

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 8 SEPTEMBER 2022

Attendees:

Committee Members:	Councillors Coates, Joy (Chairman) and Robertson.
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10. APOLOGIES

There were no apologies for absence.

11. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

12. ELECTION OF CHAIRMAN

RESOLVED: That Councillor Joy be elected as Chairman for the duration of the meeting.

The Chairman welcomed all attendees and asked whether they had received the papers. Attendees were directed to the Order of Proceedings relating to the hearing, as contained within the agenda papers.

13. URGENT ITEMS

There were five urgent updates relating to Item 8 – Local Government (Miscellaneous Provisions) Act 1976 – Application to licence a vehicle outside of policy guidelines. These updates had been made available on 1 September 2022.

The Chairman confirmed that she was happy to accept them as they related to the decision to be taken.

14. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

15. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

16. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed, however, following the hearing's closure, the Sub-Committee would retire to private session to consider the application after which the decision would be announced in public.

17. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – APPLICATION TO LICENCE VEHICLE OUTSIDE OF POLICY GUIDELINES

The persons participating in the hearing were identified as follows:

1. Members of the Sub-Committee – (Councillors Coates, Joy and Robertson)
2. Chairman – Councillor Joy
3. Committee Members – Councillors Coates and Robertson
4. Senior Licensing Officer – Lorraine Neale
5. Legal Advisor – Helen Ward
6. Committee Clerk – Ryan O’Connell
7. Democratic Services Officer – Suzette Nicol (Shadowing)
8. Mr Wakil Omar (Applicant)
9. Ms Jade Collier (Applicant Representative - Express Cabs)

All parties confirmed that they were aware of the sub-committee hearing procedure and that they had each received a copy of the hearing procedure document. The hearing procedure was briefly explained.

The Sub-Committee Members confirmed that they had read the papers regarding the hearing.

The Senior Licensing Officer introduced the report, with the sub-committee asked to consider whether to grant a new hackney carriage vehicle licence for vehicle No. GX09 HKG to operate as a hackney carriage. The vehicle did not meet the policy criteria for new vehicles. However, it had previously been licensed as a hackney carriage with MBC, that licence had been revoked on 22 June 2022 as the vehicle had been declared mechanically unfit and unsafe to carry passengers. Mr Omar had then been told that he could either repair the vehicle or scrap it completely. The Senior Licensing Officer referred the sub-committee to Appendix 3 of the bundle which was the Notice of Suspension of Mr Omar’s Hackney Carriage Proprietor Vehicle Licence.

The revocation notice was issued on 22 June and emailed to Mr Omar. As Mr Omar said that he had not received the notice, it was sent to him again by email for his information only on 4 August 2022 as the period for appealing the decision had passed. In addition, the licence plate had not been returned. In that time Mr Omar had carried out significant repairs to the vehicle.

The Licensing Department received a compliance sheet from the administration team at Sevenoaks on 3 August stating that vehicle No. GX09 HKG had now passed the compliance test following extensive repairs. The standard of the repairs was such that they had been able to pass the vehicle.

As the vehicle had now passed the required inspection the request was that the applicant be allowed to licence the vehicle again and continue to renew that licence annually until the vehicle was 15 years old subject to it continuing to meet the policy criteria.

The Chairman asked Mr Omar to address the sub-committee. Mr Omar circulated a written statement to attendees, which was read on his behalf by Jade Collier of Express Cabs.

Mr Omar's taxi had failed an inspection test on 22 June and was given the option of either repairing it or buying a new one. At this point the Inspector said that he needed to remove the licence plate and if the vehicle was repaired and passed the test the licence plate would be returned to him.

The vehicle was subsequently repaired, and Mr Omar returned to the Oakwood Group Inspection Garage for a re-test. The Inspector being satisfied with the work that had been carried out issued a certificate of compliance and returned his licence plate. On 4 August 2022, Mr Omar received a call from Louise Davies from the Licensing Department informing him that he needed to return his licence plate as soon as possible as it had been revoked on 22 June 2022.

Mr Omar said that he was shocked to learn the news as the vehicle was his livelihood and his sole means of income. He said that he had been unaware that the licence had been revoked as he had not received the notification. If he been informed of this, he would not have spent £3,445 on repairs as the vehicle had been declared non-compliant and would have returned the licence plate.

Mr Omar added that he had sponsored his wife's visa two years ago and that her visa would be affected if he was unable to work.

In response to questions from the sub-committee, The Senior Licensing Officer explained that Mr Omar worked for Express Cabs and was on their fleet insurance. The Senior Licensing Officer was asked about the 6 weeks window when nothing was heard from the applicant and whether it was the responsibility of the Licensing Department to contact Mr Omar. The Senior Licensing Officer confirmed that this was the case, adding that it was assumed that the licence plate had been returned to Sevenoaks and that lessons had been learnt in this respect.

Mr Omar mentioned that his first priority was customer safety and that he had always complied with all of the rules.

In response to questions from the Legal Advisor, Mr Omar stated that he had purchased the vehicle between eight to nine months ago. Mr Omar emphasised that he was quite particular and that if there was any noise in the vehicle, he would take it for repairs. The MOT before that was for 1 year and the garage had never given him an indication that there was cause for concern.

The Chairman advised that the sub-committee would retire for deliberation with the legal officer present.

The Sub-Committee reconvened at 10.40 a.m. and the Legal Advisor stated that the sub-committee were satisfied that the vehicle was safe and that it complied with the requirements. The sub-committee noted that although there were exceptional circumstances in the case, Mr Omar had acted in continuous good faith after purchasing the vehicle and as a result, the sub-committee had decided to grant him his licence with immediate effect. The written decision would be circulated in due course.

RESOLVED: That the sub-committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the minutes.

The hearing closed at 10.43 a.m.

18. DURATION OF MEETING

10.00 a.m. to 10.43 a.m.



Maidstone Borough Council

Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847

Notice of Determination of Application for Hackney Carriage Vehicle

Applicant: Mr Wakil Omar

Vehicle Licence Plate Application: GX09 HKG

Date of Determination: 8 September 2022

In accordance with the provisions of s.37 Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Maidstone Borough Council has decided to GRANT a licence for a hackney carriage vehicle for vehicle plate number GX09 HKG.

The Licensing Sub Committee considered the report, relevant law and guidance and the council's policy and have carefully considered all submissions made at the meeting on 8 September 2022.

The Sub Committee were satisfied that the vehicle is fundamentally safe. Although the car is over 3 years old and has more than 30,000 miles, the Sub Committee were satisfied that there are exceptional circumstances in the current application to allow them to grant the vehicle a hackney carriage licence contrary to the policy requirement. In particular, Mr Omar's actions since June have demonstrated a genuine belief that the vehicle licence had not been revoked. The Sub Committee also accepted that he had acted in continuous good faith to protect the public since purchasing the hackney carriage vehicle which unfortunately needed significant repair shortly after passing its MOT. In the normal course of events, had the licence not been revoked, the vehicle would not be subject to the policy as it had been a hackney carriage for a number of years. Accordingly the Sub Committee considered it reasonable in the exceptional circumstances to grant a licence for a hackney carriage vehicle outside of the policy guidelines.

Any person aggrieved by the decision may appeal to the Crown Court by way of complaint. S.47(3) Local Government (Miscellaneous Provisions) Act 1976 provides that any person aggrieved by any conditions attached to such a licence may appeal to the Magistrates Court within 21 days of the date of this Notice.

Signed:

Date of Notice: 8 September 2022

Councillor Joy
Chairman of the Licensing Sub-Committee