



Date: 18 July 2022
Our ref: Licensing Board/Agenda
Ask For: Charles Hungwe
Direct Dial: 01843 577207
Email: charles.hungwe@thanet.gov.uk

LICENSING BOARD

26 JULY 2022

A meeting of the Licensing Board will be held at **2.00 pm on Tuesday, 26 July 2022** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Bambridge (Chair); Councillors: Rogers (Vice-Chair), Ara, Currie, Dennis, Dexter, Huxley, Potts, M Saunders, Scobie, Shrubbs, Smith, Wing and Wright

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST** (Pages 3 - 4)
To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)
3. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 6)
To approve the Minutes of the Licensing Board meeting held on 14 June 2022, copy attached.
4. **LICENSING SUB-COMMITTEE MINUTES** (Pages 7 - 8)
To approve the minutes of the Licensing Sub-Committee meeting held on 10 March 2022, copy attached.
5. **LICENCE TO DRIVE PRIVATE HIRE VEHICLES** (Pages 9 - 16)

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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 Committee Services Manager well in advance of the meeting.

If you need to declare an interest then please complete the declaration of [interest form](#).

LICENSING BOARD

Minutes of the meeting held on 14 June 2022 at 10.00 am in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Sam Bambridge (Chair); Councillors Rogers, Ara, Currie, Dexter, Potts, M Saunders, Shrubbs, Smith, Wing and Wright

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Dennis Huxley and Scobie.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

Councillor Wright proposed, Councillor Saunders seconded and members agreed that the minutes of the Licensing Board held on 5 April 2022 be signed as a correct record.

4. EXCLUSION OF PUBLIC AND PRESS

Councillor Shrubbs proposed, Councillor Rogers seconded and Members agreed:

'That the public and press be excluded from the meeting for agenda item 5 as it contains exempt information as defined in Paragraph 7 of part 1 of Schedule 12A of the local government act 1972 (as amended).'

5. LICENCE TO DRIVE PRIVATE HIRE VEHICLES

Ms Phillips, Principal Litigation Solicitor, made the introductory remarks by advising on the meeting procedure for the discussion of the item.

Ms Malyn, Licensing Officer, presented the report.

Members asked questions of the Licensing Officer.

The Applicant addressed the Members.

The Licensing Officer asked questions of the Applicant.

Members asked questions of the Applicant.

Ms Stocker, Senior Licensing Officer, asked questions of the Applicant.

Following the debate, Members of the Board agreed the following:

'Upon considering the application for a Licence to Drive Private Hire Vehicles of Mr Ahmad Haidarian to the Licensing Board of Thanet District Council, having considered the documentation and representations made by;

1. The Licensing Officer – Ms Malyn

2. The Applicant – Mr Haidarian

As part of the decision, the Board considered that it was necessary to communicate to Mr Haidarian that the behaviour that led to the caution against him was unacceptable; it raised legitimate concerns as to whether he was a fit and proper person to hold a licence, and posed a risk to the safety of the public when considering TDC Licensing Policy and the LGMPA 1976 .

In light of the above considerations it was the decision of the Licensing Board to;

Grant the application on the condition that Mr Haidarian works for Central Cars or another reputable Taxi firm for the duration of the year, and that if there was a complaint of any behaviour during this period of a similar nature as to what led to the caution, the licence would be revoked immediately.'

Meeting concluded: 10.50am

LICENSING SUB COMMITTEE

Minutes of the meeting held on 10 March 2022 at 10.00 am in the Council Chamber,
Council Offices, Cecil Street, Margate, Kent.

Present: Councillors Potts, Shrubbs and Wright

1. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **APPLICATION FOR A NEW PREMISES LICENCE AT STAPLE STORES, 19 ST
MILDREDS WALK, WESTGATE ON SEA KENT**

Also present:

Thanet Council Ms Brock, Technical Support Team Manager, TDC.
Representatives: Ms Chandler, Technical Support Officer, TDC.
 Ms Phillips, Principal Litigation Solicitor, TDC.

Staple Stores Mr Gadd, Applicant.
Representatives: Ms Young, Business Partner.

Residents who Mr Patrick (also representing Ms Mears who was not present).
Submitted Mrs Docherty.
Representations

Ms Phillips, Principal Litigation Solicitor made the introductory remarks by advising of the meeting procedure for the discussion of this item.

The Technical Support Team Manager introduced the item.

The Applicant addressed the Sub-Committee.

The Licensing Team asked the Applicant questions.

Residents who submitted representations addressed the Sub-Committee.

The Licensing Team asked the Residents questions.

The Sub-Committee asked the Residents questions.

The Applicant made a final representations.

The Sub-Committee agreed the following:

'In the application for the application for a new premises licence at Staple Stores, 19 St Mildreds Walk, Westgate On Sea, Kent, Thanet District Council, as the relevant Licensing Authority, in accordance with section 12 of the Licensing Act and upon the

Agenda Item 4

consideration of representations made to the Licensing Sub-Committee on the 9th March 2022 by;

1. The Licensing Authority – Ms Brock
2. The Applicant – Mr Gadd
3. Representations from Objectors

It is the decision of the Licensing Sub-Committee that the new premises licence be granted to Mr Gadd for the premises 19 St Mildreds Walk, Westgate on Sea, Kent.'

Meeting concluded: 10.35 am

Licence to drive private hire vehicles

Licensing Board	26th July 2022
Report Author	Alison Brock, Technical Support Team Manager
Portfolio Holder	Cllr D Saunders, Cabinet Member for Finance
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider a report to amend the Council's Guidelines on the assessment of vehicles to be licensed as hackney carriages or private hire vehicles.

Recommendation:

The instructions of the Board are requested.

CORPORATE IMPLICATIONS

Financial and Value for Money

Costs associated with processing the application are taken from licensing fee income.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

Legal

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.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area."

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

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 grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

Corporate

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community.

These Core Business Objectives are:

Growth

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in growth of the District.

Environment

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

Communities

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

Equality Act 2010 & Public Sector Equality Duty

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.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as "responsible authorities" and/or "other persons" (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

1.0 Introduction and Background

- 1.1 Vehicles to be licensed as private hire and hackney carriage vehicles must undergo examination by the Technical Support Team Officers. The Officers follow Guidelines on the assessment of vehicles to be licensed as private hire and hackney carriages.
- 1.2 These Guidelines were drawn up and agreed by the Licensing Board many years ago to assist Officers when considering applications for vehicle licences. These Guidelines have been amended on various occasions by the Licensing Board the last time being in April 2009. A copy of the current Guidelines are attached at Annex A.

2.0 The Current Situation

2.1 Window Tinting

Guideline 2d currently states that

- 2(d)(i) All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 as amended, specify 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.
- 2(d)(ii) Further all other windows including the rear window must allow at least 70% of light to be transmitted through them.' This is known as AS3 glass; we only currently allow AS1 & 2.

This was agreed by the Licensing Board in April 2009.

- 2.2 Part 2(d)(ii) was an addition by the Licensing Officer at the time. It is not set in the current VOSA guidelines.
- 2.3 Checks with a number of other authorities' guidelines have shown that we are one of a few that still have this guideline.

A survey conducted by Private Hire News stated that the cost to replace two windows is around £600 plus VAT and can go up to the region of £4000 plus vat, depending on the type of window and vehicle.

The Road Vehicles (Construction and Use) Regulations 1986, as amended, requires that motor vehicles first used on or after 1 April 1985, must have windscreens which allow at least 75% of light to pass through, and the front side windows to either side of the driver's head which must allow at least 70% light transmission. If the glass is tinted to a point whereby it lets through less light, then the vehicle does not meet the legal requirements.

A lot of manufacturers now use window tinting in the rear windows of vehicles (AS3) as standard and it is becoming increasingly difficult to buy newer vehicles without this.

We have had a number of drivers who have been looking at new vehicles but have been unable to purchase them due to the rear window tint restriction in the

guidelines. We, of course want to encourage newer cars on to the circuit and this 'guideline' is currently causing us to have to refuse a number of vehicles.

2.4 Rear Seat Measurement

Condition 1 currently states that the rear seat measurement must be 52.5inches this is also very restrictive. Many authorities have a seat measurement of 16 inches per passenger this would mean 48 inches across the rear seat.

If the condition is changed to

(a) As a guide, there should be at least 16 inches per person on the back seat.

This would then allow us to licence smaller electric vehicles such as the Nissan Leaf for only 3 passengers, 1 in the front and 2 in the back.

2.5 Vehicle Guideline Changes Requested

Windows Condition 2d

To be in a good clean condition and free from damage. All windows must comply with relevant legislation in respect of light transmission (ie VOSA). Only original AS 1, 2 or 3 vehicle manufactured tints are permitted on the rear windows.

Rear Seat Measurement Condition 1

As a guide, there should be at least 16 inches per person on the back seat.

3.0 Options

3.1 To agree the requested changes to the current guidelines

3.2 To leave the guidelines as they currently are

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

Annex List

Annex 1 – Current Vehicle Guidelines

Background Papers

Article in Private Hire News re tinting

<https://privatehirenews.co.uk/magazines/issue-92/html/index.html?page=60&origin=reader>

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.

5. **Heating**

An adequate heating system should be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment are separate, means should be provided for independent control by the driver and passengers.

6. **Luggage**

There should be a separate luggage compartment within the body of the vehicle providing adequate means of carrying and securing luggage.

7. **Vehicle Maintenance and Safety**

The vehicle shall be kept clean and should be maintained in a good state of repair and without prejudice to this general guideline:-

- (a) No visible rust or rust damage should be present.
- (b) No chipped, peeling, cracked or otherwise defective paintwork should be present. The paintwork to any repaired section should match the existing paintwork colour. The paintwork should possess a reasonable degree of shine.
- (c) The body surface finish should be smooth and without ripples or undue blemish. Any repairs to the body should match the existing lines of the bodywork and leave the bodywork of comparable strength to that when the vehicle was first constructed.
- (d) The windscreen, windows, mirrors and lights should be free of any cracks, chips or other blemishes which could reasonably impair the vision of the driver.
- (e) The vehicle should have no damage to the coach trim or bumpers.
- (f) The wheels shall be matching and comply with (a) and (b) above, if wheel trims are fitted they shall be an undamaged, matched set.
- (g) The vehicle must carry a legal spare wheel and tyre and a means for changing a wheel.
- (h) All body fitments must be in place, secure and free from damage.
- (i) The legal vin plate/chassis plate must be fitted to the vehicle in a legible state.
- (j) Where vehicles have wheelchair facilities, then these must comply with the Department of Transport Code of Practice, "The Safety of Passengers in Wheelchairs on Buses".

8. **Vehicle Interior**

The interior shall be well maintained and kept in a good state of repair this shall include, the interior and seats shall be kept clean and free from stains, tears, cuts, burns and similar.

9. **Seat Belts**

A seat belt shall be provided for each passenger.

10. **Radio Antenna**

The radio (transmitter/receiver) antenna should not be located near to the fuel filler cap.

11. **Alternative Fuels**

Vehicles powered by fuels other than petrol or diesel are acceptable provided they comply with national safety requirements. LPG and natural gas powered vehicles should have a safety test certificate for the gas tank, renewable every six months, and any vehicle that has been converted to use these fuels should also have a certificate for a safe installation of the system.

12. **Non-Saloon Car Type Vehicles**

In respect of these vehicles, which can for example be MPV or small mini-bus type, the following additional guidelines will apply:-

- (a) Maximum of eight passenger seats allowed. All seats in excess of eight must be removed.
- (b) Passenger entrance/exit doors on both sides of vehicle, the only exception is for purpose built vehicles with a rear-opening door accessed from a corridor (no moving seats or climbing over seats), then this is acceptable with one near side opening door.
- (c) Ease of access from ground to floor level, a step to be provided where necessary (see Mini-bus Regulations).
- (d) Suitable grab handles to be provided at exits.
- (e) Configuration of seating to be such that no passenger has to cross more than one seat position to reach an aisle or the external air via a door.
- (f) The seating to be such that the driver and the controls are not impaired by the presence of a passenger, this usually means no front bench seat, unless the gear lever is not mounted on the floor.
- (g) Adequate luggage space and suitable restraint to such luggage to be provided. This provision to be such that no entry or exit door or aisle is obstructed, neither is the driver's vision impaired.

Agenda Item 5

Annex 1

- (h) Where any seat is so placed that any passenger seated on it is liable to be thrown through any exit or down any steps, an effective screen or guard to be provided to afford adequate protection for that passenger with padding to guard where appropriate.
- (i) If any part of the petrol tank or filling system comes within the vehicle it is to be protected and sealed off.
- (j) The seat width per person to be one-third of the current accepted width measurement of the rear seat (for three passengers of the normal Private Hire Vehicle). In respect of Mini-buses, 16" is acceptable for individual seats, (Mini-bus Regulations).
- (k) Where there is a lit passenger compartment in a minibus or stretch limousine, there shall be a screen at rear of driver for use at night.
- (l) No engine fuel to be carried within the vehicle.
- (m) Fuel filler cap to be external.
- (n) Any tail lifts, mobile lifts and ramps are to comply with BS EN 1756-2:2004. All lifts must have a EC declaration of conformity Reg 9(1)(a) and a satisfactory examination report at intervals not exceeding six months by a competent engineer Reg 9(3)(a)(i).

Revised – 7 April 2009