

## PUBLIC PROTECTION COMMITTEE

2 DECEMBER 2014

Present: County Councillor Parry (Chairperson)  
County Councillors Manzoor Ahmed, Boyle, Bridges, Howells,  
Hudson, McGarry, Murphy and Phillips

Apologies: Councillors Morgan and Simmons

### 36 Apologies for Absence

Apologies for absence were received from Councillors Morgan and Simmons.

### 37 Declarations of Interest

No declarations of interest were received.

### 38 Minutes

The minutes of the meeting held on 4 November 2014 were approved by the Committee as a correct record and were signed by the Chairperson.

### 39 Hackney Carriage/Private Hire Applications

RESOLVED – That the following application be dealt with as indicated:

(1) That the Peugeot Partner be approved as a Prestige Vehicle.

### 40 Application for an Additional Front Seat in a Ford Tourneo

After viewing the vehicle Members discussed the merits of the application. The Committee considered that permitting an additional passenger to use the front seat bench would put the driver and the passengers at unnecessary risk. Members felt that the Licensing Authority's guidelines on this issue should be adhered to.

RESOLVED – That the application for an additional front seat in the Ford Tourneo be refused.

### 41 Presentation on Enforcement of Moving Traffic Contraventions

Councillor Bridges moved that this item be postponed as the issue was not included on the agenda. Councillor Boyle seconded the move to postpone the item. The Committee voted in favour of hearing the presentation.

The Chairperson welcomed Councillor Ramesh Patel, Cabinet Member for Transport, Planning and Sustainability; Paul Carter, Operational Manager – Transportation; and Steve Carrell, Team Leader, Network Management; to the meeting. The Cabinet Member and officers were invited to deliver a presentation on the enforcement of Bus Lane and Moving Traffic Contraventions in the City.

The Committee was advised that the Welsh Government had passed legislation which

allowed the authority to enforce a range of bus lane and moving traffic offences. The ability to enforce such offences would support the authority's transport policies. The presentation included details of the legal background to the matter, how enforcement would support transport policies and provided further details on the systems supporting enforcement and a prediction on the level of enforcement actions expected annually.

The Chairperson thanked the officers for their presentation and invited comments from Members of the Committee. The Committee sought further clarification on the exemptions to enforcement, particularly in relation to incidents involving the emergency services. Councillor Patel stated that all drivers will need to adhere to the law in relation to bus lane and moving traffic offences. However, the cameras will provide video of footage of all incidents. Each offence will be reviewed by Civil Parking Enforcement Officers, and, for example, where a driver has moved into a bus lane to clear the road for an emergency services vehicle to pass, that driver would not be fined.

Officers confirmed that signage would be installed at locations where cameras are situated. Such signage was already in-situ at the majority of locations. It was also confirmed that South Wales Police would still have powers to enforce Moving Traffic Offences and bus lane contraventions.

The Committee asked for an estimate on the level of revenue likely to be generated by the scheme. The Cabinet Member was unable to provide an estimate but it was emphasised that any revenue received would be ringfenced for transportation projects.

#### 42 Village Green Application - Arls Field, Llandaff

The County Solicitor submitted a report on behalf of the Council as Registration Authority under the Commons Act 2006, relating to the registration of land in the Register of Town and Village Greens, as maintained by the Registration Authority. The report was presented by Geoff Shimell, Operational Manager – Property and Development.

Members were advised that an application for the registration of land known as 'The Arls Field' in Llandaff as a town or village green had been received from Mr Geoffrey Barton-Greenwood on behalf of the Llandaff Society. The County Solicitor's report stated that the applicable law in this matter was complex and that there was no right of appeal against the decision of the Registration Authority. Any decision can be vulnerable to legal challenge. It was therefore essential for the Registration Authority to be able demonstrate that the Committee has acted in accordance with the principles of natural justice and proper administration. Consideration needed to focus on the legal issues rather than amenity or property issues and decisions needed to turn to evidence, and not to policy considerations.

The evidence produced by the applicant and the landowner (Cardiff Metropolitan University) as objector was considered. The evidence was set out in the appendix to the report. After applying the legal tests to the evidence, the County Solicitor recommended that the Council should not register the application land as a town or village green. The Committee was therefore asked to determine the application.

The report provided a description of the application land and the role of the Council as Registration Authority. Further details of the law in relation to village greens were included in the report along with the bases for both the application and the objection.

Geoff Shimell introduced the report. The Committee was advised that 35 witness statements in support of the application had been received together with witness statements from the objector. Mr Shimell stated that he had visited the site which was fairly heavily overgrown with brambles and similar weeds. The site had a public footpath around the perimeter. Mr Shimell addressed each of the 6 legal tests that need to be established when considering the application. These tests were detailed in 5.3 of the appendix to the report.

At this point Councillor Gareth Aubrey, a ward member requested permission to address the Committee on behalf of the applicant. Councillor Aubrey wished to clarify witness statements and to challenge some contents of the report and the legal conclusion. The Councillor also requested that consideration of this issue be deferred to allow for a site visit to take place and that these requests be recorded in the official record of the meeting. The Committee was advised by Mark Roberts, the Committee's legal officer that the consultation period for the village green application had closed. It was therefore not appropriate to add comments on evidence at that stage. The application has been publicly advertised, and ward members had had the opportunity to respond. The Chairperson requested further clarification of the point of law *in camra*. The meeting was adjourned.

The meeting was reconvened. Councillor Boyle had moved that Councillor Aubrey should be permitted to address the committee, which was seconded by Councillor Howells. Members voted not to permit Councillor Aubrey to address the meeting.

Mr Shimell stated that in order to prevent members of the public asserting possessory rights over his land, a landowner can give consent for his land to be used by erecting notices and thereby preventing the establishment of possessory rights. However, if the public use is only random and insufficient to demonstrate to the landowner that use for lawful pursuits and pastimes is occurring, then the landowner has no way of knowing that he needs to think about protecting his position. The burden of proof lies with the applicant to show that on the balance of probabilities the legal tests have been satisfied. The only consistent evidence received from those supporting the application suggested that many people used the public footpath for walking around the field. This was also the view of the objector's witness statements. Crossing land for walking, with or without a dog, for access purposes is not in itself sufficient to establish a lawful pursuit and pastime. In this case, the footpath is adopted and not part of the field in any event.

Members questioned why residents were making the application for village green status for the land. Mr Shimell stated that Members could only make their determination based on the evidence presented.

RESOLVED – That on behalf of the Council as Registration Authority, the Committee determine the application as not to register the Arls Field as a town or village green under s15(2) of the Commons Act 2006.

#### 43 Street Trading Conditions - Application to Amend Conditions in St Mary Street

Members were advised that a request had been received to modify the current street trading conditions in St Mary Street to allow the use of a vehicle to sell food at the St Mary Street Market. The Committee received a report and were asked to consider merits of the application.

The current street trading conditions were last approved by the Committee in 2000, subject to minor amendments in November 2014. The conditions were appended to the report. The current policy prevents the presence of a vehicle at street markets unless it is for the purposes of loading and unloading. The applicant operates a mobile, woodfired pizza business. The operation requires the use of a small, three-wheeled vehicle which has a wood-fired oven fitted into the body of the vehicle.

The Committee received representations for the applicants. Members were advised that the applicant believed they offered a unique dining experience for the people of Cardiff, using locally sourced ingredients, but were prevented from doing so at the St Mary Street Market.

Views on the proposed amendments to the conditions were sought from relevant bodies. The Committee heard that South Wales Police made no comments. The Highways Department raised concerns that removing the clause from the conditions may have implications for Traffic Regulation Orders on fixed licence sites. It was therefore recommended that the clause be removed for the St Mary Street Market only. Highways also considered that the movement of the trading vehicle should be restricted and therefore it will only be permitted to enter or leave the Market at times when stalls are being assembled and dismantled.

RESOLVED – That delegated authority be given to the Head of Regulatory and Supporting Services to amend the Street Trading Conditions as appropriate.

#### 44 Approval of Driver Fitness Criteria

At its meeting of 5 August 2014 the Committee considered a report which recommended replacing the current guidance on the treatment of convictions, cautions and criminal charges in respect of new applicants and existing hackney carriage/private hire drivers. The Committee was recommended to adopt the Directors of Public Protection Wales (DPPW) Licensing Technical Panel (LTP) 'Fitness Criteria for Drivers and Operators'.

Consultation was undertaken with trade representatives. A single representation was received from Mr Mathab Khan of the Cardiff Hackney Carriage Association. A copy of the representation received was appended to the report. Members were reminded that Mr Khan was also given an opportunity to address the Committee at its meeting in August 2014 and he had raised concerns regarding the legality of the fitness criteria. Members were advised that a number of local authority and independent solicitors were involved in the drafting of the LTP Fitness Criteria to ensure that they fully comply with all relevant legislation.

RESOLVED – That:

- (1) The Fitness Criteria for Drivers and Operators be approved and implemented from 1 January 2015;
- (2) The Head of Regulatory Services and Group Leader (Licensing) be delegated to make any necessary administrative changes that may be required.

#### 45 Skin Piercing Registrations

The Committee noted the actions taken by the Head of Regulatory and Supporting

Services in respect of the following applications.

1. C Farley  
Personal Registration
2. J Zaslona  
Personal Registration
3. E J Henshaw  
Personal Registration
4. S Hone  
Personal Registration
5. Tattoo U  
88 Whitchurch Road  
Premises Registration
6. 53 The Philog  
Premises Registration
7. 147 Habershon Street  
Premises Registration

46 Street and House to House Collection Permit Applications

To Committee noted the actions taken by the Head of Regulatory and Supporting Services in respect of the following applications.

1. Friends Of The Dogs (Wales)  
Carol Permit  
20/12/2014
2. Terrence Higgins Trust  
Carol Permit  
01/12/2014
3. Children with Cancer UK  
Carol Permit  
04/11/2014
4. Central Beacons Search and Rescue  
Carol Permit  
13/12/2014
5. UCKG Helpcentre  
Carol Permit  
06/12/2014
6. Sunshine Friends  
Carol Permit  
19/12/2014

7. Age Cymru  
Carol Permit  
05/12/2014
8. Salvation Army  
Carol Permit  
06/12/2014
9. Salvation Army  
Carol Permit  
06/12/2014
10. Salvation Army  
Carol Permit  
13/12/2014
11. Salvation Army  
Carol Permit  
13/12/2014
12. Salvation Army  
Carol Permit  
20/12/2014
13. Salvation Army  
Carol Permit  
20/12/2014
14. Salvation Army  
Carol Permit  
24/12/2014
15. Cancer Research UK  
Carol Permit  
13/12/2014
16. Concern Universal  
Carol Permit  
06/12/2014
17. Anthony Nolan Bone Marrow Trust  
Carol Permit  
06/12/2014
18. Barnardos  
Street Collection Permit  
16/12/2014  
20/12/2014
19. Tredegar Town Band Society  
Carol Permit

06/12/2014

07/12/2014

20. Tredegar Town Band Society

Carol Permit

13/12/2014

14/12/2014

21. Tredegar Town Band Society

Carol Permit

20/12/2014

21/12/2014

22. Dementia UK

Carol Permit

05/12/2014

23. 3rd Rhiwbina Scout Group

Carol Permit

10/12/2014

24. Worldwide Cancer Research

Carol Permit

06/12/2014

25. Touch Trust

Carol Permit

01/12/2014

26. Alzheimers Society

Carol Permit

20/12/2014

27. Alzheimers Society

Carol Permit

17/12/2014

28. Alzheimers Society

Carol Permit

03/12/2014

29. Teenage Cancer Trust

Carol Permit

20/12/2014

30. Teenage Cancer Trust

Carol Permit

17/12/2014

31. Teenage Cancer Trust

Carol Permit

03/12/2014

32. Childrens Society  
Carol Permit  
06/12/2014
33. Search and Rescue Dog Association (SARDA)  
Carol Permit  
20/12/2014
34. Society for the Protection of Unborn Children  
Carol Permit  
13/12/2014
35. British Red Cross  
Carol Permit  
13/12/2014
36. Ty Hafan  
House to House Collection Permit  
01/01/2015  
31/12/2015
37. Tenovus  
House to House Collection Permit  
01/01/2015  
31/12/2015
38. Tenovus  
House to House Collection Permit  
01/12/2014  
28/12/2014
39. Kenyan Orphan Project  
Carol Permit  
06/12/2014
40. Action Against Hunger  
Carol Permit  
06/12/2014
41. Cancer Recovery Foundation UK  
House to House Collection Permit  
15/01/2015
42. Global Brigades UK  
Carol Permit  
06/12/2014
43. Society for the Protection of Unborn Children  
Carol Permit  
20/12/2014



44. British Red Cross  
Carol Permit  
20/12/2014
45. Teenage Cancer Trust  
Carol Permit  
18/12/2014
46. Teenage Cancer Trust  
Carol Permit  
21/12/2014
47. Alzheimers Society  
Carol Permt  
18/12/2014
48. Alzheimers Society  
Carol Permit  
21/12/2014
49. Tree Of Hope Childrens Charity  
House to House Collection Permit  
05/01/2015  
31/12/2015
50. Animal Aid  
Carol Permit  
20/12/2014
51. George Thomas Hospice  
Carol Permit  
24/12/2014
52. George Thomas Hospice  
House to House Collection Permit  
21/12/2014  
24/12/2014
53. Bobath Childrens Therapy Centre Wales  
Street Collection Permit  
22/11/2014
54. Community Music Wales  
Carol Permit  
13/12/2014