to the amendment of the criteria and licensing procedures in line with those set out at paragraphs 4 to 25 of the officers report in relation to the licensing of hackney carriage and private hire drivers.

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

**26. COMPETENCY ASSESSMENT AND DISABILITY EQUALITY TRAINING FOR DRIVER'S OF WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES.**

Members considered a report which sought approval for the introduction of an assessment of competency for the drivers of all licensed hackney carriage and private hire wheelchair accessible vehicles.

Officers advised that at present there was no provision in place to provide training or any assessment of competency relating to the safe transportation of disabled passengers in wheelchairs. After examining various training and assessment schemes available, Officers had decided that the minimum level of competency in the handling of wheelchairs should be the Driving Standards Agency (DSA) wheelchair exercise.

Members queried whether Officers had put a date to the Taxi Associations, by which the amendments would become compulsory for all new drivers. Officers advised that they would need to consult with the trade regarding this and bring a report back to the Committee at a future date.

RESOLVED: (i) That Members approved Options 1 and 2 and added the following vehicle licence conditions for hackney carriage and private hire vehicles 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.
- (ii) That Officers will consult the taxi trade regarding the introduction of the training for all new drivers by a set date and bring a report to the Committee.<sup>1</sup>

REASON: To ensure that the trade are informed of any developments regarding conditions relating to wheelchair reliant passengers when travelling in licensed hackney carriage and private hire vehicles.

Action Required

1. Officers prepare report for future meeting following consultation with taxi trade.

DH

**27. AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING CRITERIA.**

Members considered a report which asked them 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.

Currently, hackney and private hire vehicles are inspected at the Council workshop and the inspection conforms to the standards of the MOT test requirements. In addition there are over 24 conditions which must be complied with, including the condition that a spare wheel must be carried at all times with the appropriate tools to change a wheel.

Officers advised Members that many new vehicles are now being manufactured without spare wheels and are instead being supplied with a space-saver tyre or puncture repair kit. To reflect these changes, Officers

outlined the proposed amendments to the licensing criteria, as detailed at page 58 of the agenda.

Members agreed the changes were sensible in light of the developments in the motor manufacturing industry and approved the amendments to the taxi licensing criteria.

RESOLVED: That Members approved Option 2 and hackney and private hire vehicle licence criteria and inspection be amended so as to include the conditions set out at paragraph 6 of the officers report.

REASON: To ensure that hackney carriage and private hire vehicle criteria and inspection procedures are in line with developments in the motor trade.

Councillor Gillies, Chair

[The meeting started at 2.00 pm and finished at 3.00 pm].