

BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 3 December 2008 at 10.05 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr P.S. Francis (Chairman) Mrs L.H. Monument
Mrs J. Ball

In Attendance

Sheila Cresswell - Member Services Officer
Patrick O'Brien - Technical Officer - Licensing
Tiffany Bentley - Licensing Officer
Phil Mason - Solicitor (representing Breckland Council)

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23/08 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 22 October 2008 were confirmed as a correct record and signed by the Chairman.

24/08 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from Mr R Duffield and Mr I Sherwood.

25/08 EXCLUSION OF THE PRESS AND PUBLIC (AGENDA ITEM 6)

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 are likely to involve the disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act.

**26/08 APPLICATION TO SUSPEND / REVOKE A HACKNEY
CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE (AGENDA
ITEM 8)**

The report was considered in the presence of the appellant. 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 Technical Officer (Licensing) presented the report which was to determine whether to suspend/revoke a Hackney Carriage/Private Hire driver's licence following the holder's conviction for a driving offence.

The appellant was given an opportunity to put her case forward and her husband circulated copies of documents to Members, which included a

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letter from the Norfolk Constabulary dated 8 July 2008 offering the appellant the chance to attend a training course as part of the National Driver Improvement Scheme "as an alternative to court proceedings".

The appellant's husband gave details of the accident. He explained that his wife had not initially accepted the course on the advice of the insurance company (who were going to dispute the claim) as it could have been interpreted as her having accepted responsibility for the accident. She consequently missed the deadline for accepting the course and therefore the case went to court. At that point she pleaded guilty.

The Chairman established that the licensed vehicle was being driven at the time of the accident, but there were no paying passengers on board.

After a brief discussion, in view of all the circumstances of the case, and in particular their concerns that the licence-holder had failed to take up the offer of the training course outlined above, Members

RESOLVED

- (1) to suspend the licence for two weeks in accordance with the Council's licensing policy and the provisions of Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976; and
- (2) the suspension would start in 21 days (i.e. 24 December 2008).

It was confirmed that these details would be sent in writing to the appellant, who had the right to appeal to the magistrates within 21 days of this decision.

27/08 APPLICATION TO REVOKE A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE (AGENDA ITEM 9)

The report was considered in the absence of the appellant and the Committee heard the appeal in accordance with the Council's agreed procedure.

Mr Phil Mason (Solicitor) was in attendance for this item.

The Licensing Technician presented the report which was to determine an application to revoke a Hackney Carriage/Private Hire driver's licence.

Following an incident on 18 September 2008 the appellant had appeared at Swaffham Magistrates Court on 28 October and pleaded guilty to the offence of Failing to Provide a Breath Specimen. He was sentenced to 14 weeks' imprisonment, suspended for 12 months and disqualified from driving a vehicle for 30 months. The appellant did not appeal against the conviction or the sentence and his DVLA driving licence had been surrendered to the Court.

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It was established that he was not driving the licensed vehicle at the time of the accident.

After a brief discussion, Members agreed that in the light of overwhelming evidence and the decision of the Swaffham Magistrate's Court on 28 October 2008 (in particular the decision to disqualify the applicant from driving for 30 months), the Committee was compelled to revoke the licence with immediate effect in accordance with the Council's Licensing procedures and Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

RESOLVED to revoke the Licence with immediate effect.

The meeting closed at 10.50 am

CHAIRMAN