
BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 17 September 2008 at 10.00 am in
Norfolk Rooms, 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

Gilbert Addison
Stephanie Butcher
Sheila Cresswell
Richard Fisher
Michael Horn
Phil Mason
Helen McAleer
Mark Symonds

- Tree & Countryside Officer
- Licensing Team Leader
- Member Services Officer
- Assistant Tree & Countryside Officer
- Head of Legal Services
- Solicitor, representing Breckland Council
- Member Services Officer
- Tree Preservation Review Officer

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11/08 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 16 April 2008 were confirmed as a correct record and signed by the Chairman.

12/08 APOLOGIES (AGENDA ITEM 2)

There were no apologies for absence.

**13/08 APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE
LICENCE (AGENDA ITEM 6)**

The application was considered in the presence of the applicant. Mr Phil Mason (solicitor) was also in attendance for this item, representing the Council.

Members were asked to consider an application to renew the licence of a limousine as a private hire vehicle as an exception to the current Breckland Council private hire vehicle licensing policy since the vehicle concerned was over ten years old.

Following the presentation of the report by the Licensing Team Leader, the Committee heard the appeal in accordance with the Council's agreed procedure.

The application for renewal of the private hire licence was made on the grounds that the vehicle was in exceptional condition; had low total and annual mileage; and had passed the Council's required mechanical tests every six months, as well as being voluntarily MoT tested every six

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months. Full evidence was provided to confirm the condition and thorough maintenance of the vehicle.

The owner presented his case, making the additional points that if this vehicle were to be taken off the road his whole business would become unviable. He also stated that, following consultation with Norfolk police (who had recommended that the side marker light bulbs were changed to orange, as they are on buses), both the company's limousines were now fitted out this way. Additionally, whilst legally the limousines were only required to have a first aid kit and one fire extinguisher on board, the company had decided to install an extra fire extinguisher in each of their limousines (one in the boot and one in the driver's compartment) due to the length of the vehicles. He had also instituted a basic safety check-list for each vehicle which was completed before every journey (brake lights, wipers etc). All service records were kept, thus providing a full history. The Limousine under consideration had been parked in the Council's car park if Members wished to inspect it.

Members raised various concerns, particularly with the MoT matter which was standard for all cars. The six monthly MoT tests that the Council required were more focussed on structural and other issues associated with longer vehicles. Mileage at the time of the application was just under 92,000 and the vehicle averaged about 2,800 per year, dependant upon bookings. It was agreed that compared to taxis and given the size of the limousine's engine (4.6 litres), together with the vehicle's age, this was a very low mileage. The vehicle was licensed to carry eight and was usually booked to capacity.

RESOLVED that

- (1) the Council depart from the current private hire vehicle licensing policy on the age of limousines to allow the renewal of this particular hire vehicle licence subject to a requirement that the vehicle was tested (under the Breckland Council private hire vehicle mechanical tests) every six months. The licence to be renewed for one year; and
- (2) the Licensing Team Leader be asked to investigate what age such vehicles should be considered to be inappropriate for renewal applications.

It was noted that Mr Ian Sherwood objected to this decision, expressing concerns about public safety in old vehicles.

**14/08 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER
2008 NO. 31: TOFTWOOD, DEREHAM (AGENDA ITEM 7)**

The Tree Preservation Review Officer presented the report which stated that Tree Preservation Order 2008 No. 31 had been made on 7 April 2008 to protect twenty-four individual oak trees and one group containing twenty-eight oak trees on land within the area known as Toftwood, Dereham. An objection to the protection of trees T8 and T9 had been received which needed to be considered by the Committee.

The report highlighted that during an ongoing TPO review, a recent

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survey had identified the trees (as detailed in Appendix A of the report) as being of high amenity value and therefore merited continued protection. The order included T8 and T9: two mature oak trees which were considered to have a considerable safe useful life expectancy and which were in a satisfactory condition. The trees were the remnants of an old hedgerow and photographic evidence was provided to the Committee.

TPO 2008 No. 31 was served on 7th April 2008 upon owner/occupiers including Mr Diffey of 18 Hillfields and Mr Rollo of 20 Hillfields in respect of T8 and T9 on the boundary of the rear gardens and the Dereham Town Council allotments. Both had made objections to the Order (letters dated 16th and 15th April 2008 respectively) and both were present at the meeting to make their case in terms of anxieties around the proximity of these trees to their properties, and whether the trees actually fell within the boundaries of their properties.

The report made clear that the trees had been assessed using the Council's adopted TPO scoring system, (details were attached to the Agenda documents) and had been found to fall within the suitability range.

After general discussion, Members felt that since there were potential uncertainties over the serving of the TPOs on the owners of the land on which trees T8 and T9 were growing, it was felt that it would be inappropriate to issue the Order in respect of trees T8 and T9. However, as there were no objections in respect of any of the other trees, it was

RESOLVED that the Tree Preservation Order 2008 No. 31 be confirmed in respect of all the trees except T8 and T9.

For the avoidance of doubt, the Head of Legal Services confirmed that trees T8 and T9 remained protected under the original TPO.

**15/08 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER
2008 NO. 60: GOOSE GREEN, ASHILL (AGENDA ITEM 8)**

The Chairman pointed out that the Appeals Committee was a subsidiary to the Development Control Committee and it was unusual for the latter to refer matters downwards. However, on this occasion the planning decision had been deferred pending the decision of this Committee.

The Assistant Tree and Countryside Officer presented the report which detailed that Tree Preservation Order (TPO) 2008 No. 60 had been made in order to protect one (Hybrid) Black Poplar on land to the rear of houses 1-7 The Green, Ashill, following a planning application (3PL/2008/0214/F) for a scheme to build seven social housing units. The order was served on 2 July 2008 and an objection had been made to this TPO which meant that it needed to be discussed by the Committee. The TPO would expire on 2 January 2009 unless it was confirmed before then.

It was felt that the tree was in a prominent position and would

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considerably add to the amenity of any proposed development of the site, albeit some re-positioning of the proposed dwellings might be needed.

Mr Yardley, Consultant Arborist for Peddars Way Housing Association, had raised an objection on 28 July on the grounds of insufficient public amenity value and that the retention of the tree would be in detriment to the proposed development. He pointed out that the land concerned was currently used as back land/a dumping ground and that the tree had been assessed and found to be at the bottom end of category A. He felt that this tree would not be a significant loss to the community and that the Committee should consider the comparative amenity value, bearing in mind the positive aspects of the proposed development. He believed that compromise was not an option on this occasion since the developers felt that if they had to work around the tree – bearing in mind the need for a clear area around its base and parking requirements etc – then the proposed development would not be viable.

Finally he questioned whether or not the tree was a true Black Poplar. Such trees were comparatively rare in this part of Norfolk and all known ones were held on a register. If it were a hybrid black poplar, then it would not merit such high ecological importance. He believed the tree to be about 30-40 years old and stated that it seemed to be splitting out at the base.

Following general discussion it was felt that it was inappropriate for the Committee to proceed to a decision until the exact species of the tree was confirmed. It was, therefore

RESOLVED that:

- (1) the Assistant Tree and Countryside Officer should be asked to contact the relevant expert at Norfolk County Council to establish whether or not the tree concerned was a true or hybrid Black Poplar; and
- (2) the Committee adjourn and defer this matter to a future meeting once the species of the tree had been confirmed.

16/08 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 9)

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

17/08 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE / PRIVATE HIRE VEHICLE DRIVER'S LICENCE (AGENDA ITEM 10)

The report was considered in the presence of the applicant and his employer.

The Licensing Team Leader presented the report which was to

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determine an application for the grant of a Hackney Carriage/Private Hire driver's licence. The Committee heard the appeal in accordance with the Council's agreed procedure.

Given the nature of the request, and the Committee's obligation to be satisfied that the applicant was a fit and proper person to drive and to perform the duties of a Hackney Carriage and Private Hire driver in terms of trust etc, Members felt that a fuller picture was required and asked for the convictions to be made known.

The Licensing Team Leader therefore read out the copy of the spent convictions. The applicant confirmed that there were no matters pending since the report had been prepared and then answered Members' questions concerning his record.

The applicant's employer spoke in strong support of the application, saying that the applicant had been employed with him since December 2007. The applicant had been honest at the time of submitting his job application and had clearly made efforts to turn his life around. He had shown a positive attitude to work, with good customer relationships and feedback. He would continue to be monitored weekly. The employer said that he would be happy to employ the applicant on a full time basis and had already sent him on a course to get a full bus licence.

RESOLVED that the applicant be granted a Hackney Carriage/Private Hire driver's licence for a six month probationary period. The applicant would then need to re-apply and it was requested that, if he chose to do so, the employer should either attend that hearing personally or send a written statement in support of the application.

The meeting closed at 12.55 pm

CHAIRMAN