



Date: 17 July 2017
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LICENSING BOARD

25 JULY 2017

A meeting of the Licensing Board will be held at **10.00 am on Tuesday, 25 July 2017** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor L Potts (Chairman); Councillors: Dellar (Vice-Chairman), Brimm, Connor, K Coleman-Cooke, Crow-Brown, Curran, J Fairbrass, Howes, Matterface, R Potts, Rogers, Tomlinson, Savage and M Saunders

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

'To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest Form attached at the back of this Agenda. If a Member declares an interest, they should complete that form and hand it to the Officer clerking the meeting and then take the prescribed course of action.'

3. **MINUTES OF PREVIOUS MEETING** (Pages 3 - 4)

To approve the Minutes of the Licensing Board meeting held on 3 January 2017, copy attached.

4. **LICENSING SUB-COMMITTEE MINUTES**

To approve the minutes of the Licensing Sub-Committee meetings held on 31 January 2017, 28 February 2017, 17 May 2017, 7 June 2017, 13 June 2017, 20 June 2017, 11 June 2017, copies attached.

4a **MINUTES PUBLIC PACK, 31/01/2017 LICENSING SUB COMMITTEE** (Pages 5 - 6)

4b **MINUTES PUBLIC PACK, 28/02/2017 LICENSING SUB COMMITTEE** (Pages 7 - 10)

4c **MINUTES PUBLIC PACK, 17/05/2017 LICENSING SUB COMMITTEE** (Pages 11 - 12)

4d **MINUTES PUBLIC PACK, 07/06/2017 LICENSING SUB COMMITTEE** (Pages 13 - 14)

4e **MINUTES PUBLIC PACK, 13/06/2017 LICENSING SUB COMMITTEE** (Pages 15 - 16)

4f **MINUTES PUBLIC PACK, 20/06/2017 LICENSING SUB COMMITTEE** (Pages 17 - 20)

4g **MINUTES PUBLIC PACK, 11/07/2017 LICENSING SUB COMMITTEE** (Pages 21 - 22)

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5. **REPORT ON PROSECUTIONS, APPEALS AND LICENSING UPDATE** (Pages 23 - 24)
6. **REQUEST FOR A REVIEW OF GUIDELINES ON THE ASSESSMENT OF VEHICLES**
(Pages 25 - 38)

Declaration of Interests Form

Public Document Pack Agenda Item 3

LICENSING BOARD

Minutes of the meeting held on 3 January 2017 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Linda Potts (Chairman); Councillors Dellar, Crow-Brown, Matterface, Rogers, Tomlinson, J Fairbrass, Savage, M Saunders, Connor and R Potts

363. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Curran, Falcon and Howes.

364. DECLARATIONS OF INTEREST

There were no declarations of interest.

365. MINUTES OF PREVIOUS MEETING

Councillor Rogers proposed, Councillor M. Saunders seconded and Members agreed the minutes of the Licensing Board meeting held on 22 November 2016.

366. LICENSING SUB-COMMITTEE MINUTES

Councillor Connor proposed, Councillor R. Potts seconded and Members agreed the minutes of the Licensing Sub-Committee meeting held on 22 November 2016.

367. REPORT ON PROSECUTIONS, APPEALS AND LICENSING UPDATE

The Regulatory Services Manager presented the report.

Members noted the report.

368. REPORT TO CONSIDER ANY REVISION OF THE TARIFF FOR HACKNEY CARRIAGE VEHICLES

The Regulatory Services Manager presented the report.

Councillor Matterface proposed, Councillor Tomlinson seconded and Members agreed:

“Option 3.1- To make no revisions to the current tariff.”

369. EXCLUSION OF PUBLIC AND PRESS

That the public and press be excluded from the meeting on agenda item 8 as it contains exempt information as defined in Paragraphs 4 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

370. LICENCE TO DRIVE PRIVATE HIRE VEHICLES

The Licensing Officer introduced the report to consider a licence to drive Private Hire Vehicles and provided Members with copies of reference letters submitted by the applicant and newspaper articles relating to the applicant's conviction.

The applicant addressed the Board.

The Regulatory Services Manager asked questions of the applicant.

Members asked questions of the applicant.

Councillor Tomlinson proposed, Councillor Matterface seconded and Members agreed the following:

“The Board decided on option 3.4, to revoke the applicant’s licence to drive a private hire vehicle. The Board did not think the applicant was a fit and proper person because of the conviction for dishonesty. The applicant said that no individual had suffered but the Board considered that his actions may well have affected people’s lives. The Board considered the applicant’s request for a second chance but also having considered the Council’s guidelines of 3-5 years free of conviction, the Board did not consider the applicant was a fit and proper person to have a licence.”

Meeting concluded : 10.35am

Public Document Pack Agenda Item 4a

LICENSING SUB COMMITTEE

Minutes of the meeting held on 31 January 2017 at 10.00 am in Austen Room, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors K Coleman-Cooke, Curran and Howes

535. ELECTION OF CHAIRMAN

Councillor Howes proposed, Councillor Curran seconded and it was agreed that Councillor K. Coleman-Cooke be the Chairman.

536. APOLOGIES FOR ABSENCE

There were no apologies for absence.

537. DECLARATIONS OF INTEREST

There were no declarations of interest.

538. APPLICATION FOR PREMISES LICENCE - 22 MARINE TERRACE, MARGATE

Also present:

Officers: Mr Bensted – Regulatory Services Manager
Ms Cole – Senior Legal Officer

Applicant: Mr Thavakumar

Applicant's representative: Mr Dillon

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for a premises licence at 22 Marine Terrace, Margate.

Members asked a question of Mr Bensted.

The applicant's representative addressed the Sub-Committee.

Mr Bensted asked a question of the applicant's representative.

Members asked questions of the applicant's representative.

The Licensing Sub-Committee AGREED:

“Having considered what has been said by the applicant's representative and the Regulatory Services Manager, and having considered the Licensing objectives, we have decided on option 3.1, to grant the application with conditions consistent with the Operating Schedule accompanying the application and the conditions mentioned at paragraphs 2.2 and 2.5 of the officer's report.”

Meeting concluded : 10.30am

Public Document Pack Agenda Item 4b

LICENSING SUB COMMITTEE

Minutes of the meeting held on 28 February 2017 at 10.00 am in Austen Room, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors Matterface, Tomlinson and Crow-Brown

539. ELECTION OF CHAIRMAN

Councillor Tomlinson proposed, Councillor Crow-Brown seconded and it was agreed that Councillor Matterface be the Chairman.

540. APOLOGIES FOR ABSENCE

There were no apologies for absence.

541. DECLARATIONS OF INTEREST

Councillor Tomlinson declared an interest in agenda item 5 (Minute No. 544 refers) and left the meeting for this item.

542. APPLICATION FOR PREMISES LICENCE - 5 - 7 WEST CLIFF ROAD, RAMSGATE

Also present:

Officers: Mr Bensted – Regulatory Services Manager
Mr Howes – Director of Corporate Governance

Applicant: Mr Vanitharan

Applicant's representative: Ms Kadurugamuwa

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for a premises licence at 5-7 West Cliff Road, Ramsgate.

The applicant addressed the Sub-Committee.

Members asked questions of the applicant.

The Licensing Sub-Committee AGREED:

“Taking into account all the Licensing objectives, that there are no responsible body objections, we have decided on option 3.1, to grant the application with conditions consistent with the Operating Schedule accompanying the application and conditions mentioned at paragraph 2.5 of the officer's report.”

543. APPLICATION FOR PREMISES LICENCE - VINYL HEAD CAFÉ 2-3 THE BROADWAY ADDINGTON STREET, RAMSGATE

Also present:

Officers: Mr Bensted – Regulatory Services Manager
Mr Howes – Director of Corporate Governance

Applicant: Mr Pena

Applicant's representative: Ms Courcier

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for a premises licence at Vinyl Head Café, 2-3 The Broadway, Addington Street, Ramsgate.

The applicant's representative asked a question of Mr Bensted.

The applicant's representative addressed the Sub-Committee.

The Licensing Sub-Committee AGREED:

"Taking into account all the Licensing objectives, we have decided on option 3.1, to grant the application with conditions consistent with the Operating Schedule accompanying the application and conditions mentioned at paragraph 2.2 and 2.5 of the officer's report."

544. APPLICATION FOR TEMPORARY ACTIVITIES: SUNDOWNERS, ALBERT TERRACE, MARGATE

Also present:

Officers: Mr Bensted – Regulatory Services Manager
 Mr Howes – Director of Corporate Governance
 Mr Brown – Environmental Protection Officer
 PC Dennett – Kent Police

Applicant: Mr Bayles

Applicant's representative: Mr Braithwaite

Councillor Tomlinson left the meeting for the agenda item.

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for a Temporary Events Notice at Sundowners, Albert Terrace, Margate.

PC Dennett addressed the Sub-Committee.

Mr Brown addressed the Sub-Committee.

The applicant's representative addressed the Sub-Committee.

PC Dennett asked a question of the applicant.

Mr Brown asked a question of the applicant.

The Licensing Sub-Committee AGREED:

"It is not permitted to place conditions beyond those attached to the premises licence and we are extremely concerned about public safety and the report from Building Control. Having considered the Licensing objective of public safety, we have decided on option 3.2 and to refuse both applications."

545. APPLICATION FOR PREMISES LICENCE - BLEND COFFEE LOUNGE, 72 STATION ROAD, BIRCHINGTON

The item was withdrawn.

Meeting concluded : 11.40am

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Public Document Pack Agenda Item 4c

LICENSING SUB COMMITTEE

Minutes of the meeting held on 17 May 2017 at 10.30 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors K Coleman-Cooke, L Potts and Crow-Brown

546. ELECTION OF CHAIRMAN

Councillor Coleman-Cooke proposed, Councillor Crow-Brown seconded and it was agreed that Councillor L Potts be the Chairman.

547. APOLOGIES FOR ABSENCE

There were no apologies for absence.

548. DECLARATIONS OF INTEREST

There were no declarations of interest.

549. APPLICATION FOR REVIEW OF PREMISES LICENCE - RAVENSGATE ARMS, 56-58 KING STREET, RAMSGATE

Also present:

Officers: Mr Bensted – Regulatory Services Manager
PC Dennett – Kent Police
Cara Radford – Legal Officer

Applicant: Mr Lawrence

Applicant's representative: Mr Dillon

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for a premises licence at Ravensgate Arms, 56-58 King Street, Ramsgate.

PC Dennett addressed the Sub-Committee.

The applicant's representative asked questions of PC Dennett.

The applicant's representative addressed the Sub-Committee.

Mr Bensted asked questions of the applicant.

The Sub-Committee asked question of the applicant.

The Licensing Sub-Committee AGREED:

Option 3.5 – to revoke the licence. There were breaches of the licence conditions; alcohol was sold beyond permitted times. The premises was advised and staff were interviewed but the following weekend, the premises again was open beyond hours. Staff admitted this happened frequently. The licence holder, by own admission, was not aware of what was happening at the premises and not involved. The DPS was absent and not in control of the premises. No one was in proper control of the premises for

some time between September 2016 – March 2017. The staff responsible for the breach are still employed at the premises.

550. APPLICATION FOR PREMISES LICENCE - 17 & 34 MILITARY ROAD, RAMSGATE

The agenda item was withdrawn.

551. APPLICATIONS FOR TEMPORARY ACTIVITIES: TEMPORARY EVENT NOTICE

The agenda item was withdrawn.

Meeting concluded : 11.45am

Public Document Pack Agenda Item 4d

LICENSING SUB COMMITTEE

Minutes of the meeting held on 7 June 2017 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors K Coleman-Cooke, Matterface and Tomlinson

552. ELECTION OF CHAIRMAN

Councillor Tomlinson proposed, Councillor Coleman-Cooke seconded and it was agreed that Councillor Matterface be the Chairman.

553. APOLOGIES FOR ABSENCE

There were no apologies for absence.

554. DECLARATIONS OF INTEREST

There were no declarations of interest.

555. APPLICATION FOR VARIATION OF PREMISES LICENCE - DREAMLAND (BUILDINGS AND TRANSIT AREA) HALL BY THE SEA ROAD MARGATE

The item was withdrawn.

556. APPLICATION FOR VARIATION OF PREMISES LICENCE - DREAMLAND (THEME PARK AND EVENT SPACE) HALL BY THE SEA ROAD MARGATE

The item was withdrawn.

557. TEMPORARY EVENT NOTICE APPLICATION - MCDONALD'S 95-97 HIGH STREET, MARGATE

Also present:

Officers Mr Bensted - Regulatory Services Manager
 PC Dennett – Kent Police
 Colin Evans - Assistant Litigation Solicitor

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for Temporary Event Notice at McDonald's, 95-97 High Street, Margate.

PC Dennett addressed the Sub-Committee.

Members asked questions of PC Dennett.

The Licensing Sub-Committee AGREED:

“There are safety implications which have not been addressed by the applicant. The Sub-Committee have heard from Police representative who is concerned about the number of people in the town and the Police do not have enough information to support the event and the applicant has not been in contact with Police to address the concerns raised. In these circumstances, the Sub-Committee has opted for option 3.2 to refuse the application as it undermines the Licensing Objectives:

1. The prevention of crime and disorder,
2. Public safety,
3. The prevention of public nuisance, and
4. The protection of children from harm.”

Meeting concluded : 11.50am

Public Document Pack Agenda Item 4e

LICENSING SUB COMMITTEE

Minutes of the meeting held on 13 June 2017 at 10.30 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors Rogers, M Saunders and Crow-Brown

In Attendance: Councillor Tomlinson

558. ELECTION OF CHAIRMAN

Councillor M Saunders proposed, Councillor Rogers seconded and it was agreed that Councillor Crow-Brown be the Chairman.

559. APOLOGIES FOR ABSENCE

There were no apologies for absence.

560. DECLARATIONS OF INTEREST

There were no declarations of interest.

561. APPLICATION FOR VARIATION OF PREMISES LICENCE - CARLTON CINEMA, 29 ST MILDRED'S ROAD, WESTGATE

Also present:

Officers Mr Bensted - Regulatory Services Manager
 PC Dennett – Kent Police
 Colin Evans - Assistant Litigation Solicitor

Applicant: Mr Cunard

Applicant's representatives: Mr Dillon
 Ms Holmes – Cinema Manager

Objectors: Councillor Tomlinson
 Mr Vaughan

Supporter: Mr Morrish

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for variation of Premises Licence - Carlton Cinema, 29 St Mildred's Road, Westgate.

The objector addressed the Sub-Committee.

The supporter addressed the Sub-Committee.

The applicant's representative asked questions of Councillor Tomlinson.

The applicant's representative addressed the Sub-Committee.

The applicant addressed the Sub-Committee.

The applicant's second representative addressed the Sub-Committee.

The Licensing Sub-Committee AGREED:

Having heard representations from the applicant, the objectors and supporter of the application, the Sub-Committee note the opening hours for exhibition of films or such broadcasts shall be on Thursday or alternatively Wednesday from 9am to 3am and such additional hours shall be limited to 12 occasions in any calendar year. This appears reasonable as any anti-social behaviour in the area is not coming from the cinema. The Sub-Committee agree option 3.1 – to grant application with conditions consistent with application. The Sub-Committee that this promotes the 4 Licensing objectives.

Meeting concluded : 11.20am

Public Document Pack Agenda Item 4f

LICENSING SUB COMMITTEE

Minutes of the meeting held on 20 June 2017 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillors Connor, Savage and J Fairbrass

562. ELECTION OF CHAIRMAN

Councillor Connor proposed, Councillor Savage seconded and it was agreed that Councillor J Fairbrass be the Chairman.

563. APOLOGIES FOR ABSENCE

There were no apologies for absence.

564. DECLARATIONS OF INTEREST

There were no declarations of interest.

565. APPLICATION FOR PREMISES LICENCE - MILLIE'S BEACH BAR, WESTBROOK PROMENADE, WESTGATE-ON-SEA

Also present:

Officers: Mr Bensted - Regulatory Services Manager
Colin Evans - Assistant Litigation Solicitor

Applicant: Ms Burton

Applicant's representatives: Mr Dillon

Objector: Mr Haystead

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for Premises Licence - Millie's Beach Bar, Westbrook Promenade, Westgate-On-Sea.

The objector addressed the Sub-Committee.

The applicant's representative asked questions of the Regulatory Services Manager.

The applicant's representative asked questions of the objector.

The applicant's representative addressed the Sub-Committee.

The Regulatory Services Manager asked a question of the applicant.

The Licensing Sub-Committee AGREED:

Having heard from the applicant, the Regulatory Services Manager and objector and having seen the Management Plan, the Licensing Sub-Committee decided on option 3.5 – to grant the application with the following conditions:

1. Alcohol shall not be sold/supplied from the outdoor serving area.
2. Sale by retail of alcohol will end at 23:00 and the premises will close at 23.30

3. From 21:00 every day no alcohol to be consumed outside.
4. CCTV will have a 30 day record function, copies to be made for the police or local authority upon request.
5. There will be at least one member of staff on duty during licensable activity that can operate and download CCTV.
6. Alcohol shall only be consumed within the area hatched in red on the plan
7. There shall be no off-sales.
8. The licence holder shall erect and maintain prominent notices displayed at all exits requesting customer to respect the needs of local residents and leave the premises and area quietly.
9. When live or recorded music takes place inside the premises all windows and doors shall be kept shut.
10. No amplified music is to be permitted unless a noise management plan, which has been agreed with the local authority is in place. The noise management plan shall be reviewed periodically and when significant changes occur in the operation, building or event, or following a complaint.

The Sub-Committee consider these conditions are important and should be adhered to or the premises licence will be reviewed. The reason for the conditions is to promote the 4 licensing objectives.

566. APPLICATION FOR PREMISES LICENCE - ANGELA'S OF MARGATE 21 THE PARADE MARGATE

Also present:

Officers Mr Bensted - Regulatory Services Manager
 Colin Evans - Assistant Litigation Solicitor

Applicant: Ms Hazell

Applicant's representative: Mr Coad

Objectors: Ms Wilcox
 Mr Haddon
 Mr Grinstead
 Councillor Johnston

The Regulatory Services Manager outlined the report to the Licensing Sub-Committee in respect of the application for Premises Licence - Angela's Of Margate, 21 The Parade, Margate.

The objectors addressed the Sub-Committee.

The applicant addressed the Sub-Committee.

The objectors asked a question of the applicant.

The Sub-Committee asked a question of the applicant.

The Licensing Sub-Committee AGREED:

Having heard from the applicant, the Regulatory Service Manager and the objectors, the Sub-Committee note that the main objective of the applicant is to have a restaurant with alcohol as subsidiary. The Sub-Committee have decided to grant application but with different conditions than those suggested. They were concerned about the licensing

conditions as suggested as there could cause potential nuisance to residents and the Sub-Committee noted the concerns about nuisance as raised by the objectors.

The Sub-Committee agreed option 3.5 – to grant the licence with the following conditions:

1. Tables associated with the premises and licence situated on the piazza and on the external highway shall be cleared of patrons by 10pm and removed from use by 10.15pm
2. Any patrons smoking at the premises shall be directed to the front of the premises. There shall be no smoking allowed in the rear yard of the premises.
3. Alcohol purchased in the premises shall not be consumed at any time in the rear yard area.
4. CCTV will be installed, working and maintained with a 30 day record function and copies made available to the Police and local authority upon request.
5. There will be at least one member of staff on duty during licensable activity that is trained to operate and download CCTV.
6. Challenge 25.
7. During Margate Soul Weekend, no glass vessels shall be used in any external spaces.
8. Recorded music shall be removed from the application.
9. External late night refreshment shall be removed from the application
10. Alcohol provision shall cease at 9pm externally and 10.30pm internally.

The reason for the conditions is to promote for 4 licensing objectives.

**567. APPLICATIONS FOR TEMPORARY ACTIVITIES: TEMPORARY EVENT NOTICE
APPLICATIONS BY: ELI THOMPSON**

The item was withdrawn.

Meeting concluded : 12.05pm

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Public Document Pack Agenda Item 4g

LICENSING SUB COMMITTEE

Minutes of the meeting held on 11 July 2017 at 10.00 am in Pugin & Rossetti Rooms,
Council Offices, Cecil Street, Margate, Kent.

Present: Councillors R Potts, Curran and Matterface

568. ELECTION OF CHAIRMAN

Councillor Curran proposed, Councillor R Potts seconded and it was agreed that Councillor Matterface be the Chairman.

569. APOLOGIES FOR ABSENCE

There were no apologies for absence.

570. DECLARATIONS OF INTEREST

There were no declarations of interest.

571. APPLICATION FOR PREMISES LICENCE - CHICKEN KING, 47 NORTHDOWN ROAD, MARGATE

The item was withdrawn.

572. APPLICATION FOR REVIEW OF PREMISES LICENCE - THE GALLERY, 15 CECIL SQUARE, MARGATE

Also present:

Officers Mr Bensted - Regulatory Services Manager
 Mrs Bennett – Licensing Team Leader
 Colin Evans - Assistant Litigation Solicitor
 Mr Sproates – Environmental Protection Manager
 Mr Brown – Environmental Protection Officer
 PC Dennett – Kent Police

Licence holder: Mr Ryan

Objector: Mrs Jordan-Wrench

The Licensing Team Leader outlined the report to the Licensing Sub-Committee in respect of the application for a review of Premises Licence – The Gallery, 15 Cecil Square, Margate.

PC Dennett addressed the Sub-Committee.

Mrs Jordan-Wrench addressed the Sub-Committee.

The Regulatory Services Manager addressed the Sub-Committee on behalf of Environmental Services.

The licence holder addressed the Sub-Committee.

Members asked questions of the licence holder.

The Regulatory Services Manager asked a question of the licence holder.

The Licensing Sub-Committee AGREED:

“Having heard from the Licensing Team leader, the Police representative, the representative from Environmental Health, the member of the public & Mr Ryan the subcommittee have agreed on option 3.1 to modify the conditions as provided by the schedule that was provided to the Sub-Committee. The subcommittee considered that Mr Ryan had shown himself to be reasonable and the conditions were modified so as to meet the licensing objectives of prevention of crime & disorder, public safety, the prevention of public safety & the protection of children from harm.”

**573. APPLICATION FOR TEMPORARY ACTIVITIES: TEMPORARY EVENT NOTICE
APPLICATION BY: NICHOLAS PANTELI**

The item was withdrawn.

Meeting concluded : 11.05am

REPORT ON PROSECUTIONS, APPEALS, LICENSING UP-DATE

To: Licensing Board – 25th July 2017

By: Regulatory Services Manager

Classification : Unrestricted

Summary This report sets out details of a Licensing up-date since the last Board on 3rd January 2017

For information

- a) The 2016 Immigration Act has made further amendments to the licensing regime from the 6th April 2017. Immigration checks are now part of the process for applying for premises and personal licences under the 2003 Licensing Act. Licences will not be issued to anyone who does not have permission to be or work in the UK.
- b) On the 17th May last, following a review brought by Kent Police, a Licensing Sub-Committee revoked the premises licence in respect of the Ravensgate Arms, King Street, Ramsgate. A new application has been submitted which may have been determined by the date of the Licensing Board meeting.
- c) On the 11th July last, following a review brought by Environmental Health, a Licensing Sub-Committee reduced the hours and amended and added conditions to the premises licence at The Gallery, Cecil Square, Margate.
- d) For the information of Members, in the first six months of this year, it has been necessary to arrange 20 Sub-Committee hearings. In the same period last year there were 7.

Officer contact: Philip Bensted, Regulatory Services Manager, ext. 7630

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**REQUEST FOR A REVIEW OF GUIDELINES ON THE
ASSESSMENT OF VEHICLES**

Licensing Board – 25th July 2017 at 10 a.m

Report Author **Jade Malyn Licensing Officer**
 Portfolio Holder **Cllr Lin Fairbrass Community Services**
 Status **For Decision**
 Classification: **Unrestricted**
 Ward: **All**

Executive Summary:

To consider a request to overturn a decision of Officers to refuse to licence a vehicle that did not comply with the Council’s Guidelines on the assessment of vehicles to be licensed as hackney carriages or private hire vehicles

Recommendation(s):

The instructions of the Board are requested

CORPORATE IMPLICATIONS

Financial and Value for Money	None
Legal	<p>There is a right of appeal to a Magistrates’ Court within 21 days of the date of the decision of the Licensing Board with regard to the refusal of a licence.</p> <p>The Licensing Board must pay proper attention to the applicant’s rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.</p>
Corporate	None.
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>

1.0 Introduction and Background

- 1.1 Vehicles to be licensed as private hire and hackney carriage vehicles must undergo examination by Licensing Officers, being subject to compliance with the Council's 'Guidelines on the assessment of vehicles to be licensed as hackney carriages or private hire vehicles'.
- 1.2 These Guidelines were drawn up and agreed by the Licensing Board many years ago to assist Officers and Members when considering applications for hackney carriage and private hire vehicle licences. These Guidelines have been amended as and when the Licensing Board deemed it appropriate.
- 1.3 In April 2009 the Licensing Board considered a report in respect of tinted windows. The Board decided to amend the Guidelines and a copy of page 1, paragraph 2 (d) of the Guidelines is appended to this report at Annex 1.
- 1.4 Vehicles must, of course, comply with all statutory requirements and with the Council's conditions attached to hackney carriage or private hire vehicle licences.

2.0 General Points

- 2.1 A letter has been received from Mr B, a licensed private hire driver, requesting that Members re-consider a decision regarding the refusal by a Licensing Officer to issue Mr B with a private hire vehicle licence for a Peugeot 407 estate vehicle. A copy of the correspondence with the Regulatory Services Manager is appended to this report at Annex 2.
- 2.2 Mr B brought his vehicle for a visual examination on the 11th May 2017, to assess its suitability to be licensed as a private hire vehicle. A Licensing Officer examined the vehicle and failed the visual, in effect refusing to licence the vehicle, on the grounds that it failed to comply with the Guidelines, paragraph 2 (d). A copy of the visual inspection document is appended to this report at Annex 3.
- 2.3 Members will note from the correspondence at Annex 1 that the Regulatory Services Manager has been unable to resolve this matter subsequently with Mr B.
- 2.4 Council Officers always advise prospective new vehicle applicants and existing licensed drivers to consult with Officers before they commit themselves to purchasing vehicles to be licensed. Mr B has been a licensed driver since 2000.
- 2.5 The reasons for the tinting requirements are public safety, which includes driver safety, and Members will note that this is dealt with in the correspondence at Annex 2.

3.0 Options

- 3.1 To retain the status quo.
- 3.2 To revise the Guidelines.

Contact Officer:	Jade Malyn, Licensing Officer, ext 7444
Reporting to:	Philip Bensted, Regulatory Services Manager ext 7630

Annex List

<i>Annex 1</i>	<i>Guidelines on the assessment of vehicles</i>
<i>Annex 2</i>	<i>Correspondence</i>

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<i>Annex 3</i>	<i>Visual inspection document</i>

Background Papers

Title	Details of where to access copy
N/A	

Corporate Consultation

Finance	N/A
Legal	N/A

GUIDELINES ON THE ASSESSMENT OF VEHICLES TO BE LICENSED AS HACKNEY CARRIAGES OR PRIVATE HIRE VEHICLES

The vehicle must, of course, comply with all statutory requirements and with the Council's conditions attached to Hackney Carriage or Private Hire Vehicle Licences, as appropriate. In addition, the following guidelines will apply:-

1. Vehicle Suitability

The vehicle should be of sufficient size as to be capable of seating at least four adult passengers (excluding the driver) in safety and comfort.

- (a) As a guide, in the case of saloon, estate and hatchback cars, the distance across the back seat measured from internal panel to internal panel, should be at least 52½", the only exception to this is the traditional London Cab e.g., FX4.
- (b) It has at least 4 doors (including drivers door).
- (c) The London Cab type vehicle is not acceptable as a private hire vehicle.

2. Vehicle Body

- (a) The body must be of the fixed head (i.e. not convertible) type.
- (b) The vehicle must be right hand drive.
- (c) Passenger doors should be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, though this must not prevent doors being fitted with child safety locks. In the case of saloon, estate and hatchback cars, there must be at least three passenger doors, with a separate additional door for the exclusive use of the driver.
- (d) (i) All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 as amended, that specifies that the light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.

(ii) Further all other windows including the rear window must allow at least 70% of light to be transmitted through them.

3. Facilities for Driver

The vehicle should be so designed and constructed that:-

- (a) The driver's seat accommodates the driver only and the driver has adequate room, can easily reach and operate the controls and give hand signals on the off-side of the vehicle.
- (b) At least one external driving mirror should be provided to each side of the vehicle and be so fitted and adjusted as to afford the driver an adequate view to the rear.
- (c) Adequate devices for de-misting and de-frosting the windscreen and rear window and for washing the windscreen are fitted.

4. Ventilation

Adequate ventilation must be provided for the driver and passenger either by windows or mechanical means.

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Agenda Item 6

Annex 2

St Peters road
Margate
CT9 1TJ

12th May 2017.

Dear Sir,

Re: Plate licence 424

I am writing to request an appeal hearing into the refusal to pass my vehicle at the visual on 11th May 2017. The vehicle was refused on the grounds of tinting on the tailgate glass and the two corner glass pieces. The vehicle is a 2010 Peugeot 407sw diesel estate.

I would like to raise the following points in my appeal:

My Peugeot 407 estate is a standard production model as sold in the UK, the windows are all standard not specially requested extras. The AS3 tint is a standard window conforming to all regulations including the Gov.uk advice and the Vehicle licencing authority. One of the main reasons for tinting is to protect animals travelling in the rear from direct magnified sunlight. I have a dog, I also take dogs in work and with an estate I can transport them in the rear.

My vehicle is an estate car not an MPV with seats that can be used in the rear. The passenger area of my vehicle is easily seen from the outside as is the rear section from the rear quarter windows which are not tinted. I also have a dog guard fitted so there is no access to the rear from the inside of the vehicle.

It may be said that banning tinted windows is a security issue. In the rear windows I can see the sense in this, however standing beside or behind my vehicle you can clearly see all areas of the inside. With the advent of CCTV in many vehicles there is more security equipment available. It cannot be a major security issue as far as Police are concerned as I am aware that many licensing authorities do not enforce a ban on any rear windows including Canterbury.

There are already exemptions from the tint ban for those doing business work and mainly airport runs and they do not have to display the plate or licence info on the vehicle.

I do not oppose a ban on vehicles with window tinting only that a blanket ban is unfair and restrictive when the vehicle is a standard production model. The tinting specifications are AS1 for windscreens and AS2 for front windows so surely the regulation we have could be modified to state AS2 on rear windows and hatchbacks and MPVs but allowing AS3 on estate car tailgates where the vehicle is a standard model.

In conclusion all I am asking is that the rule is fairer and more tailored to the type of vehicle. Use of an estate car is an advantage to the customer in that more luggage can be taken and easier access for wheelchairs etc. Thank you for your attention and I look forward to putting my case in person.

Yours sincerely





16th May 2017

My Ref: PJB/Lic
Email : [redacted]@thanet.gov.uk
Ask For: Mr P Bensted
Ext No: [redacted]
Your ref : -

Dear Sir

Vehicle visual inspection Peugeot 407 Estate

Thank you for your letter dated the 12th May last.

The Peugeot vehicle was brought by you for inspection by a Licensing Officer on the 11th May last. I understand that you have been a licensed private hire driver since 2010 and most recently driven a licensed Ford Mondeo vehicle which complied with the vehicle conditions.

I understand that the purpose of you bringing the vehicle for inspection on the 11th May was with the intention of licensing this particular vehicle. You should be aware that we always advise drivers not to purchase any vehicle until they have been inspected by an officer in order to ensure that they comply with the Council's vehicle conditions. Officers are willing to visit garages in Thanet to ensure that vehicles comply before purchase.

I have spoken with the officer who failed the Peugeot vehicle. I can confirm that it was failed because of the tinting on the rear window and quarter light corner glass pieces.

The Guidelines on the assessment of vehicles are agreed by the Council's Licensing Board. The tinting requirement has been in place for many years with checks being made by use of machines. Before that officers visually failed vehicles where windows were deemed to be too dark. The front and front side windows would appear not to be an issue. The condition further requires that all other windows including the rear window must allow at least 70% of light to be transmitted through them.

You mention that one of the main reasons for tinting is to protect animals travelling in the rear from direct magnified sunlight. I understand that the proposed vehicle is an estate. Our concern is public safety, which includes driver safety. Any licensed vehicle will be picking up from various venues including nightclubs and public houses and doing school runs.

The issue of tinting was brought up at the hackney carriage annual conference by drivers. Kent Police were in attendance and confirmed that they supported the Council's stance on tinting. Being able to see into the vehicle not only protects passengers but also drivers. Any person directly behind your vehicle would not have a view into the vehicle.

You pray in aid Canterbury in your letter. Local Authorities set their own local conditions in relation to vehicles and drivers. Canterbury will not licence for the first time vehicles older than two years – the 2010 Peugeot vehicle would not be licensed at Canterbury.

You mention that there are exemptions for some vehicles. That is the case. Where vehicles only undertake airport collection or private business hire they are exempted. However, no exemption would be granted for any vehicle undertaking local circuit work.


Thanet District Council
PO Box 9
Cecil Street
Margate
Kent
CT9 1XZ

Agenda Item 6 Annex 2

I trust that I have set out the current position in relation to this matter. If, having read this letter, you would like the matter considered by the Licensing Board please confirm in writing. I will then arrange for a hearing before the Licensing Board.

Yours faithfully

Regulatory Services Manager


 St Peters Road
Margate
CT9 1TJ

From: [REDACTED]@gmail.com>
Sent: 18 May 2017 10:33
To: TDC Licensing
Subject: Peugeot 407 estate

Agenda Item 6 Annex 2

Thank you for your letter 16th May. Despite your position I feel that I have some very valid points to put before a licensing board and therefore request a personal hearing asap.

If I was to change the tailgate glass to AS2 would you be prepared to allow the small rear quarter lights to remain AS3 as they are moulded in and there are 2 quarters in the rear AS2.

Thank you
[REDACTED]

Philip Bensted

From: Philip Bensted
Sent: 18 May 2017 11:31
To: [REDACTED]@gmail.com'
Subject: Peugeot 407 state
Attachments: 1776_001.pdf

Dear Sir

Thank you for your email which is attached.

This being an Estate vehicle should you change the rear window glass to allow for 70% of light to be transmitted through it, this would suffice. The rear quarter lights could remain. By changing the rear window this would hopefully allow vision into the vehicle from all angles.

The vehicle would need to inspected once again.

Regards,

Philip Bensted
Regulatory Services Manager
Regulatory Services
Thanet District Council
Tel: 01843 [REDACTED]
Email: philip.bensted@thanet.gov.uk

From: [REDACTED]@gmail.com>
Date: 30 May 2017 at 12:39:07 BST
To: Philip Bensted <[\[REDACTED\]@THANET.GOV.UK](mailto:[REDACTED]@THANET.GOV.UK)>
Subject: Re: Peugeot 407 state

Dear Mr Bensted

Thanks for your reply. Unfortunately despite my best efforts the tailgate glass for this vehicle is not available in AS2 as the tint version is standard. Since my email I also would like to mention that plate 233 Thanet cars Peugeot 407 estate identical to mine is plated and working circuit so the safety argument is hardly valid.

Therefore I would like my appeal to a licence board hearing to proceed asap

Regards
[REDACTED]

From: Philip Bensted
Sent: 08 June 2017 08:51
To: [REDACTED]
Subject: RE: Peugeot 407 state

Agenda Item 6 Annex 2

Dear Mr [REDACTED]

Thank you for your email. I apologise for the delay in replying but hopefully you received an automatic reply confirming that I was on leave until the 5th June.

It is unfortunate that we have been unable to resolve this matter by replacing the rear window glass. I obviously do not know what enquiries you have made of companies who are able to accommodate requests to replace glass.

You mention in your email vehicle plate 233 which is identical to yours. I have made enquiries in relation to that vehicle. The vehicle was first licensed in 2009 and is currently licensed. The tinting requirements were agreed by the Licensing Board in 2009. Following the Board's decision the budget for the purchase of tinting machines had to be agreed and the machines purchased. Vehicle plate 233 was first licensed in the Autumn of 2009 shortly before Licensing Officers starting using the machines to test for compliance.

The decision of the Licensing Board was not retrospective. In other words, vehicles that were already licensed would not be affected by the Board's decision and those vehicles would continue to be licensed until the individual decided to change that vehicle for another. The individual would be informed that when bringing another vehicle for licensing it would have to comply with the tinting requirements. This applied in the case of vehicle plate 233.

I did ask a Licensing Officer to contact the owner of vehicle plate 233 and she spoke to him on Tuesday 6th June. He confirmed that the vehicle was licensed prior to the requirements for tinting and he was fully aware of the situation regarding any replacement vehicle. He also stated that he would be replacing the vehicle prior to the six monthly inspection of vehicles in November 2017.

The next Licensing Board meeting is on the 25th July next and I will arrange for this matter to be heard on that date, in the meantime I will prepare a report and forward a copy to you.

Regards.

Philip Bensted
Regulatory Services Manager
Regulatory Services

From: [REDACTED]@gmail.com>
Sent: 08 June 2017 10:31
To: Philip Bensted
Subject: Re: Peugeot 407 state

Dear Mr Bensted

Thank you for your reply. I received auto reply ok. I understand your position regarding licensing the vehicle however I feel there should be allowances made within these regulations. My case is that the Peugeot 407 estate is standard U.K. factory made. The rear is visible from outside due to the two quarter windows each side. In fact since the rear tint has not been tested we don't know how much light it lets through but it does not in any way prevent seeing action inside the passenger seats. Regarding safety/police advice we are the only local authority with any tinting policy therefore this is not an issue. The glass is fully compliant with all mot testing. The car itself is ideal as a taxi being a large vehicle ease of access and being an estate for wheelchairs, and dogs, etc. With regard to replacing the glass I have contacted breakers yards nationally and Peugeot dealers but unfortunately because the car model was manufactured with the rear tint and they are not produced any longer therefore untinted is not available anywhere. With regard to your statement on plate 233 the fact that the car has been licensed for 8 years without incident rather points to safety not being an issue. I was hoping that you could use your discretion to allow my vehicle to be licensed however I will await the hearing where I assume I can attend to put my case.

Thank you regards

[REDACTED]
Sent from my iPad

failed on tint

VISUAL CHECK LIST

Agenda Item 6

Annex 3 EXISTING

NEW

TRANSFER

Location: Westbrook

Date: 11/5/17

Vehicle Reg. No.: A12 [REDACTED] (PH) ~~HS~~ Plate No.: 424

Make: Pugeot Model: 407 SW Colour: grey

Name of Driver: M G [REDACTED] Mileage: _____

Licence Holder: _____ Operator: Central Cars

EXTERNAL		SATISFACTORY	UNSATISFACTORY
Bodywork	/		
Tax	/		
Fittings	/		
Compliance Of Conditions	/		
Plate Condition/Placement	/		
Plate (NUMBER OF PASSENGERS ALLOWED)	(4)		
Disc	/		
Window Tinting Test	X AS3 glass at rear X		
Cleanliness	/	3 quarters	
INTERNAL		SATISFACTORY	UNSATISFACTORY
Measurements between wheel-arches or handles at rear – 1.33 meters (at least 52 ½ inches)	54"		
Condition of Upholstery	/		
Condition of Lining	/		
Cleanliness	/		
Condition of Handles	/		
Seat Belts	/		
Tariff Card & Non Smoking Signs	/		
Fire Extinguisher	/		
FULLY EQUIPPED FOR DISABLED YES/NO		RAMP / LIFT / REVOLVING SEAT / OTHER	
Meter Test	Date: _____	Pass / Fail	Officer: _____
Visual	Date: <u>11/5/17</u>	Pass / Fail	Officer: <u>[REDACTED]</u>
Meter Re-test	Date: _____	Pass / Fail	Officer: _____
Re-visual	Date: _____	Pass / Fail	Officer: _____

FAILURE TICKET ISSUED: YES / NO

Number: _____

VISUAL VALID FOR ONE MONTH FROM DATE OF ISSUE

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING

DATE..... **AGENDA ITEM**

DISCRETIONARY PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.