

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



Licensing and Appeals Board Panel Hearing

Agenda

**Friday, 13th January, 2023
at 11.30 am**

in the

**Kempe Room
Town Hall
Saturday Market Place
King's Lynn**



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

Wednesday 4th January 2023

Dear Member

Licensing and Appeals Board

You are invited to attend a meeting of the above-mentioned Panel which will be held on **Friday, 13th January, 2023 at 11.30 am** in the **Kempe Room - Town Hall, Saturday Market Place, King's Lynn PE30 5DQ** 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 Chair 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 or simply observing the meeting from the public seating area.

4. Application to depart from Licensing Conditions and Procedures in

respect of Advertising on Licensed Vehicles

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

To:

Licensing and Appeals Board: Councillors D Tyler, D Whitby and A Holmes.

Officers:

Marie Malt, Licensing Officer
Chido Mushonga – Legal Advisor

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 Those present to be made aware that all questions and comments should be directed through the Chairman.
- 8 The Chairman should invite the Legal Advisor to outline the procedure.

The Application/Person Subject of Consideration

- 9 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.
- 10 The Council's representatives may call witnesses to support the Council's case.

Questions

- 11 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.
- 12 First from the applicant/person under consideration, then Members of the Panel.
- 13 Multiple questions should be avoided.
- 14 Questions must be relevant to the matter in hand.

The Applicant's Case/Person Subject of Consideration

- 15 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).
- 16 Any witness called must be open to questioning, firstly by the Council's Representative and then Members of the Panel.
- 17 Multiple questions should be avoided.
- 18 Questions must be relevant to the matter in hand.

Summing Up

- 19 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.
- 20 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

- 21 The Chairman will invite the Legal Advisor to address the Panel on any outstanding matters.
- 22 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.
- 23 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.
- 24 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.
- 25 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).
- 26 The Chairman will explain that notification of the outcome of the decision and reasons for the decision will be made in writing.
- 27 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 Licensing Panel: **13th January 2023**

Prepared By: **Marie Malt, Senior Licensing Officer**

Application to depart from Licensing Conditions and Procedures in respect of Advertising on Licensed Vehicles

Introduction

1. This report is for Members to consider whether to permit advertising to the rear windows of vehicles licensed by Mr Anthony Bailey, contrary to the Borough Council's standard licensing procedures and conditions.
2. Mr Anthony Bailey submitted a request that Panel Members consider departing from the standard conditions on 3rd January 2023. A copy of Mr Bailey's email is attached to this report as Appendix 1.
3. Mr Anthony Bailey holds 35 vehicle licenses in his name, of which 29 are private hire and 6 are hackney carriage vehicles. 24 of those vehicles are 8 seater vehicles.

Conditions

4. The Borough Council's Licensing Conditions and Procedures Approved by Full Council on 25th April 2022 prescribe what advertising is permitted on the outside of licensed vehicles:

'3.63 The Borough Council will allow advertisements to be placed upon a vehicle subject to the following:

- *'...Advertising is to be limited to the back door panels of licensed vehicles only. Advertising on parts of the vehicle in addition to the back door panels may be considered but only after prior written approval of the Borough Council has been given. However, no advertising will be permitted on the windows of the vehicle.*
- *All advertisements shall comply with the British Code of Advertising Practice and shall be in a form acceptable to the Advertising Standards Authority. The Borough Council reserves the right to require the licensee to withdraw from display any advertisement which may be considered inaccurate, misleading, unlawful, defamatory, in bad taste or of an unacceptable standard.*
- *No advertisement will be permitted that relates to or advertises alcohol, nudity, gambling, smoking materials or others of a political nature.....*
- *Any advertising may cover both back doors.*
- *Advertising may not be stuck over door trims. Door trims may not be removed to accommodate advertising.....'*

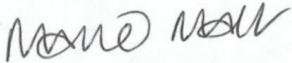
History

5. Members may wish to be aware that a similar request was considered by this Panel in November of 2015. A copy of the determination notice from that hearing is attached to this report as Appendix 2.

Determination

6. The Panel are requested to consider the application, including any submissions put forward by Mr Bailey and dispose of the matter by either:
- i. Refusing the application;
 - ii. Permitting advertising on the rear windows of all or some of the vehicles licensed by Mr Bailey, or
 - iii. Any other action deemed appropriate

There is no statutory right of appeal to Magistrates Court against the decision of the Council in this matter. Should the applicant wish to challenge the Council's decision, based on the current policy, this may be carried out by way of judicial review.



Marie Malt

Senior Licensing Officer
Environmental Health – Licensing
3rd January 2023

Appendixes

1. Correspondence from Anthony Bailey dated 3rd January 2022
2. Determination Notice from Panel hearing dated 10th November 2015

STATION TAXIS (KINGS LYNN LTD) 3/2/2023

Hi Marie

As per our telephone call before Christmas, I would like to start to let local businesses advertise on the rear windows of our minibuses, contrary to the licensing conditions not allowing advertising on windows of licensed vehicles.

We would like to do this for the following reasons:

1. The type of work we have been doing for the last 10 years and going forward doesn't require us to do any form of advertising as its mainly contract work with local authorities.
2. We would like to offer the space to local small/medium size business to advertise on our vehicle for a small monthly fee, this is another form of advertising as not everyone uses the internet or local papers.
3. We have advertised a local business on the sides of our licensed vehicles as you know and it has worked well for them (KLFM). But we would also like to advertise on the rear of the vehicle as lots of people can see that when following licensed vehicles. We would like to cover the rear windows with a honeycomb style wrap, the same as Barry's Cars vehicles are advertising. The honeycomb style wrap enables a driver to see through it from the inside. As per the attached picture.
4. We would like to only offer the space to local business and to only have one local company from their trade/industry (eg plumbers, car sales, electricians, timber suppliers etc.) this is so we don't have several of one type of industry etc. and to make it fair to the businesses that are advertising and support local companies.
5. We would comply with all other licensing conditions on advertising.

Please also note that some minibuses have the rear windows completely filled in, and it would be fairly simple to change the glass to metal to avoid the use of glass and comply with the conditions. Should this not be authorised we would have no alternative to change the glass panels to metal to avoid the use of glass to enable the advertising.

I believe this is good idea to support our small business and other local businesses in the community, in this form of advertising this has been used on local public and national buses for some time now including black cabs and other taxis in major cities and seems to be the way forward for media advertising.

Kind regards, Anthony Bailey, Director Email: station.taxis@aol.co.uk



DETERMINATION NOTICE

Local Government (Miscellaneous Provisions) Act 1976

BOROUGH COUNCIL OF KINGS LYNN AND WEST NORFOLK

**APPLICATION TO DEPART FROM LICENSING CONDITIONS AND PROCEDURES IN
RESPECT OF ADVERTISING ON LICENSED VEHICLES:**

Mr Jason Taylor

Date of Hearing	10th November 2015, 10.00am
Panel Members	ClIr D Tyler (Chairman) ClIr Mrs S Buck ClIr A Bubb
Legal Adviser	Cara Jordan
Committee Officer	Rebecca Parker
Senior Licensing Enforcement Officer	Marie Malt
Name of Licence Holder	Mr Jason Taylor

On 10th November 2015, the Borough Council of King's Lynn and West Norfolk ("the Council") being the relevant authority for the issuing of licences for Hackney Carriage Vehicles and Drivers, considered an application to depart from Licensing Conditions and procedures in respect of advertising on licensed vehicles, which had been submitted by Mr Jason Taylor, trading as Barrys Cars & Minibuses Ltd.

The Senior Licensing Enforcement Officer presented her report to the Panel and explained that the applicant had submitted a request that Panel Members consider departing from the standard conditions on 27 October 2015. A copy of the request was appended to the Senior Licensing Enforcement Officer's report.

The Panel was informed that Mr Jason Taylor currently held twelve private hire vehicle licenses issued by the Borough Council.

The Senior Licensing Enforcement Officer referred the Panel to part 3.64 of the Borough Council's Licensing Conditions and Procedures which had been approved by Full Council on 30th June 2011. The Panel was also referred to the law on tinted vehicle windows and Section 48(1) of the Local Government (Miscellaneous Provisions Act).

The Panel were requested to consider the application, including any submissions put forward by the applicant and dispose of the matter by either:

- i. Refusing the application
- ii. Permitting advertising on all or some of the windows rear of the front windows, on all or some of the vehicles licensed, or
- iii. Any other action deemed appropriate.

The Senior Licensing Enforcement Officer informed the Panel that there was no right of appeal to the Magistrates Court against the decision of the Council in this matter. Should the applicant wish to challenge the Council's decision, based on the current policy, this may be carried out by way of judicial review.

The Panel adjourned the Hearing so that the Panel could view one of Mr Taylor's vehicles with example signage.

There were no questions to the Senior Licensing Enforcement Officer from the Panel or Mr Taylor.

Mr Taylor presented his case. He explained that he would use a cover over the windows for advertising, as seen by the Panel who viewed his vehicle. He referred to this cover as a honeycomb wrap.

Mr Taylor responded to questions from the Panel.

The Senior Licensing Enforcement Officer summed up her case.
Mr Taylor summed up his case.

The Legal Advisor addressed the Panel.

DETERMINATION:


The Panel considered the Report and the information put forward at the Hearing. It also viewed a vehicle of Mr Taylor's which had a honeycomb wrap on the rear window.

The Panel are of the view that a duly elected Council considered this matter and in 2011 approved a policy which prohibited advertising on the windows of licensed vehicles. The Panel does not depart from such a policy lightly. However, it considers that the honeycomb wrap is a technology which may not have been presented or considered at that time. Having looked inside the vehicle of Mr Taylor, the Panel notes that there is no restricted view out of the rear window which had the honeycomb wrap. The Panel also notes that this type of wrap is frequently used on the rear windows of Public Service Vehicles in major cities.

As the driver and passengers retain a clear view from the rear of the vehicle, it is considered that the driver's vision is not impaired by the quality of the honeycomb wrap as seen by the Panel today. The Panel notes that Mr Taylor uses minibuses only and has no plans to have any other type of vehicle.

The Panel therefore grants the application permitting advertising on the rear windows of minibuses where honeycomb wrap is used. For the avoidance of doubt, this does not include any side or front window.

The Panel granted the request to permit advertising on the rear window on all of the mini buses licensed by Mr Taylor, subject to ensuring that clear visibility was maintained.

Signed:  10th November 2015
Chairman of the Licensing and Appeals Panel