



Agenda

Meeting: **Planning and Licensing Committee**
Date: **17 November 2020**
Time: **7.00 pm**
Place: **Remote Meeting**

To: **All members of the Planning and Licensing Committee**

The committee will consider the matters, listed below, at the date and time shown above. The meeting will be open to the press and public and will be streamed live at bit.ly/YouTubeMeetings.

If members have any particular questions on the reports it would help the management of the meeting, if they could send these on or before next Tuesday to committee@folkestone-hythe.gov.uk. Members can raise matters in the meeting of course, however, knowledge of the areas of any concern prior to its commencement will aid the running of the meeting.

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 3 - 4)**

Members of the committee should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);
- c) voluntary announcements of other interests.

3. **Minutes (Pages 5 - 10)**

To consider and approve, as a correct record, the minutes of the meeting held on 20 October 2020.

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 12)**

Queries about the agenda? Need a different format?

Contact Committee Services – Tel: 01303 853267/3369
Email: committee@folkestone-hythe.gov.uk or download from our
website
www.folkestone-hythe.gov.uk

To consider and approve, as a correct record, the minutes of the meeting held on 27 October 2020.

5. **20/0657/FH - Blocks A, B, and C Hurricane Way and Terlingham Forum, Hawkinge. (Pages 13 - 36)**

Report DCL/20/31 - Change of use of use and conversion of office blocks A, B and C to 23 residential units and associated works, together with public realm improvements at Terlingham Forum.

6. **Y19/1149/FH - 3 Sandgate High Street, Folkestone, CT20 3BD (Pages 37 - 50)**

Report DCL/20/32 - Change of use and conversion from a mixed use as retail showroom and residential, to a single residential unit

7. **Revised Hackney Carriage and Private Hire (Taxi) Licensing Policy (Pages 51 - 138)**

Report DCL/20/30 sets out the next steps for publishing the Council's Hackney Carriage and Private Hire (Taxi) Licensing Policy. The policy was last reviewed in 2012 and whilst not time limited it is a good opportunity to refresh the policy. The new policy has now been sent for public consultation and seeks approval with Planning and Licensing Committee. The purpose of this report is to highlight the feedback received during the consultation and give the Committee the chance to make any final amendments before it is published.

8. **Supplementary Information - Speakers (Pages 139 - 140)**

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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Minutes

Planning and Licensing Committee

Held at:	Remote Meeting
Date	Tuesday, 20 October 2020
Present	Councillors John Collier, Gary Fuller, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen*, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers, Georgina Treloar and David Wimble
Apologies for Absence	None
Officers Present:	David Campbell (Development Management Team Leader), Kate Clark (Case Officer - Committee Services), Claire Dethier (Development Management Lead Specialist), Llywelyn Lloyd (Chief Planning Officer), Ross McCardle (Principal Planning Officer), Lisette Patching (Principal Planning Officer), Helena Payne (Development Management Team Leader) and Jemma West (Committee Service Specialist)
Others Present:	Councillor Laura Davison (* for part of the meeting)

35. **Declarations of Interest**

Councillor Philip Martin made a voluntary announcement as he owns a property in the same ward as planning application Y19/0016/FH (Land adjoining 86-88 Tontine Street, Folkestone). He remained in the meeting, taking part in discussions and voting on this item.

36. **Minutes**

The minutes of the meeting held on 22 September 2020 were submitted and approved. The Chairman's, Councillor Clive Goddard, signature will be add to these minutes.

37. **Y19/0016/FH Land Adjoining 86 - 88 Tontine Street, Folkestone, Kent**

Erection of part 3-storey and part 5-storey building comprising 45 no. apartments with associated access, parking and communal garden.

Meredith Stanton, local resident, provided a written statement against the application.

Councillor Mary Lawes, on behalf of Folkestone Town Council, provided a written statement.

Nathan Anthony from Lee Evans Planning Consultancy, the applicant's agent, provided a written statement.

Proposed by Councillor Philip Martin

Seconded by Councillor John Collier and

RESOLVED: Permit

That planning permission is granted subject to the conditions set out at the end of the report and the applicant entering into a S106 agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

(Voting: For 6; Against 4; Abstentions 0)

(Councillor Nicola Keen joined the meeting and took part in discussions and voting on the following items).

38. **20/0960/FH 59/61 Earls Avenue, Folkestone, CT20 2HA**

Felling of a multi-stemmed Lime tree subject of a Tree Preservation Order No 4 of 1994 at 59/61 Earls Avenue, Folkestone.

Members were advised that an additional 10 letters of objection had been received, three from the same person and one letter supporting the felling of the tree.

Will Franken, local resident, spoke against the application. He said that too many trees are being cleared in the area and it would be inconsiderate to fell this tree pointing out the benefits to wildlife.

Councillor Laura Davison, ward member, spoke next and mentioned that she had been impressed by Mr Franken's passion for Folkestone and the preservation of this particular tree. As it is protected, she believes it should be preserved providing visual amenity from Earls Avenue and Shorncliffe Road. Councillor Davison also pointed out that expert opinion had confirmed the tree is not a danger to buildings or residents and as part of the values of the Climate & Ecological Emergency Working Group and the Tree Strategy it should remain.

Members' comments included:

- Amenity considerations.

- Effects of the proposed loss of the tree, looking at the impacts and appearance of the local conservation area.
- Type of tree, the multi-stemmed Lime is the tallest species of tree remaining after the elm-
- The tree creates environmental benefits for wildlife.
- Tree removal could cause further problems with ground heave which in turn could cause consequential damage to the nearby garages.
- Possible concerns that the tree could fall and cause damage or injury, however expert advice confirmed the tree is solid.

A motion proposed by Councillor Jackie Meade and seconded by Councillor Mrs Jenny Hollingsbee to defer this application in order to search for the latest technology to save the tree was withdrawn with the proposer's and seconder's consent.

Officers reminded members to consider amenity values and financial implications. A case officer had visited the site to give consideration to the amenity value.

Taking into account the officer's report and recommendation that consent is granted to remove the tree, members felt that the tree offers huge environmental benefits, offers significant local amenity value along with insufficient proof that the tree is damaging the surrounding area. In this respect, overall, members were minded to refuse this application.

Proposed by Councillor Georgina Treloar
Seconded by Councillor Jim Martin and

RESOLVED: Refuse

That consent is refused to fell the multi-stemmed Lime Tree as removal is not justified when weighed against the value that the tree brings to the local amenity, appearance, wildlife, climate mitigation and adaptation.

(Voting: For 11; Against 0; Abstentions 0)

39. **20/0569/FH Tree Tops, Cannongate Road, Hythe, Kent**

Approval of reserved matters (scale, appearance, and landscaping) in regards planning permission ref. Y15/1245/SH, which granted outline planning permission for the erection of a dwelling on the site.

Proposed by Councillor David Wimble
Seconded by Councillor Mrs Jenny Hollingsbee

RESOLVED: Permit

That planning permission be approved subject to the conditions set out at the end of the report.

(Voting: For 10; Against 1; Abstentions 0)

40. **Y19/1275/FH Hope All Saints Garden Centre, Ashford Road, New Romney, Kent, TN28 8TH**

Erection of 25 dwellings, together with associated landscaping and parking.

Proposed by Councillor David Wimble
Seconded by Councillor Philip Martin

RESOLVED: Permit

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary; and completion of a s.106 agreement to secure affordable housing and financial contributions toward play and open space and delivery of KCC services.

(Voting: For 11; Against 0; Abstentions 0)

41. **Unauthorised change of use of land at Paddlesworth Court Farm, Paddlesworth**

Report DC/20/25 considers the appropriate action to be taken regarding the unauthorised change of use of the land from agricultural to use for the siting of residential caravans and mobile homes, the storage of caravans and mobile homes, the storage of vehicles, plant and other equipment; and the erection of two viewing platforms.

The officer corrected an error at paragraph 3.3 of the officer's report which should read 'Part 5, Class C'.

Proposed by Councillor David Wimble
Seconded by Councillor Mrs Jenny Hollingsbee

RESOLVED: Permit

1. **To receive and note the report DC/20/25.**
2. **That delegated authority be given to the Chief Planning Officer to serve Enforcement Notices requiring the use of the land for residential purposes to cease, the use of the land for the storage of vehicles, plant and other equipment to cease; the removal of all mobile homes, caravans, vehicles, plant, equipment and paraphernalia, including garden furniture and paraphernalia associated with the residential uses from the land; the removal of the two viewing platforms from the land; and the removal of the road currently under construction if, following further investigation, it is considered to require planning permission and such planning permission would be unlikely to be granted.**
3. **That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notices.**

4. **That the period of compliance with the Notices be (six) months.**
5. **That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.**

(Voting: For 11; Against 0; Abstentions 0)

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Minutes

Licensing Sub-Committee

Held at:	Remote meeting
Date	Tuesday, 27 October 2020
Present	Councillors Gary Fuller, Mrs Jennifer Hollingsbee and Jim Martin
Apologies for Absence	None
Officers Present:	Kate Clark (Case Officer - Committee Services), Holly Godwin (Case Officer - Corporate Services), Tim Hixon (Legal Specialist) and Briony Williamson (Licensing Specialist)
Others Present:	The applicant

41. **Election of Chairman for the meeting**

Proposed by Councillor Gary Fuller
Seconded by Councillor Jim Martin; and

RESOLVED:

That Councillor Mrs Jenny Hollingsbee be elected as Chairman for this meeting.

42. **Declarations of interest**

There were no declarations of interest.

43. **Declarations of lobbying**

There were no declarations of lobbying.

44. **Exclusion of the Public**

Proposed by Councillor Mrs Jenny Hollingsbee
Seconded by Councillor Jim Martin; and

RESOLVED:

That the public be excluded for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 2 of Part 1 of Schedule 12A to the Local Government Act 1972 –

‘Information which is likely to reveal the identity of an individual.’

(Voting: For 3; Against 0; Abstentions 0)

45. **Review of a Taxi Driver Licence**

Report DCL/20/26 considered whether action should be taken against a Private Hire Driver’s licence following a referral by a partner agency.

Proposed by Councillor Jim Martin
Seconded by Councillor Gary Fuller; and

RESOLVED:

- 1. That Report DCL/20/26 is received and noted.**
- 2. That the Private Hire Driver is issued a formal warning and a condition added to the licence. Licence to be called in for review after six months for the driver to provide evidence that the licence conditions complied with.**

(Voting: For 3; Against 0; Abstentions 0)

Application No: 20/0657/FH

Location of Site: Blocks A, B, and C Hurricane Way and Terlingham Forum, Hawkinge.

Development: Change of use of use and conversion of office blocks A, B and C to 23 residential units and associated works, together with public realm improvements at Terlingham Forum.

Applicant: Pentland Homes.

Agent: DHA Planning, Eclipse House, Sittingbourne Road, Maidstone.

Officer Contact: Ross McCardle

SUMMARY

This application seeks planning permission for the conversion of three existing redundant office buildings to 23 residential flats, and for the carrying out of a number of public realm improvements (including new tree planting and formation of footpaths) at Terlingham Forum, Hawkinge. While the Town Council has objected to the scheme on the grounds that they consider there to be a need for commercial units in the village, they have not provided any evidence to support that assertion and the applicant has carried out a robust and extensive marketing exercise proving there to be no demand for the units. The Town Council also state there is a need for the type of residential units proposed in Hawkinge. The application is considered to be acceptable in all respects, and recommended for approval subject to the conditions set out at the end of the report.

RECOMMENDATION:

That planning permission be approved subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.

1. INTRODUCTION

- 1.1 The application is presented to Members due to an objection from Hawkinge Town Council on the basis that the submitted marketing report is inaccurate. Their comments are set out in detail at section 5 below.

2. SITE AND SURROUNDINGS

- 2.1 This application relates to existing buildings and public realm at Terlingham Forum, a relatively new development just off Spitfire Way to the south of Hawkinge.



Terlingham Forum, with the A260 Spitfire Way to the east

- 2.2 Units A, B, and C are recently constructed modern light industrial buildings situated to the west of Hurricane Way, immediately to the southwest of the Lidl store, east of an area of public open space, north of Hawkinge House nursing home, and west of residential dwellings on Juniper Way and Defiant Close.
- 2.3 Block A is to the north of the site. It is a three-storey flat-roofed building with simple, contemporary cladding to the external elevations and a projecting canopy above the entrance. Blocks B and C lie to the south and are of a similar design but only two storeys tall. There are two other similar buildings (blocks D and E) immediately to the west but not within the red line site boundary, and car parking is provided around each of the buildings.



Blocks A, B, and C layout



Blocks A and B (right and centre) with Lidl (left) as viewed from junction of Haven Drive and Hurricane Way



(Left to right) Blocks C, B, and A as seen from junction of Hurricane Way and Defiant Close



View from south. Care home to left, application site centre, flats/retail units to right

- 2.4 The rest of the red line encompasses land to the east of Hurricane Way, around a number of existing multi-storey buildings with retail premises at ground floor and residential flats above, including estate roads, car parking areas, pedestrian footways, and areas of soft landscaping. These buildings have similar external materials to blocks A, B, and C.



Red line site boundary

2.5 The area is generally flat and level, roads are wide, and soft landscaping is gradually establishing itself. Hawkinge itself lies to the north of Folkestone, and close to the A20/M20. The site is located within the settlement boundary of Hawkinge and is within the Kent Downs Area of Outstanding Beauty (AONB).

3. PROPOSAL

3.1 This application seeks planning permission for:

- i) Conversion of blocks A, B, and C from B1/B8 use to a total of 23 residential flats; and
- ii) Public realm improvements at Terlingham Forum.

Residential flats

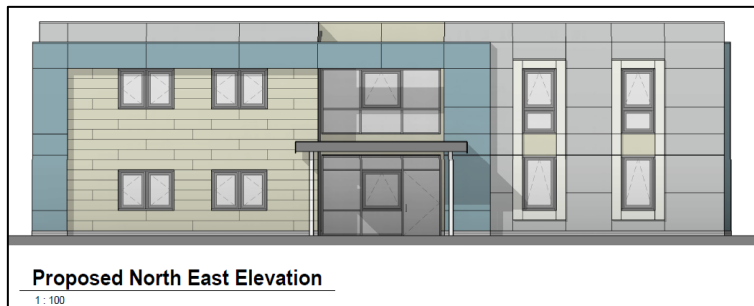
3.2 Block A is proposed to be converted to 12 flats; 10 x one-bed and 2 x two-bed. Block B is proposed to be converted to 7 flats; 4 x one-bed and 3 x two-bed. Block C is proposed to be converted to 4 x two-bed flats. All flats would feature open-plan kitchen / living rooms and separate bathrooms, and all blocks would include an internal communal bin / store room at ground floor level. All flats would exceed the minimum floor space requirements as set by the National Standard (the smallest flats being approximately 44 sqm).

3.3 Alterations to the elevations are proposed to facilitate the conversion, including very minor changes to windows (including insertion of obscure-glazing), but the overall scale, form, and mass of the buildings will remain as existing. Internally the buildings will be subdivided through insertion of partition walls.

3.4 Parking provision for the flats would be accommodated within the existing parking courts surrounding the buildings, and an area of outdoor amenity space is proposed to the west and north of block A and south of block C.



Block A frontage



Block B frontage



Block C frontage



Proposed layout, showing communal open space to south of Block C

Public realm

3.5 A number of works are proposed to enhance the existing development:

- Additional / increased planting and soft landscaping;
- Resurface the existing public space between blocks 1 and 2, and introduce shade and seating;
- Reconfigure parking area layout to give priority to pedestrians and link existing pedestrian spaces to create a single defined public space;
- Reconfigure parking area adjacent to blocks 3 and 4 to provide a flexible public space for parking and outdoor public uses;
- Installation of public art;
- Pedestrian connection to the Mayfly pub, on the adjacent site to the north;
- Pedestrian link to Lidl;
- New public seating;
- New cycle parking;
- New footpath connection to the nursing home; and
- Tree planting to define southern edge of the site and screen the parking areas from dwellings.

3.6 The works are shown in considerable detail on the submitted drawings, and page 8 of the submitted Design & Access Statement provides a proposed layout with explanatory key, as set out below.



Proposed layout (see key on next page)

Key to Proposals	
1.	New pedestrian entrance
2.	Newly resurfaced informal public space with shade and seating
3.	Reconfigured parking area
4.	Newly resurfaced area for pedestrian level access to connect external spaces
5.	Newly resurfaced flexible public space for use as parking, occasional marketplace and gatherings
6.	Focal public art, and pedestrian connection to Mayfly public house
7.	New seating and secure cycle parking
8.	New pedestrian access to converted office/residential buildings
9.	Reconfigured external areas adjacent to Blocks A, B and C for private amenity space
10.	Reduced parking areas - additional shared amenity/landscaping areas
11.	New path connection from retirement village

Layout key

4. RELEVANT PLANNING HISTORY

- 4.1 Application ref. Y10/0738/SH granted planning permission for mixed-used development the wider site.
- 4.2 That permission was then amended under application ref. Y15/1035/SH which granted planning permission for a mixed-use development comprising 2366sqm of B1/B8 commercial space in five blocks, 47 residential dwellings, and associated parking, access, and landscaping.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

5.2 Consultees

Hawkinge Town Council objects to the application:

“Although there was divided opinion on this application the majority of members opposed this application.

There is still a need for commercial units in this area based on evidence provided by Pentland and an unproven statement that they are not needed.

We felt that the impact on any new residents within blocks A to C would be affected by a commercial undertaking only a short distance away.

Some felt that if residential units were to be permitted, they should only be aimed for first time buyers or rented both at a reduced cost.

Residential units of this type for first time buyers are desperately needed in Hawkinge.”

The Environment Agency has no comments.

The Council's contamination consultant recommends imposing the standard contamination condition, as the change in use and provision of private amenity areas may change the conceptual model.

KCC Highways have no comments save their standard non-protocol response and standard informative.

KCC Ecology have no objections.

KCC Archaeology has no comments.

Southern Water has suggested that the exact position of sewers across the site needs to be established before work is carried out, but the proposed works are largely above ground and within the context of a recently-developed area. They do, however, confirm that they can provide foul drainage for the development, subject to a formal connection application outside of the planning process.

The Council's senior Economic Development specialist has reviewed the application in regards the marketing exercise carried out by the applicant, further to the Town Council's objection. Following receipt of clarification in regards the way in which the units were marketed he has no objections. He has suggested that there could be an increased demand for shared office space in future due to the impacts of Covid-19, but I have advised him there is no policy basis on which to justify requesting a further marketing period, given the lengthy marketing exercise carried out thus far.

The Council's Environmental Protection Specialist does not consider that the nearby commercial premises will have a significant adverse impact on the occupiers of the proposed flats but has recommended the condition below to ensure appropriate acoustic mitigation is installed if necessary.

5.3 **Local Residents Comments**

None received.

5.4 Responses are available in full on the planning file on the Council's website: <https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020).

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.3 The relevant development plan policies are as follows:

Shepway Local Plan Core Strategy (2013)

DSD (delivering sustainable development), SS1 (spatial strategy), SS2 (housing and economy), SS3 (place shaping and sustainable settlements), SS4 (priority centres of activity strategy), SS5 (District Infrastructure Planning) CSD1 (balanced neighbourhoods), CSD2 (district residential needs).

SS1 and SS3 direct new residential development to the defined built up areas and sustainable urban locations within the borough, while SS2 sets out how the Council will meet its housing and employment requirements through delivery of target numbers of units/floor space. The loss of commercial floor space proposed by this application therefore needs to be weighed against providing additional housing within a sustainable urban location.

SS4 states that development will be allowed in priority centres of activity where it does not result in a net loss of on-site B class uses. Hawkinge is identified as a District Centre where its purpose is to accommodate appropriate development to maintain its mix of uses and improve vitality, viability and public realm.

CSD1 sets out the requirements for affordable housing provision, stating that developments of 15 or more dwellings will provide 30% on-site affordable housing.

CSD2 sets out the Council's aim of meeting housing requirements for specific target groups, and states that 50% of the housing provision should be three-bed or more by 2026.

Places and Policies Local Plan

HB1 (quality places through design), HB2 (cohesive design), HB3 (internal and external space standards), HB8 (alterations and extensions), E2 (existing employment sites), E8 (Provision of fibre to the premises), C1 (creating a sense of place), C3 (open space provision), C4 (children's play space), T2 (parking standards), T5 (cycle parking), NE2 (biodiversity), and NE5 (light pollution).

HB1, HB2, HB8, and C1 require developments to be of an appropriate standard in terms of scale, design, layout, etc. and to contribute positively towards creating a definitive sense of place to enable the local community to flourish, rather than simply a collection of attractive buildings.

HB3 ensures all new residential development accords with the minimum floor space standards set out by the Nationally Described Space Standard.

E2 seeks to ensure that existing employment uses are protected (my emphasis in **bold**):

*Existing employment sites are protected for business purposes under classes B1 and B8. **Proposals to fully or partly redevelop existing employment sites for alternative uses will be permitted provided that it is demonstrated that:***

- 1. The existing or former employment use is no longer appropriate in terms of neighbouring uses or impacts on the natural environment; or*
- 2. **The site or premises has been subject to sustained marketing over a 12 month period prior to the submission of the planning application but the site or premises has remained unlet or unsold for all appropriate types of B class employment use and no reasonable offers have been received;***
- 3. It does not prevent or limited opportunities for any remaining land left undeveloped coming forwarded for employment purposes;*
- 4. Any established businesses are relocated to appropriate alternative premises within the local area; and*
- 5. **The site is unviable for redevelopment for an alternative employment use.***

In addition, proposals should demonstrate that the proposed new use does not undermine neighbouring employment uses or their future development.

Policies C3 and C4 seek to ensure that appropriate provision is made for open space and play equipment to serve new developments, often through the collection of proportionate financial contributions.

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

Core Strategy Review Submission draft (February 2020)

SS1 (spatial strategy), SS2 (housing and economy), SS3 (place shaping and sustainable settlements), SS4 (priority centres of activity strategy), SS5 (District Infrastructure Planning), CSD1 (balanced neighbourhoods), CSD2 (district residential needs).

The requirements of the above policies in the emerging Core Strategy are similar to what is set out within the adopted Core Strategy.

SS1 and SS3 direct new residential development to the defined built up areas and sustainable urban locations within the borough, while SS2 sets out how the Council will meet its housing and employment requirements through delivery of target numbers of units/floor space. The loss of commercial floor space proposed by this application therefore needs to be weighed against providing additional housing within a sustainable urban location.

Emerging policy CSD1 differs from the adopted policy in that it requires developments of 15 or more dwellings to provide a minimum of 22% affordable housing on site. Emerging policy CSD3 steers away from explicitly requiring three-bed units to a more balanced approach, requiring a split of 1/2/3/4+ bed dwellings across both private and affordable tenures, weighted towards 2 and 3-bed units.

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

- 6.4 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.5 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF).

The NPPF generally supports the provision of new residential dwellings within sustainable urban locations, subject to amenity considerations. It also aims to resist the loss of employment uses unless justifiable.

With particular regard to affordable housing (as required by emerging and adopted Core Strategy policy CSD3) NPPF para. 63 sets out that *“to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.”* Footnote 28 then clarifies that the “proportionate amount” is *“equivalent to the gross floor space of the existing buildings.”*

(I have clarified this particular point with my colleagues in Planning Policy and firmly established that, because this current application does not propose any additional floor space, there is no additional floor space beyond the *“gross floor space of the existing buildings”* on which to justify the provision of affordable housing as part of this development.)

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and marketing exercise
- b) Design and amenity
- c) Public realm improvements
- d) Parking and highways
- e) Ecology
- f) CIL and s.106 contributions

a) Principle of development and marketing exercise

7.2 Provision of new dwellings within this very sustainable urban location is acceptable in principle, and Officers have no concerns in that regard.

7.3 Loss of the approved (but currently vacant, never having secured any tenants or buyers as set out below) B1/B8 units is resisted by policy SS4 of the Core Strategy and policy E2 of the PPLP unless it can be demonstrated that they are not viable or not required. In this regard the applicant has carried out an extensive marketing exercise stretching back to December 2018.

7.4 The submitted Marketing Reports explains that units A, B, and C have been advertised for sale and rent – through both a reputable commercial agent and a local estate agent – since 4.12.2018. The property particulars were placed on a variety of named websites (Rightmove, etc.), sent directly to the agent’s

database of prospective interested parties, and advertised directly through local estate agents. As a result a number of viewings were arranged, an offer received on unit E4 was received but not progressed, and after limited interest a revised marketing brochure and website was launched in November 2019 with no further enquiries. The Report concludes:

“Therefore, in conclusion, the site presents well and is situated in a good position for new and existing businesses in the local area. Hawkinge, is not known as a commercial hotspot although has a strong local demographic. The site has now been marketed for a considerable amount of time with few serious interests in taking the units. None of the interest has materialised into any firm offers at an acceptable level. Whilst election concerns, Brexit and current circumstances along with the shell and core nature may have some limited effect on the interest these are not considered to be overriding factors.”

- 7.5 The Town Council questioned this evidence, stating, as above, that “there is still a need for commercial units in this area based on evidence provided by Pentland and an unproven statement that they are not needed.” In response to this the applicants have provided a further statement in regards marketing / compliance with policy E2. It states (my emphasis in **bold**):

*“As discussed, the submitted Marketing Report confirms **the premises have been marketed for a considerable period of time**, with limited serious interest or reasonable offers received. Since the publication of this report and given the current pandemic and lockdown - we have discussed further with both Sibley Pares and local estate agent Bridger Bell to confirm if there have been any changes to the market or interest within these buildings. **Bridger Bell have confirmed that within the past 3 months there have been no enquiries, no viewings, no interest and in their view no prospect of a change in circumstances. Sibley Pares have confirmed whilst they have had a few general enquires in the past 3 months, these have not materialised into any formal offers being received.** From their point of view there has been no increase at all in terms of interest. Both Sibley Pares and Bridger Bell suggest that in the market in general **large industrial and large retail units appear to be of interest, but not office buildings.** As such, as per the Marketing Report and latest evidence, it is clear that despite considerable marketing and a robust marketing strategy, there is no demand for these units in this location for office purposes.”*

- 7.6 A robust and extensive marketing exercise has been undertaken, and Members will note that it spans significantly longer than the required 12 months (December 2018 to present). Officers have no reason to doubt the report, provided as it is by reputable local chartered surveyors, and no evidence to dispute their assertions.
- 7.7 While the Town Council’s objection is noted they have not provided any evidence to support their position, or to demonstrate why they consider the Marketing Report to be “unproven.”

- 7.8 While the Council's Economic Development specialist suggests current circumstances (Covid-19) may potentially generate interest in shared working spaces he does not disagree with the content or conclusions of the submitted evidence. (It should be noted that there is no policy basis on which the Council could justifiably require the applicant to delay determination of this application for a further 12 months to explore potential impacts of shared working / home working (as a result of Covid-19) on the level of interest.)
- 7.9 Furthermore, in response to questions by the ED officer, the applicants have submitted comments from the marketing agents to confirm that the units were marketed at price reflective of the local market and offered for a variety of flexible tenures, including sale rent, or part-lease. I am firmly of the opinion that the applicants have carried out a thorough and extensive marketing exercise – in accordance with the requirements of PPLP policy E2 – and there is no justification to require them to submit further evidence in this regard.
- 7.10 I would also note that the Town Council has not submitted any evidence to support their assertion that the marketing is not satisfactory or that there is any demand for these units.

b) Design and amenity

- 7.11 External changes to the existing office buildings are very minor (such as the insertion of obscure glazing in bathrooms) and as such Officers have no concerns with regards to the design and do not consider it would have impact upon the AONB, meeting the objective of conserving it.
- 7.12 The proposed flats would provide a good standard of amenity for future occupants. Internal floor spaces are in excess of the minimum national requirements, room sizes and layouts are sensible, and there would be a good amount of natural lighting.
- 7.13 Officers did raise the question of whether it would be possible to provide balconies for the flats with the applicants, but this would require significant structural intervention to tie them into the frames of the existing buildings and is therefore not realistically possible. A small amount of on-site outdoor amenity space is provided, but is not significant. The site does, however, sit immediately adjacent to a large existing public open space which runs from Haven Drive to Corbett Road, and which is easily accessible to all residents of the proposed flats. Due to this very particular site circumstance it is considered that the level of outdoor amenity space is acceptable and that the lack of private amenity space would not result in any significant harm to future amenity.



Open green space adjacent to the flats (approximately circled in red)

- 7.14 External, timber-fenced bin store areas are already in place, and there is a small service room within each block that can provide cycle storage.
- 7.15 It is not considered that the development would give rise to any serious amenity concerns for existing residents.

c) Public realm improvements

- 7.16 These are relatively low-key interventions that seek to improve the layout and soft landscaping, and to provide pedestrians with a better environment through which to navigate to various parts of the wider development.
- 7.17 New pedestrian footways, additional planting, enhanced open space, and improved links to neighbouring uses (Lidl and the pub) will be a significant and tangible benefit to the local community, and would serve to improve the character and appearance of the wider area to the benefit of the village as a whole.
- 7.18 I have no serious concerns on this part of the scheme, and consider the proposals would contribute positively to the character and appearance of the wider area.

d) Parking and highways

- 7.19 The public realm improvements will reconfigure the parking layout, but parking provision remains in accordance with adopted guidance. Parking for the proposed flat conversions is to be provided within the existing parking areas around the buildings, with 47 spaces shown on the submitted masterplan. This is well in excess of the minimum required to serve the proposed dwellings (1 space per dwelling), and it should be noted that the site lies in an inherently sustainable location immediately opposite to local shops and services. I also note that KCC Highways do not object and I therefore do not have any serious concerns.
- 7.20 The road network, junctions, visibility splays, etc. remain as existing and I have no serious concerns in regards this aspect either.

e) Ecology

- 7.21 Conversion of the flats would not give rise to any additional concerns over and above those associated with the development as existing. The public realm works propose additional soft landscaping and an area of existing car park to the south of Block C is to be converted to soft landscaping as part of the provision of outdoor amenity space and in that regard this would be an ecological gain for the wider site.
- 7.22 I note that the KCC Ecologist has no objections.

f) CIL and s.106 contributions

- 7.23 The original development of this site secured contributions of £92,077.44 towards local services (including extension of Hawkinge Primary School and library funding) but this was calculated solely on the basis of the no. of dwellings proposed at the time (47). The current development creates additional dwellings and is therefore liable for CIL at a rate of £57.86 per sqm; the applicant has provided the requisite CIL liability form.
- 7.24 Contributions are also required towards the provision of open space and play equipment, as set out by PPLP policies C3 and C4. These contributions total £36,659.50 and the applicant has entered into a unilateral undertaking (signed and ready to be attached to any grant of permission) which agrees to pay this sum to the Council prior to commencement of development. The funds would be spent on provision of such services in the village.
- 7.25 As set out in the policy section above: in the interest of bringing redundant existing buildings back in to productive use, vacant building credit (VBC) is applied to any existing floor space in accordance with the terms set out by the NPPF. This development provides no additional floor space and there is therefore no requirement for it to provide a proportion of the units as affordable housing, as stipulated by NPPF footnote 28.
- 7.26 While it is unusual for a development of this scale to not have to provide any AH the policy position is very clear in terms of VBC and as such there is no justifiable basis on which to challenge the developer on this aspect.

g) Other

- 7.27 Officers have considered drainage at the site and concluded that there are unlikely to be any additional impacts arising from change of use. Surface water drainage and sewage were considered under the original application for erection of the wider development and this scheme does not significantly alter those considerations.

Environmental Impact Assessment

- 7.27 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.28 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.29 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.30 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the Applicant

- 7.31 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 While the Town Council's objection is noted the application complies with the requirements of the Council's adopted policies, would bring about considerable public realm improvements, and would not give rise to any unacceptable amenity impacts.
- 8.2 I therefore recommend that planning permission should be approved.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be approved subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in complete accordance with drawings 29653B 001 rev. P1, 29653B 003 rev P1, 29653B A10 rev. P2, 29653B B10 rev. P2, 29653B C10 rev. P1, and the details set out within the submitted Design & Access Statement (all received 15.04.20).

Reason: For the avoidance of doubt.

3. Prior to first occupation of the flats hereby permitted details to demonstrate that the dwellings hereby permitted shall use no more than 100 litres of water per person per day shall be submitted to and approved in writing by the District Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

4. The materials to be used on the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

5. The amenity space shown on the approved plans shall be retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

6. The internal noise levels of the flats hereby permitted shall not exceed the BS8233 internal noise levels of 35dB (bedrooms and living rooms), and appropriate internal acoustic mitigation shall be installed to ensure such levels are maintained in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to first occupation of the flats hereby permitted.

Reason: In the interest of residential amenity.

7. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

8. The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of first occupation of the flats hereby permitted. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority.

Reason: In the interests of the visual amenities of the area.

9. The car parking spaces shown on the submitted drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position

as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

10. The dwellings hereby permitted shall not be occupied until details have been submitted to and approved in writing by the Local Planning Authority showing installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings within the approved development. The infrastructure shall be installed in accordance with the approved details, be capable of connection to commercial broadband providers and be maintained in accordance with approved details.

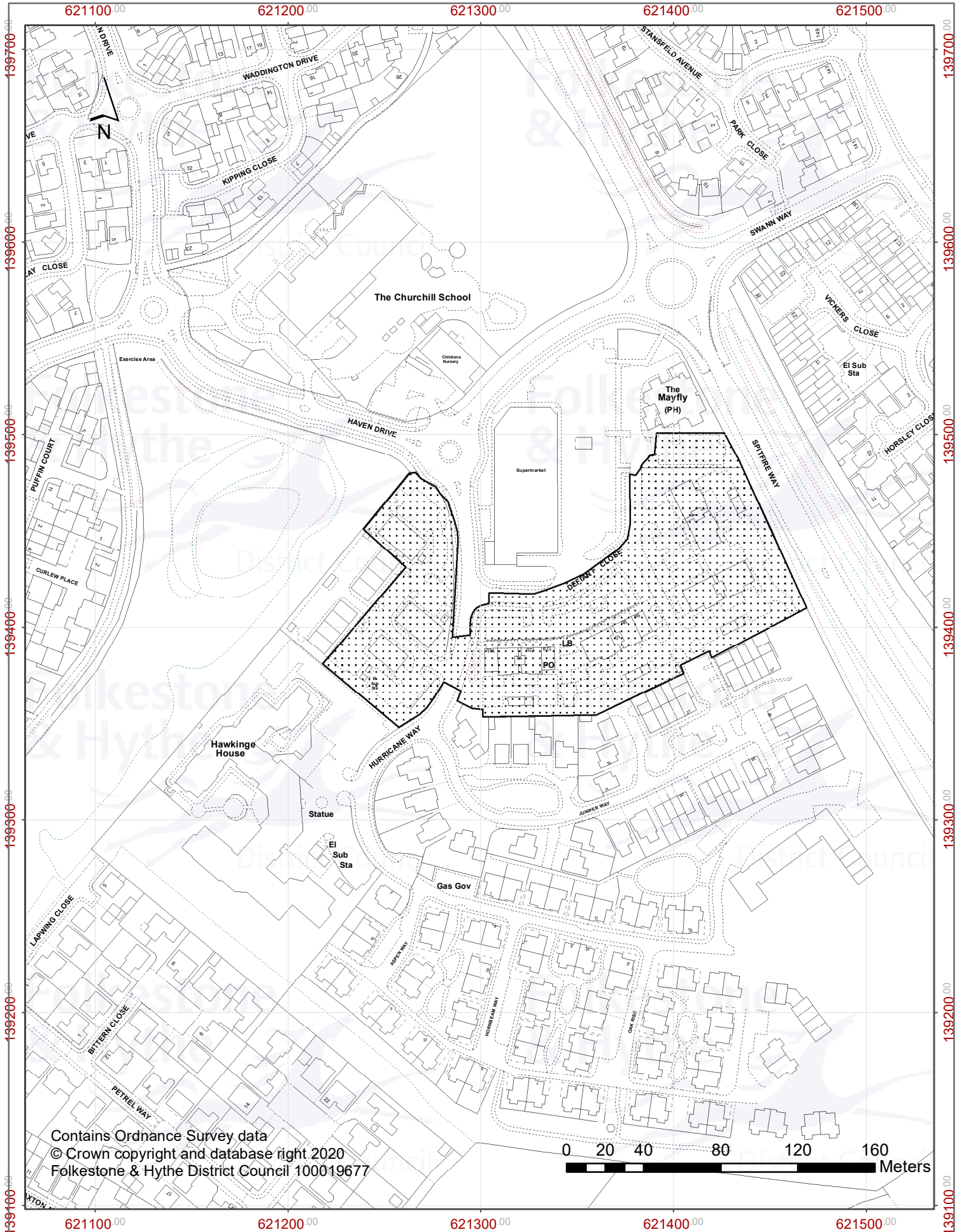
Reason: To provide high quality digital infrastructure in new developments.

11. Details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, shall be submitted to the Local Planning Authority for approval, in writing, prior to progression of development beyond foundation level, with such details as approved implemented in full and thereafter retained and maintained.

Reason: To support the transition to a low carbon future through the use of on-site renewable and low-carbon energy technologies.

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20/0657/FH
Blocks A, B, and C Hurricane Way and
Terlingham Forum
Hawkinge



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Application No: Y19/1149/FH

Location of Site: 3 Sandgate High Street, Folkestone, Kent CT20 3BD

Development: Change of use and conversion from a mixed use as retail showroom and residential, to a single residential unit

Applicant: Mr. Daniel Stonestreet

Officer Contact: Robert Allan

SUMMARY

This report considers whether planning permission should be granted for the change of use and conversion of the existing ground floor retail showroom area (class A1) to residential (Class C3) in order to extend the living area of the existing flat located on the first and second floors. Whilst Sandgate Parish Council have objected to the scheme on the basis of adopted policy RL6, it is considered that the applicant has submitted sufficient information to address the needs of this policy through evidence of marketing, with no detrimental impact upon the vitality of the Sandgate Local Centre likely, with conversion to a residential property in this instance having the potential to have a positive impact on the viability of Sandgate by adapting to the changing needs of the centre. No external alterations to the building are proposed and any permitted development rights for such changes, as would be accrued through the change to a single dwellinghouse, could reasonably be removed to safeguard the appearance of the building and the conservation area. All other material considerations relating to existing and proposed residential amenity and parking requirements are considered to have been addressed and found to be acceptable and the application is recommended for approval subject to the conditions set out at the end of the report.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.

1. INTRODUCTION

1.1. The application is reported to Committee due to the views of Sandgate Parish Council.

2. SITE AND SURROUNDINGS

2.1. The application site is located within the defined settlement boundary of Sandgate and Sandgate Conservation Area, facing Sandgate High Street to the north-west and backing onto properties fronting Castle Road to the south east. The property is within the Sandgate East Core as defined in the Sandgate Conservation Area Appraisal with the character strongly influenced by the High Street and the buildings that line it. Viewed from Sandgate Hill, the High Street appears as a gently curving ribbon of buildings at the foot of the steeply sloping escarpment. Although there is considerable

variety in the detailed design of buildings along the High Street, there are common building heights, forms, elevational details and building lines providing an overall unifying theme.

- 2.2. The building itself is identified within the conservation area appraisal as a key unlisted building and has three storeys with an elaborate shopfront to ground and first floor levels, constructed from a mix of timber, render and cast iron. The ground floor use is a commercial retail one, whilst the first and second floors provide a two bedroom flat. To the rear at ground floor level is a 'sun yard' and additional accommodation space, whilst at first floor is a kitchen diner, bedroom, shower room and balcony area, with stairs leading up to the second floor bedroom area. The layout is shown in Figure 1, the street scene is shown in Figure 2 and an image of the frontage of the property is shown in figure 3, all below:

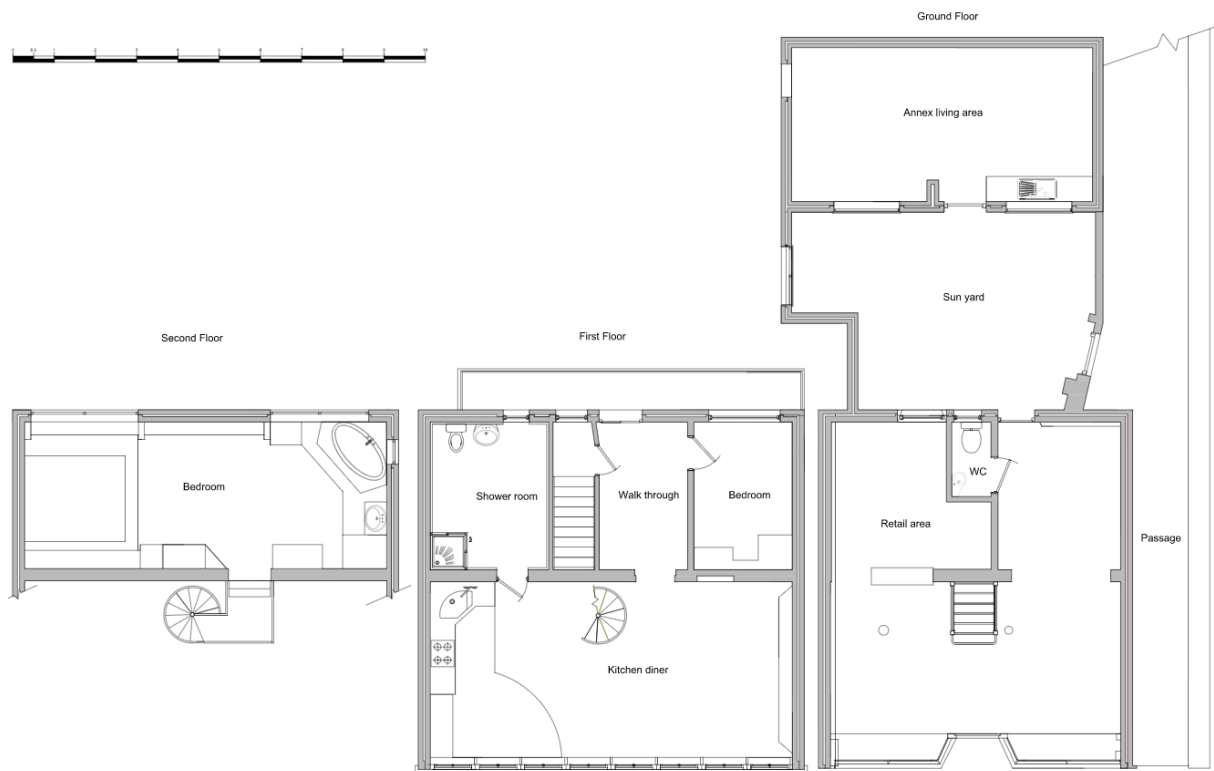


Figure 1



Figure 2

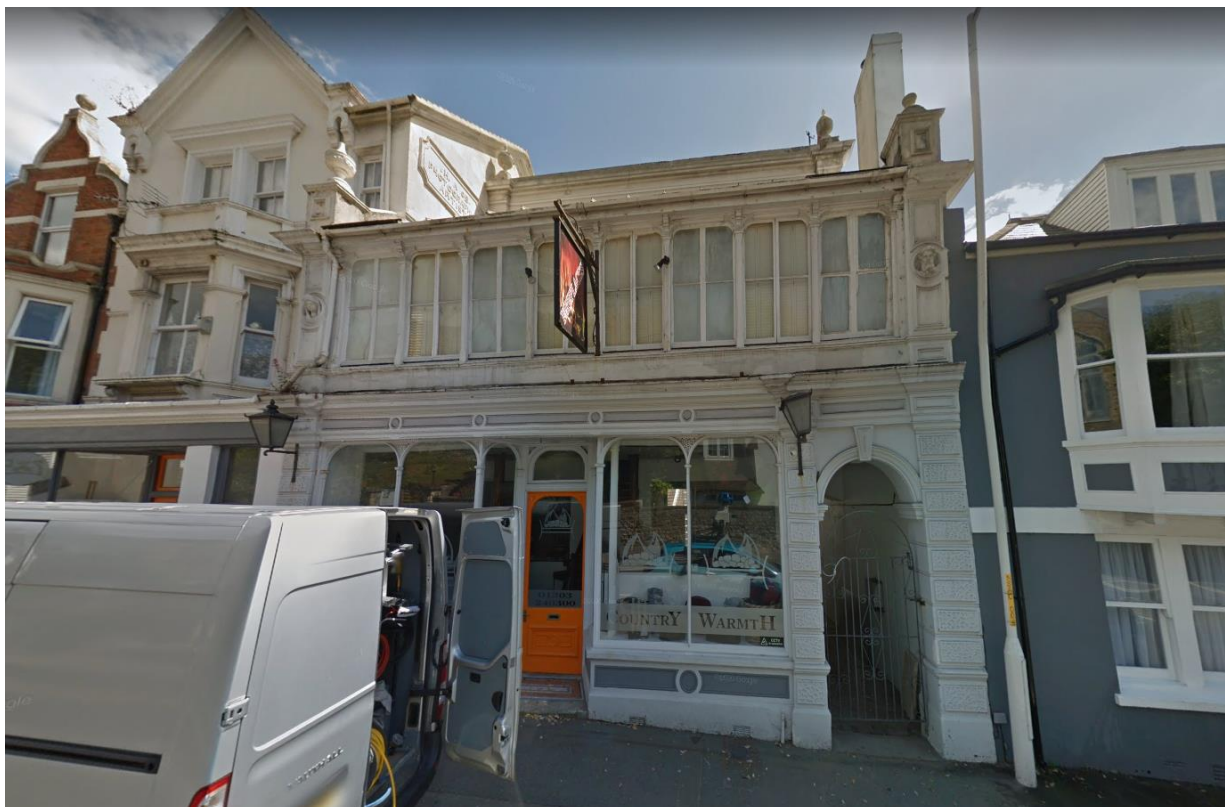


Figure 3

2.3. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Full planning permission is sought for the change of use of the ground floor retail unit from Class A1 (retail) to Class C3 (dwelling-house). This would not form an additional unit of residential accommodation, but extend the exiting first and second floor residential unit to the ground floor. No external alterations are proposed.

4. RELEVANT PLANNING HISTORY

4.1 There is no relevant recorded planning history.

CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Sandgate Parish Council: Object on the following grounds;

- On the basis of policy RL6 insufficient justification has been given for the necessity for the conversion;
- If agreed, in time the unique shop frontage would be altered to the detriment of the conservation area;
- The residential accommodation would result in increased pressure on the parking in the area.

Folkestone and Hythe Planning Policy Team: No objection;

- The unit is in a bank of two retail units detached from the main local centre by being 100m from the next retail unit (no. 13) and approximately 200m from the nearest on-street or designated parking, with this part of the High Street experiencing a much lower level of pedestrian footfall compared to the rest of the local centre.
- The unit has been marketed for over twelve months in line with policy RL6 although it is not clear whether this has been solely as a retail outlet or for a wider range of uses. However, given that no offers have been tabled during the marketing period, coupled with the fact that the monitoring information for Sandgate shows that it benefits from very low levels of vacancy, it is suggested that the unit, by virtue of its location and lack of accessible parking is not attractive to the market in its current use.
- The loss of the retail unit in this location would not have a detrimental impact upon the vitality of the Sandgate Local Centre.
- Conversion to a residential property in this instance has the potential to have a positive impact on the viability of Sandgate by adapting to the changing needs of the centre and avoiding a long term vacant unit, providing an opportunity for improvements to the existing façade which is currently in a poor state of repair. Changes are not proposed to the existing façade and as such this would not prevent a return to a retail premises in the future if there was a demand to do so.

Local Residents Comments

5.2 14 neighbours were directly consulted, no representations were received.

5.3 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

5. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020) which has now been adopted.

6.2 The relevant development plan policies are as follows:-

Shepway Local Plan Core Strategy (2013)

DSD	Delivering Sustainable Development
SS1	District Spatial Strategy
SS4	Priority Centres of Activity Strategy

Places and Policies Local Plan (2020)

RL1	Retail Hierarchy
RL6	Sandgate Local Centre
HB1	Quality Places through Design

HB3	Space Standards
T2	Parking Standards
HE1	Heritage assets

Core Strategy Review Submission Draft (2019)

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection. The following draft policies apply:

SS1	District Spatial Strategy
SS4	Priority Centres of Activity Strategy

6.3 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2019

6.4 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.

Paragraph 8	three main strands of sustainable development: economic, social, and environmental
Paragraph 11	development proposals that accord with an up-to-date development plan should be approved “without delay”
Paragraph 47	applications for planning permission be determined in accordance with the development plan
Paragraph 48	giving weight to emerging plans
Paragraph 85	Ensuring the vitality of town centres
Paragraph 109	development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe
Paragraphs 189 to 192	proposals affecting heritage assets

6.5 National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change
 Flood Risk and Coastal Change
 Natural Environment

6.6 Sandgate Design Statement

SDS1	Compliance with the Sandgate Design Statement
SDS2	Compliance with the Development Plan
SDS4	Conservation Areas
SDS5	Character Areas
SDS6	Street Scene Detailing

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development
- b) Visual amenity
- c) Residential amenity
- d) Highways

a) Principle of development

7.2 National policy and guidance recognises the need to for the planning system to be able to adapt quickly to consider changes in the economy, in particular changes in shopping and leisure patterns and formats, the impact these are likely to have on individual town centres; and how the planning tools available to them can support necessary adaptation and change.

7.3 The National Planning Policy Framework (paragraph 85) states that *“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation”* with criteria (f) recognising *“that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites”*.

7.4 Moreover, the NPPG (Paragraph: 001 Reference ID: 2b-001-20190722) suggest that a *“wide range of complementary uses can, if suitably located, help to support the vitality of town centres, including **residential** [my emphasis], employment, office, commercial, leisure/entertainment, healthcare and educational development.”*

7.5 Sandgate High Street has been identified as a Local Centre to reflect its importance to the local community. Retail units here have been under threat through conversion to residential use, however within the Places and Polices Local Plan policy RL6, it is set out that planning permission will be granted for a change from a town centre use where:

- The proposed use is not detrimental to residential amenity;
- There is evidence to demonstrate that there is no demand for the continued use of the premises for retail or community uses;
- The existing use is no longer viable and the property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made; and
- The proposed use does not threaten the vitality and viability of the local centre and retains an active frontage at street level.

7.6 The consideration relating to residential amenity is addressed in the subsequent section. Turning to the remaining criteria, the applicant advises that the unit has been marketed for over twelve months (since June 2019) with Wards estate agent, as a commercial premises. Correspondence from the agent states that no offers were made, with the only interest coming from potential buyers interested on a residential basis.

7.7 The retail unit is situated in a bank of two retail units on the eastern periphery of the Sandgate Local Centre flanked by existing residential dwellings on either side. These two retail units are detached from the main local centre by being 100m from the next nearest retail unit (No.13 Sandgate High Street) and approximately 200m from the nearest on-street and/or designated parking. Given this, and the specific retail nature of the existing shop (fireplaces); this part of the existing high street experiences a much lower level of pedestrian footfall compared to the rest of the local centre.

7.8 The Planning Policy Team have advised that monitoring information for Sandgate shows that it benefits from a very low levels of vacancy, suggesting that this retail unit by virtue of its location and lack of accessible parking is not attractive to the market in its current use.

7.9 The comments received from the Folkestone and Hythe Planning Policy Team state that the loss of the retail unit in this location would not have a detrimental impact upon the vitality of the Sandgate Local Centre, with conversion to a residential property in this instance having the potential to have a positive impact on the viability of Sandgate by adapting to the changing needs of the centre, avoiding a long term vacant unit and providing an opportunity for improvements to be made to the existing façade, which is currently in a worsening state of repair, although these cannot reasonably be secured via condition. The applicant is not proposing to change the existing façade and as such this would not prevent a return to a retail premises in the future if there was a demand to do so.

7.10 In light of the above it is considered that the principle of development on this site is acceptable, subject to all other material planning considerations being addressed.

b) Visual amenity

7.11 As stated previously, the applicant is not proposing to change the existing façade, which is of significant interest and that contributes to the conservation area at this point. However, it is in a poor state of repair and would benefit from refurbishment, which may be forthcoming in residential use.

7.12 The concerns of Sandgate Parish Council regarding the subsequent changes that could be made if a residential use were accepted are noted and considered relevant

to the consideration of this proposal. As such, if permission were to be granted, it is proposed to remove permitted development rights for external alterations, in order to secure the shop front and the positive contribution it makes to the conservation area and street scene, in accordance with the aims of the Sandgate Design Statement.

c) Residential amenity

Existing occupiers

- 7.13 The property is currently used at first and second floor level for residential purposes, with an existing rear balcony area. The proposed change of use would not introduce any additional residential use into the site, or include any external alterations or internal layout changes. Consequently, the relationship with adjacent uses would remain 'as-is' and there would be no detriment to the amenity of adjacent uses.

Proposed Occupiers

- 7.14 Policy HB3 in the Places and Policies Local Plan sets out space standards internally and externally. In respect of the internal space standards, internal floor spaces exceed the minimum required by the Nationally Described Standard, with good natural daylight provided to each room.
- 7.15 In respect of the external amenity areas, private external space is normally deemed necessary to accommodate a storage shed, a sitting out area, washing line or rotary drier, planting and play and amenity space, with an area of private garden for the exclusive use of an individual dwelling house of at least 10m in depth and the width of the dwelling sought. However, for certain types of conversions, including those of heritage assets or buildings in Conservation Areas the Council will consider variations to the external space standards if it can be demonstrated that such an approach is needed to reflect the character of the area and does not result in a detrimental standard of residential amenity for future occupants. In this case, due to the sustainable location close to the beach and other public open space, it is considered, on balance to be acceptable.
- 7.16 For this area, the properties in the immediate vicinity all have very small garden areas, if at all, with the application property unable to access any additional land, given that it is an application for the annexation of existing internal floor space for residential use. The property has an existing 'sun yard' at ground floor level and first floor balcony serving the existing residential unit, both of which would remain. Consequently, as the situation would not change, it is considered that it would be unreasonable to object on this basis, as the amenity of future occupants would be safeguarded, with internal living conditions improved through the additional internal living space.

d) Highway Safety / Cycle Parking

- 7.17 Sandgate High Street at this point has on-street parking controls in the form of double yellow lines, with double yellow lines and resident permit parking only to the rear in Castle Road. The parking demand for the building as it is currently used is for two spaces (one space for the residential use and one for the commercial use) as set out in the tables accompanying policy T2 of the PPLP. The proposed use will see this reduced to one space, as the commercial use is extinguished. Consequently, there is considered to be a reduction in parking demand as a consequence of the proposal.

- 7.18 In relation to cycle parking, policy identifies a demand of one secure, covered space per bedroom – this demand would remain the same should the proposal be granted, due to the number of bedrooms remaining the same. The unit already has to provide for two spaces and it is considered unreasonable to subsequently condition this, should permission be granted, seeing as the unit is already operating without this requirement,
- 7.19 Overall, the car parking provision meets the requirements of adopted policy T2 and the development already would meet the Councils adopted cycle storage requirements within policy T5.

Environmental Impact Assessment

- 7.20 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is considered to fall within Schedule 2, Part 10b, being an urban development project. The site does not exceed any of the thresholds. Consequently, a screening opinion has been carried out by the Council and has concluded that the development is not EIA development and as such an Environmental Statement was not required.

Local Finance Considerations

- 7.21 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.22 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge

Human Rights

- 7.23 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.24 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.25 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

8.1 This report considers whether planning permission should be granted for the change of use and conversion of the existing ground floor retail area (class A1) to residential (Class C3) in order to extend the living area of the existing flat located on the first and second floors. Whilst Sandgate Parish Council have objected to the scheme on the basis of adopted policy RL6, it is considered that the applicant has submitted sufficient information to address the needs of this policy through evidence of marketing, with no detrimental impact upon the vitality of the Sandgate Local Centre likely, with conversion to a residential property in this instance having the potential to have a positive impact on the viability of Sandgate by adapting to the changing needs of the centre. No external changes are proposed and any permitted development rights for such changes, as would be accrued through the change to a single dwellinghouse, could reasonably be removed to safeguard the appearance of the building and the conservation area. All other material considerations relating to existing and proposed residential amenity and parking requirements are considered to have been addressed and found to be acceptable and the application is recommended for approval subject to the conditions set out below.

9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

1. RECOMMENDATION

That planning permission be granted subject to the following conditions:

Conditions:

1. The development must be begun within three years of the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans 243-02, 243-01

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within Class A, B or C of Part 1 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to retain control over future development given the importance of the historic shopfront within the conservation area at this point.

4. Prior to first occupation as a single dwellinghouse, space shall be made available within the curtilage of the property for use as a bin store in association with the use hereby permitted and thereafter retained at all times.

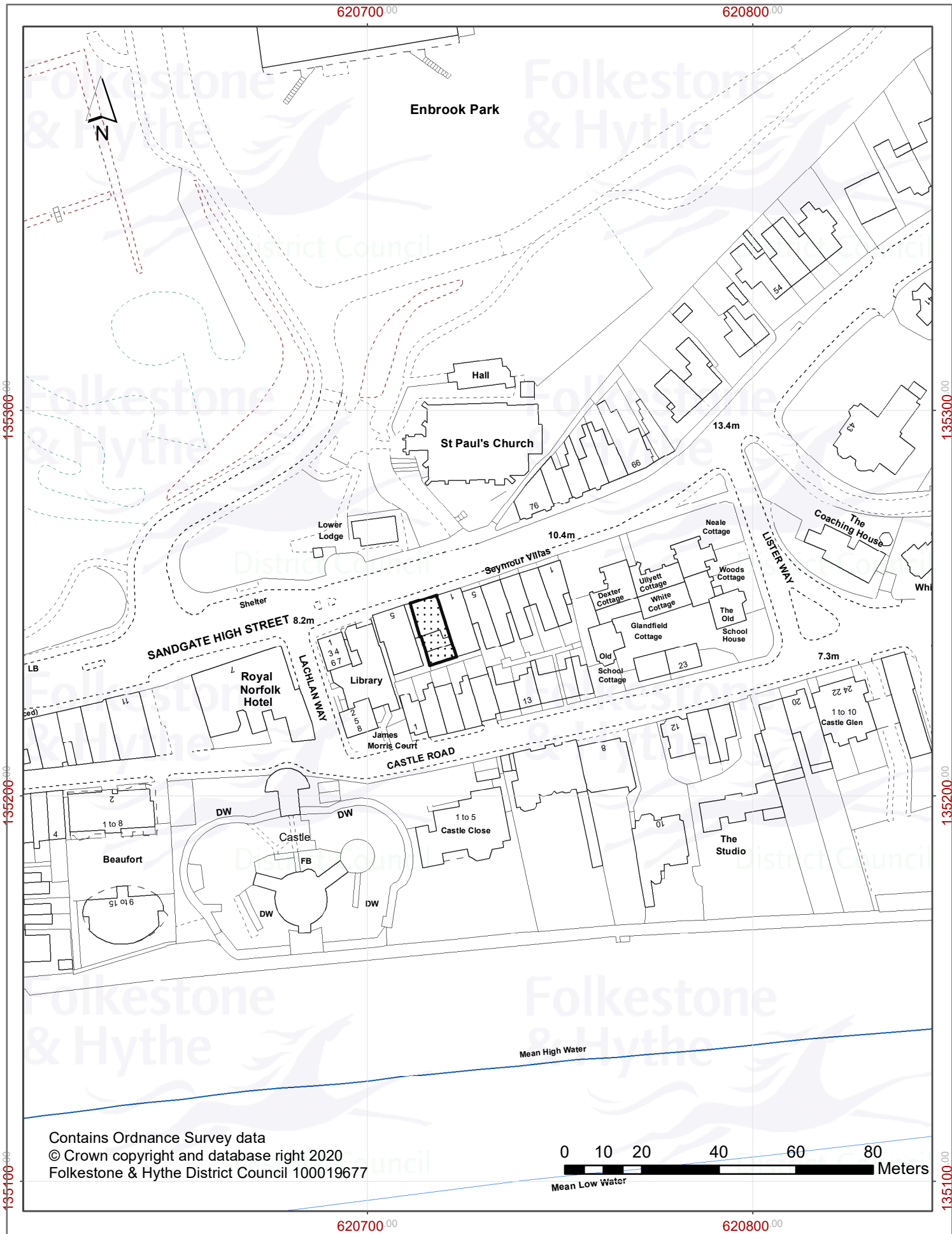
Reason:

In the interests of visual and residential amenity.

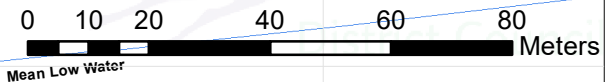
Appendix 1 – Site Location Plan

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Y19/1149/FH
3 Sandgate High Street
Sandgate



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677



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This report will be made public on 9 November 2020



Report Number: **DCL/20/30**

To: Planning & Licensing Committee
Date: 17 November 2020
Status: Non-Executive Decision
Head of Service: Ewan Green – Director of Place

SUBJECT: REVISED HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) LICENSING POLICY

SUMMARY: This report sets out the next steps for publishing the Council's Hackney Carriage and Private Hire (Taxi) Licensing Policy. The policy was last reviewed in 2012 and whilst not time limited it is a good opportunity to refresh the policy. The new policy has now been sent for public consultation and seeks approval with Planning and Licensing Committee. The purpose of this report is to highlight the feedback received during the consultation and give the Committee the chance to make any final amendments before it is published.

RECOMMENDATIONS:

- 1. To receive and note report DCL/20/30.**
- 2. To consider the feedback from the public consultation and make any amendments before adoption.**

1 BACKGROUND

- 1.1 The council has adopted the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 and as such is responsible for licensing the Hackney Carriage and Private Hire trade within the district. Licences are issued to drivers, vehicles and private hire operators
- 1.2 The council has a policy which sets out its approach to determining licensing applications and the conditions which it will apply to licence holders. Revisions to the policy have been limited and piecemeal. The most recent amendment was in 2012. There has been no formal review of the policy since that time.
- 1.2 The current policy “Hackney Carriage and Private Hire Vehicle and Driver Conditions and Procedures” is published on the council website.
- 1.3 A full review and update of the policy has now been carried out. In July 2020 the Department for Transport issued a document called ‘Statutory Taxi & Private Hire Vehicle Standards’ which contained a series of recommendations for Councils to implement unless ‘there is a compelling reason not to’. This document is attached.
- 1.4 The draft policy was sent out for an 8 week public consultation and is attached to this report. The policy did not propose any radical changes but seeks to modernise and refresh the policy to ensure it is fit for purpose. Please note that a final review of grammar and layout will be carried out before the policy is published.
- 1.5. The policy includes a number of changes, some of which reflect the Statutory Standards recently issued by the Government Department for Transport. Key changes proposed include:

General

- Format and layout of policy has been overhauled.
- A commitment to review the policy every 5 years. Proposal from trade process removed.
- Clear Statement that shorter licences will not be granted on a probationary basis. Applicants are not given benefit of the doubt in 50/50 decisions.
- Decisions to refuse /revoke licences due to safeguarding concerns around risk to children or vulnerable adults will be notified to the DBS service.
- Inclusion of an enforcement policy specific to taxi licensing.
- Introduction of a "penalty points" scheme for breaches of licence conditions to promote compliance and act as an "early warning" to licence holders.
- All licence holders to notify the council of arrests and release, charges or convictions within 48 hours.
- Revised (and more stringent) policy on approach to applicants and licence holders with convictions and cautions, to reflect Institute of Licensing Guidance and Department of Transport Statutory Standards.

- Inclusion of a general policy on refunds for surrendered licences.

Drivers

- Hackney Carriage only driver licence discontinued. Driver licences to be Private Hire only or Dual (Hackney Carriage and Private Hire combined)
- Removal of a minimum age for drivers (other than statutory requirement to have held a full driving licence for one year).
- Requirement for new drivers to pass a Driving Standards Assessment.
- Requirement for drivers to complete an approved safeguarding training course. Transitional arrangements for existing drivers.
- Applicants failing knowledge test 3 times in 3 month period to wait 6 months before further application accepted.
- Provision of Disclosure and Barring Service (DBS) certificate to tie in with licence renewal. Drivers must sign up to the DBS online update service.
- Drivers residing abroad for continuous period of 3 months or more within 10 years prior to application to provide certificate of good conduct from relevant embassy (increased from 12 months).
- Interval for medical certificates for drivers aged 45-65 reduced from 4 years to 3 years, to be supplied as part of a renewal application. There is a proposed transitional process for existing drivers, to align this with licence renewal periods.
- Condition to notify of any medical condition affecting ability to drive or safety of passengers. Council may require additional medical assessments where reasonably required.
- Legal Obligations for assistance of passengers in wheelchairs or with assistance dogs clearly set out and incorporated into licence conditions.
- Condition to issue receipts for payment, where requested.
- Revision of basic dress code.

Private Hire Operators

- Operators (including all partners/ directors) to provide a Basic DBS check on an annual basis. (except for FHDC licensed drivers registered with the update service) In relation to new applicants, Individuals residing abroad for continuous period of 3 months or more within 10 years prior to application to provide certificate of good conduct from relevant embassy.
- Operators to maintain a register of staff employed to take bookings/ dispatch vehicles.
- Operator to see Basic DBS check for all staff employed to take bookings / dispatch vehicles. Transition period for existing operators.
- Operators to put in place a policy on employment of staff with convictions. Operators to ensure that other operators to whom they subcontract bookings have a similar policy in place.
- Operators must not dispatch Passenger Carrying Vehicles and licensed Public Service vehicle drivers to bookings without informed consent of hirer
- Condition requiring premises accessible to public to be covered by public liability insurance.

- Information on making complaints to licensing authority to be displayed in operators premises accessible to the public
- Enhanced record keeping requirements concerning vehicles, drivers and booking details. Retention period for records increased from 3 months to 12 months.

Vehicles

- Revision of age policy in respect of new and relicensed vehicles.
- Policy not to permit "dual plating" of vehicles
- Update of vehicle specifications and conditions e.g. relating to LPG conversions, use of Space saver tyres, tinted windows.
- Introduction of specific policy and conditions for private hire stretch limousines.
- Inclusion of policy on exemptions from display of plate
- Introduction of published "statutory list "of Wheelchair Accessible Vehicles (WAV), which will be subject to requirements of Equality Act 2010.
- Valid inspection certificates to be maintained for mechanical lifting equipment used on WAVs.
- Update of advertising restrictions on vehicles.
- Vehicles to display information about how to make complaint to the licensing authority.
- Vehicle proprietors (including all partners/ directors) to supply a Basic DBS check on annual basis. (Except for FHDC licensed drivers registered with the DBS update service) In relation to new applicants, individuals residing abroad for continuous period of 3 months or more within 10 years prior to application to provide certificate of good conduct from relevant embassy (increased from 12 months).
- Council to be notified if directors/ partners change.

2 CONSULTATION

2.1 The following is a list of consultees that were sent the taxi policy:

Current FHDC taxi licence holders (Vehicle, Driver & Private Hire Operator)
 FHDC Ward Councillors
 Town Councils
 Parish Councils
 Kent Police
 Kent County Council Social Services
 Campaign For Better Transport
 Kent Invicta Chamber of Commerce
 Age UK Folkestone
 Age UK Hythe & Lyminge
 Romney Marsh Day Centre
 Kent Association for the Blind
 Disability Information Services Kent (DISK)
 Information Advice & Support Kent

It was also advertised to the public via our website, a press release and through social media.

2.2 Four responses were received that are relevant to the policy, these are summarised below. Two other responses contained comments that were general to taxi licensing and will be taken onboard separately.

- i) The amount of Hackney vehicles should be limited in the District, there are too many taxis in the town and only the taxi companies and the Council are making a profit. The owners of the vehicles have to bear all of the costs with increasing insurance, fuel, maintenance and licensing costs. Also it should be a requirement for all drivers to register with HMRC.
- ii) Regarding the age policy of vehicles, as hybrid cars are more environmentally friendly than diesel cars you should consider accepting 5 year old hybrid cars and keep diesel cars at 3 years old when first licensed.
- iii) A strict dress code should not be implemented as drivers need to be comfortable but I agree they should be smart. Drivers who apply for Private Hire should be made to apply for a Hackney licence within a year as there are too many Private Hire drivers/vehicles being licensed. I disagree with no age limit of drivers, it should be a minimum of 21 to keep up standards. Advertising should be allowed on the doors of vehicles, with pre-approval by the Licensing Officer.
- iv) I do not agree with removing the age limit for drivers. An 18 year old does not have enough life skills or road sense for this role where they work with vulnerable people.

2.3. With regards to the age policy of drivers, in the document Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, issued in March 2010 by the DFT it says the following:

It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

3. NEXT STEPS

3.1. Councillors are asked to decide if these points raised in the consultation should result in the draft policy being amended or if it should be published as it stands.

4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

4.1. Legal Officer's Comments (TH)

The Council has a duty to provide for the licensing of hackney carriages under the Town Police Clauses Act 1847 and under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1976. In

addition, the adopted provisions of the 1976 Act mean that the Council must provide for the licensing of private hire drivers, vehicles and operators. There is no statutory requirement to adopt a Taxi Policy however it is considered best practice to do so in order to have an open and transparent licensing regime. Such a policy is necessary to ensure proper regulation of the trade and to ensure that high standards are maintained.

The fundamental purpose of the licensing regime is to protect the safety of the public. This means the Council must ensure that only fit and proper persons are licensed to be drivers, operators and holders of vehicle licences and that vehicles remain safe and fit for the purpose.

Failure of the Council to properly regulate Hackney Carriage and Private Hire licensing in the district and a failure to maintain a policy that is fit for purpose leaves the Council and any decisions made in relation to licensing open to legal challenge. Any such challenge carries both financial and reputational risk for the Council.

The Council must have regard to all relevant legislation and ensure that consultation process is followed correctly, in order to minimise the risk of any legal challenge.

4.2. Finance Officer's Comments (LH)

There are minimal financial implications arising from this report other than staff time in preparing and sending the consultation documentation out however, any small cost should be able to be contained within the existing budget.

4.3. Diversities and Equalities Implications (GE)

There are no negative equalities implications directly arising from this report. The policy makes clear reference to the obligations of drivers of both taxis and private hire vehicles to accommodate those with a physical disability under the Equality Act 2010. The notable introduction of a statutory list of wheelchair accessible vehicles (WAVs) to be publicised on the Council's website will positively assist wheelchair users in making

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Briony Williamson, Licensing Specialist
Telephone: 01303 853475
Email: briony.williamson@folkestone-hythe.gov.uk

Background documents:

The current Taxi Policy/Handbook is available on our website:
https://www.folkestone-hythe.gov.uk/media/46/Hackney-Carriage-and-Private-Hire-Vehicles-Driver-Conditions-and-Procedures/pdf/Hackney_Handbooklive_2012.pdf?m=637164963970970000

The Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, issued in March 2010 by the Department For Transport is available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

The DFT Statutory taxi and private hire vehicle standards issued in July 2020 is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

Attachment:

Draft Hackney Carriage & Private Hire Licensing Policy (2020).

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HACKNEY CARRIAGE AND PRIVATE HIRE

Licensing Policy

2020



Folkestone & Hythe District Council

Hackney Carriage and Private Hire Licensing Policy

Folkestone & Hythe District Council (F&HDC) licences hackney carriage (taxi) and private hire drivers, vehicles and operators. It has adopted the Local Government (Miscellaneous Provisions) Act 1976 together with the Town Police Clauses Act 1847 and the Public Health Act 1875

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3.0	Private Hire Operators	
4.0	Vehicles	
5.0	Fees	
6.0	Fares	
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	APPENDICES	
A	Application Procedures	
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D	Hackney Carriage Byelaws	
E	Private Hire Driver Conditions	
F	Private Hire Operator Conditions	
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H	Stretch Limousine Additional Conditions	
I	Driver Dress Code	
J	Enforcement Policy – Hackney Carriage & Private Hire	
K	Penalty Points System	

Licensing Team
Licensing@folkestone-hythe.gov.uk

1. Introduction

- 1.1.1 Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas), or outside “normal” hours of operation (such as in the evenings or on Sundays), and / or for those with mobility difficulties. Taxi and private hire vehicles play an integral part in the dispersal of customers and staff of the night-time economy. Many also undertake contract work transporting vulnerable people to schools and colleges.
- 1.1.2 The Council’s authority to regulate the hackney carriage and private hire trade is through the adoption of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) and the Town and Police Clauses Act 1847 (as amended).
- 1.1.3 The Council licenses the following;
- Hackney Carriage Vehicles and Drivers
 - Private Hire Vehicles and Drivers
 - Private Hire Operators
- 1.1.4 A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks or be hailed in the street by members of the public.
- 1.1.5 Private hire vehicles (PHV) must also have no more than 8 passenger seats but these must be booked in advance by customers through an operator and may not ply for hire in the street or stand at ranks.
- 1.1.6 A private hire operator makes provision for the acceptance of bookings for private hire vehicles.
- 1.1.7 The requirements of the Acts are that the Council must be satisfied that a vehicle is suitable in type, size and design for use as a hackney carriage or private hire vehicle and is in a suitable mechanical condition, safe and comfortable.
- 1.1.8 Concerning drivers, the 1976 Act requires the Council to be satisfied that the applicant is a fit and proper person to hold a licence.
- 1.1.9 The Policing and Crime Act 2017, enables the Secretary of State for transport to issue statutory guidance on taxi and private hire licensing functions for the purpose of protecting children and vulnerable adults from harm when using taxi and private hire services.
- 1.1.10 In July 2020, the Secretary of State for Transport issued such statutory guidance, in the form of Statutory Standards. Licensing Authorities are expected to implement these unless there is a compelling local reason not to do so.
- 1.1.11 In addition to statutory requirements, the Council may attach conditions to licences as it considers reasonably necessary.

1.2 Aims of Policy

- 1.2.1 The fundamental aim of this policy is protection of the public. In particular, it aims to ensure that licensed vehicles are safe, comfortable, insured and are driven by safe, professional and competent drivers.
- 1.2.2 The Council looks to well-run and responsible businesses that provide a professional service to the public.
- 1.2.3 The policy sets out the minimum requirements for licensing drivers, vehicles and operators that will be implemented through the licensing regime to achieve these aims. In setting conditions, it is recognised that these should not be unduly stringent, to the extent that entry to the trade is restricted or operational costs are increased such that supply of hackney carriage and private hire services is restricted. Such a restrictive approach may have a detrimental impact on the public, including safety.
- 1.2.4 For example, it is clearly important that somebody using a taxi to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or private hire vehicles has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.
- 1.2.5 The cost of a licensing requirement therefore needs to be considered in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment is undertaken, but that broadly the costs of introducing a licensing condition is weighed against the benefit it is intended to achieve.
- 1.2.6 Enforcement matters will be addressed with transparency and fairness but robustly when dealing with serious and / or repetitive issues of non-compliance and enforcement.
- 1.2.7 All decisions are made "on the balance of probability. Given that public safety is paramount, applicants and licensees will not be given the benefit of the doubt in 50/50 cases
- 1.2.8 In exercising its discretion in carrying out its regulatory functions, the Council shall have regard to this policy document as an aid to consistent decision making.
- 1.2.9 The policy represents the Council's view on the best approach to achieving its aims, and so in normal cases it is expected that this policy will be followed. However, each case will be considered on its merits. Should a decision depart from this policy then there will be clear, documented reasons for doing so.
- 1.2.10 Licence holders and potential applicants are strongly advised to be familiar with this policy as it sets out considerations and criteria the Council uses when determining applications, as well as the standards that are expected of licence holders. This should help minimise the likelihood of refused applications or enforcement action.

1.3 Preparation, Implementation and Review of This Policy

1.3.1 In preparing this policy, account was taken of the following:

- “Taxi and Private Hire Vehicle Licensing – Best Practice Guidance” (Department of Transport (DfT)– 2010)
- Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades (Institute of Licensing April 2018).
- Access for wheelchair users to Taxis and Private Hire Vehicles – Statutory Guidance (Department For Transport 2017)
- **Statutory Taxi and Private Hire Vehicle Standards (Department for Transport DfT)July 2020**

1.3.2 Consultation was also undertaken with the following

- LIST OF CONSULTEES

The policy was presented to Planning and Licensing Committee on XXXXXX

Came into effect on XXXXXXXXXXXXXXXX

1.3.3 The Council will review its policy at least every 5 years, and at other times should a particular issue arise that gives need for a review.

1.4 Publication of information

1.4.1 The Council is under a duty to publish its driver, vehicle and operator licensing data form in such form as the Secretary of State may require.

1.4.2 The Council may publish details of licensed vehicles, drivers and operators on its website, including licences recently suspended or revoked.

1.4.3 Under the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019, the local authority is required to submit details of licensed vehicles to- DEFRA

1.4.4 F&HDC will share information in relation to refused licence applications and revoked licences through the National Antifraud Network

1.4.5 The Council may share information concerning decisions to refuse, suspend or revoke a licence with the Police, DBS service or other agencies, particularly where decisions have arisen from safeguarding concerns.

1.4.6 Further information in relation to handling and sharing of information is set out in the Council’s privacy notice on Taxi Licensing.

2. DRIVERS

2.1 Licences

- 2.1.1 We issue two types of driver licence: Private Hire and Dual (combined Hackney Carriage and Private Hire)
- 2.1.2 Licences are normally granted for a period of three years. A licence may be granted for a shorter period where appropriate. For example, where a driver has a limited right to work period. Note: A driver cannot receive a licence for a period longer than their “right to work”. Shorter licences will not be granted on a “probationary” basis.
- 2.1.3 Before granting a drivers licence, the council must be satisfied that the applicant is a ‘fit and proper person’ to hold a licence

2.2 Age and Experience

- 2.2.1 Department for Transport (DFT) Guidance recommends that maximum age limits for drivers should not be set, providing that regular medical checks are undertaken. It also considers minimum age limits (beyond the statutory age for holding a full drivers licence) as inappropriate. Therefore the council will not set minimum or maximum age limits for drivers. However, in accordance with legal requirements, applicants must have held hold a valid full UK (OR EU/EAA driving licence) for a minimum of 12 months prior to their application.

2.3 Driver & Vehicle Licensing Agency disclosure

- 2.3.1 The grant of a licence is subject to a check being made with the DVLA in respect of any relevant convictions. The check is carried out annually or at other times if the council believes that there is reason to do so. Each applicant must complete a mandate to the DVLA to enable the check to be made or give consent for officers to make appropriate checks via gov.uk

2.4 Driving Proficiency

- 2.4.1 New applicants will be required to provide evidence that they have, within the 12 months prior to their application, passed a Driving Standards Assessment (DSA) specifically designed for Hackney Carriage and Private Hire drivers.
- 2.4.2 The assessment must be carried out by one of the Council’s nominated providers.
- 2.4.3 Where there is any doubt as to the driving ability of the licence holder, or any significant changes to the driver’s circumstances, since the grant of the licence, the Authority may require the applicant to pass a further DSA test. Any fees must be met by the applicant.

2.5 The Knowledge Test

All new applicants must pass the Folkestone & Hythe District Council Knowledge test. This is to test the driver’s knowledge of the local area, Highway Code, aspects of taxi licensing law and our policy. Further information on the knowledge test is

included in Driver Application Procedures (**Appendix A**). Applicants must have passed the test within 12 months of the date of their application.

2.6 English assessment

Applicants must have a reasonably adequate standard of spoken English to be a hackney carriage or private hire driver. This will be assessed throughout the application process and during the knowledge test.

2.7 Disclosure and Barring Service (DBS) check

2.7.1 A DBS check on a driver is an essential measure in determining whether an applicant is a suitable person to hold a licence. An enhanced disclosure with barred list check provided by the Disclosure and Barring Service is required for all applicants. Enhanced disclosures include details of spent convictions, police cautions and other information.

2.7.2 The Rehabilitation of Offenders Act 1974 **does not apply** to applicants for drivers licences. They are required to disclose all convictions, including those that would normally be regarded as spent.

2.7.3 DBS checks are carried out at the applicant's expense.

2.7.4 As part of our policy, we will require licensed drivers to maintain an online certificate through the DBS update service. This is (<https://www.gov.uk/dbs-update-service>) and enable the Council to access this certificate on renewal or at other times as reasonably necessary. Drivers must pay an annual fee to the DBS for the on-line update facility.

2.7.5 The advantage of the online update service is:

- Drivers maintaining an up to date online certificate will not need to apply for and submit a paper DBS certificate when renewing their licence. (providing that the information on the online DBS is up to date) This will result in a quicker process.
- The Online Certificate can be checked by the licensing authority at renewal and as required during the term of the licence.
- Maintaining an online certificate through annual subscription may cost the driver less than obtaining a paper certificate every 3 years.

2.7.6 Drivers who already hold a licence on the date that this policy comes into effect and have not already signed up to the update service, will be required to provide a paper DBS certificate at their next renewal then sign up to the online update service.

2.7.7 If an applicant has within the last 10 YEARS lived outside the UK for a continuous period of 3 months or more, a certificate of good conduct from the relevant embassy or equivalent document, issued and authenticated by the relevant embassy will also be required. This must either be in English or translated by an approved translator at the applicant's expense.

2.7.8 If an officer has any doubt as to the validity, completeness or accuracy of the document, then an applicant may not proceed to next step of process. The burden to establish validity lies with the applicant.

2.8 Medical Assessment

2.8.1 The DfT guidance states that it is clearly good practice for drivers to undergo medical checks prior to grant or renewal of a licence. The Group 2 Medical Standards adopted by the DVLA for lorry and bus drivers are considered best practice for Hackney Carriage and Private Hire Drivers.

2.8.2 All applicants must undergo a medical examination to assess their fitness to work as a Hackney Carriage / Private Hire Driver. A group 2 medical standard will be required. A request form will either be sent as part of an application pack or can be obtained from the Council. The assessment must be carried out either by the applicant's General Practitioner or by a suitably qualified GMB registered medical practitioner who has access to the applicant's medical records. The completed form must be submitted as part of the application.

2.8.3 The applicant is responsible for paying the fee for the assessment.

2.8.4 A medical assessment is required for all new driver applications. A new medical assessment is required every 6 years for drivers aged up to 45, every 3 years for drivers aged up to 65. Drivers aged 65 or over are required to undergo a medical assessment annually. More frequent checks will be required if considered necessary by the Medical Practitioner. Certificates provided must be less than 3 months old.

2.8.5 In order to streamline processes, it is intended that the submission of routine medical certificates is synchronised with, and part of, the licence renewal process, as far as possible. To facilitate this, drivers aged between 45 and 65 who hold a licence at the time this policy comes into effect, must submit a new medical certificate at next renewal. However, if their last medical was carried out within 12 months of the renewal date, they will not need to submit a new routine medical until the following renewal.

2.8.6 The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (i.e. 3500-7500 KG lorries). As suggested best practice, This authority will also apply criteria based on the C1 standards to taxi and PHV drivers with insulin treated diabetes. These are set out in **Appendix B**

2.8.7 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. Licence holders may be required to undergo a further medical assessment to confirm their fitness to drive a licensed vehicle. Should concerns arise regarding the health of a licensed driver, the council at any time may request further information or a further medical examination to be carried out and certificate submitted.

2.8.8 The council reserves the right to revoke or suspend a licence if requested

information is not submitted within 4 weeks of the request and a satisfactory explanation is not given for the failure to provide such information or where the information provided raises further concerns as to the applicant's fitness to carry out his/her duties as a licensed driver.

2.9 Child Sexual Exploitation and Safeguarding Training

2.9.1 People working in the taxi trade may have a role to play in spotting and reporting the abuse, exploitation or neglect of children or vulnerable adults. However, this is only possible if they are aware of and alert to the signs of abuse and who they should contact if they suspect a child or vulnerable adult is at risk of harm or in immediate danger.

2.9.2 Therefore, the DfT expect local authorities to require Hackney Carriage and Private Hire drivers to undertake appropriate safeguarding awareness training.

2.9.3 New applicants for driver licences will be required to provide evidence that they have completed a safeguarding training course approved by F&HDC.

2.9.4 Existing licensed drivers will be required to undertake approved training within 6 months from the date that this policy comes into effect.

2.9.5 The council will look to promote awareness of safeguarding issues among all licence holders through other information and education campaigns

2.10 Immigration Checks – Right to Work

2.10.1 The council has a duty to carry out immigration checks to ensure applicants have a right to work in the UK. A licence will not be granted unless sufficient proof of right to work in the UK has been provided. Licences will not be granted for a longer period than the applicant's right to work.

2.10.2 The Immigration Act does not permit the issue of licences to self-employed persons who are in the country on a student visa.

2.11 Convictions and Cautions

2.11.1 In assessing whether an applicant or licence holder is a fit and proper person, the council will consider convictions, cautions and other information that has been disclosed, so far as they are relevant to a licence.

2.11.2 **Appendix C** sets out the council's policy on the relevance of convictions and cautions

2.12 Applications and Renewals

2.12.1 The process for new applications and renewals is set out in **Appendix A**

2.12.2 Applications must be made with the appropriate fee, forms and supporting documents. Whilst reminders will be sent, it is the responsibility of the licence holder to ensure a renewal application is submitted in time, failure to do so may result in the lapse of the licence.

2.12.3 The Council is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence as are considered necessary.

2.12.4 Hackney Carriage drivers and Dual licence holders are subject to the Council's byelaws (see **Appendix D**) and the private hire driver's conditions.

2.12.5 It is considered that the conditions set out in **Appendix E** are reasonably necessary and appropriate for private hire drivers. The dress code for drivers is in Appendix I

3 PRIVATE HIRE OPERATORS

3.1.1 Any person that takes bookings for private hire vehicles in the Folkestone and Hythe District must be licensed as a Private Hire Operator.

3.1.2 A private hire vehicle may only be dispatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle

3.1.3 The objective in licensing Private Hire Operators is the safety of the public, who will be using operator's premises and vehicles and drivers arranged through them. The council must be satisfied that an applicant is a "fit and proper" person to hold a licence. They must be assured that they will pose no threat to the public and have no links to serious criminal activity.

3.1.4 Applications for operator's licences must be made on the prescribed form, together with the appropriate fee.

3.1.5 Licences are normally issued for a period of 5 years. This is consistent with best practice guidance and is the maximum length of licence permitted. Shorter licences may be issued in specific circumstances where the council considers this appropriate. However, shorter licences will not be used on a "probationary" basis.

3.1.6 Fees for private hire operator licences are based on the number of vehicles operated. Applicants will be required to give details of the number of vehicles they intend to operate. Should an operator wish to increase the number of vehicles then they must notify the council in order that the licence can be amended. An additional fee may be charged to account for the increase in vehicles.

3.2 Disclosure and Barring Service (DBS) Checks

- 3.2.1 In order to help determine whether a person is a fit and proper person to hold a licence, the DfT Statutory Standards require Licensing Authorities to request a Basic DBS Check and that a check is undertaken annually. Private Hire Operators (that are not licensed drivers) are not exempt from the Rehabilitation of Offenders Act 1974. As such they will not be subject to an Enhanced DBS check. A Basic disclosure will be required.
- 3.2.2 Where an operator is a Ltd Company or partnership, a DBS will be required for each director / partner. If a partner / director changes during the term of the licence, the council must be notified. A Basic DBS for new directors/ partners will be required.
- 3.2.3 Where an individual has in the 10 years prior to the application, spent time overseas , a Certificate of Good Conduct will be required , as set out in Section 2.7.6 of this policy.
- 3.2.4 Basic DBS checks are not currently eligible for the update service. Operators will be required to submit a paper certificate annually and on renewal of a licence.
- 3.2.5 Operators that are also drivers licensed by this authority, will be required to provide an enhanced DBS as part of their drivers' application and maintain an online certificate through the update service. In such cases operators, will not be required to submit an additional basic DBS. However, should an operator cease to be a licensed driver, then a basic DBS will be required immediately.
- 3.2.6 Disclosure of convictions will be taken into consideration when determining whether an operator is a fit and proper person to hold a licence. This will include a review of existing licence holders, where DBS checks of directors/ partners or individuals discloses convictions that have not previously been considered. The convictions policy is set out in **Appendix C**. However, motoring offences will generally not be relevant to a Private Hire Operator.
- 3.2.7 The staff that operators employ may have direct contact with the public. Those dispatching vehicles will determine which driver to send to fulfil a booking. Therefore, they may be in a position to exploit children and vulnerable adults. The DfT statutory standards expect Private Hire Operators to be able to demonstrate that their staff present no risk to the public.
- 3.2.8 Operators will be required to keep a register of all staff they employ to take bookings or dispatch drivers. They must have sight of a Basic DBS for all such staff. A record of having carried out this check must be maintained. Operators licensed at the time this policy comes into effect will be required to have the register in place within 1 month of the date of the policy. The DBS checks on existing staff must be viewed and recorded within 6 months of the policy coming into effect.
- 3.2.9 Private Hire Operators will be required to have a documented policy setting out their approach to employment of staff with convictions. As a minimum, it is expected that booking / dispatch staff will have remained free of conviction for the time periods set out in Appendix C of this policy. Motoring convictions are not

considered relevant. This will be required to be provided with all new applications, from the date this policy comes into effect. Licensed Operators, will be required to supply a copy of the policy to the Council within 6 months of this policy coming into effect.

3.3 Address from which Operator based

3.3.1 The Operator's base must be located in Folkestone & Hythe District. If it is not, the council will not grant a licence. This is to ensure that proper regulation and enforcement measures may be taken by the council and is in no way intended as a restraint of trade.

3.3.2 It will be the responsibility of the operator to ensure that appropriate planning permission exists for the operational address to be used for that purpose, prior to starting operating. The grant of a private hire operator's licence does not override the need for planning permission nor does it imply that such planning permission is or isn't required or likely to be granted, as such determination will be subject to the appropriate planning process. The Licensing Team may provide the Council's planning team with names and addresses of licensed operators. Applicants are advised to check with the planning team regarding the need for planning permission using the Council's pre application advice service which can be accessed via the link below:

[pre-application planning advice service](#)

3.4 Insurance

3.4.1 If the operator's premises is open to the public, suitable Public Liability Insurance must be in place. Evidence of insurance must be provided before a licence is issued.

3.5 Use of Vehicles and Drivers

3.5.1 As a result of the Deregulation Act 2015, Private Hire Operators are allowed to sub-contract work to other licensed Private Hire Operators who hold licences with a different Licensing Authority.

3.5.2 A private hire operator must ensure that every private hire vehicle has a valid private hire vehicle licence and is driven by a person who holds a private hire driver's licence.

3.5.3 Some private hire operators may use Public Service Vehicles (PSV) (vehicles with more than 8 seats, e.g. minibuses) in order to fulfil a booking. These vehicles and their drivers are covered by a different licensing regime. Drivers of PSVs are subject to different checks, as the work normally undertaken, e.g. driving a bus, does not present the same risk to passengers. Checks do not include an Enhanced DBS check.

3.5.4 This policy will therefore prohibit the use of PSV and Drivers by a licensed private hire operator unless it is necessary (due to the number of passengers or luggage requirements) and the informed consent of the booker is given. The booker must be clear that a Passenger Carrying Vehicle (PCV) driver will be used, and that they are subject to different checks , including less stringent criminal record checks.

3.6 Licence Conditions

3.6.1 Standard Conditions applied to Private Hire Operator Licences are given in **Appendix F**. Further conditions can be added to a licence where considered appropriate.

4. VEHICLES

4.1 Limitation on Numbers

4.1.1 No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.

4.1.2 Section 16 of the Transport Act 1985 made provision for the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages “if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”. In the event of a challenge to a decision to refuse a licence on these grounds, it would, therefore, have to be established that the Council had been reasonably satisfied that there was no significant unmet demand.

4.1.3 Most local authorities do not impose quantity restrictions. The Department for Transport regards this as best practice.

4.1.4 The council does not intend to set a limit on the number of hackney carriages that it licences.

4.2 Vehicle Specifications

4.2.1 Local Authorities have a wide range of discretion over the types of vehicles that they can licence as Hackney Carriage or Private Hire Vehicles. Best Practice Guidance is that local authorities should adopt the principle of specifying as many different types of vehicles as possible. This could be done, for example by specifying general criteria, and allowing the Hackney and Private Hire Trades to put forward vehicle that meet those criteria

4.2.2 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to

the public, so it is appropriate to set standards for the external and internal condition of the vehicles, provided that the standards are reasonable and proportionate.

4.2.3 Specifications and licence conditions for vehicles are set out in **Appendix G**

4.2.4 This policy does not specify colours for Hackney Carriage or Private Hire vehicles

4.2.5 The council will not licence a vehicle which is already licensed with another council or Transport for London. If the council becomes aware that a vehicle is dual licensed, then the licence is likely to be revoked.

4.3.6 Stretch limousines are sometimes used for private hire bookings and special events. These are often imported vehicles, and due to their nature may not meet standard vehicle specifications set out in licensing policy (for example, to be right hand drive).

4.3.7 Imported vehicles may not have certification to EU Whole Vehicle Standards. Such vehicles would normally require certification under the Individual Vehicle Approval (IVA) Scheme to demonstrate that they meet appropriate safety standards.

4.3.8 The Department of Transport view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle. A policy of excluding limousines creates an unacceptable risk to the travelling public, as it may lead to higher levels of unlawful operation.

4.3.10 Applications for stretch limousines to be licensed as private hire vehicles will be considered on their merits provided they have no more than 8 passenger seats.

4.3.11 Additional Specifications and Conditions relating to stretch limousines are set out in **Appendix H**

4.3.12 All bookings for a stretch limousine licensed as a private hire vehicle by the council must be booked through a private hire operator licensed by Folkestone & Hythe District Council in accordance with S55 of the Local Government (Miscellaneous Provisions) Act 1976.

4.3 **Accessibility**

4.3.1 The council is committed to supporting and promoting equality and diversity.

The Equality Act 2010 has made provision for the assistance of taxi and private hire vehicle passengers in wheelchairs and to those who have guide dogs and other assistance dogs. The sections relating to wheelchair users (sections 165 and 167) came into force on 06 April 2017 and the provisions relating to assistance dogs (sections 168 – 173) came into force in October 2010. In accordance with sections 168 – 173 taxi and private hire vehicle drivers are under a duty to carry guide, hearing and assistance dogs without additional charge. Drivers must convey a disabled passenger's dog and allow it to remain with the passenger.

- 4.3.2 The Secretary of State has the power to impose accessibility requirements on large operators. In particular, the power could permit the setting of quotas of accessible vehicles which must be available to such operators
- 4.3.3 This policy does not currently mandate vehicles to be a wheelchair accessible design. However, such vehicles are encouraged.
- 4.3.4 The council will maintain a list of Designated Wheelchair Accessible Vehicles in accordance with S167 of the Equality Act 2010. A designated wheelchair accessible vehicle is a licensed hackney carriage or private hire vehicle which can carry a passenger whilst they remain in their wheelchair. This list will be published on the council website. It will be updated when information becomes available following issue of licences.
- 4.3.5 The council will look to introduce a second “voluntary list”. This will provide a list of vehicles that are accessible to passengers in wheelchairs, who are able to transfer from their wheelchair into a seat within the vehicle and the wheelchair can be folded down and placed in the vehicle. The list will be updated when Information becomes available following issuing of licences.
- 4.3.6 Drivers of designated wheelchair accessible hackney carriage and private hire vehicles have a legal duty under Section 165 of The Equalities Act 2010 to:
- to carry the passenger while in a wheelchair
 - not to make any additional charge for doing so
 - if the passenger chooses to sit in a passenger seat, to carry the wheelchair
 - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
 - to give the passenger such mobility assistance as is reasonably required.

Mobility assistance is assistance:

- to enable the passenger to get into or out of the vehicle;
 - if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - to load the passenger's luggage into or out of the vehicle;
 - if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.3.7 It is accepted that there will be some specialist or motorised wheelchairs which due to their dimensions may not be able to be loaded or conveyed safely in all designated vehicles and it is not practicable to require vehicles to be able do so. It may be a reasonable defence if a driver is not able to fulfil duties under the Act due

to the size/ design of the wheelchair. However, it is expected that if passengers cannot be accommodated for this reason, that it is dealt with sensitively and clearly explained to the passenger.

- 4.3.8 The legal duties set out in 4.3.6 above do not apply to drivers of vehicles on the voluntary list. However, it is expected that drivers on this list will accept a passenger who is able to transfer onto a seat from their wheelchair and provide reasonable assistance to the passenger, without extra charge.
- 4.3.9 DfT guidance states that fare meters should not be left running whilst a driver is fulfilling these duties (e.g. loading / unloading wheelchairs, providing assistance to the passenger,) as this would constitute making an extra charge for doing so. Meters left running under these circumstances would be treated as a breach of the Act and this policy.
- 4.3.10 Drivers who for medical reasons or due to their physical condition make it impossible or unreasonably difficult for them to carry out duties to passengers in wheelchairs, may apply to the council for an exemption certificate. Such certificate will only be issued on production of medical evidence. Exemption Certificates must be displayed in the vehicle at all times the driver is working.
- 4.3.11 Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs. When carrying such passengers, drivers have a duty to:
- Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
 - Not to make any additional charge for doing so.
- 4.3.12 Drivers who, for medical reasons are unable to accept assistance dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of sufficient medical evidence. Exemption certificates must be displayed in the vehicle at all times the driver is working.

4.4 Environmental considerations

- 4.4.1 The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.
- 4.4.2 The age criteria for vehicles within this policy will ensure that over time the fleet will benefit from general improvements in environmental performance.
- 4.4.3 Vehicle Specifications enable Electric, Hybrid or LPG converted vehicles to be licensed.

4.4.4 Local licensing authorities are encouraged to consider how they can support any local air quality management policies that the local authority may have adopted, particularly where Air Quality Management Areas (AQMAs) or Clean Air Zones have been introduced. At present F&HDC does not have any Air Quality Management Areas or Clean Air Zones. However, should this happen in the future, then the vehicle emissions standards for hackney carriage and private hire vehicles could be incorporated into the policy.

4.4.5 Emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion

4.5 Age of Vehicles

4.5.1 This policy sets maximum age for vehicles when licensed for the first time and on renewal. The age restrictions contribute to ensure vehicles within the licensed fleet are of a high standard and benefit from general improvements in safety features and emission standards over time.

4.6 Vehicle Testing & Inspection

4.6.1 Vehicles must be mechanically tested and inspected at a garage nominated by the council. Vehicles meeting required standard will be issued with a "Compliance Certificate". This is valid for 6 months. Vehicles must not be used unless they have a valid compliance certificate.

4.6.2 Owners of new vehicles with less than 500 miles and under 12 months old from its first registration will not be required to provide a compliance certificate until the first renewal of the vehicle's licence, unless on inspection an officer requires one, e.g. after inspecting accident damage.

4.6.3 Newly licensed vehicles will be subject to a check by council licensing officers to ensure that it meets specifications and conditions set out in this policy.

Further checks may be undertaken by officers from time to time to ensure that exterior and interior standards are maintained,

4.7 Insurance and Road Tax

4.7.1 Vehicles must be taxed and have valid insurance which covers the vehicle for carriage of passengers for hire or reward. Insurance will be checked as part of the application process. The certificate of insurance must be provided on request. On renewal of the policy, a copy of the insurance certificate should be provided to the council at the earliest opportunity.

4.7.2 Given the importance of maintaining valid insurance which covers the vehicle for carriage of passengers for hire or reward, licensed vehicles found to have no valid insurance cover or where evidence of valid insurance cover is not provided, will be suspended.

4.7.3 Vehicles may be checked to ensure they have paid road tax at the following web site: <https://www.gov.uk/check-vehicle-tax>. Vehicles with no road tax will be suspended.

4.8 Damage to Vehicles

4.8.1 Any damage to a licensed vehicle materially affecting the safety, performance or appearance of the vehicle or the comfort and convenience of passengers, must be notified to the council as soon as possible and in any case within 72 hours. Unless the vehicle is so severely damaged that it will never again be serviceable as a licensed vehicle, an appointment will be made for the vehicle to be inspected by a licensing officer and a decision will be made as to whether or not the vehicle is in such condition to continue in service.

4.8.2 If the Licensing Officer considers the damage to the vehicle to be extensive enough to seriously affect the general appearance and/ or use of the vehicle, it will be suspended from use until such time as satisfactory permanent repairs are completed. During this time, plates must be removed from the vehicle.

4.8.3 If the damage to the vehicle is minor, such that the Licensing Officer considers it still to be in a fit condition to continue in service, a notice will be issued requiring the vehicle to be repaired. The vehicle will not be suspended.

4.8.4 When such notice is given, repairs must be made to the vehicle and the vehicle presented for re-inspection within the time given in the notice. In some cases the council may require its compliance inspection garage to certify that the vehicle is fit to return to service.

4.8.5 Failure to carry out repairs or to present the vehicle for re-inspection within such time may result in further action including automatic revocation of the licence, as set out in S68 Local Government Miscellaneous Provisions Act 1976

4.8.6 Where due to accident damage a vehicle cannot be used, there is a process enabling proprietors to licence a replacement vehicle.

4.9 Vehicle Identification

4.9.1 Signage is a key measure in ensuring that licensed vehicles can be easily identified.

4.9.2 Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or able to be hailed in the street. It is, therefore, important that the public are able to easily distinguish each type of vehicle.

4.9.3 "London" style Cabs will not be licensed as private hire vehicles.

4.9.4 All licensed Hackney Carriage and Private Hire Vehicles are required to permanently display licence plates on the rear of the vehicle. The plates include the registration number, licence number and expiry date of the licence. Different colour plates are issued for Hackney Carriage and Private Hire Vehicles.

- 4.9.5 Private Hire Vehicles must also display a F&HDC Private Hire Vehicle Panel on the rear passenger doors of both sides of the vehicle.
- 4.9.6 Hackney Carriage Vehicles must display an illuminated roof mounted sign bearing the word "TAXI". The word Taxi must be plainly and distinctly visible from the front and rear of the vehicle. The sign may include the name and telephone number of the taxi company.
- 4.9.7 Private Hire vehicles must not bear any roof mounted or other sign bearing the word "TAXI" or "Cab " or any words of a similar meaning or appearance whether alone or as part of another word.
- 4.9.8 All vehicles will be required to display information on how to make a complaint to the licensing authority. For vehicles holding a licence at the time this policy came into effect, information must be displayed within 3 months of this policy coming into effect.

4.10 Plate and side panel exemption

- 4.10.1 Whilst the legislation requires vehicles to display plates at all times. It also provides for exemptions to be given to private hire vehicles. Not all private hire vehicles will have access to this exemption. It is intended that exemption will apply to only a very small minority of private hire vehicles where it is necessary for commercial or safety reasons – for example, executive chauffeur services.
- 4.10.2 Proprietors of vehicles who wish to be exempted from displaying licence plates and side panels must apply for an exemption certificate. Applications will be considered where
- the vehicle is used for executive chauffeur type work (evidence of a contract may be requested)
 - the vehicle to be exempted is of high quality in terms of brand and condition
 - the vehicle will normally be an accepted luxury brand, such as Mercedes Benz, BMW, Jaguar, Lexus, Bentley, Rolls Royce
 - the proprietor must satisfy the licensing officer that the exemption is necessary.

4.11 Advertising

- 4.11.1 This policy places restrictions on signs and advertising in order to maintain professional appearance of vehicles, to ensure that advertising does not distract from signage identifying vehicles as Hackney Carriage or Private Hire Vehicles and to minimise confusion between the two types of licensed vehicles.
- 4.11.2 No external third party advertising will be permitted on any hackney carriage or private hire vehicle.
- 4.11.3 Internal advertising is permitted subject to certain conditions.
- 4.11.4 No advertising to be religious or political in nature or anything likely to cause offence.

4.11.5 Restrictions and conditions relating to advertising and signage are set out in Vehicle Specifications and Conditions (**Appendix G**)

4.11.6 All existing signage must be compliant with the policy within three months from the date of adoption of this policy.

4.12 CCTV and Security

4.12.1 The DfT guidance recommends that licensing authorities look sympathetically on the installation of security measures, such as a screen between driver and passengers or CCTV systems. Such measure can act as a deterrent to would be trouble makers. It may also protect drivers from unjustified complaints, and provide a source of evidence in the event of dispute between passenger and driver.

4.12.2 This policy does not require mandatory installation of CCTV systems. Currently it is left to the judgement of the owners and drivers themselves. However the council will keep the need for requirement of CCTV under review.

4.12.3 The hackney carriage and private hire vehicle trade is, however encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis. It will be the responsibility of the operator to handle relevant data gathered in an appropriate and secure manner. For information and guidance on data protection see Information Commissioners Office (ICO) website <https://ico.org.uk/>

4.12.4 Vehicle Proprietors must notify the Licensing Authority in writing if they have a CCTV system fitted. They must register with the ICO and obtain documented evidence of that registration.

4.13 DBS Checks on Vehicle Proprietors

4.13.1 As required by the DfT Statutory Standards, applicants for a vehicle licence will be required to submit a basic DBS check. This will be required annually. If the applicant is a Ltd Company or partnership, it is important that the fit and proper person test is applied to each director/ partner. A DBS check will be required for each director/ partner. Any disclosed convictions will be taken into account when considering the suitability of a person to hold a licence. Our convictions policy is set out in Appendix C.

4.13.2 Applicants that also hold a drivers licence with this Council, will not be required to provide the Basic DBS, as they will already provide the Enhanced DBS as required by this policy. However, should they cease to hold a drivers licence then a Basic DBS will be immediately required.

4.13.3 Where an applicant has spent time outside of the UK, a certificate of good conduct will be required from the relevant embassy, as set out in Drivers section of this policy (2.7.7)

4.13.4 If a director / partner changes during the term of the licence, the Council must be notified. Further DBS check may be required

4.14 Applications and Renewals

- 4.14.1 The process for vehicle licence applications and renewals is set out in **Appendix A**
- 4.14.2 Applications must be made with correct application form, fee and supporting documentation. Whilst reminders will be sent, it is the responsibility of the licence holder to ensure a renewal application is submitted in time, failure to do so may result in the lapse of the licence.
- 4.14.3 Legislation limits the maximum length of a vehicle licence to 12 months. Licences will therefore normally be granted for 12 months. There may be circumstances where the council considers a shorter licence to be appropriate. However shorter licences will not be used as a “probationary” tool.
- 4.14.4 It is considered that the specifications and conditions set out in **Appendix G** are reasonably necessary and appropriate for vehicles. Additional conditions relating to stretch limousines are set out in **Appendix H**
- 4.14.5 Case law has determined that licensed vehicles remain licensed at all times, even when not being used for private hire work. Licensed vehicles must comply with legal requirements and conditions at all times.

5 FEES

5.1 General

- 5.1.1 Applicants must pay the fees for their application as set out in the policy. Applications will not be progressed until the appropriate fee has been paid.
- 5.1.2 A schedule of fees is available on the council’s website. The schedule is reviewed each year as part of the budget process. Fees reflect the cost of the administrative costs of the licensing regime, processing applications, compliance and enforcement of licenced drivers and vehicles etc.
- 5.1.3 This policy does not deal with the fee setting process.

5.2 Refunds

- 5.2.1 There is no statutory requirement to issue refunds following surrender of a licence. Historically, the council has received requests for refunds for licences that have been surrendered, for example, due to ill health or the licence holder moving away from the area. These have and will continue to be considered, subject to the paragraphs below.
- 5.2.2 Licence holders should think carefully before surrendering a licence. If they decide to reapply in future, then their application will be considered as a new application and subject to the same conditions as for all new applicants (e.g. knowledge tests, driver assessments, for new drivers)
- 5.2.1 Refunds will not be issued for licences which have been revoked, or surrendered following suspension.

5.2.2 Refunds will not be issued on licences issued for 12 months or less.

5.2.3 Refunds on surrendered driver and operator licences will be considered on written request. Requests will not be considered unless badges and paper licences have been returned to the licensing authority. The refund amount will be pro-rata based on the amount of whole months remaining on the licence. The pro-rata amount for the first 12 months of the licence period will not be refunded. An administrative charge for dealing with the refund application will also be deducted.

6 FARES

6.1 The council has set Hackney Carriage fares (Tariff) for journeys within its District. This sets the maximum fare that can be charged by Hackney Carriage Drivers.

6.2 There is no provision to set fares for private hire vehicles.

6.3 Current fare rates are shown on the council website. The council's official table of fares (tariff) must be displayed in Hackney Carriage Vehicles.

6.4 A taxi driver is allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the district **only if this is agreed in advance**. In the case of a pre-booked journey starting outside the district, the price / estimate should be given on request by the passenger, and, if so, recorded.

6.5 The council will review fare rates from time to time as necessary or in response to a bona fide request. Proposed changes will be introduced in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

7 DELEGATIONS

7.1 Part 8 of the council's constitution sets out the arrangements for delegation of licensing functions.

7.2 Revisions to this policy will be approved by the Planning and Licensing Committee

7.3 All functions relating to licensing, including determining applications and associated enforcement action have been delegated to Officers.

7.4 Authorised Officers have written delegated authority to deal with all licensing matters. This includes making decisions to grant or refuse applications and taking enforcement action, including suspending or revoking licences.

7.5 Officers may refer matters to the Planning & Licensing Sub Committee for determination where they consider it appropriate to do so. The committee have the full range of options available to deal with matters referred to them e.g. grant/ refusal / refuse to renew a licence, suspension or revocation of a licence etc.

- 7.6 Routine Applications where policy requirements are met and there are no issues such as disclosures made on a DBS, will be dealt with by officers, enabling a more efficient process. Officers will normally make decisions on applications where there is a clear breach of minimum policy requirements – e.g. vehicles do not meet specifications, or where there is a disclosure of conviction(s) and the minimum time period set out in the convictions policy has not elapsed.
- 7.7 More complex applications will usually be referred to the Licensing Sub-Committee. This will include for example, applications where a conviction has been disclosed, but the minimum time period for applicants to be free of convictions has elapsed.
- 7.8 Officers will suspend licences where this is necessary to ensure effective day to day enforcement of licence requirements, for example, in relation to vehicle inspections and defects or production of medical certificates or other documents. Where an issue arises that presents a public safety risk, and immediate action is required, this will be taken by authorised officers and may include suspension or revocation of licences.
- 7.9 Where an investigation is undertaken by an officer or information is received such that immediate revocation is considered appropriate. Action must be reviewed and agreed by a separate more senior officer with delegated authorisation.
- 7.10 The introduction of the penalty points system provides a transparent and consistent mechanism through which serious or repeated breaches trigger a hearing of the licensing subcommittee, who would consider whether further action should be taken in respect of the licence, including revocation.

8 DISCIPLINARY AND ENFORCEMENT MATTERS

8.1 General

- 8.1.2 Guidance recognises that well directed enforcement activity benefits not only the public but responsible members of the hackney carriage and private hire trade.
- 8.1.3 The Council has a responsibility to ensure that all licensed drivers, operators and owners of vehicles adhere to basic minimum standards. These standards are set out in legislation, byelaws and the Council's Hackney Carriage and Private Hire Licensing Policy.
- 8.1.4 In addition it is important that firm action is taken to deal with those who evade the licensing regime.
- 8.1.5 Enforcement action may be initiated by authorised officers. In addition, licence holders may be referred to a panel of the Planning and Licensing Sub Committee

regarding offences or breaches of conditions or byelaws. Following a hearing, the subcommittee may recommend enforcement action to be taken.

8.1.6 **Appendix J** sets out the Council's Enforcement Policy in relation to hackney carriage and private hire licensing matters.

8.2 **Penalty Points System**

8.2.1 Many local authorities use a penalty point scheme as an effective means of promoting compliance with legislation and conditions.

8.2.2 F&HDC will operate a penalty points system as set out in **Appendix K** This will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement. It will be used to deal particularly with minor breaches or infringements of legislation, policy or unacceptable behaviour by licence holders. It supports a risk based approach to enforcement as the points threshold for considering further sanctions will be triggered by repeated or serious breaches.

8.2.3 Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, he/she will be referred to the Planning and Licensing Sub Committee.

8.2.4 The Licensing Committee will follow the objectives of this Policy and have a range of sanctions available, including suspension or revocation of the licence.

8.2.5 The adoption of the Penalty Points System will not, however, compromise the council's ability to take other enforcement action to deal with offences or breaches of conditions, should it be warranted.

9 **TAXI STANDS (RANKS)**

9.1 Hackney Carriage Stands (Ranks) are designated areas where Hackney Carriage Vehicles may wait and ply for hire. They are usually located in strategic areas, such as near stations or town centre areas.

9.2 Comments are welcome from either the hackney carriage trade or the public on the need for additional ranks in specific locations, the potential for re-locating or extending existing ranks or the removal of ranks which no longer fulfil a useful purpose.

9.3 It is an offence for any person to cause or permit any vehicle other than a Hackney Carriage to wait on any rank or stand for Hackney Carriages. Drivers of Hackney Carriages may only wait on a rank or stand whilst plying for hire or waiting for a fare; drivers who park on a rank or stand and leave their vehicle unattended are committing an offence.

APPENDIX A – APPLICATION PROCEDURES

1. General Matters

- 1.1 Potential applicants are advised to check this policy so that they understand application requirements and conditions attached to licences. This will help minimise likelihood of a refused application and associated incurred costs.
- 1.2 The council is moving towards a system of electronic applications, which enables a more efficient process. However, applicants may need to bring original documents to the council offices for verification. Original documents will be scanned/ copied where necessary and returned to the applicant.
- 1.3 We will endeavour to send reminders to licence holders when licences are due to be renewed. However it is the responsibility of the applicant to ensure that their renewal application is submitted in time, correctly together with any required documentation. Failure to do so may result in a delay in processing an application. If the licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received. Failure to submit a renewal application in time, may result in the application being considered a “new application” and subject to the same requirements as for new applicants.
- 1.4 A serious view will be taken where applicants or licence holders are found to have knowingly or recklessly misled the council, lied or omitted information during the application process, particularly in relation to convictions and similar matters. Not only is it an offence, which may be subject to further action in accordance with the council’s enforcement policy, but In these circumstances, applicants may be referred to the Licensing Sub-committee for consideration as to whether they are a fit and proper person to hold a licence. Applications will normally be refused where an applicant has given false information or attempted to conceal / omit information during the application process.
- 1.5 Authorised officers will normally make decisions concerning the grant or refusal applications, however, more contentious decisions may be referred to a planning and licensing subcommittee.
- 1.6 Once a full, correct application including required supporting documents has been submitted and decision to grant a licence has been made (e.g. following licensing sub-committee hearing , where necessary) we aim to issue the licence within 5 working days.
- 1.7 Where applications are refused, there is a right of appeal to Magistrates Court. Decisions to refuse applications and the reasons for doing so will be confirmed in writing together with details of rights to appeal.

2. Drivers

- 2.1 New applications are usually for private hire licenses. For those wishing to be considered for a dual licence, it is recommended that they have held a private hire drivers licence for at least 6 months before making an application
- 2.2 Drivers must have held a full UK or EU/EAA drivers licence continuously for at least 12 months immediately prior to making application.
- 2.3 New drivers will be required to undertake a Driving Standards Assessment for Hackney Carriage/ Private Hire Drivers. Applicants are advised to undertake this test and obtain a pass certificate before making their full application. The test must have been taken within 12 months of the application. Drivers who hold a valid driver's licence from F&HDC and are converting to another type of drivers licence (e.g. Private Hire to Dual Driver) will not be automatically required to undertake a Driving Standards Assessment as part of the application process.
- 2.4 New applicants will be required to pass the Council's knowledge test. This must have been passed within 12 months prior to submitting an application. Applicants should book and pass the test before submitting a full application. Drivers converting to a Dual Licence will need to sit the Hackney Driver Knowledge test which requires more in-depth knowledge of the area than a Private Hire Driver. If an applicant fails 3 consecutive tests within a 3 month period it is considered that they are not ready to be licensed as a driver by this council. It would normally be expected that they wait a further 6 months before taking the test again, in order for them to spend further time developing their knowledge and skills. Further guidance on the knowledge test is available on the council website.
- 2.5 Applicants will be required to have passed a the safeguarding training courses approved by the council
- 2.6 The following must be provided before a licence can be issued. Where original documents are provided these will be checked/ photocopied and returned to the applicant.
- **Fully Completed Driver Licence Application Form**
 - **One passport size photo**
 - **Application Fee**
 - **A Full UK or EU/EAA Drivers Licence.** This must have been held continuously for at least 12 months immediately prior to the application.
 - **DVLA Share your Driving Licence Information Code** that enables us to check your driving history.
 - **A Pass Certificate for a recognised Driving Standards Assessment for Hackney / Private Hire Drivers** (new drivers)
 - **A pass certificate for an approved safeguarding training course.**
 - **A Completed Group 2 Medical Certificate.** Confirming the applicant is fit to drive a hackney carriage/ private hire vehicle. This must be carried out by your GP or a GMC registered practitioner who has access to your medical records. The Certificate must be not more than 3 months old.

- **An Enhanced Disclosure and Barring Service (DBS) certificate.** Certificates must be less than 3 months old at the date of application. (See 2.6 – 2.8).
 - **New Applicants who have lived outside the UK for a continuous period of 3 months or more within the 10 years prior to the application must obtain a Certificate of Good Conduct from the relevant embassy.**
 - **Suitable Identity documents providing Evidence of Right to Work in the UK.** Additional checks will be carried out if considered necessary under the Immigration Act.
 - Council's Knowledge test must have been passed within last 12 months (see 2.4)
- 2.7 The application for a DBS certificate must be made via our online system. We will send you an email with a link to the application system. **In order for the DBS application to complete and proceed, applicants must pay the DBS fee and bring an original form of ID to our offices for verification.**
- 2.8 The DBS certificate will be sent to the applicant's home address. This must be provided to the council, as the council will not be sent a separate copy.
- 2.9 Drivers are required to sign up for and maintain a subscription with the online DBS Update Service during the time that they are licensed, and give the council ongoing permission to check the status of the certificate as necessary.
- <https://secure.crbonline.gov.uk/crsc/subscriber>
- Where an up to date online certificate is maintained, drivers will not need to submit a paper DBS certificate with their renewal application as the Council can check the online certificate.
- 2.10 The Council will check the status of a drivers DBS certificate as part of a renewal application. If a driver has failed to register for the update service, they will need to reapply for an Enhanced DBS Certificate and register for the update service.
- 2.11 If the status check shows the certificate as no longer current, then the applicant will need to apply for a new Enhanced DBS certificate as set out in 2.7- 2.9.
- 2.12 Where the DBS certificate contains disclosures, then a decision will be made as to whether the applicant is a fit and proper person to hold a licence. Appendix C outlines the Council policy on convictions and cautions.
- 2.13 Following a successful application a driver will be issued with a paper licence and a driver's badge. These remain the property of the council and must be returned on request following surrender, revocation or lapse of the licence.

Drivers Licence Renewal applications

- 2.14 A driver's licence will expire after three years from the date of issue / renewal. Licences may be issued for shorter periods under special circumstances.

- 2.15 A driver must make a renewal application at least one month before the current licence expires.
- 2.16 Failure to renew a licence, a DBS check, medical certificate or DVLA disclosure means that a driver is not entitled to drive until valid documentation has been produced to an officer. Driving otherwise than in accordance with the conditions of the licence and policy may result in a licence being suspended or revoked.
- 2.17 Existing drivers who have not submitted their renewal application within 1 month following expiry of the licence, will be considered new applicants and will be required to meet all the criteria for new driver.

3. PRIVATE HIRE OPERATOR APPLICATIONS

3.1 Applicants will need to submit the following

- **Fully completed application form**
- **Application fee**
- **Proof of Public Liability Insurance** (if the operating premises will be accessible to the public)
- **A Basic Disclosure Barring Service (DBS) check** for each person named on the application form. Procedures are as set out for drivers in 2.7 – 2.8. This does not apply to Persons who have provided an up to date Enhanced DBS certificate (within 3 months) or maintained an up to date online certificate accessible to F&HDC as part of a Drivers Licence application with this Authority.
- **New Applicants who have lived outside the UK for a continuous period of 3 months, within the 10 years prior to the application must obtain a Certificate of Good Conduct from the relevant embassy**

3.2 Where a DBS contains disclosures, then the suitability of the applicant to hold a licence will be considered. The Council Policy on convictions and cautions is set out in Appendix C

3.3 Following successful application, licensed operators will be issued with a paper licence. This remains the property of the council and must be returned on request following surrender, revocation or otherwise lapse of the licence.

3.4 Renewal applications must be submitted within 1 month of expiry of the licence to allow sufficient time to process the application.

4 VEHICLE APPLICATIONS

4.1 Vehicles must meet the specifications set out in Appendix G of this policy. Applicants are therefore strongly advised to check these requirements and if

necessary discuss any queries with a licensing officer prior to purchasing a new vehicle or making an application

4.2 The following must be provided before an application can be considered

- **Fully completed Application Form**
- **Application Fee**
- **Vehicle Registration Document (V5) issued by the DVLA** showing the applicant to be the registered keeper. If the vehicle has recently been purchased and the V5 is with DVLA, then other acceptable proof of ownership eg bill of sale, showing full buyer and seller details will be accepted, but the V5 will need to be supplied as soon as this is available.
- **Basic Disclosure & Barring Service (DBS) Check** for each person named on the application form (for Limited Companies and Partnerships a DBS Certificate is required for each partner and director). This does not apply to Persons who have provided an up to date Enhanced DBS certificate (within 3 months) or maintained an up to date online certificate accessible to F&HDC as part of a Drivers Licence application with this Authority. If an applicant already holds a current vehicle licence with this authority, then a DBS previously supplied will be acceptable provided it was dated within the last 12 months.
- **New Applicants who have lived outside the UK for a continuous period of 3 months, within the 10 years prior to the application must obtain a Certificate of Good Conduct from the relevant embassy.**
- **Insurance Certificate or cover note confirming the Vehicle is covered for “Hire and Reward”.** If a cover note is provided, licence holders will be required to produce further insurance certificates on or before the expiry of the cover note.
- **Individual Vehicle Approval (IVA) Certificate (stretch limousines only)**

4.3 A Licensing Officer will arrange to inspect the vehicle at the council offices to confirm compliance with vehicle specifications.

4.4 If a vehicle is being licensed for the first time, then following an inspection of the vehicle by a Licensing Officer a compliance slip will be issued enabling the applicant to book the vehicle for compliance testing at our nominated garage.

4.5 All vehicles, except those that are less than 1 year old and with less than 500 miles on the clock, must have a valid compliance certificate in place before a licence can be issued.

- 4.6 Following a successful application, a paper licence and vehicle plates will be issued. The vehicle must not be used for hire and reward until the plates have been affixed to the vehicle (unless a plate exemption letter has been issued.) These must be returned on request following surrender, revocation or lapse of the licence.
- 4.7 Renewal applications must be submitted 14 days prior to expiry of the licence to allow sufficient time for processing. Failure to do so may result in the existing licence expiring before a new licence is issued. The vehicle could not be used for hire or reward whilst it is unlicensed.
- 4.8 If a renewal application is made more than 1 month after expiry of the licence, the application will be treated as a new application and vehicles will be required to meet the specifications (including age requirements) for vehicles being licensed for the first time.

Transfer of a licensed vehicle to new proprietor

5.0 Where a licensed vehicle is transferred to a new proprietor, notice of transfer must be given within 14 days. It is necessary for a new licence to be obtained showing the new owner details.

5.1 The following must be submitted:

- **Fully completed Application Form**
- **Application Fee**
- **Vehicle Registration Document (V5) issued by the DVLA** showing the applicant (new proprietor) to be the registered keeper or other acceptable proof of ownership
- **Insurance Certificate or cover note confirming the Vehicle is covered for “Hire and Reward”**. If a cover note is provided, licence holders will be required to produce further insurance certificates on or before the expiry of the cover note.
- **A Basic DBS certificate for the new proprietor (where the new proprietor is a Ltd Company or partnership , a certificate is required for each partner/director**. This does not apply to individuals that hold a drivers licence with F&HDC who have a maintained a certificate through the DBS Update Service. If the new proprietor already holds a current vehicle licence with F&HDC, then DBS Certificates previously supplied, will be acceptable, provided they are dated within 12 months of the application.

Replacement Vehicle

5.2 If during the term of the licence, it is necessary to replace the vehicle e.g. insurance replacement due to accident damage, the replacement vehicle must meet the same specifications as for a new vehicle. The application process is the same as set out in 4.1- 4.6.

APPENDIX B - STANDARDS FOR INSULIN TREATED DIABETES

These arrangements mean that those with good diabetic control and who have no significant complications can be treated as "exceptional cases" and may have their application for a Driver licence considered. The criteria are :

- To have been stable on insulin for at least 1 month;
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person in the last 12 months;
- To have full awareness of the symptoms and risks of hypoglycaemia
- To provide evidence of blood glucose monitoring at least twice daily, including on days when vehicles are not driven and no more than 2 hours before the start of the first journey and every 2 hours while driving. This must be done using blood glucose meters with a memory function to enable at least 3 continuous months of readings to be available for assessment.
- Drivers may be required to provide evidence of monitoring to the licensing authority.
- To have no complication arising from diabetes or any other medical condition which would render the driver unfit to drive a licensed vehicle
- To sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to the licensing authority any significant change in condition.
- To attend an examination by a hospital consultant specialising in the treatment of diabetes and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia. This is to be provided before a licence is first granted or renewed and / every 12 months thereafter. This is at the applicant's expense.

APPENDIX C – RELEVANCE OF CONVICTIONS AND CAUTIONS

1. General

- 1.1 The purpose of this policy is to set out the Council's approach to convictions and cautions when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a driver, vehicle or operator licence.
- 1.2 The Institute of Licensing publication "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades" (2018) and DfT Statutory Standards have been taken into account in preparation of this policy and will be taken into consideration when making decisions.
- 1.3 The existence of this policy aims to promote a transparent and consistent approach that is clear to applicants and decision makers. Notwithstanding the existence of this policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons will be given for doing so
- 1.4 The leading case as to whether a person is a 'fit and proper person' is:

McCool v Rushcliffe Borough Council [1998] EWHC Admin 695

The test sets out the requirement to ensure, so far as possible, that those licensed to drive taxis or PHVs are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers.

In layman's terms the question to ask is "Would you let this person drive your daughter, son, mother etc. alone in a car?"
- 1.5 Whilst vehicle proprietors may have no direct contact with passengers, they are entrusted with ensuring suitability of vehicles and that they are driven by licensed drivers. This policy is therefore still applicable.
- 1.6 The safeguarding of the public is paramount. Decisions on the suitability of an applicant or licence holder must be made on the balance of probabilities. An applicant or licence holder should not be given the benefit of the doubt. If a Committee or Officer is 50/50 as to whether a person is "fit and proper" they should not hold a licence.
- 1.7 Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no "spent" convictions. Any and all convictions, so far as they are relevant can be taken into account in determining whether an individual is a fit and proper person to hold a Hackney Carriage or Private Hire drivers licence
- 1.8 Some individuals may hold (or apply for) a combination of driver , vehicle and / or private hire operator licences. In these circumstances, their suitability to hold each type of licence should be considered separately. For example, the refusal to licence an individual as a driver or to suspend or revoke a drivers licence does not automatically mean that they cannot be granted or continue to hold a vehicle or

private hire operator licence. In addition, only the information relevant to that licence should be considered. For example, when considering a vehicle licence, not all information on an Enhanced DBS can be considered - only information that would be available on a Basic DBS. It is that which they were required to supply as part of that licence process.

- 1.9 The onus is on the applicant or licence holder to demonstrate that they meet this requirement; not on the council to demonstrate that the applicant does not.
- 1.10 Applicants and licence holders should note that offences are not considered less serious just because they were committed when they were not driving a taxi or working in their capacity as a licensed driver or operator
- 1.11 If a new applicant has been charged with an offence, which if they were convicted of would normally lead to refusal of a licence, a decision will be deferred until proceedings have been completed or the charges withdrawn.
- 1.12 If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the council that they did not commit the offence. If they seek to do so, their representation will not be considered, as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.
- 1.13 In all but the most serious cases, the disclosure of cautions, convictions or other information will not permanently debar individuals from gaining a licence. The council will however require applicants with a criminal record to remain free of conviction for an appropriate period and show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
- 1.14 In the sections that follow, guidance is given following the disclosure of various convictions, in terms of if and when a person with such convictions may be eligible for a licence. Compliance with the guidelines does not guarantee that a licence will be granted, particularly when there are aggravating factors, such as multiple offences.
- 1.15 In making its decision the Council will consider, amongst other matters, the nature/class of any offence, how long ago it occurred and the applicants' age at that time, the apparent seriousness as gauged by the penalty imposed, and any other factors which the Council may consider to be relevant.
- 1.16 Motoring offences will generally not be considered relevant for Private Hire Operators.
- 1.17 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account.
- 1.18 As well as convictions, this policy will take into account other issues or intelligence received from other agencies which may be relevant to the "fit and proper" person test.

- 1.19 In considering whether or not a person is fit and proper the council may also consider such matters as an applicant's history as a licence holder not only with F&HDC but with other licensing authorities; their complaint and compliance history, their co-operation with and attitude towards Licensing Officer's requests, and any other reasonable matters.
- 1.20 Any existing licence holder convicted of an offence during the period of their current licence will be subject to this policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.
- 1.21 If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, the application may be referred to the Licensing Sub Committee for determination
- 1.22 A serious view will be taken where applicants or licence holders are found to have intentionally misled the council, lied or withheld information during the application process, particularly in relation to convictions and similar matters. In these circumstances, they may be referred to the licensing sub-committee for consideration as to whether they are a fit and proper person to hold a licence. Applications will normally be refused where an applicant has sought to conceal information during the application process.

2. Crimes Resulting in Death

- 2.1 Where an applicant or licence holder has been convicted of a crime resulting in death of another person or was intended to cause the death or serious injury of another person, they will not be licensed.

3. Offences involving violence

- 3.1 A licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

4. Exploitation

- 4.1 Where an applicant or licence holder has been convicted of a crime involving or related to abuse or exploitation, regardless of whether the victims were adults or children, they will not be licensed. This includes, but is not limited to, slavery, child sexual exploitation, grooming, and psychological, emotional or financial abuse.

5 Possession of a Weapon

- 5.1 Where an applicant has a conviction for possession of a weapon or any other weapon related offences, a licence will not be granted until at least 7 years have elapsed since completion of any sentence imposed.

6 Sexual or Indecency Offences

- 6.1 Drivers often carry unaccompanied passengers, children and other vulnerable persons. Operators may have contact with passengers and will decide which drivers to dispatch to bookings. For this reason, an extremely serious view is taken with regard to sexual offences. Applicants and licence holders with convictions involving or connected with illegal sexual activity or indecency will not be licensed.
- 6.2 Individuals on the sex offenders register or any “barred” list will not be licensed.

7 Dishonesty

- 7.1 Licence holders are expected to be trustworthy. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 7.2 Members of the public entrust themselves to the care of drivers for their own safety and for fair dealing. Drivers may be entrusted with delivering unaccompanied property and may also recover lost property from their vehicles. In certain situations, drivers and operators may know that a property is empty whilst occupants are on holiday following a booking to take them to the airport.
- 7.3 For this reason, a serious view is taken of any convictions relating to dishonesty. Where an applicant or licence holder has a conviction for any offence of dishonesty they will not be licensed until 7 years has elapsed since the completion of any sentence imposed.

8 Drugs

- 8.1 Where an applicant or licence holder has a conviction related to the supply of drugs or possession with intent to supply, they will not be licensed until at least 10 years has elapsed since the completion of any sentence.
- 8.2 Where an applicant has a conviction for an offence related to the possession of drugs, they will not be licensed until at least 7 years have elapsed since the completion of any sentence imposed. An applicant may be required to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

9 Discrimination

9.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years has elapsed since the completion of any sentence imposed.

10. Drunkenness (not in a motor vehicle)

10.1 An isolated conviction for drunkenness shall not prevent an applicant from gaining a licence.

10.2 A number of convictions for drunkenness could indicate a medical problem necessitating critical examination. If the applicant is found to be an alcoholic / alcohol dependent, a period of five years should elapse after treatment is complete before a further licence application is considered.

11 Drink Driving / Driving under the influence of drugs

11.1 A serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of alcohol or drugs.

11.2 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban, whichever is the later. An applicant may be required to undergo testing at their own expense to demonstrate that they are not using controlled drugs.

12. Driving whilst using a hand-held phone or other hand held device

An applicant with a conviction for using a handheld mobile telephone or a hand held device whilst driving will not be granted a licence until at least 5 years have elapsed since the completion of any sentence or driving ban, whichever is the later.

13. Other Motoring Offences

13.1 Major traffic offences involving death, driving under the influence of alcohol or drugs or whilst using a phone are dealt with in preceding sections. Other major traffic offences are those involving injury to another person or property (including vehicles), driving whilst disqualified and driving without insurance (or other insurance related offences). Applicants with convictions for major traffic offences will not be licensed until at least 7 years has elapsed since the completion of any sentence or driving ban imposed, whichever is the later.

13.2 Minor Traffic Offences are those not dealt with in the sections above. A single minor traffic offence would not normally prevent a licence being granted or lead to a licence being revoked. Subsequent convictions may indicate that a person does not take their professional responsibilities seriously and may not be a safe and suitable person to hold a licence.

13.3 Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until a period of 5 years has elapsed since the completion of any sentence imposed.

14 Hackney Carriage and Private Hire Offences

14.1 One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences relating to hackney carriage and private hire activity (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

14.2 Where an applicant has been convicted of any offence concerned with or connected to hackney carriage or private hire activity, a licence will not be granted until a period of at least 7 years has elapsed following completion of any sentence imposed.

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APPENDIX D – HACKNEY CARRIAGE BYELAWS

HACKNEY CARRIAGE BYELAWS

SHEPWAY DISTRICT COUNCIL

Made: 5 November 1992 Confirmed: 21 December 1992 Operative: 25 January 1993

BYELAWS

Made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the District Council of Shepway with respect of hackney carriages in the District of Shepway.

INTERPRETATION

1. Throughout these byelaws "the Council" means the District Council of Shepway and "the district" means the District of Shepway.

PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE CORRESPONDING WITH THE NUMBER OF ITS LICENCE, SHALL BE DISPLAYED

2. (a) The proprietor of a hackney carriage shall cause plates indicating the number of the licence granted to him in respect of the carriage to be affixed to the outside of the carriage on the offside on or adjacent to the rear bumper bar or in the place provided on the boot lid whichever is appropriate and inside the carriage in a conspicuous position such plates with the numbers painted or marked thereon shall be provided by the Council.
and
(b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

PROVISIONS REGULATING HOW HACKNEY CARRIAGES ARE TO BE FURNISHED OR PROVIDED

3. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;

- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
- (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

4. The Proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say

- (a) the taximeter shall be fitted with a key, flag or other device the operation of which will bring the machinery of the taximeter into action;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the tariff fixed by the Council in that behalf;
- (d) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
- (e) the taximeter and all the fittings thereof shall where practicable be so affixed to the carriage with seals and other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

PROVISIONS REGULATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR SEVERAL EMPLOYMENTS, AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES

5. The driver of a hackney carriage provided with a taximeter shall:

- (a) when standing of plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device and keep the machinery of the taximeter in action until the termination of the hiring;
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness - this being the time between half an hour after sunset to half an hour before sunrise, and also at any other time at the request of the hirer.

6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof or with the seals affixed thereto.

7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:

(a) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;

(b) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.

9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such a carriage at such appointed time and place.

11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly and distinctly visible.

13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:

(a) convey a reasonable quantity of luggage;

(b) afford reasonable assistance in loading and unloading;

(c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

PROVISIONS FOR FIXING THE RATES OR FARES TO BE PAID FOR HACKNEY CARRIAGES WITHIN THE DISTRICT, AND SECURING THE DUE PUBLICATION OF SUCH FARES

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate of fare prescribed by the Council the rate or fare being calculated by distance unless the hirer expressed at the commencement of the hiring his desire to engage by time. Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save

for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures;

(b) the proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

PROVISIONS SECURING THE SAFE CUSTODY AND RE-DELIVERY OF ANY PROPERTY ACCIDENTALLY LEFT IN HACKNEY CARRIAGES, AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.

17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him;

(a) report the finding and handing to him of the property to a police station as soon as possible, and in any event within 48 hours if not sooner claimed by or on behalf of its owner;

(b) if not sooner claimed by or on behalf of its owner carry it as soon as possible and in any event not later than noon on the second day on which the Council offices are open after the date on which the property is found or handed to him to the office of the Council and leave it in the custody of an employee of the Council on his giving a receipt for it;

(c) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the Police Station, whichever be the greater) but not more than five pounds.

PENALTIES

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction thereof.

REPEAL OF BYELAWS

19. The byelaws relating to hackney carriages which were made by the Council on the 30th day of April 1975 and which were confirmed by one of Her Majesty's Principal Secretaries of State on the 13th day of June 1975 are hereby repealed.

DATED this 5th day of November 1992

THE COMMON SEAL OF THE DISTRICT COUNCIL OF SHEPWAY was hereunto affixed in the presence of:-

LS

(Signed) Peter Rossiter Vice-Chairman

(Signed) P J Wignall Chief Assistant Solicitor

The foregoing Byelaw is hereby confirmed by the Secretary of State and shall come into operation on the 25th day of January 1993.

(Signed) P E Pickering

As Assistant Secretary in the Department of Transport on behalf of the Secretary of State for Transport

I RONALD JAMES THOMPSON, the Proper Officer of the District Council of Shepway ("the Authority") hereby certify pursuant to Section 238 of the Local Government Act 1972:

(a) that these byelaws were made by the Authority;

(b) that this copy is a true copy of the byelaws;

(c) that on 21 December 1992 the byelaws were confirmed by the Secretary of State for Transport; and

(d) the date fixed by the Secretary of State for the coming into operation of the byelaws was 25 January 1993.

R J Thompson (Solicitor) Chief Executive and Director of Administration

APPENDIX E - PRIVATE HIRE DRIVER CONDITIONS

1. Appearance

- 1.1 The Driver shall be clean and tidy in appearance
- 1.2 The Driver shall at all times be dressed in a manner not to cause embarrassment to members of the public
- 1.3 The driver shall comply with the Dress Code set out in **Appendix I** of this policy.

2. Badges

- 2.1 The Driver shall at all times when operating wear the badge provided by the council in such a position as to be plainly visible.
- 2.2 Drivers shall immediately report any lost, stolen or damaged badge. A fee is payable for replacement badges
- 2.3 The driver's identity badge must be produced on request by any authorised officer of the Council or any Police officer.
- 2.4 The driver shall not lend his badge or permit it to be worn by any other person.
- 2.5 All licences, badges and plates remain the property of the Council. They must be returned on request within 7 days if the licence expires and is not renewed, or where the licence is suspended or revoked.

3. Conduct

- 3.1 The Driver shall behave in a civil and orderly manner
- 3.2 The Driver shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 3.3 The Driver who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place shall unless delayed or prevented by some sufficient cause punctually attend with the vehicle at such appointed time and place.
- 3.4 The Driver of a private hire vehicle must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.
- 3.5 The Driver shall not by calling out or otherwise, importune any person to hire such a vehicle and shall not make use of the services of any other person for that purpose.
- 3.6 Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation
- 3.7 The driver shall not operate the horn as a means of signalling that the vehicle has arrived.

- 3.8 The vehicle shall be presented in a clean and tidy condition for each journey.
- 3.9 The driver shall report any accidents or incidents affecting the safety or physical appearance of the vehicle to the operator/proprietor of the vehicle immediately (or as soon as practicable) to ensure that the proprietor can fulfil their obligations to report the matter to the Authority within the required 72 hour period
- 3.10 Any animal belonging to or in the possession of the driver must not be carried in any licensed vehicle when the vehicle is plying for hire, during a hiring or prior to any booking. Any animal belonging to or in the custody of any passenger may be conveyed in a licensed vehicle at the discretion of the driver (apart from where section 5 below applies). The animal must be carried in a suitable cage, or safely restrained on a lead, whilst in the vehicle.

4. Number of Passengers

- 4.1 The Driver shall not convey in the vehicle any greater number of persons than that specified on the plate affixed to the outside of the vehicle.

5. Carriage of Guide, Hearing or Other Assistance Dogs

- 5.1 Drivers must carry passengers with a guide, hearing or other assistance dogs without additional charge.
- 5.2 When carrying such passengers, drivers have a duty to:
- Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
 - Not to make any additional charge for doing so.
- 5.3 A driver, who for medical reasons, has been granted an exemption from carrying assistance dogs under Section (4.3.13) of this policy, must display their exemption certificate in the vehicle at all times when working.
- 5.4 Drivers must notify vehicle proprietors and operators if they have an exemption certificate

6 Wheelchair Accessible Vehicles

- 6.1 All drivers of wheelchair accessible vehicles must:
- Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
 - Before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
 - Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in section 100 of the Road Vehicles (Constructions and Use) Regulations

- 6.2 Drivers of designated wheelchair accessible vehicles must not refuse to take a passenger in wheelchair unless they hold an exemption certificate on medical grounds
- 6.3 Drivers must not charge extra for carrying passengers with wheelchairs (whether or not the passenger remains in the wheelchair). Fare meters must not be kept running whilst passengers with wheelchairs are being assisted into and out of the vehicle.
- 6.4 Exemption certificates issued under 4.3.11 of this policy must be kept in the vehicle at all times when the driver is working and produced on request. Drivers must notify vehicle proprietors and operators of exemptions.

7. Luggage

- 7.1 The Driver of a vehicle so constructed as to carry luggage shall, when requested by any person hiring the vehicle:
- Convey a reasonable quantity of luggage
 - Afford reasonable assistance loading and unloading
 - Afford reasonable assistance in removing it to or from the entrance of any building, station or place at which they may take up or set down such person.

8 Property Left in Vehicles

- 8.1 The proprietor or driver of a private hire vehicle shall immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein.
- 8.2 The proprietor or driver of a private hire vehicle shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
- Report the finding or handing to him of property to a police station as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner.
 - If not sooner claimed by or on behalf of its owner, carry it as soon as possible and in any event not later than noon on the second day on which the Council Offices are open after the date on which the property is found or handed to him to the office of the council on being given a receipt for it.
 - Be entitled to receive from the person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station , whichever is the greater) but not more than five pounds.

9 Fares and Taximeters

- 9.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

- 9.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid. Each receipt should show the date of journey, driver badge number and amount paid.
- 9.3 The driver must not demand any fare in excess of that previously agreed between the hirer or operator, or if the vehicle is fitted with a taximeter, the fare shown on the face of the taximeter.
- 9.4 If the vehicle is fitted with a taximeter, the driver must:
- When standing, keep the flag or other device in such position in which no fare is recorded on the face of the taximeter.
 - Unless prior agreement has been made with the hirer to engage by time, to bring the machinery of the taximeter into action by moving, the key, flag or other device and keep the machinery in action until the termination of the hiring.
 - Cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness – this being the time between half an hour after sunset to half an hour before sunrise, and also at any other time as requested by the hirer.
 - Not tamper with or permit any person to tamper with any taximeter, its fittings or seals.
- 9.5 In the event of a journey commencing in, but ending outside the Folkestone & Hythe District there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taximeter.

10 Convictions

- 10.1 The driver must within 48 hours, notify the council in writing of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- 10.2 Drivers must supply DBS certificates and maintain an online certificate through the DBS update facility as set out in Section 2.7 of this policy.

11 Medical Examinations

- 11.1 All new applicants for a private hire drivers licence must have a medical examination to Group 2 standards as set out in this policy and produce the relevant medical certificate signed by a medical practitioner that the applicant is fit to drive a private hire vehicle.
- 11.2 Further medical examinations to group II standards will be required at the following frequency.
- Up to 45 years of age – 6 yearly
 - Between 45 and 65 years of age - 3 yearly
 - Aged 65 years and over – annually

- 11.3 The driver of a private hire vehicle must undergo a medical examination to group II standards at other times where reasonably required by the Council.
- 11.4 The driver shall disclose to the Council in writing, within five days, details of any serious illness or injury that may impair their ability to driver or affect the safety of passengers (for example, head injury, heart attack, stroke, broken limbs, diabetes)

12. Miscellaneous

- 12.1 The driver must notify the Authority, within 14 days of starting or terminating employment, as to the name and address of the operator and/or proprietor concerned, and the date when the employment either started or ended.
- 12.2 A copy of the private hire driver's licence must be presented to the proprietor/operator at the beginning of an employment.
- 12.3 The driver shall notify the Council in writing of any change of address within 14 days.
- 12.4 The driver must produce his DVLA driving licence to the Council within seven days of a written request for production being made.
- 12.5 The private hire driver's licence must be made available for inspection, upon request, by any authorised officer of the Council or any police officer.
- 12.6 Where a customer has, during the course of a hiring, cause to make a complaint, the driver must give enough information to enable him to identify the driver (badge number), vehicle details including the plate and/or registration number in the event that it is their wish to report the matter to the Council
- 12.7 The Driver must ensure that information for customers concerning how to make a complaint to the Council is clearly displayed within the vehicle.

APPENDIX F - PRIVATE HIRE OPERATOR CONDITIONS

1. Standards of Service

- 1.1 The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose, shall in particular:
 - 1.1.1 Ensure that when a private hire vehicle has been hired that the driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause
 - 1.1.2 Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
 - 1.1.3 Ensure that any waiting area has adequate seating facilities
 - 1.1.4 The proprietor of a Private Hire Business shall not cause any advertisement in respect of his business or the vehicles used for that purpose to include the word "Taxi" or "Cab" whether in the singular or plural , or any word of similar meaning or appearance to either of those words , whether alone or as part of another word.

2. Bookings and Booking/ Dispatch Staff.

- 2.1 Pursuant to s56 Local Government (Miscellaneous Provisions) Act 1976, The operator shall keep a record in a suitable book, folder or electronic log of , particulars for every booking of a private hire vehicle invited or accepted by him, whether direct from the hirer or by undertaking bookings at the request of another operator.
- 2.2 Records must be made prior to the commencement of the journey and as a minimum, must include:
 - The time and the date of the booking
 - The name and contact details of the hirer
 - The time, date and place of pick up
 - The destination
 - The Name and licence number of the Driver
 - The vehicle registration number or plate number of the vehicle
 - Name of any individual that responded to the request
 - Name of the individual that dispatched the vehicle
 - The fare (if this was agreed at the time of booking.)
- 2.3 The operator shall keep the above records for a period of not less than 12 months following the date of entry

- 2.4 The operator shall have sight of a Basic DBS check for all individuals that take bookings and / or dispatch vehicles. For new staff, this check should be done before they take bookings or dispatch vehicles. Where an individual leaves the employment of an operator but returns at a later date, a new DBS must be requested and checked.
- 2.5 The operator shall put in place a documented policy concerning its approach to employment of staff with convictions. Such a policy shall ensure that staff to do not present a risk to the public.
- 2.6 Operators must ensure that any operator to whom they sub contract bookings, has equivalent arrangements in place for checking DBS of individuals taking bookings or dispatching vehicles and employment of staff with convictions
- 2.7 The operator shall maintain a register of all individuals who take bookings and/or dispatch vehicles. This must include:
- Name and address
 - Start / end date of employment.
 - Date DBS Certificate checked and by who.
- 2.8 The above records for individuals must be retained for 12 months from the date that the individual left employment of the operator.
- 2.9 Records shall be produced on request by a licensing officer or police officer.
- 2.10 The Operator shall produce his licence on request to any licensing officer or police officer.
- 2.11 Operators must not dispatch Public Carrying Vehicle (PCV) drivers or Public Service Vehicles (PCV) without the informed consent of the person making the booking. The Operator must inform the Person making the booking that PCV drivers are subject to a different licensing system to Taxi / Private Hire Vehicle Drivers, and this does not include an Enhanced DBS Check.

3. Drivers and Vehicles

- 3.1 Operators must ensure that only drivers with a valid private hire or dual licence and vehicles with a valid private hire vehicle licence are utilised. Both Licences must be issued by Folkestone and Hythe District Council.
- 3.2 The operator shall keep a copy of licences issued by the Authority, for private hire vehicles it operates.
- 3.3 The operator shall keep a copy of licences issued by the Authority, for drivers it operates.
- 3.4 The operator shall keep records of the following:-
- Driver call signs;

- Date of when a new driver begins service; and
- Date when a driver ceases service;

3.5 These records must be made available to a licensing officer or police officer on request.

4 Convictions / DBS checks

4.1.1 The operator shall within 48 hours notify the council in writing, of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence imposed on him, (or if the operator is a company or partnership, on any of the directors or partners).

4.1.2 Operators must provide a Basic DBS Certificate to the licensing team every 12 months. This will not apply to individuals who hold a current drivers licence with F&HDC and have maintained an online certificate through the DBS update service. Should an individual cease to be a licensed driver, a Basic DBS must be provided immediately.

5 Complaints

5.1.1 The Operator shall maintain a record of complaints concerning the condition / cleanliness of a vehicle or any complaint concerning a driver. These records shall be maintained for 6 months and be available to a licensing officer on request. Operators shall immediately upon receipt notify the council in writing of any complaints leading to the suspension or termination of a contract with a driver.

5.1.2 Operators with premises accessed by the public shall display information about how they can contact the Council to make a complaint about a vehicle, driver or operator.

6 Change of Address / Directors

6.1 The operator shall notify the council in writing of any change of his address including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence, within seven days of such change taking place.

6.2 Where the operator is a Limited Company or Partnership, it must immediately notify the council where the partner or directors change.

APPENDIX G

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE SPECIFICATIONS AND CONDITIONS

1. Vehicle Age

1.1 The age of the vehicle is from the date of first registration with the DVLA.

1.2 The maximum age criteria for licensing of vehicles is summarised in the table below.

Type of Vehicle	Maximum Age at time of first licensing	Maximum Age at Renewal
Metropolitan Carriage Office Specification	6 Years	12
Wheelchair Accessible Vehicle	6 Years	12
Stretch Limousines	6 years	12 years
Other vehicles	4 years	7 years

1.3 Licensing of a vehicle meeting the maximum age criteria is still subject to it having a valid compliance certificate and being in good condition in all other respects as set out in this policy.

1.4 Vehicles in exceptional condition may be considered for licensing for a further two years beyond maximum age subject to compliance with all other conditions of this policy. They would be subject to an inspection at the end of the first additional year.

1.5 A vehicle in exceptional condition is defined as follows:

- It is in excellent mechanical condition and in all respects safe and roadworthy with no signs of corrosion to the mechanical parts, chassis, underside or bodywork.
- Full service history is provided showing that the vehicle has been correctly and regularly serviced by a reputable garage in accordance with the manufacturer's service specifications.
- The exterior of the vehicle to be in near perfect condition with no dents, damage or signs of corrosion.
- The paintwork to be in excellent condition and free from scratches and marks.
- The interior of the vehicle to be in near perfect condition. The upholstery, linings, seats and floor to be perfectly clean with no holes, tears or signs of wearing.
- The boot or luggage compartment to be in good condition, clean and undamaged

The decision of the Licensing Manager shall be binding in relation to this condition.

- 1.6 A vehicle licence shall be taken as being a renewal , if there was in force a current licence previously issued by Folkestone & Hythe District Council, immediately prior to being relicensed.
- 1.7 If a vehicle is being repaired and work will not be completed prior to expiry of a licence, but relicensing is sought then a renewal application with fee must be submitted prior to expiry of the licence

2. General Specifications

- 2.1 The vehicle must be an M1 category vehicle (i.e. designed to carry up to 8 passengers) and certified as meeting EC Whole Type Approval Standards.
- 2.2 Motorbikes, three wheel motor vehicles and unpowered vehicles will not be licensed.
- 2.3 Vehicles must not have been previously written off, except for Category N (formerly Category D)
- 2.4 Vehicles must provide at least two doors for the use of persons conveyed in such a vehicle and a separate means of ingress and egress for the driver
- 2.5 The vehicle must be of sufficient size to comfortably accommodate the number of passengers it will be licensed to carry. The minimum number of passengers to be carried is four. Vehicles with seating capacity for more than eight passengers will not be licensed
- 2.6 The number of passengers for which a vehicle is licensed will be determined by the licensing authority and displayed on the licence plate.
- 2.7 Each seat shall not be less than 406mm in width. Where bench seats are provided, then the seat shall provide a minimum of 406mm seating space for each passenger i.e. a rear bench seat shall not be less than 1218 mm (clear of any obstructions such as handles and armrests) in order to accommodate 3 passengers.
- 2.8 There must be a minimum of 178mm of leg room for rear passengers with the front seat fully back and upright.
- 2.9 The vehicle must be Right Hand Drive
- 2.10 There must be side access and egress to all seats without the need to climb over seats and /or luggage.

- 2.11 Windows and a means of opening and closing not less than one window on each side shall be provided.

3 Tyres

- 3.1 All wheels should be free of material damage, matching in size and style and be within the manufacturer guidelines for the vehicle.
- 3.2 Re-moulded or re-cut tyres must not be fitted to the vehicle and all tyres must be kept at the correct pressure.
- 3.3 “Space Saver” tyres are acceptable on vehicles, if they conform to the Original Manufacturer’s Specifications.
- 3.4 If a Space Saver tyre kit or repair kit is used, then it must only be used for the duration of the current fare and for returning the vehicle to a garage for repair. No further fares may be taken whilst the repair kit / space saver tyre is in use on the vehicle.

4 Tinted Windows

- 4.1 All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations. (75% light transmission windscreen, 70 % light transmission front passenger windows). However, in the interest of passenger safety, no windows shall be fitted with mirror / tint such that it restricts all view into the passenger compartment. Vehicles already licensed at the date when this policy came into effect will continue to be licensed until they are replaced. Replacement vehicles (permanent or temporary) must comply with this condition.
- 4.2 No vehicle shall be fitted with films to darken or tint the windows
- 4.3 Vehicles which are licensed at the time of this policy coming into effect, which due to design do not meet requirements of 3.1 will continue to be licensed. Replacement vehicles must comply with the policy.

3 Fire Extinguisher

- 5.1 All vehicles must carry a suitable dry powder fire extinguisher, in serviceable condition, and stored in a readily accessible position.

6 LPG Conversions

- 6.1 An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certificate is required to ensure that the vehicle is considered safe by an approved inspector

6.2 If the vehicle is powered by Liquid Petroleum Gas and the LPG fuel tank has been installed in the boot space there shall remain free an amount of space for the storage of a reasonable amount of luggage. Any spare wheel displaced as a result of the tank installation must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company may be permitted.

7. Modifications

7.1 No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:

- compliance with road traffic legislation;
- compliance with insurance requirements; and
- obtaining approval for the changes(s) from the Council.

8. General Condition of Vehicle

8.1 The vehicle and its fittings must at all times when it is available for hire or being used as a licensed vehicle:

- be safe
- be tidy
- be clean
- comply with all relevant statutory requirements applicable to the class of vehicle to which the vehicle belongs including , but without prejudice to the generality of the foregoing the Motor Vehicles (Construction and Use) Regulations which currently apply

8.2 The body shell including doors, panels, wings, bumpers, mirrors, front and rear lights and indicators, and interior floor covering to be in good condition, free from rust , holes, broken metal or any other visible damage.

8.3 All fittings and handles must be operational.

8.4 Windscreens and windows to be in good, clean condition and at all times meet the requirements of the MOT test standards.

8.5 Seats, upholstery, panelling, floor covering and roof lining must be in good condition, clean and free from any tears, damage, grease or any other contamination.

8.6 The boot must be carpeted or fitted with the manufacturer's boot covering and clean.

- 8.7 There shall be provided sufficient means by which any person in the vehicle may communicate with the driver
- 8.8 The roof or covering to be kept watertight
- 8.9 The seats shall be properly cushioned or covered
- 8.10 The floor to be provided with a proper carpet, mat or other suitable covering
- 8.11 The fittings and furniture generally to be kept in clean condition, well maintained and in every way fit for public service
- 8.12 The proprietor shall provide means for securing luggage if the carriage is so constructed as to carry luggage.

Smoking in Vehicles

- 9.1 Under the Health Act 2006 and associated Regulations, Smoking inside licensed vehicles is strictly prohibited at **all** times, whether they are being used for hire or private use.
- 9.2 No smoking signs must be displayed in the vehicle as required by the Smoke Free (Signs) Regulations 2007.
- 9.3 The Smoke Free (Vehicle Operator and Penalty Notices) Regulations 2007 set out the persons who will have legal duties to cause any person who is smoking in a smoke free vehicle to stop smoking, namely:
 - The Driver
 - Any person with management responsibilities for the vehicle; and
 - Any person in a vehicle who is responsible for order or safety in it.
- 9.4 Any licence holder committing an offence under the regulations may be subject to enforcement action as set out in this policy. (In addition to action taken under Health Act 2006 and associated Regulations)

10. Wheelchair Accessible Vehicles

- 10.1 Where a vehicle is utilised for the carriage of a passenger in a wheelchair, the following conditions shall apply:
 - Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;
 - Ramps and other loading apparatus must be maintained in good working order and be available for use at all times.
 - Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as to not obstruct any emergency exit;
 - A suitable restraint must be available for the occupant of a wheelchair;

- Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper; and
- Ramps and lifts must be securely stored in the vehicle before it may move off.
- Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been examined in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). A valid certificate of examination confirming the equipment is in safe working condition must be obtained and be provided for inspection by the licensing authority on request.

11 Insurance, MOT and Vehicle Excise (Road Tax)

- 11.1 A licensed vehicle must not be used as a hackney carriage or private hire vehicle unless there is a current compliance certificate, valid insurance and current vehicle excise licence (road tax) in place.

12 Licence Plates

- 12.1 The proprietor must ensure that the licence plate provided and allocated to him for the vehicle is affixed to the outside of the vehicle, on or adjacent to the rear bumper or in such other position as may be approved by the Council.
- 12.2 Para 10.1 above does not apply to Vehicles granted plate exemption in accordance with Section 4.10 of this policy. The exemption letter must be kept with the vehicle and be made immediately available on request. If the Exemption Letter is not with the vehicle, plates must be displayed.
- 12.3 The Council must be informed immediately should the licence plate be lost, broken or defaced. Proprietors will be liable for fees for replacement plates.
- 12.4 The licence plate must at all times be kept in a clean and legible condition
- 12.5 The Proprietor shall not cause or permit the vehicle to be used or operated with the said plate so defaced that any figure or material particular is illegible.
- 12.6 The licence plate remains the property of the Council and must be returned within seven days when:
- the vehicle ceases to be licensed as a hackney carriage or private hire vehicle; or
 - requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, or revoked
 - The plate has expired.

13. Signage

Hackney Carriage Vehicle Markings

13.1 Hackney Carriage Vehicles must be fitted with an illuminated roof sign bearing the words "Taxi". Vehicles built to Metropolitan Carriage Office Specification must display an illuminated sign bearing the word "Taxi" on the front face.

13.2 The signs must be plainly and distinctly visible.

Private Hire Vehicle Markings

13.3 A private hire vehicle must not carry any roof sign or any markings that may give the impression that it is a hackney carriage.

13.4 Private Hire Vehicles must display on both offside and nearside rear passenger doors the Folkestone & Hythe District Council Identification Panel bearing the Private Hire Vehicle Licence Number

13.5 Private Hire Vehicles granted a plate exemption are also exempt from displaying the Identification panels, subject to carrying the exemption letter as set out in 10.2 above.

13.6 Any advertising or signage on the vehicle must not include the words 'Taxi' 'cab', or any word of a similar meaning or appearance to either of those words, whether alone or as part of another word.

14 ADVERTISING & SIGNS

14.1 External advertisements must be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle. No other advertisement is permitted on the outside of the vehicle.

14.2 No advertisement shall obliterate, obscure or be confused with the vehicle's licence plate or side panels

14.3 Internal first or third party advertisements may be displayed but must:

- Not be affixed to glass or windows
- no larger than A4 size;
- positioned so that they do not obstruct the driver's view in any way

14.4 No advertisement shall contain anything of a religious or political nature or contain any matter likely to cause offence.

14.5 The following signage is not considered advertising and is permitted:

- Any signs required by legislation or this policy.
- Signs indicating membership of a national motoring / breakdown organisation.
- Parking / taxi rank permits
- Signs on taximeters indicating the vehicle is for hire
- Signs indicating the vehicle is wheelchair accessible

- A sign provided by Kent County Council for Schools Contracts. These may be displayed in the windscreen in such a position so as not to obstruct the driver's vision. The sign to be displayed only during the contract when pupils are on board.
 - Signs indicating that CCTV Is fitted in the vehicle
 - Signs on the windscreen or inside the vehicle indicating that payments may be made by credit / debit card.
- 14.6 Any sign and advertising permitted must be positioned so as not to impede visibility and in any event no sign shall be placed on the rear window of the vehicle.
- 14.7 Prior approval for other signs, or posters e.g. relating to public safety campaigns may be considered on a case by case basis by the licensing team leader.
- 14.8 Signs or advertisements must be removed from vehicles on request by a licensing officer, where they consider it contravenes this policy. Vehicles may be suspended until they have been removed.
- 14.9 Information on how to report a concern or make a complaint to the Council about a driver, vehicle or operator must be clearly displayed within the vehicle. Information will be prescribed by the Council.

15 TAXIMETERS

15.1 Hackney Carriages

- 15.1.1 An EU approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.
- 15.1.2 The taximeter shall be positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
- 15.1.3 When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.
- 15.1.4 An official copy of the Council's fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.
- 15.1.5 The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the drivers shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.
- 15.1.6 In the event of such a journey commencing in but ending outside the Folkestone & Hythe District, the driver may charge for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

15.2 Taximeters – Private Hire Vehicles

- 15.2.1 Private hire vehicles are not required to be fitted with a taximeter.

- 15.2.2 If a taximeter is fitted to a private hire vehicle it must be EU Approved, correctly calibrated and sealed and charge no more than the proprietor's displayed maximum fare tariff
- 15.2.3 The taximeter shall be positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
- 15.2.4 If a taximeter is fitted within a private hire vehicle, details of the tariff of fares to which it is calibrated shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.

16 Vehicle Inspection and Compliance Testing

- 16.1 All vehicles must have a valid certificate of compliance issued following testing by the council's nominated garage. (Unless 14.4 applies)
- 16.2 A certificate of compliance is valid for 6 months. It is the responsibility of the proprietor to ensure that a new test is undertaken by the due date
- 16.3 A vehicle must not be used for hire and reward without a valid compliance certificate.
- 16.4 Vehicles which are less than 12 months old from the date of first registration and have less than 500 miles on the milometer are exempt from a compliance test for the first 12 months when licensed.
- 16.5 All hackney carriage and private hire vehicles must be available for inspection or testing at any reasonable time when requested by an Authorised Officer of the Council or a Police Officer.

17. Mobile Telephones / Devices

- 17.1 Mobile telephones and similar devices may only be used with a hands free kit.

18. Production of documents, certificates etc

- 18.1 A proprietor must produce any document within seven days if requested to do so by any officer of the council. Failure to adhere to the request may result in suspension of the driver or vehicle licence until the requested document has been produced

19 Convictions / DBS checks

- 19.1 Vehicle Proprietors shall within 48 hours, notify the council in writing of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence imposed on him (or if the proprietor is a limited company or partnership, on any of the directors or partners) .
- 19.2 Fixed penalty traffic offences are not considered convictions and need not be reported unless resulting in loss of the DVLA licence.

- 19.3 Vehicle proprietors must provide a Basic DBS check to the Licensing Authority every 12 months. This condition does not apply to individuals who hold a current drivers licence with F&HDC and have maintained an online Certificate through the Update service. Proprietors will be required to provide a Basic DBS if they cease to be a licensed driver.

20 Change of Address / Directors

- 20.1 A proprietor must inform the council within 7 days of any change of address during the period of the licence.
- 20.2 Where the proprietor is a Limited Company or Partnership, the Council must be notified within 7 days of any change to Directors or partners.

21 Unauthorised use

- 21.1 The proprietor of a hackney carriage or private hire vehicle shall not allow the vehicle to be driven by any person who does not hold an appropriate hackney carriage/private hire driver's licence issued by Folkestone & Hythe District Council

22 Dual Plating

- 22.1 No vehicle will be granted a licence by Folkestone & Hythe District Council if it is licensed by another authority. This is due to the fact that a vehicle may be subject to different requirements of two separate licensing authorities which may prevent effective enforcement. It will also cause confusion to members of the public

23 Damage Reporting

- 23.1 The proprietor of a hackney carriage or private hire vehicle must report to the licensing authority as soon as reasonably practicable and in any case within 72 hours of the occurrence, any damage to such vehicle materially affecting the safety, performance or appearance of the vehicle or the comfort and convenience of passengers

24 Temporary Replacement Vehicle

- 24.1 Any licensed vehicle suffering (major) accident damage or requiring mechanical repair may be replaced by a temporary vehicle provided:
- The accident damage has been reported by the licence holder in accordance with the requirements of these conditions, or the defect to the licensed vehicle has been similarly reported.
 - An application is made by the licence holder for a temporary plate/transfer and the appropriate fee paid.
 - The replacement vehicle is properly taxed, insured and tested to the requirements of the normal licence vehicle.
 - the replacement vehicle is of suitable size (like for like)

- the replacement vehicle meets specifications and conditions for new licensed vehicles set out within this policy

25 The proprietor shall not knowingly cause or permit the vehicle to be used for any illegal purpose

APPENDIX H - Additional conditions applying to stretch limousines

- 1 Unless specifically stated otherwise below, conditions applying to Private Hire vehicles also apply to Limousines. The conditions below are additional conditions specifically applying to stretch limousines licensed as private hire vehicles.
- 2 The vehicle may be left or right hand drive. Operators of all stretched limousines making applications for vehicle licences will be required to produce a valid Individual Vehicle Certificate (IVA) issued by the Vehicle and Operator Services Agency (VOSA).
- 3 Tyres must be fitted which are appropriate for the size and weight of the vehicle.
- 4 Vehicles with sideways facing seating may be considered for licensing.
- 5 The council shall approve the seating arrangement, within the vehicle, which may vary in accordance with the design of the vehicle.
- 6 All limousines shall have sufficient seat belts for the maximum licensed number of persons carried and comply with the current legislation in relation to seat belts.
- 7 The number of passengers any stretch limousine is licensed to carry will be a maximum of eight. All limousines licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.
- 8 Proprietors must not permit the number of passengers carried in the vehicle to exceed the number for which it is licensed. A child of any age will be counted as a passenger.
- 9 No passengers to be in the driver's compartment.
- 10 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers
- 11 Vehicles licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.
- 12 Any sales of alcohol must be in accordance with Licensing Act 2003.

- 13 Any glassware used in the vehicles shall be made either of shatterproof glass or polycarbonate.
- 14 The vehicle will not be hired to persons under the age of 18 years unless an adult (other than the driver of the vehicle) supervises them.
- 15 The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle
- 16 Luggage shall not be carried in the passenger compartment of the vehicle.
- 17 Limousines must have a valid compliance certificate in place. If due to the size or nature of the vehicle, then the licensing authority may, on request, give written approval for an MOT to be carried out (at the same 6 monthly intervals) at a VOSA testing station. Following that test the vehicle will also be required to be presented for a further visual check by an authorised licensing officer.

Appendix I - DRIVERS DRESS CODE

1. The Council considers that drivers should conform to a minimum standard of dress, as set out below in order to :

- Promote and maintain the professional image of the trade
- Promote public confidence and ensure passengers feel comfortable when travelling in licensed vehicles.
- Ensure safe operation of vehicles

2. **Acceptable standards of dress:**

- Shirts, blouses, T-shirts or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- Trousers, smart jeans or tailored shorts which reach the knee when standing upright.
- Skirts / dresses at least knee length
- Footwear for all drivers that fits around the heel of the foot.

3. **Unacceptable standard of dress**

- Unclean or damaged clothing
- Words, logos or graphics on any clothing that is of a suggestive nature or which might offend.
- Sportswear (e.g. football kits, tracksuits or beach wear/ swim wear etc.)
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel or any other footwear that prevents safe operation of the vehicle.
- Drivers not having either the top or bottom half of their bodies suitably clothed

APPENDIX J - HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING ENFORCEMENT POLICY

1. Purpose Of This Policy

- 1.1 Well directed enforcement activity benefits not only the public but responsible members of the Hackney Carriage and Private Hire Trade
- 1.2 The Council has a responsibility to ensure that all licensed drivers, owners and operators of vehicles adhere to basic minimum standards. These standards are set out in legislation, byelaws and the Council's Hackney Carriage and Private Hire licensing Policy
- 1.3 The purpose of this policy is to help ensure that enforcement action is fair, proportionate, consistent, and in accordance with the principles of the Regulator's Code.
- 1.4 Authorised officers will follow this policy when making enforcement decisions. Departures from this policy will be exceptions and must be justified.

2 General Approach to Enforcement

- 2.1 Enforcement decisions will primarily be based on the seriousness of the breach and the possible consequences arising from that breach. Enforcement therefore will not constitute a punitive response to a minor technical contraventions of legislation.
- 2.2 When taking enforcement decisions, the following factors will be considered
 - The seriousness of the breach
 - Driver or operator's past history
 - The effectiveness of the enforcement action
 - Danger to the public

3 Enforcement Options

- 3.1 Having considered all relevant information and evidence, the choices for action available to a licensing authority are:-
 - take no action;
 - take informal action;
 - issue penalty points (see **Appendix K**)
 - use statutory notices;
 - suspend a licence;
 - revoke a licence;

- use simple cautions;
- prosecute
- other action as deemed necessary, e.g. completion of a driving assessment.
- a combination of any of the above

4 Appearance before a Planning and Licensing Subcommittee

- 4.1 Authorised Officers have delegation to make decisions concerning grant and renewal of licences and enforcement decisions concerning convictions, allegations or breaches of relevant legislation and policy concerning existing licence holders,
- 4.2 A Licence Holder may be asked to appear before a Planning and Licensing Subcommittee following report of a conviction, breaches of relevant legislation or conditions attached to licences or a contravention of this policy or accumulation of penalty points.
- 4.3 The Panel may decide to take one or more of the following actions:-
- no action;
 - a written warning;
 - require the production of driving licences or other specified documentation at the Council's Office;
 - suspend a licence (with immediate effect or after 21 days notice);
 - revoke a licence (with immediate effect of after 21 days notice);
 - Refuse to renew a licence
 - recommend prosecution action
 - other appropriate action as deemed necessary
 - a combination of the above

5 Take No Action

- 5.1 No action would be taken if there is no evidence of breach of policy or legislation.

6. Informal Action

- 6.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.
- 6.2 Such informal enforcement action may be appropriate in any of the following circumstances:
- The nature of the breach is not serious enough to warrant more formal action
 - From the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance

- Confidence in the operator's management is high
- The consequences of non-compliance will not pose a significant risk to the safety of the public

7. Penalty Points

- 7.1 This Authority has a penalty point scheme which is set out in **Appendix K**
- 7.2 Licence Holders found to be in breach of licence conditions, this policy or legislation are likely to be issued with penalty points for the transgression. Licence Holders accumulating 12 points during a rolling 24 month period can expect to have their licence reviewed by a licensing sub-committee (without prejudice to other enforcement options)

8. Statutory Notices (S68 Local Government Miscellaneous Provisions Act 1974)

- 8.1 An authorised officer may serve written notice for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be presented for inspection and/or testing at the Council's appointed garage or by an authorised officer at a time specified in the notice. This notice may be used where there are concerns regarding the fitness of the vehicle or reasonable grounds to suspect the accuracy of the taximeter. Case Law confirms that fitness of the vehicle may include non-compliance with policy requirements, not just mechanical condition/ roadworthiness. This may include for example, where evidence has not been provided that the vehicle has suitable insurance cover.
- 8.2 Under this section, an authorised officer may, in addition to requiring the vehicle to be tested, immediately suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.
- 8.3 If the Authorised Officer who issued notice is not satisfied that the appropriate action has been taken to withdraw the notice within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

9 Suspension / revocation of Licences

- 9.1 Where a licence is suspended or revoked. The licence holder will be notified in writing, with the reasons for doing so, within 14 days of the decision to suspend/revoke being made.
- 9.2 Vehicle Licences
- 9.2.1 In addition to section above, S60 of the Local Government (Miscellaneous Provisions) Act 1976 enables the council to suspend or revoke a vehicle licence on the following grounds:

- the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part II of the Act by the operator or driver
- any other reasonable cause.

9.2.2 Suspensions and revocations under this section come into effect 21 days from the date of the notice or until any appeal has been determined.

9.3 Operator Licences

9.3.1 S62 of the Local Government (Miscellaneous Provisions) Act 1976 enables the council to suspend or revoke an operator's licence on the following grounds

- any offence under, or non-compliance with, the provisions of this Part of this Act;
- any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty
- any other reasonable cause.

9.4 Drivers' licences.

9.4.1 S61 of the Local Government (Miscellaneous Provisions) Act 1976 enables the council to suspend or revoke a driver's licence if:

he has since the grant of the licence—

- been convicted of an offence involving dishonesty, indecency or violence
- been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- been convicted of an immigration offence or required to pay an immigration penalty

or any other reasonable cause.

9.4.3 Suspensions and revocations under this section will normally take effect after 21 days from the date of the notice or after any appeal has been determined.

9.5 Immediate Suspension/ revocation of Driver Licenses

9.5.2 A council may suspend or revoke a driver's licence with immediate effect, where this is in the interest of public safety. Immediate suspensions continue to remain in force whilst any appeal against the suspension is heard.

9.5.3 Immediate suspensions therefore give additional protection to the public but may have an impact on the livelihood of the licence holder. Decisions to impose immediate suspensions or revocations must therefore not be taken lightly. However, a licence should be immediately suspended or revoked where this is appropriate. There should be a connection between the incident and the safety of the travelling public.

9.5.4 **Immediate** suspension / revocation of a driver may be considered where they

- have committed a serious offence
- are alleged to have committed a serious offence
- are in breach of the requirements placed upon that type of licence within primary legislation
- are in conflict with a significant part of the council's policy or
- where there is reliable intelligence provided which raises a significant concern and it is necessary to immediately remove that potential risk
- there is concern about a driver's medical fitness

9.5.5 The council has a policy on its approach to convictions and cautions when assessing applications for drivers licences (**Appendix C**). Regard should be had to this policy when assessing whether an allegation, offence or complaint warrants immediate suspension /revocation.

9.5.6 Each case will be judged on its merits taking into account the circumstances and facts of the case, any admissions or denials made and any other relevant information.

10. Refusal to Renew a Licence

10.1 As an alternative to revocation/Suspension, a decision may be taken not to renew a licence, particularly where the licence is due to expire shortly.

11. Prosecution

11.1 The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Authority are not followed and/or the public is put at serious risk.

11.2 The following Factors taken into account when deciding whether to prosecute:

- Whether there is sufficient evidence such that there is a realistic prospect of conviction
- The seriousness of the alleged offence;
- The risk to the public
- Whether there were victims and the effect on them
- Failure to respond to previous warnings.
- The previous record of the licence holder / party concerned
- Disregard of safety or the licensing regime for financial benefit
- Whether there was failure to comply with a statutory notice
- The ability of any important witness and their willingness to co-operate;
- The probable public benefit of a prosecution and the importance of the case in establishing a precedent;
- Whether other action, such as issuing a simple caution or notice would be more appropriate or effective.

12 Simple Cautions

12.1 There may be circumstances where evidence exists for a successful prosecution, but where mitigating circumstances are such that nothing is likely to be gained from such action. In such circumstances we will consider the offer of a simple caution as an alternative to prosecution. Circumstances where a caution may be considered are:

- the contravention is low level or a first offence;
- the contravention, although serious, has been speedily dealt with and steps taken to prevent a recurrence;
- The offender has not been cautioned or convicted for a similar offence within the last 2 years.

12.2 The following criteria must be met:

- There is sufficient evidence of the offence such that there is realistic prospect of conviction if the case went to court;
- The offender admits the offence;
- The offender agrees to accept a caution; and
- the offender is able to give informed consent to the caution and understands its significance.

12.3 The decision to offer a caution will be taken by the Licensing Team Manager or their Manager in conjunction with Legal Services Team after consideration of a report from the investigating officer.

12.4 If the offer of a formal caution is declined, further enforcement action will be considered. This will usually be prosecution

13. Appeals

13.1 Where the licensing authority decide to refuse to grant or renew a licence, suspend or revoke a licence or add conditions to a licence, there is a right of appeal to Magistrates Court

13.2 Where applicable, any notification of enforcement action will include written information on how to lodge an appeal, including relevant time limits.

13.3 It will also explain whether the suspension / revocation will remain in effect pending the outcome of an appeal.

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APPENDIX K– Penalty Points Scheme

- 1 Points will be issued by authorised officers of the Authority to licence holders who are found to be in breach of legislation, byelaws or licence conditions.
- 2 The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 3 The number of penalty points issued will be in accordance with the tables below.
- 4 It is possible that an incident gives rise to more than one breach and therefore result in more than one set of points being issued. However A maximum of 12 penalty points will be issued on any one occasion.
- 5 The issue of penalty points will be confirmed in writing to the licence holder.
- 6 If a licence holder disagrees with a decision to issue penalty points , then they make appeal to the Licensing Team Leader within 21 days of the date of the notice that points have been issued. The appeal must, state the reasons why the points should not be awarded. If the matter is not resolved, it will be brought to a hearing by a Planning and licensing sub-committee who will consider whether the points should be imposed. Where the subcommittee agree that points should be issued, they have discretion to increase the number of points imposed where they consider appropriate.
- 7 When issued, the penalty points will remain “live” for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four months period will be taken into account.
- 8 If a licence holder accumulates 12 penalty points in any 24 month period, then they may be asked to attend a hearing of the Planning and Licensing Sub-Committee to consider appropriate action in respect of their licence. Such action could include suspension or revocation of a licence or a written warning as regards future conduct.
- 9 When considering appropriate action the Sub Committee may take into account whether the licence holder has previously been brought to committee for exceeding the 12 point limit in the last 3 years.
- 9 If an accumulation of points result in suspension or revocation of a licence, then the points will be removed. If a written warning is given, the points remain live.
- 10 The penalty points system will operate without prejudice to the Council’s ability to take other action under appropriate legislation or as provided for by this Policy

11. Penalty Points Tables

Town Police Clauses Act 1847		
Section	Offence	Points
40	Giving false information on a hackney carriage licence application	12
44	Failure to notify change of address of a hackney carriage licence holder	2
45	Plying for hire without a hackney carriage licence	12
47	Driving a hackney carriage without a hackney carriage driver's licence	12
47	Lending or parting with a hackney carriage driver's licence	12
47	Proprietor employing an unlicensed hackney carriage driver	12
48	Failure of a vehicle proprietor to keep licence of hackney carriage driver permitted or employed to use vehicle	6
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	8
54	Charging more than the agreed fare	12
55	Obtaining more than the legal fare (including failure to refund)	12
56	Travelling less than the lawful distance for an agreed fare	12
57	Failure to wait after a deposit to wait has been paid	12
58	Charging more than the legal fare	12
59	Carrying persons other than the hirer without the hirer's consent	8
60	Driving a hackney carriage without the proprietor's consent	6
60	Allowing a person to drive a hackney carriage without the proprietor's consent	4
62	Driver leaving a hackney carriage unattended	2
64	Hackney carriage driver obstructing other hackney carriages	3

Local government (Miscellaneous Provisions) Act 1976		
Section	Offence	Points
46(1)a	Using an unlicensed private hire vehicle	12
46(1)b	Driving a private hire vehicle without a private hire drivers' licence	12
46(1)c	Proprietor of a private hire vehicle using an unlicensed driver	12
46(1)d	Operating a private hire vehicle without a private hire operator's licence	12
46(1) e	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	12
46(1)e	Operating a private hire vehicle when the driver is not licensed as a private hire driver	12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle within 14 days	3

50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	8
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report to the council within seventy two (72) hours an accident causing damage.	6
50(4)	Failure to produce the vehicle licence and/or insurance on request	4
53(3)	Failure to produce a driver's licence upon request	4
54(2)	Failure to wear a private hire driver's badge	4
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer (also breach of conditions attached to licence – see below)	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer (also breach of conditions attached to licence – see below)	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	12
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	12
67	Charging more than the meter fare when hackney carriage is used as a private hire vehicle	12
69	Unnecessarily prolonging a journey	12
71	Interfering with a taximeter with intent to mislead	12
73(1)a	Obstruction of an Authorised Officer of the Council or a Police Officer	12
73(1)b	Failure to comply with a requirement of an Authorised Officer or Police Officer	12
73(1)c	Failure to give information or assistance to an Authorised Officer or Police Officer	12

Section	Equality Act 2010	Points
165	Driver of a Designated Wheelchair Accessible Vehicle failing to comply with duty to assist passengers in wheelchairs	12
168	Driver refusing to accept passenger with assistance dog and/or making extra charge for carrying passenger with assistance dog	12
170	Operator refusing to take booking on grounds that passenger will be accompanied by assistance dogs or making extra charge for carrying passenger with assistance dog	12
170	Private Hire Driver refusing to accept booking made through operator on grounds that passenger will be accompanied by assistance dog	12

	Breach of Policy Requirement	Points
	Failure to adhere to dress code	3
	Failure to wear a driver's badge	4
	Failure to behave in a civil and orderly manner	6
	Failure to ensure the safety of passengers	6
	Concealing or defacing a vehicle licence plate	4
	Failure to attend on time for a pre-arranged booking without reasonable cause	3
	Conveying a greater number of passengers than permitted	6
	Failure to give reasonable assistance with passenger's luggage	3
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	12
	Operating a vehicle that is not clean and tidy	2
	Carrying an animal other than belonging to a bona fide passenger.	2
	Driving without consent of the proprietor	5
	Smoking in a licensed vehicle at any time	6
	Operating the horn as a means of signalling that a vehicle has arrived	3
	Using a non-hands free mobile telephone whilst driving	4
	Failure to advise of a relevant medical condition within 5 days	8
	Failure to provide a receipt for a fare when requested	2
	Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages	12
	Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
	Failure of a driver to maintain an online certificate with the DBS update service.	6

	Failure to notify within 14 days of starting or terminating employment, the name and address of the proprietor and term of employment	3
	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
	Failure to surrender a driver's licence, badge or plate upon request	6
	Failure of a licence holder to disclose convictions / arrests/ charges in writing to the Council within 48 hours	12
	Failure to check vehicle for lost property or to report lost property in accordance with policy	3
	Failure to report an accident within seventy two hours	6

	Failure to comply with the requirements for the safe carrying of a wheelchair	6
	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	6
	Failure to carry an approved fire extinguisher	3
	Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
	Modifying a vehicle without the consent of the Council	3
	Failure to display in the prescribed manner or maintain external licence plate or door stickers	4
	Failure to display complaint reporting information within a vehicle	4
	Hackney carriage vehicle signage not in accordance with the Council's requirements	4
	Affixing or displaying a roof sign on a private hire vehicle	4
	Displaying a sign or advertisement on a licensed vehicle contrary to the Policy requirements or which has not been approved by the Council	4
	Taximeter does not conform to the Council's requirements	6
	Operating or driving a vehicle which does not comply with the Council's Policy requirements	6
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence.	12
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Permitting the vehicle to be used for any illegal or immoral purposes	12

	Failure of a private hire operator to provide a prompt, efficient and reliable service	3
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	Failure to ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated	3
	Failure to display information within Operator's premises (provided for public waiting /booking) on how to report concerns/ complaints to the Council.	4
	Failure of a private hire operator to ensure that vehicles attend bookings punctually	4
	Failure to act properly upon the receipt of a complaint or to notify immediately the Licensing Officer	4
	Failure to notify the Council of any changes, including change of address from where the business operates within 14 days	3
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6
	Failure to disclose in writing within 48 hours details of any conviction, arrest or charge or imposed on him to the licensing section	12
	Failure to notify the Council of any vehicle used by the Operator which is involved in an accident within 72 hours	6
	Failure to maintain or produce records of private hire bookings, vehicles, drivers or other documents required to be kept or produced in accordance with s.56(2) &(3) of the Local Government (Miscellaneous Provisions) Act 1976	6
	Failure to maintain or produce records of individuals employed to take bookings or dispatch vehicles	6
	Failure to carry out or keep record of check Basic DBS of individuals employed to take bookings or dispatch vehicles.	6
	Failure of a private hire operator to have valid public liability insurance for the operating premises if the public are allowed access	8
	Failure of a private hire operator to ensure that every driver employed by him has a private hire licence and badge	4
	Failure to make the Operator's licence available for inspection, in accordance with s.56 of the Local Government (Miscellaneous Provisions) Act 1976	4
	Any other contravention of the Policy not covered above	2-12



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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 17 NOVEMBER 2020**

Declarations of Lobbying

Members of the Committee are asked to indicate if they have been lobbied, and if so, how they have been (i.e. letter, telephone call, etc.) in respect of the planning applications below:

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

When completed, please return this form to the Committee Administrator prior to the meeting.

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PLANNING AND LICENSING COMMITTEE

17th NOVEMBER 2020

SUPPLEMENTARY INFORMATION TO SCHEDULE OF APPLICATIONS

1. 20/0657/FH
(Pages 13-36)

**BLOCKS A, B, AND C HURRICANE WAY AND
TERLINGHAM FORUM, HAWKINGE**

Change of use and conversion of office blocks A,B and C to 23 residential units and associated works, together with public realm improvements at Terlingham Forum.

**Cllr Palliser, on behalf of Hawkinge Town Council to speak on application.
Ian Hardman, applicant's agent, to speak on application.**

2. Y19/1149/FH
(Pages 37-50)

3 SANDGATE HIGH STREET, FOLKESTONE, KENT

Change of use and conversion from existing showroom to residential.

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