

Public Document Pack



Ian Vargeson – Member Services Manager
General Enquiries: Telephone No. 01362 656870
Member Services Fax No. 01362 690821
DX743950 Dereham 2

To The Members of the Council

Our Ref: HM/L.18
Contact: Helen McAleer
Direct Dial: 01362 656381
E-mail: helen.mcaleer@breckland.gov.uk
Date 15 April 2009

AGENDA SUPPLEMENT

Dear Sir/Madam

COUNCIL - THURSDAY 23 APRIL 2009

I refer to the agenda for the above-mentioned meeting and enclose the following item:

Item No	Report Title	Page Nos
15.	Appeals Committee - 8 April 2009 Unconfirmed minutes of the meeting of the Appeals Committee held on 8 April 2009.	78 - 81

Yours faithfully

Helen McAleer

Member Services Officer

BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 8 April 2009 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr P.S. Francis (Chairman)
Mrs J. Ball
Mr R.W. Duffield

Mr M. Fanthorpe
Mrs L.H. Monument
Mr I. Sherwood (Vice-Chairman)

In Attendance

Tiffany Bentley
Sheila Cresswell
Mr P Mason
Patrick O'Brien

Senior Licensing Officer
Member Services Officer
Solicitor
Licensing Officer

Action By

10/09 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 25 February 2009 were confirmed as a correct record and signed by the Chairman.

11/09 APOLOGIES (AGENDA ITEM 2)

There were no apologies for absence.

12/09 DECLARATION OF INTEREST (AGENDA ITEM 4)

None.

13/09 EXCLUSION OF THE PRESS AND PUBLIC (AGENDA ITEM 7)

RESOLVED that under Section 100(a)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act."

**14/09 APPLICATION FOR THE GRANT OF A HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE (AGENDA ITEM 8)**

The report was considered in the presence of the appellant and his partner (who also owned the taxi company). Mr Phil Mason (Solicitor) was also in attendance for this item.

The Committee heard the appeal in accordance with the Council's agreed procedure.

The Licensing Officer presented the report, which was to determine an application for the grant of a Hackney Carriage/Private Hire driver's

Action By

licence. He explained that the Norfolk Constabulary had declined an invitation to send a representative to the Hearing to clarify the disputed entry on the CRB report. The Constabulary had indicated that it was not their practice to do so, not least given the number of cases they had to deal with. Additionally, they had nothing further to add to the key documentation before the Committee, which was currently being disputed by the appellant.

The solicitor advised that the Committee should hear the full details of this case before hearing the appellant's views.

After the relevant documents had been read out, the Chairman explained to the appellant that the Committee were not in a position to get involved with any ongoing legal aspects between the appellant and Norfolk Constabulary. He said that the purpose of the Hearing was to establish whether or not the appellant was considered "a fit and proper person to be granted a Hackney Carriage/Private Hire driver's licence".

The appellant then put forward his case, explaining the background to the area of concern and saying that he had been unaware of some of the allegations made against him until he had received a copy of his CRB report. He was in the process of challenging this at the moment. In the mean time, he was anxious to move forward. He had made a new start and had positive goals in sight. He added that he would be happy to undergo a drugs test if the Committee deemed this necessary. He also added that he believed the unfounded allegations made against him came from one source: that of an embittered ex-partner.

The appellant's current partner and employer then spoke, confirming the family situation and the fact that the business was aimed at a certain level of clients. They were aiming to maintain high standards and avoided night club or late night pub work. They catered for weddings, covered airport trips and had clients from local hotels and a golf club. They also did some school runs. They were hoping to expand the business in these areas and also get a second car.

In the appellant's final statement he confirmed that he was aiming to get all allegations removed from his record, and again stated that he would be willing to take a drugs test if the Committee so required.

After a brief discussion, it was

RESOLVED

that, having heard all the evidence, including the documents submitted at the Hearing by the applicant, and in accordance with Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976, the appellant be granted a Hackney Carriage/Private Hire drivers' licence for an initial period of six months, after which the matter should be referred back to the Committee if a further application was received.

Action By

**15/09 COMPLAINT AGAINST HACKNEY CARRIAGE/PRIVATE HIRE
DRIVER (AGENDA ITEM 9)**

The report was considered in the presence of the appellant and his employer. Two witnesses were also present, accompanied by a close friend. In addition, Mr Phil Mason (Solicitor) was in attendance for this item.

The Committee heard the appeal in accordance with the Council's agreed procedure.

The Senior Licensing Officer presented the report, which was to consider a complaint received against a Hackney Carriage/Private Hire driver. The report outlined the history of this case, in terms of the complaints received and the requests for a written response from the appellant. The Senior Licensing Officer confirmed that neither a written response to the complaint, nor any written confirmation of a change of address, had been received from the appellant. The Licensing team had therefore been unable to investigate the complaint further.

The letter of complaint and diary notes, were then read out to the Committee.

There followed some discussion about the nature of the complaints, the dates quoted and the fact that some had two signatories. The key witness acknowledged that, whilst there had been a number of events which she had not been happy about, the trigger for the formal letter of complaint had been the lack of an apology which had been requested after a specific incident.

It was pointed out to the appellant that there were two issues under consideration: the complaints received against him; and his failure to comply with the terms and conditions set out by Breckland Council for all Hackney Carriage/Private Hire drivers licences (namely to notify the Council in writing of any change of address during the period of the licence within seven days of the change taking place).

The appellant denied all of the accusations made against him. He said that he had not been prepared to apologise for something which he had not done. He also referred to the specific dates of each allegation, saying that on three of the occasions cited he had not actually been driving the witness.

He said a letter had been sent to the Licensing Team in response to their request for his views, in which he had denied all allegations. Unfortunately this had not arrived at Elizabeth House.

The appellant's employer was asked to confirm the appellant's statement that he had not actually been driving the witness on three of the key dates under discussion.

The employer explained that the company had a *pda* electronic system which monitored all bookings and the drivers used on each job. He confirmed that he could therefore provide evidence that the appellant

Action By

was not the driver on three of the occasions cited. In response to a question, he confirmed that the *pda* units were personal to each driver, no matter which of the company's ten cars they were actually driving at the time.

The employer also confirmed that the appellant had worked for him for one and a half years and that this was the first time anyone had made a complaint about him.

It was acknowledged that at some point the witness and the appellant had been on friendly terms, in a business sense, but that the relationship had deteriorated.

The Senior Licensing Officer was then asked to clarify the time trail concerning the contacts made with the appellant. The point was made that this was the second occasion in recent months where an important letter had been claimed to have been written and posted from this particular taxi company, but had not been recorded as having arrived in the Licensing Department. It was also stressed that it would have been helpful if the appellant or his employer had brought a copy of the letter they had sent along to the meeting, as an item of evidence for the Committee. In this case, a copy of the print-out confirming the drivers on the key dates would also have been helpful evidence for the appellant. The Senior Licensing Officer then confirmed that the appellant had alerted her about his change of address over the telephone. He had been reminded that this was also needed in writing too.

After some discussion, the Chairman said that the Committee felt that to some extent the appellant's employers had let him down, by not providing the specific evidence. The Committee found the allegations to be not proven in the light of claims from the proprietor of the taxi company that the appellant had not been driving on some of the days concerned.

Having heard all the evidence, it was

RESOLVED that the driver's licence be suspended for a period of two weeks in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976. The reason for the suspension was the Licence holder's failure to comply with Condition 9 of Breckland Council's Hackney Carriage/Private Hire drivers' licence terms and conditions requiring that the Council be notified in writing of any change of address.

The meeting closed at 12.38 pm

CHAIRMAN