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To The Members of the Council

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Date 22 October 2012

AGENDA SUPPLEMENT

Dear Sir/Madam

COUNCIL - THURSDAY 25 OCTOBER 2012

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

Item No	Report Title	Page Nos
11.	Appeals Committee Unconfirmed minutes of the meeting of the Appeals Committee held on 17 October 2012.	63 - 65

Yours faithfully

Julie Britton

Senior Committee Officer

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 17 October 2012 at 10.00 am in
Norfolk Rooms, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mrs L.H. Monument
(Chairman)

Mr W. R. J. Richmond (Vice-
Chairman)

Mr S. Askew

Mr R.W. Duffield

Mrs J A North

In Attendance

Mr Philip Mason

Jane Osborne

Tiffany Bentley

Rowland Wilson

Kevin Shreeve

Aida Li

- Solicitor
- Committee Officer
- Licensing Officer
- Licensing Officer
- Trainee Solicitor, Overburys
- Law Student, UEA

Action By

44/12 MINUTES

It was noted that with regard to Minute No. 42/12 page 2, 6th paragraph, it should read breaking, not braking.

Subject to the above, the Minutes of the meeting held on 4 July 2012 were confirmed as a correct record and signed by the Chairman.

45/12 APOLOGIES

Apologies for absence had been received from Cllr Armes.

46/12 NON-MEMBERS WISHING TO ADDRESS THE MEETING

Aida Li, Law Student from the UEA, and Kevin Shreeve, Trainee Solicitor, Overburys Solicitors were in attendance for training purposes only.

47/12 HEARING PROCEDURES

The procedure was noted.

**48/12 APPLICATION FOR THE GRANT OF A HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE**

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

Action By

The Hearing took place in the presence of the applicant, the Licensing Officer and Mr P Mason the Council's Solicitor.

The Chairman made introductions and explained the procedures to the applicant. The applicant was happy for Aida Li and Kevin Shreeve to be present for the hearing for observation/training purposes only.

Tiffany Bentley, Licensing Officer summarised the report which was to consider the grant of a Hackney Carriage/Private Hire drivers licence in accordance with Section 46 of the Town Police Clauses Act 1847 and Section 51(1) of the Local Government (Miscellaneous Provisions) Act 1976. The principal consideration was whether the safety of the public might be at risk through the applicant's driving history. She advised that the applicant's address had changed since the publication of the report.

The Solicitor gave legal advice to the Committee with regard to the definition of a fit and proper person, and he drew reference to the decision made which related to the case of *McCool v Rushcliffe BC* 1998 3, All England Law Reports and read out paragraph F, from page 891.

The applicant who was accompanied by his father was asked to explain to the Committee the circumstances which resulted in his motoring offences. He advised that he had been caught by fixed speed cameras twice and a speed gun once. Twice the offences occurred between 3 a.m and 4 a.m and whilst he exceeded the 30 mph limit, he had driven below 40 mph. Each time he was in the car on his own and one occurred when he was not a taxi driver. His father had been granted a contract with Norfolk County Council to carry children in 2009, and due to his father's illness, the applicant was joining with him to assist with the school contracts, should his father be unable to fulfil them.

The Committee noted the change in circumstances in that since the applicant's application for the grant of a licence in June 2012, the answer to question 7 of the application should now read "Yes" (and not, "No"), as his role would involve regular work with children (e.g school transport contracts).

Having heard all the evidence, the applicant, his father and Officers withdrew to allow the Committee to consider their options. The Members would apply the statutory test to the application to determine if they considered that the applicant was a fit and proper person to perform the duties expected of a Breckland Council Hackney Carriage/Private Hire driver.

After considering the matter the applicant, his father and the Officers returned.

The Solicitor advised the following findings of fact :

1. The applicant had previously held a licence from 2009 to 2012.
2. The applicant had 3 current speeding convictions.
3. On the evidence given by the applicant, all 3 offences occurred whilst the applicant was alone in the vehicle.
4. All speeding offences were between 30-40 mph.
5. The applicant amended his application to work on school contracts, thus coming into contact with children.

In the circumstances it was :

RESOLVED that :

The applicant be granted a Hackney Carriage/Private Hire driver's licence for a period of 6 months. Thereafter, the licence would be reviewed. The applicant was warned that any change of circumstances affecting the licence should be reported immediately to the Licensing Authority.

The reason for the decision was that :

1. On the evidence available at the hearing, the applicant satisfied the test of being a fit and proper person.

The decision was subject to appeal to the Magistrates Court. The Appeal period was 21 days from the date on which the notice of the decision was given.

The Chairman asked the applicant to remember that his licence was important at any time of the day both when he had passengers in his vehicle and when he did not, and that he would have greater responsibility now that he would carry children as passengers.

49/12 NEXT MEETING

It was noted that the next meeting would be held on Wednesday, 28 November 2012 at 10.00 a.m in the Norfolk Room.

The meeting closed at 11.20 am

CHAIRMAN