

## KENT COUNTY COUNCIL

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### REGULATION COMMITTEE

MINUTES of A meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 27 January 2009.

PRESENT: Mr M J Harrison (Chairman) Mr A D Crowther (Vice-Chairman) Mr A R Bassam, Mr T J Birkett, Mr C J Capon, Mr I S Chittenden, Mr L Christie, Mr J A Davies, Mr T Gates, Mr C Hart, Mr W A Hayton, Mr R E King (Substitute for Mr R A Pascoe), Mr I T N Jones, DL, Mr R J Parry (Substitute for Mr A H T Bowles), Mrs P A V Stockell and Mr F Wood-Brignall

IN ATTENDANCE: Mr S Bagshaw (Head of Admissions & Transport), Mrs A Hayward (Manager for Primary Admissions & Transport), Mr G Rudd (Assistant Democratic Services Manager), Mr C Wade (PROW Team Manager (definition)), Mrs S Thompson (Head of Planning Applications Group), Mr R Gregory (Principal Planning Officer Enforcement) and Mr A Tait (Democratic Services Officer)

### UNRESTRICTED ITEMS

**1. Minutes**  
(Item. 3)

RESOLVED that the Minutes of the meetings of the Committee held on 18 September 2008 and of the Member Panels held on 31 October 2008 and 12 November 2008 are correctly recorded and that they be signed by the Chairman.

**2. Proposed amendment to a Regulation Committee Member Panel Procedure**  
(Item. 4)

RESOLVED that Paragraph 7 (i) of the Marriage Premises Review Procedure be amended as set out in Paragraph 5 of the report (set out in Appendix 1 to these Minutes).

**3. Transport Appeal Panels Procedures**  
(Item. 5)

(1) The Committee agreed to minor amendments to the draft procedure for clarification purposes and to the inclusion of a new Paragraph 4 in the "Reaching A Decision" section of the draft Procedure.

(2) In considering the report, the Committee agreed on the desirability of appointing a permanent Chairman of the Transport Appeals Panels.

(3) RESOLVED that the Procedure set out in Appendix 2 to these Minutes be adopted for future use by the Transport Appeals Panels.

**4. Transport Appeal Statistics**  
*(Item. 6)*

RESOLVED that the report be noted.

**5. Update on Village Green Issues**  
*(Item. 7)*

(1) The PROW Team Manager (Definition) gave an oral update on progress with the DEFRA Pilot Project. He informed the Committee that a seminar for District and Parish Councils was being arranged to take place in Spring 2009 and that County Councillors would also be invited. He also updated the Committee on progress on a number of PROW and Village Green cases which had been considered by the Member Panels and on the latest legal position in respect of "Deference."

(2) The Committee agreed that it wished for a Schedule of outstanding Village Green and PROW cases to be included in the agenda papers for its future meetings.

(3) RESOLVED that:-

(a) the report be noted; and

(b) a Schedule of outstanding Village Green and PROW cases be included in the agenda papers for future meetings of the Committee.

**6. Update on Planning Enforcement Issues**  
*(Item. 8)*

(1) Mr W V Newman was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

(2) The views of Mr R Gough, Mr A J King and Mr R Tolputt were reported to the Committee.

(3) RESOLVED to endorse the actions taken or contemplated on the respective cases set out in paragraphs 15 to 29 of the report and those contained within the Schedules in Appendices 1 to 3 of the report.

**EXEMPT ITEMS**  
**(Open Access to Minutes)**

*(Members resolved that under Section 100A of the Local Government Act 1972 the public be excluded from the meeting for following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act)*

**7. Update on Planning Enforcement issues at Deal Field Shaw, Charing**  
*(Item. 11)*

(1) The Head of Planning Applications Group reported the latest enforcement position concerning Deal Field Shaw (Shaw Grange), Charing. This included the County Council's confirmed ownership of the site.

(2) RESOLVED that the Officers of the Planning Enforcement Team and Legal Services be thanked for their efforts and achievements in relation to the site and that the enforcement strategy outlined in paragraphs 5 to 10 of the report be endorsed.

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## **KENT COUNTY COUNCIL**

### **REGULATION COMMITTEE**

*PROCEDURE FOR CONSIDERING A REQUEST FOR A REVIEW OF THE REGULATORY AUTHORITY'S DECISION WITH RESPECT TO THE REGISTRATATION OF A PREMISES FOR THE SOLEMNIZATION OF MARRIAGES AND THE REGISTRATION OF CIVIL PARTNERSHIPS*

- 1) The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 permit the applicant, or the holder of an approval of a premise for the solemnization of marriages and the registration of civil partnerships, to request a review of the regulatory authority's decision with respect to the registration of that premise for the solemnization of marriages and the registration of civil partnerships.
- 2) An applicant may request a review in respect of a decision to:
  - (a) refuse an approval
  - (b) attach to an approval special conditions other than those specified in the Regulations.
- 3) A Holder of an approval may request a review in respect of a decision to:
  - (a) refuse to renew that approval
  - (b) attach to the renewal of that approval special conditions other than those specified in the Regulations
  - (c) revoke the approval otherwise than under Regulation 8(9) or 8 (10) of the Regulations.
- 4) The request for a review shall be made in writing to the Proper Officer for the Registration Service, setting out the grounds and the preferred outcome of the review. Except for requests to review a decision to revoke an approval, any such request must be accompanied by a fee of £400.
- 5) Except in the case of a review of a decision to revoke an approval, or where the decision on which the review is requested has been made by the Regulation Committee, the Proper Officer will refer the request to the Director of Community Safety and Regulatory Services, who shall consider whether the request can be acceded to in accordance with normal policies and practices. If so, (s)he may amend the conditions as requested by the applicant and reissue the licence.

- 6) If the Director of Community Safety and Regulatory Services can not deal with the request as provided for in paragraph 5 (s)he shall refer it to the Head of Democratic Services who shall arrange for it to be considered by a Regulation Committee Panel of Members. The following procedure applies:-
- (a) The Panel of Members will consist of 3 Conservative, 1 Labour and 1 Liberal Democrat Member of the Regulation Committee nominated by political group spokesmen. The Chairman of the Panel will normally be the Chairman or Vice-Chairman of the Regulation Committee. No Member of the Panel will have had any previous connection with the request or the original licence application.
  - (b) A Democratic Services Officer nominated by the Head of Democratic Services will clerk the Panel and arrange a date for a meeting of the Panel in consultation with the parties concerned, setting a deadline for any additional papers to be provided.
  - (c) At least 5 clear working days before the Panel meeting, the agenda papers are sent to the applicant, the Director of Community Safety and Regulatory Services and Panel Members.
- 7) The Panel will normally meet in public unless the Panel resolves to exclude the press and public under the provisions set out in Section 100A of the Local Government Act 1972. The meeting procedure is set out below:-
- (a) Introductions by the Chairman, including an explanation of the procedure to be followed.
  - (b) The Director of Community Safety and Regulatory Services (supported as (s)he deems appropriate) explains the County Council's grounds for refusal or the conditions imposed.
  - (c) The applicant and Panel Members ask questions of the Director of Community Safety and Regulatory Services.
  - (d) The applicant or his/her representative (with such witnesses as s(he) deems appropriate) explains the grounds for seeking a review and the preferred outcome of the review.
  - (e) The Director of Community Safety and Regulatory Service and the Panel Members ask questions of the applicant.
  - (f) If the application under review has been the subject of a previous Member Panel, it may be appropriate for the Chairman

of that Panel to be invited to attend, comment to the Panel and be asked questions.

- (g) When the Chairman is satisfied that all parties have completed their representations, the Director of Community Safety and Regulatory Services is invited to summarise the case for the Authority.
- (h) The Applicant is invited to sum up. (The Applicant has the final word).
- (i) Following the summing up by the Applicant, a decision is reached by the Panel. No further representations may be made to the Panel at this stage by either the Applicant or the Director of Community Safety and Regulatory Services. The full decision will be made in public and set out in writing to all parties by the Clerk. The decision can be:-
  - (i) to confirm the County Council's decision;
  - (ii) to vary an original decision to grant or renew an approval, in particular by removing special conditions, or by attaching new or different special conditions;
  - (iii) to substitute a different decision, which may, where the original decision was to revoke an approval, be a decision that the approval should not be revoked but should be subject to new or different conditions than those which were previously attached to it.

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## **KENT COUNTY COUNCIL**

### **REGULATION COMMITTEE**

#### *PROCEDURE FOR CONSIDERING HOME TO SCHOOL TRANSPORT APPEALS*

- (1) Parents and pupils are entitled to appeal against decisions by the Local Authority in respect of Home to School Transport.
- (2) The request for an appeal shall be made in writing to the Head of Democratic Services or his nominated representative, setting out the grounds and the preferred outcome of the appeal.
- (3) The Head of Democratic Services shall arrange for the appeal to be considered by an ad-hoc Regulation Committee Panel. The following procedure applies:-
  - (a) The Panel of Members will consist of 3 Conservative, 1 Labour and 1 Liberal Democrat. The Panel must be chaired by a member of the Regulation Committee and include at least one other Member of the Regulation Committee. No Member of the Panel will have had any previous connection with the matter under consideration.
  - (b) A Democratic Services Officer nominated by the Head of Democratic Services and Local Leadership will clerk the Panel and arrange a date for a meeting of the Panel in consultation with the parties concerned, setting a deadline for any additional papers to be provided.
  - (c) At least 5 clear working days before the Panel meeting, the agenda papers are sent to the appellant, the nominated officer for the Head of Admissions and Transport and the Panel Members (mainstream home to school transport or the Head of Additional Educational Needs (if applicable) hereafter referred to as the presenting officer, and the Panel Members.
- (4) The Panel will normally meet under the provisions set out in Section 100A of the Local Government Act 1972, whereby the press and public (apart from the appellant) are excluded. The meeting procedure is set out below:-

- (a) Introductions by the Chairman, including an explanation of the procedure to be followed.
- (b) The presenting officer explains the reasons that have prevented the Local Authority from meeting the appellant's wishes up to this stage.
- (c) The appellant and Panel Members can ask questions of the presenting officer.
- (d) The appellant and/or his/her representative (who can be a Member of the County Council) explain the grounds for the appeal and its desired outcome.
- (e) The presenting officer and the Panel Members can ask questions of the appellant.
- (f) When the Chairman is satisfied that all parties have completed their representations, the presenting officer is invited to summarise the case for the Local Authority.
- (g) The appellant is invited to sum up, (the appellant has the final word).
- (h) The appellant and the presenting officer leave the room. A decision is reached by the Panel. This decision will be set out in writing to all parties by the Clerk, who will also set out the reasons for it.

## REACHING A DECISION

- (1) In reaching its decision the Panel must have due regard to the Local Authority's policies in respect of free home to school transport. The Panel will need to satisfy itself that the policies have been correctly applied.
- (2) The Panel must then go on to look at the specific circumstances of the case to determine whether they are sufficiently strong enough to justify the Panel exercising its discretion to disregard the Local Authority's policies.
- (3) There is a responsibility on the Panel to consider the most cost effective and appropriate mode of home to school transport taking into account the family circumstances at the time of the appeal.

## THE DECISION

- (1) The Panel may decide to uphold the appeal in all respects.
- (2) The Panel may decide not to uphold the appeal in any respect.

(3) The Panel may decide to partially uphold the appeal. This can include meeting the appellants' wishes wholly or in part for a time-limited period. At the end of the time specified for the provision of home to school transport the Panel can review the circumstances of the case again. The Panel can also specify that additional information be made available at the review. This might include such things as up to date medical reports and school attendance records.

(4) If a parent requests a cash allowance, the Panel should consider this, taking into account the availability of alternative modes of transport and the personal circumstances of the appellant or parent. Mileage will normally only be paid for one return journey from home to school per day.

#### VARIATION TO THIS PROCEDURE IN RESPECT OF APPEALS FOR THE LOCAL EDUCATION AUTHORITY TO DESIGNATE A ROUTE FROM HOME TO SCHOOL AS HAZARDOUS.

1) For the purposes of considering an appeal that the nearest available route from home to school is hazardous *in itself*, the meeting will be open to the public, following the procedure set out above in all other respects.

2) The Appellant may also ask the Panel to consider his or her personal circumstances in the event that the Panel decides that the route is not hazardous *in itself*. This part of the appeal will be held under the provisions set out in Appendix 100A of the Local Government Act 1972, whereby the press and public (apart from the appellant) are excluded. The procedure set out above will be followed in all other respects.

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