

Borough Council of
**King's Lynn &
West Norfolk**



Licensing and Appeals Board Panel Hearing

Agenda

**Tuesday, 21st November, 2017
at 12.00 pm**

in the

**Council Chamber
Town Hall
Saturday Market Place
King's Lynn**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616200
Fax: 01553 691663

Friday 10th November 2017

Dear Member

Licensing and Appeals Board

You are invited to attend a meeting of the above-mentioned Panel which will be held on **Tuesday, 21st November, 2017 at 12.00 pm** in the **Council Chamber, Town Hall, Saturday Market Place, King's Lynn** to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1. Apologies for Absence

To receive any apologies for absence.

2. Items of Urgent Business

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

3. Declarations of Interest

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

4. To Consider a request to remove signage from Vehicles

- a) **Procedure for Determining Hackney Carriage/Private Hire Licence applications and Disciplinary Hearings** (Pages 5 - 6)
- b) **Report of the Licensing Manager** (Pages 7 - 13)

To:

Licensing and Appeals Board: Councillors D Tyler (Chairman), M Hopkins and Mrs S Young.

Officers:

Jo Furner, Legal Advisor
John Gilbraith, Licensing Manager

Procedure for Determining Hackney Carriage/Private Hire/Special Event Licences Applications and Disciplinary Hearings

Introductions

- 1 The Chairman of the Panel should introduce him/herself.
- 2 The Chairman should introduce the Members of the Panel.
- 3 The Chairman should introduce the Legal Advisor to the Panel and explain his/her impartial role.
- 4 The Chairman should introduce the Council's Representative and explain their role.
- 5 The Chairman should introduce the Democratic Services Officer and explain her role.
- 6 The Chairman should invite the applicant or the person subject of consideration to introduce themselves and any representative they may have.

The Procedure

- 7 The Chairman should invite the Legal Advisor to outline the procedure.

The Application/Person Subject of Consideration

- 8 The Chairman will invite the Council's Representative to present his/her report, outlining the case and the background, having regard to existing policy and conditions.
- 9 The Council's representatives may call witnesses to support the Council's case.

Questions

- 10 The Chairman should only allow questions when he/she is satisfied that the substance of the case has been presented by the Council's Representative.
- 11 First from the applicant/person under consideration, then Members of the Panel.
- 12 Multiple questions should be avoided.
- 13 Questions must be relevant to the matter in hand.

The Applicant's Case/Person Subject of Consideration

- 14 The Chairman then invites the Applicant/person under consideration or their representative to present their case. They can make statements and can call witnesses (the applicant/person subject of consideration may be a witness if represented).
- 15 Any witness called must be open to questioning, firstly by the Council's Representative and then Members of the Panel.
- 16 Multiple questions should be avoided.
- 17 Questions must be relevant to the matter in hand.

Summing Up

- 18 The Chairman then invites the Council's Representative to sum up his/her case. He/she may comment on what has been said but no new evidence should be introduced.
- 19 The Chairman then invites the Applicant/person under consideration or their representative to sum up their case. They may comment on what has been said but no new evidence should be introduced.

Reaching a Decision

- 20 The Chairman will invite the Legal Advisor to address the Panel on any outstanding matters.
- 21 The Chairman will then thank all those who have spoken and invite the Panel to retire to consider the case, accompanied by the Legal Advisor and Democratic Services Officer. The Chairman will explain that the Legal Advisor and Democratic Services Officer will take no part in the decision making.
- 22 The Panel will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
- 23 Once a decision has been made, the Panel (and relevant officer/Legal Advisor) will return back in to the room and the Legal Advisor will announce in public any legal advice he/she has given in private.
- 24 The Chairman will read out the decision and the reasons for the decision (unless the Panel is unable to reach a determination at the conclusion of the hearing).
- 25 The Chairman will explain that notification of the outcome of the decision and reasons for the decision will be made in writing.
- 26 If the Panel are unable to reach a decision, the Chairman will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

Borough Council of King's Lynn & West Norfolk

Report to Panel of Licensing & Appeals Board

Date of Hearing: 21st November 2017

Prepared by: Mr John Gilbraith, Licensing Manager

Application to depart from Licensing Conditions and Procedures in respect of Private Hire Signage – Mr Jason TAYLOR trading as Barry's Cars

Introduction

1. Mr Jason Taylor, trading as Barry's Cars & Minibuses Limited holds Private Hire Operator Licence number PO0043. This was last renewed on the 7th September 2016 and expires on the 6th September 2021. Barry's Cars & Minibuses Limited currently operates with 13 licensed private hire vehicles.

Private Hire Signage

2. Mr Taylor is requesting that all private hire vehicles operating under Barry's Cars and Minibuses Limited be exempt the requirement of Condition 5.2 on the basis that Barry's Cars do not deal with the general public. Conditions 5.2 and 5.3 of the Borough Council's Hackney Carriage and Private Hire Licensing Procedures & Conditions state:

5.2 *A sign must be displayed in a prominent position on each front side door of the vehicle displaying either:*

5.2.1 *Borough Council logo with the wording 'Pre-Booked Only insurance invalid unless booked with an operator', or*

5.2.2 *Borough Council logo and specifying the operator name, telephone number for bookings, with the wording 'Pre-Booked Only'*

5.3 *The sign must be in either of the prescribed formats (see example 'A' and 'B' below) and must be affixed to the vehicle by a Borough Council authorised sign maker. Removable signs e.g. magnetic will not be permitted. The signage is only obtainable via the licensing team and must be fitted within 14 days of the date the signage is ready and available with the signage company. Examples of permitted private hire signage:*

Example A



Example B



3. A copy of Mr Taylor's email of the 9th June 2017 requesting the exemption is attached to this report as Appendix 1.

Background

4. The requirement for private hire signage was introduced as a licensing condition in 2009 and the following is an extract from the Borough Council's Cabinet Report dated the 2nd December 2008:

Private Hire Vehicle Signage. There is currently no requirement for private hire vehicles to advertise their operator name or that they may be pre-booked only. It is proposed to introduce a requirement that all private hire vehicles have prescribed signage on each side of the vehicle, including the operator name, the wording 'pre-booked only' and the operator telephone number. This would identify the vehicle as private hire, help to avoid confusion with a taxi and also provide useful information for members of the public wishing to make a booking.

The requirement for private hire signage was subsequently approved by Full Council on the 22nd January 2009.

Determination

5. Section 48(1) of The Local Government (Miscellaneous Provisions) Act 1976 prescribes that a private hire vehicle must be of suitable type, size and design; in a suitable mechanical condition; safe; comfortable and adequately insured. In addition, Section 48 (2) provides that:

'A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.'

6. The panel are requested to consider this report, including any submissions put forward by Mr Taylor and dispose of the matter by either allowing the request or rejecting the request.

7. There is no statutory right of appeal to Magistrates' Court against the decision of the Council in this matter. Should Mr Taylor wish to challenge the Council's decision this may only be achieved by way of judicial review.

John Gilbraith

Licensing Manager

Environmental Health - Licensing

2nd November 2017

Appendix

1. Email Mr Taylor 9th June 2017

Background Papers

1. Local Government (Miscellaneous Provisions) Act 1976.
2. Hackney Carriage and Private Hire Licensing Procedures & Conditions (January 2017).

John Gilbraith

From: JTaylor <jtaylor@barryscars.co.uk>
Sent: 09 June 2017 12:47
To: John Gilbraith
Cc: Marie Malt
Subject: RE: Oval Plates *OFFICIAL - *

Good afternoon John

Thanks for your email, I note your comment on why the operator has been granted not to have ovals on his vehicle.

The reason for us not having the ovals is we don't deal with the general public, we don't do private hire work and haven't done since September 2011 and wont in the future as I have no desire to do this type of work.

I understand why the ovals are on private hire vehicle's doing private hire work and I support this, that they are on the vehicles for public safety but for us having these on our vehicles is misleading for the public as they assume we are private hire operators doing private hire work so on that grounds I would say it's better for the public we don't have them which I'm sure you agree and there is no safety issue, should things ever change I would happily pay to have them back on.

I could run my minibus fleet under my VOSA licence and wouldn't have to have any signage, yellow plates etc. on my vehicles but then I have to obey by a different set of rules like with my 16 seater minibuses.

I understand raising a panel hearing cost your dept. money and I wouldn't want to do that unnecessarily so would be happy to have a hearing when there is one scheduled for something else to keep cost to a minimum.

I'll await your reply on how to proceed with this.

Regards

Jason Taylor

From: John Gilbraith [mailto:john.gilbraith@west-norfolk.gcsx.gov.uk]
Sent: 09 June 2017 12:13
To: JTaylor <jtaylor@barryscars.co.uk>
Cc: Marie Malt <marie.malt@west-norfolk.gcsx.gov.uk>
Subject: FW: Oval Plates *OFFICIAL - *

This document and any attachments carry a security classification of: OFFICIAL -

Hello Jason,

Marie has passed me your email for me to respond.

In the same way that advertising was allowed on the back windows of some of your vehicles a Panel can waive the requirements of licensing conditions. Any request would be considered on its own merits and in relation to the previous request I would like to state that the other operator doesn't have a blanket

authorisation for all his vehicles as the exemption only applies to one vehicle. If it assists, the following is an extract from the decision notice which gives reasons why the Panel allowed this in exceptional circumstances:


“In particular the Panel notes that the licensed vehicle is the first all-electric vehicle licensed in West Norfolk and is being promoted as a luxury executive vehicle that does not damage the environment. Balanced against that, the Panel is conscious of the public safety reasons for imposing the signage requirements on private hire vehicles. The Panel does not believe that conditions imposed as a matter of policy should restrict the use and development of innovative technology for 'special event' and other use at the higher end of the private hire market. The Panel is also supportive of the specific contribution the licensed vehicle makes to the reduction of pollution in the Borough. Taking into account the exceptional nature of the licensed vehicle, the overestimation of private hire use submitted in the application and the stated intention of the applicant to convert to a special event licence as and when such use becomes viable and sustainable, the Panel GRANTS the applicant's request for an exemption from the Council's conditions in relation to private hire signage”.

Should you wish to submit a case to be exempt under exceptional circumstances we would be happy to receive it. Panel hearings have a cost implication which has to be met by licence fees. Should we refer such a request to Panel then this would only be done if the Panel were sitting for another reason.

Hope this helps

John Gilbraith

Licensing Manager
Environmental Health - Licensing
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX
☎ (01553) 616200
✉ john.gilbraith@west-norfolk.gcsx.gov.uk
www.west-norfolk.gov.uk

 It takes 24 trees to produce 1 ton of office paper!
Think... is it really necessary to print this email

From: Marie Malt
Sent: 09 June 2017 09:22
To: John Gilbraith
Subject: FW: Oval Plates

From: JTaylor [<mailto:jtaylor@barryscars.co.uk>]
Sent: 08 June 2017 16:40
To: Marie Malt
Subject: Oval Plates

Good Afternoon Marie

Is it possible for me to make an application to go to panel to request that we can have the oval plates removed from our vehicles.

I believe another operator has been granted this on whatever grounds he has applied for but has been granted not to have them.

I wish to have them removed on the grounds that we don't do any taxi or private hire work with the general public and is misleading for the general public thinking we do as we have them fitted on our vehicles.

Could you please let me know what the next steps are so that I can take this matter further please.

Kind regards,

Jason Taylor

Director

Email: jtaylor@barryscars.co.uk

Direct Dial: 07825 712 800

BARRY'S CARS & MINIBUSES LTD

Email: enquiries@barryscars.co.uk | Web Address: www.barryscars.co.uk

Accounts Office: 01553 84 40 80 | King's Lynn: 01553 77 77 33 (24 hours)

Address: Archdale Barn, 14 Back Lane, West Winch, King's Lynn Norfolk, PE33 0LF.

Any views or opinions are solely those of the author and do not necessarily represent those of Barry's Cars & Minibuses Ltd or any of its associated companies.

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