



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **APPEALS COMMITTEE**
- Date & Time** - WEDNESDAY, 3RD DECEMBER, 2008 AT 10.00 AM
- Venue** - NORFOLK ROOM, THE CONFERENCE SUITE, ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile phones

Members:

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

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

Member Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Monday, 24 November 2008

PART A - ITEMS OPEN TO THE PUBLIC

	<u>Page(s)</u> <u>herewith</u>
1. <u>MINUTES</u> To confirm the Minutes of the meeting held on 22 nd October 2008.	1 - 4
2. <u>APOLOGIES</u> To receive apologies for absence.	
3. <u>URGENT BUSINESS</u> To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act, 1972.	
4. <u>DECLARATION OF INTEREST</u> Members are asked at this stage to declare any interests that they may have in the following items on the agenda. The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is personal or prejudicial interest.	
5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u> To note the names of any non-members who wish to address the meeting.	
6. <u>EXCLUSION OF THE PRESS AND PUBLIC</u> To consider passing the following resolution: "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."	
7. <u>HEARING PROCEDURES</u>	5
8. <u>APPLICATION TO SUSPEND / REVOKE A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE</u> Report of the Strategic Director – Transformation.	6 - 14
9. <u>APPLICATION TO REVOKE A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE</u> Report of the Strategic Director – Transformation.	15 - 21

BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 22 October 2008 at 10.00 am in
Norfolk Rooms, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr P.S. Francis (Chairman)	Mr M. Fanthorpe
Mrs J. Ball	Mrs L.H. Monument
Mr R.W. Duffield	Mr I. Sherwood (Vice-Chairman)

Also Present

Mr P. Mason	Solicitor, representing Breckland Council
Mr Yardley	Consultant Arboriculturist for Peddars Way Housing Association

In Attendance

Tiffany O'Connor	- Licensing Officer
Julie Britton	- Senior Member Services Officer
Stephanie Butcher	- Licensing Team Leader
Richard Fisher	- Assistant Tree & Countryside Officer
Michael Horn	- Head of Legal Services

18/08MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 17 September 2008 were confirmed as a correct record and signed by the Chairman.

19/08URGENT BUSINESS (AGENDA ITEM 3)

Objection to the making of Tree Preservation Order 2008 No. 60 Ashill

The Chairman had agreed to accept this item as urgent business following the receipt of additional information.

At the last meeting of the Committee, this item had been deferred to enable the species of tree in question to be confirmed (Minute No. 15/08 referred).

Since the last meeting, Norfolk County Council had been consulted and it had been established that the tree concerned was, indeed, a Hybrid Black Poplar.

At the meeting of Development Control Committee on 13 October 2008, planning permission for the site to which this Tree Preservation Order applied had been refused on the grounds of the presence of the tree.

The Assistant Tree and Countryside Officer, who was in attendance for this item, considered that the tree still had significant amenity value and would still be of importance to any future use of this piece of land. He said that he thought that the design of the development could be amended to keep the tree which was probably between 30 and 60 years old and had at least 40 years more life.

Action By

Action By

Mr Yardley, Consultant Arboriculturist for Peddars Way Housing Association, was in attendance and circulated a further photograph of the tree. The photograph showed that the tree had a twin trunk that was divided at the base. The tree in its current condition was quite likely to split and was not considered to be in a particularly prominent position. He informed Members that the Development Control Committee had requested that revised plans be submitted retaining the tree. If the application was amended as requested it would reduce the scheme by two units and would remove the proposed additional parking spaces.

A Member felt that the aforementioned photograph had been taken at the worst time of the year and did not show the tree at its best. He felt that the tree would be a significant loss to the community and that the planning application if revised would not have an impact on the stability of the tree.

Mr Yardley pointed out that the purpose of the photograph was to show the methodology of the tree and to illustrate the structure of it. In terms of the removal of the two plots, the tree would have a very large root protection area which would therefore need quite a large area around it to be left.

A Member asked whether it was very common for these particular trees to be forked like this and further asked how long it would take to grow another tree of similar stance. In response, Members were informed that this particular species was classed as a fast growing tree which had been historically used for the production of matchsticks. The wood was now used for making pallets. For a tree to reach such a size would take around 40 years with a life span of 60/80 years.

In response to a question concerning why these particular trees were cut down at such a "young" age, Mr Yardley explained that they tended to develop decay in the trunk if left for any further amount of time.

A Member was of the opinion that once the rubbish on the site had been cleared the tree would be able to stand in all its glory and therefore should be protected.

A number of questions were raised with regard to planning matters. The Chairman reminded Members that such matters should not form part of this debate.

It was noted that there were many other species of trees in the area, mainly Beech and Ash.

After a number of questions, the public were asked to vacate the room so that the Committee could make a decision.

After deliberating the matter very carefully, the Committee

RESOLVED not to confirm the Tree Preservation Order 2008 No. 60.

Action By

(Note: the Chairman abstained from voting on this matter)

20/08 APPLICATION FOR A GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE (AGENDA ITEM 6)

The Licensing Team Leader presented the report which concerned an application for a Hackney Carriage Vehicle (HCV). The vehicle was currently licensed by Breckland Council as a Private Hire Vehicle but did not comply with the current HCV policy requirements that had been in force since March 2007. The seating layout was one area of non-compliance.

Members were informed that they could make a recommendation to amend this policy if proposed.

Mr Westwood, the applicant, was in attendance to make submissions in support of his application.

The vehicle concerned was a Volkswagen Sharan which had been parked in the car park for Members to view.

Members had regard to the current policy and to the safety of the public being transported in the vehicle.

Mr Westwood explained that he was already licensed as private hire to carry six passengers. He could not see the logic in the policy as he would not be doing anything different to what he was doing already. The vehicle had been manufactured to carry six people and therefore, in his opinion, should not be restricted to five. It was noted that Private Hire Vehicles were not licensed to wait in taxi ranks. This rule was losing Mr Westwood a great deal of business particularly on Friday and Saturday nights and that was the reason he wanted his licence changed.

Members noted that there were many six seated vehicles that were already licensed as HCVs as the applications had been granted before the policy changes came into force.

In response to a question, Members were informed that it was awkward for the elderly or larger people to get in and out of the back of the vehicle but the question of access was always asked before a booking was taken. A mini-bus was on standby if required.

Members left the meeting to inspect the vehicle.

In response to a question from the Solicitor about when he had first learnt of the policy change, Mr Westwood advised that he had been informed of the changes at the beginning of 2007.

Having considered the matter in private session, it was

RESOLVED that the application for a Hackney Carriage Vehicle licence be refused on the following grounds:

Action By

- 1) the vehicle did not comply to current policy requirements; and
- 2) passenger safety.

(Note: Mr Fanthorpe abstained from voting on this matter)

21/08 EXCLUSION OF THE PRESS AND PUBLIC (AGENDA ITEM 7)

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

22/08 APPLICATION FOR A GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE (AGENDA ITEM 8)

The report was considered in the presence of the applicant.

The Licensing Team Leader presented the report which was to 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.

The applicant's driver's licence had shown one endorsement for driving whilst uninsured.

The applicant was given the opportunity to put his case forward and he explained the reasons behind the aforementioned endorsement.

Members noted that the applicant had a prospective employer.

After a brief discussion, Members agreed to grant the licence in accordance with the recommendation.

RESOLVED that

- 1) the Hackney carriage/Private Hire Vehicle Licence be granted, subject to the licence being restricted to six months, enabling the applicant to prove that he was a responsible person; and
- 2) delegated authority be given to Officers to renew, unless further concerns arise.

The meeting closed at 11.30 am

CHAIRMAN

1. Chairman introduces the Officer(s) and explains procedure to parties present.
2. Presentation by Officer(s).
3. Questions to Officer(s) by Members on Policy etc.
4. Presentation by Applicant (opening, call witnesses and produce documents relevant to application).
5. Questions to Applicant by Members.
6. Summary by Applicant.
7. Advice from Officer(s) on policy and/or Solicitor on law and jurisdiction.
8. Members retire from hearing accompanied by the Committee Officer to consider the matter (They may call in Solicitor to help draft reasons for decision. Any other advice must be repeated in open forum).
9. Members return and the decision, including reasons, is announced.

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 8

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 9

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