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BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

Held on Wednesday, 26 November 2014 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham

PRESENT

Mrs L.H. Monument (Chairman)	Mr S. Askew
Mr W. R. J. Richmond (Vice-Chairman)	Mr R.W. Duffield
Mrs S Armes	Mrs J A North

In Attendance

Tiffany Bentley	- Licensing Officer
Yvonne Blake	- Solicitor
Josie Hoven	- Licensing Officer
Helen McAleer	- Senior Democratic Services Officer

38/14 MINUTES (AGENDA ITEM 1)

The Chairman requested an amendment to the second bullet point on page 3 to read 'If a driver's licence is revoked and later *the driver* is found to be'

Subject to that amendment the Minutes of the meeting held on 3 September 2014 were confirmed as a correct record and signed by the Chairman.

39/14 APOLOGIES (AGENDA ITEM 2)

None.

40/14 URGENT BUSINESS (AGENDA ITEM 3)

None.

41/14 DECLARATION OF INTERESTS (AGENDA ITEM 4)

No declarations were made.

**42/14 NON-MEMBERS WISHING TO ADDRESS THE MEETING
(AGENDA ITEM 5)**

None.

43/14 HEARING PROCEDURES (AGENDA ITEM 6)

The Hearing procedures were noted.

Action By

44/14 APPLICATION FOR THE GRANT OF A PRIVATE HIRE VEHICLE LICENCE AS AN EXECUTIVE VEHICLE (AGENDA ITEM 7)

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

The Hearing took place in the presence of the Appellant, a Licensing Officer and Mrs Y Blake, the Council's Solicitor.

The Chairman made introductions and explained the procedure.

The Licensing Officer then presented the report. The Council's current Taxi Licensing Policy did not allow tinted windows except in stretch limousines and luxury vehicles. There was no definition of luxury in the Policy.

Mr Walton's people carrier had been refused a Licence as it had failed the tinted window test. He asserted that it was a luxury vehicle and that he would meet all the requirements in the Executive Vehicle Policy. He had brought the vehicle with him so that Members could inspect it for themselves. He had also submitted a letter and some additional information from the manufacturers which had been issued in an Agenda Supplement. Some Members had not seen the supplement and so time was given for them to read the information.

Councillor North asked if the Council's requirement for 70% of light to be transmitted through the windows was a local or National standard. The Licensing Officer advised that it had been a National standard, but many Local Authorities were moving away from that requirement.

In response to a question the Licensing Officer advised that it was normally an Officer decision whether a vehicle was luxury and qualified for an Executive Licence Plate, but it was a more difficult decision with people carrier vehicles. It was also confirmed that a Licensing Assistant had seen a brochure only, not the car itself, and had given Mr Walton the wrong advice.

The Licensing Officer had not wanted to set a precedent by approving the vehicle without advice from the Committee on the interpretation of luxury status. A report would be presented to General Purposes Committee asking them to agree an exemption to vehicles with tinted windows.

Mr Walton gave further details of the intended use of the vehicle which would not be used for private hire. He explained that his existing luxury vehicle did not have the space to take four passengers and their luggage on airport transfer journeys. He had been looking for a larger, high-spec vehicle to meet their requirements. He also hoped to secure work with armed forces personnel; taking them to ceremonial events when they would be wearing uniform and tinted windows would be needed for security.

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Members left the room to inspect the vehicle. On their return they asked Mr Walton and the Licensing Officer to leave the room whilst they determined the application.

The Solicitor thought that it would be useful to have guidelines on the definition of luxury and executive vehicles.

Members discussed possible safety issues with people on the outside being unable to see into the vehicle. As the vehicle would not be used to transport unaccompanied children and it was felt unlikely that the vehicle would be used for single passengers, those fears were not considered sufficient reason for a refusal.

The Licensing Officer was consulted and confirmed that she was of the opinion that the people carrier was a luxury vehicle. Members agreed with that.

Councillor Duffield was concerned that the Appeals Committee had to administer the Policy and they should have more input to General Purposes Committee which approved the Policy. He was also unhappy that advice had been given based on a brochure. Officers should not give advice without seeing the vehicle.

The Chairman assured him that the Appeals Committee's views would be made clear to General Purposes Committee. She also noted that it was difficult to buy a luxury vehicle without tinted windows.

Mr Weston and the Licensing Officer were invited back into the room. The Solicitor read out a summary of the Committee's decision.

It was **RESOLVED** to grant the appeal for the following reasons:

1. The Committee agreed that it was a luxury vehicle designed for executive use;
2. The Committee required all of the standard Breckland conditions from the Policy for Executive Private Hire to be imposed; and
3. On those conditions the Committee would make an exception to the existing Policy regarding tinted windows as Mr Weston had effectively demonstrated that there was a market demand for vehicles of this kind, and the Committee were aware that such vehicles were produced with tinted windows as standard.

General Purposes Committee would be asked to consider an amendment to the Policy.

45/14 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 8)

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 1, 2 and 7 of Part 1 of Schedule 12A to the Act.

46/14 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE / PRIVATE HIRE DRIVER'S LICENCE (AGENDA ITEM 9)

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

The Hearing took place in the presence of the Appellant, the Appellant's cousin, a Licensing Officer and Mrs Y Blake, the Council's Solicitor.

The Chairman made introductions and explained the procedure.

The Licensing Officer presented the report and advised Members that a print out of the Appellant's conviction details was available if required.

Members wanted to see that information. Copies were tabled and time was given for it to be read. The Appellant had also brought copies of references from employers which were tabled and read by Members.

The Chairman asked the Appellant why he was seeking a Breckland Licence when he lived in Oxfordshire. He responded that he was seeking a fresh start. He acknowledged that he had made mistakes in his youth which he had not realised would have such a long-term effect on his life. He was now married. In his work as a van driver he had visited Breckland and got to know and like the area.

The details of the convictions were explained and Members asked questions to clarify the circumstances.

It was noted that the Appellant had been refused an application for a Licence by Daventry Council in 2012. They had advised him to reapply in 2015 but in the meantime he had decided to move away from that area.

The Appellant, his cousin and the Licensing Officer were asked to leave the room whilst the Committee deliberated on their decision.

Members debated the matter thoroughly. They were split two for and two against allowing the application. One Member abstained. The Chairman used her casting vote. She was inclined to give the Appellant a chance but in view of the number of convictions and the split in the Committee she felt her prime duty was to the people of Breckland.

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The Appellant, his cousin and the Licensing Officer were invited back and the Solicitor read out the Committee's decision.

The Committee felt they could not grant the application at the current time due to the number of recent convictions, most of which were for driving offences. If he chose to apply again in one year they would be willing to reconsider his application. The Committee admired his commitment to remain crime free, but their primary concern was the safety of the residents of Breckland.

RESOLVED to refuse the application for the grant of a Hackney Carriage / Private Hire Licence on the grounds that at the moment the Appellant was not found to be a fit and proper person on the evidence before the Committee.

The Chairman reiterated that the information had been thoroughly discussed and it had not been an easy decision.

47/14 NEXT MEETING (AGENDA ITEM 10)

The arrangements for the next meeting on 8 January 2015 were noted.

The meeting closed at 12.30 pm

CHAIRMAN