

## Rutland County Council

Catmose, Oakham, Rutland, LE15 6HP

Telephone 01572 722577 Email: [governance@rutland.gov.uk](mailto:governance@rutland.gov.uk)

Ladies and Gentlemen,

A meeting of the **PLANNING AND LICENSING COMMITTEE** will be held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on **Tuesday, 14th March, 2023** commencing at 7.00 pm when it is hoped you will be able to attend.

Yours faithfully

Mark Andrews  
**Chief Executive**

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Although social distancing requirements have been lifted there is still limited available for members of the public. If you would like to reserve a seat please contact the Governance Team at [governance@rutland.gov.uk](mailto:governance@rutland.gov.uk). The meeting will also be available for listening live on Zoom using the following link: <https://us06web.zoom.us/j/83775155770>

### **A G E N D A**

**1) APOLOGIES**

To receive any apologies from Members.

**2) MINUTES**

To confirm the minutes of the Planning and Licensing Committee held on 14<sup>th</sup> February 2023 and receive an update on actions agreed in the minutes of the previous meeting.  
(Pages 5 - 10)

**3) DECLARATIONS OF INTERESTS**

In accordance with the Regulations, Members are invited to declare any disclosable interests under the Code of Conduct and the nature of those interests in respect of items on this Agenda and/or indicate if Section 106 of the Local Government Finance Act 1992 applies to them.

**4) PETITIONS, DEPUTATIONS AND QUESTIONS**

Requests to speak on planning applications will be subject to the RCC Public Speaking Scheme.

To request to speak at a Planning Committee, please send an email to [Governance@rutland.gov.uk](mailto:Governance@rutland.gov.uk)

**5) HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2023 CONSULTATION**

To receive Report No.51/2023 from the Strategic Director for Places.  
(Pages 11 - 100)

**6) PROPOSED DIVERSION OF FOOTPATH E229, KETTON**

To receive Report No.39/2023 from the Strategic Director for Places.  
(Pages 101 - 128)

**7) PLANNING APPLICATIONS**

To receive Report No.45/2023 from the Strategic Director for Places.  
(Pages 129 - 132)

- a) 2022/0778/FUL  
(Pages 133 - 142)

**8) APPEALS REPORT**

To receive Report No.46/2023 from the Strategic Director for Places.  
(Pages 143 - 146)

**9) ANY OTHER URGENT BUSINESS**

To consider any other urgent business approved in writing by the Chief Executive and Chairman of the Committee.

**10) DATE OF NEXT MEETING**

Tuesday, 18<sup>th</sup> April 2023.

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**DISTRIBUTION**

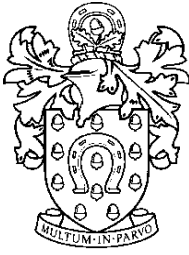
**MEMBERS OF THE PLANNING AND LICENSING COMMITTEE:**

Councillor E Baines (Chairman)	Councillor P Browne (Vice-Chair)
Councillor N Begy	Councillor D Blanksby
Councillor K Bool	Councillor A Brown

Councillor G Brown	Councillor W Cross
Councillor J Dale	Councillor A MacCartney
Councillor R Payne	Councillor R Wilson

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# Rutland County Council

Catmose Oakham Rutland LE15 6HP.

Telephone 01572 722577 Email: [governance@rutland.gov.uk](mailto:governance@rutland.gov.uk)

Minutes of the **MEETING of the PLANNING AND LICENSING COMMITTEE** held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on Tuesday, 14th February, 2023 at 7.00 pm

**PRESENT:**

Councillor E Baines (Chair)	Councillor P Browne (Vice-Chair)
Councillor N Begy	Councillor K Bool
Councillor A Brown	Councillor G Brown
Councillor W Cross	Councillor J Dale
Councillor A MacCartney	Councillor R Payne

**ABSENT:**

Councillor D Blanksby	Councillor R Wilson
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**OFFICERS PRESENT:**

Justin Johnson	Development Manager
Darren Burbeary	Senior Planning Officer
Sherrie Grant	Planning Solicitor
Robyn Green	Highways Engineer
David Ebbage	Governance Officer

## 1 WELCOME AND APOLOGIES

Apologies were received from Councillors D Blanksby and R Wilson.

## 2 MINUTES

Consideration was given to the minutes of the meeting held on 17<sup>th</sup> January 2023.

### RESOLVED

a) That the minutes of the meeting on 17<sup>th</sup> January 2023 be **APPROVED**.

## 3 DECLARATIONS OF INTERESTS

Councillor A Brown declared a personal interest in item 5c – Planning Applications, application 2022/0646/FUL as it was his own application. He confirmed that he would leave the meeting at that point.

Councillor W Cross declared a personal interest in item 5a and b – Planning Applications, 2022/0547/FUL and 2022/0562/LBA as he knew the applicant. He confirmed they came to the meeting with an open mind.

Councillor E Baines declared a personal interest in, 5a and b – Planning Applications, 2022/0547/FUL and 2022/0562/LBA as he knew the applicant and had dealings with

them in a business capacity in the past so confirmed that he would leave the meeting at that point.

#### **4 PETITIONS, DEPUTATIONS AND QUESTIONS**

In accordance with the Planning and Licensing Committee Public Speaking Scheme, the following deputations were received on item 5, Planning Applications:

In relation to 2022/0547/FUL and 2022/0562/LBA, Ross Jarvie spoke as the member of the public opposing the application.

#### **5 PLANNING APPLICATIONS**

Report No.28/2023 was received from the Strategic Director of Places.

Item 5a – 2022/0547/FUL – Proposed Swimming Pool and Changing Room.

(Parish: Morcott; Ward: Braunston and Martinsthorpe)

Item 5b – 2022/0562/LBA – Proposed Swimming Pool and Changing Room.

(Parish: Morcott; Ward: Braunston and Martinsthorpe)

Item 5c – 2022/0646/FUL- Demolition of existing agricultural barn and erect 2 no. 3 storey dwellings, relocation of entrance doors to barn No 2 to the rear, extension of existing farm track, creation of new parking and turning area to the rear of barn 2.

(Parish: Caldecott; Ward: Braunston and Lyddington)

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At 7.07pm Councillor E Baines left the meeting

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At 7.07pm Councillor P Browne took the Chair

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#### **5a 2022/0547/FUL**

Justin Johnson, Planning Officer, introduced the application and gave an executive summary, recommending approval subject to conditions outlined in the report.

Prior to the debate the Committee received deputations from Ross Jarvie who spoke as the member of the public opposing the application. The Committee also had the opportunity to ask questions of these speakers.

It was proposed by the Chair that applications 2022/0547/FUL and 2022/0562/LBA be discussed together as it was the same site and to take two votes at the end of debate. This was seconded and upon being put to vote, the motion was unanimously agreed.

Officers during their deputation did highlight that the agent had submitted amended plans to remove the air source heat pump from the scheme following the concerns

relating to noise. If the applicant decided to reinstall one, it would be dealt with separately.

Concerns raised over the wall to the north of the site, it was confirmed that with the conditions attached to the permission, the development could be carried out and would not cause an adverse impact to the wall.

During debate, Members raised concerns over the protection of the wall in question to the North of the site. Officers reassured Members that condition 5 within the addendum would provide comprehensive monitoring and included trigger values which if exceeded would halt any work being carried out.

Certain Members raised the point to why the recent submitted application for repair works to the walls could not be dealt with first before works were carried out on the swimming pool and changing room. Officers stated that it came down to reasonableness, the report clearly stated that if the wall was left with no maintenance, it would eventually fall into disrepair. Officers had to assess if the development proposed had a detrimental impact on it. With the evidence officers had, no it did not, providing the conditions that were listed would be in place. In summary, officers felt it wasn't reasonable to insist the wall was repaired first.

A question was asked around the disposal of the swimming pool water when cleaning took place. A request from the water authority to provide notice to when the removal of the water would take place and it would connect to the main water supply.

It was pointed out to Members with regards to the concerns of privacy and sight lines from the neighbour, the levels would not change to what they already were currently, as the pool would be dug into the ground, the view would just be altered with the new pool in use, would not be any worse off. No reason to object the application on that point.

A concern was raised around the noise and disturbance for the neighbouring properties. Officer responded that these were a material consideration of an application with the primary noise being produced from construction. Conditions were in place with the construction management plan to deal with that. The pool was for residential use therefore would not warrant for refusal on those grounds. It was also pointed out to Members that the applicant's agents neighbour currently has a swimming pool at that property.

It was moved by Councillor G Brown and seconded that the application be approved subject to the conditions in the report and the additional informative suggested by Members. Upon being put to the vote, with 5 votes for and 4 votes against, the motion was carried.

## **RESOLVED**

- a) That the application 2022/0547/FUL be **APPROVED** subject to the conditions outlined by the Planning Officer and agreed by Members within the debate.
- b) The full list of reasons can be found on the planning application page of the Council's website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planningapplications-and-decisions/>

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**5b 2022/0562/LBA**

As set out above, this was discussed with application 2022/0547/FUL

It was moved by Councillor G Brown and seconded that the application be approved subject to the conditions in the report and the additional informative suggested by Members. Upon being put to the vote, with 5 votes for and 4 votes against, the motion was carried.

**RESOLVED**

- a) That the application 2022/0562/LBA be **APPROVED** subject to the conditions outlined by the Planning Officer and agreed by Members within the debate.
- b) The full list of reasons can be found on the planning application page of the Council's website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planningapplications-and-decisions/>

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At 8.16pm Councillor A Brown left the meeting

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At 8.16pm Councillor E Baines re-joined the meeting and resumed as Chair

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**5c 2022/0646/FUL**

Darren Burbeary, Senior Planning Officer, introduced the application and gave an executive summary, recommending approval subject to conditions outlined in the report.

A question was asked around the car park to the front of the application and it was clarified by officers that it would not form part of the application and would remain the same. A parking plan had been received for both plots of land.

It was pointed out by Members that there would be a reduction of one dwelling on the site, but officers felt it would be difficult to justify a refusal on the loss of that one unit in that location. Officers believed the design and layout was an improvement that what was granted through the Class Q process. The Class Q which went through previously for this site was allowed at appeal.

It was moved by Councillor G Brown and seconded that the application be approved subject to the conditions in the report. Upon being put to the vote, with 8 votes for and 1 abstention, the motion was carried.

**RESOLVED**

- a) That the application 2022/0646/FUL be **APPROVED** subject to the conditions outlined by the Planning Officer and agreed by Members within the debate.
- b) The full list of reasons can be found on the planning application page of the Council's website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planningapplications-and-decisions/>

## 6 APPEALS REPORT

Report No. 29/2023 was received from the Strategic Director for Places. Justin Johnson, Development Manager, presented the report which listed for Members' information the appeals received since the last ordinary meeting of the Planning & Licensing Committee and summarised the decisions made.

### RESOLVED

- a) That the contents of the report be **NOTED**.

## 7 ANY OTHER URGENT BUSINESS

There were no items of urgent business.

## 8 DATE OF THE NEXT MEETING

Tuesday, 14<sup>th</sup> March 2023

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**The Chairman declared the meeting closed at 8.37pm**

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**PLANNING AND LICENSING COMMITTEE**

14 March 2023

**HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY  
2023 CONSULTATION**

**Report of the Strategic Director of Places**

Strategic Aim:	All	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Rosemary Powell, Deputy Leader and Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Angie Culleton, Head of Public Realm	aculleton@rutland.gov.uk
	Emily Frikha , Environment Manager	efrikha@rutland.gov.uk
Ward Councillors	All	

**DECISION RECOMMENDATIONS**

That the Committee:
<ol style="list-style-type: none"> <li>Notes the proposal to consult on the draft hackney carriage and private hire licensing policy with key stakeholders, the outcome of which will be reported back to the Committee at the next available meeting in Summer 2023.</li> </ol>

**1 PURPOSE OF THE REPORT**

- 1.1 The purpose of the report is to propose consultation with key stakeholders on the draft taxi licensing policy. The new policy will provide guidance and information regarding the general approach taken by Rutland County Council, when administering its functions within the legislative framework of The Town and Police Clauses Act 1847 and the provisions within The Local Government (Miscellaneous Provisions) Act 1976. A draft of the proposed policy is attached at Appendix A and will be subject to change following the consultation.
- 1.2 The legislation places a duty on the council as the licensing authority for licensing hackney carriage and private hire vehicles, drivers of those vehicles and operators of those vehicles. The Council, as the licensing authority, understands the importance and responsibility it has in ensuring that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and

that drivers are fit and proper to undertake the role. The proposed policy will address these responsibilities.

## **2 DRAFT POLICY OUTLINE**

- 2.1 The draft policy under consideration for adoption is proposed for consultation and is provided at Appendix A. The policy has 7 sections which provide an overview of the licensing regime and sets out the roles and responsibilities of applicants, licence holders, the Trade, drivers and operators.
- 2.2 Section 2 provides for the general provisions for hackney carriages and private hire vehicles and outlines the general requirements, appearance, age, insurance, safety equipment, CCTV in licensed vehicles, maintenance and testing of vehicles and other aspects.
- 2.3 Section 3 provides for the general provisions for hackney carriage and private hire drivers, including suitability of drivers, the application process, convictions, cautions and related matters, DVLA, medical requirements, driver requirements, offences, monitoring
- 2.4 Section 4 to 7 address operator suitability, safeguarding, enforcement and fees and charges.

## **3 IMPROVEMENTS PROPOSED & FUTURE CONSULTATION**

- 3.1 Within the proposed policy there are changes proposed, some with transitional periods and items which may be considered further during the policy period which may require consultation at a future date;
- 3.2 **Vehicle Testing Requirements:** The council has set conditions applicable to the testing requirements, internal and external specifications, of the vehicles it will licence, which can be found on the appendices of the policy, These appendices provide detail on vehicle specification, design, vehicle age limits, types of vehicles etc. that may be licensed.
- 3.3 There are various age restrictions and testing requirements applicable for vehicles it will licence. There are conditions regarding the maximum age a vehicle will be initially licensed, the age at which six monthly tests are required, and the age at which a vehicle will be de-licensed, and they are different for private hire, hackney carriages, speciality, and limousine vehicles.
- 3.4 To allow the trade a transition period, existing licensed vehicles will continue to be licensed for a further 2 years after this policy takes effect, providing the vehicle still meets all other required standards. After this time, all vehicles must meet all required standards.
- 3.5 **CCTV in licensed vehicles:** The installation of CCTV in licensed vehicles is not imposed as a condition. Whilst the council understands the benefits to the trade, as well as to passengers, and encourages its use in licensed vehicles, it is left to the judgement of the proprietors, drivers, and operators to determine. The inclusion of CCTV as a condition of the licence will be considered further during the policy period and any change would be subject to future consultation.
- 3.6 **Appointed Vehicle Testing station:** Licensed vehicles provide a service to the



public and have more usage, wear, and tear, it is appropriate to subject these vehicles to a more stringent and enhanced test than the standard MOT test. Prior to licensing any vehicle, it must have passed this enhanced test. An appointed vehicle testing station is proposed to be determined within Rutland County to undertake licensed vehicle testing.

- 3.7 **Driver Training:** All new and renewal driver (and operator) applicants will be required to undertake mandatory safeguarding and Safeguarding and County-Lines training, as prescribed by the licensing authority prior to making an application. Existing drivers and operators will also be required to undertake mandatory training. A licence will not be renewed if the training has not been completed within an appropriate timeframe. Licensed drivers are required to attend refresher training every three years and provide proof of pass attendance with their renewal application.
- 3.8 **Fees, Charges and Refunds:** The licence fees applied by this council are set on a cost recovery basis. They are regularly reviewed, and any increase or reduction will be published and consulted upon as required by the legislation.

#### 4 CONSULTATION

- 4.1 It is proposed to consult with stakeholders prior to the adoption of the proposed policy and the policy and appendices will be kept under review and revised as appropriate and in any event, not less than every five years. The council expects licence holders to comply with its terms and conditions.
- 4.2 The proposed consultation will take place from 15<sup>th</sup> May 2023 to end of June 2023, with those listed in paragraph 5.3, below. All consultation responses will be given due consideration when determining the final policy. The draft policy under consultation will be made freely available on the council's website and main council buildings. There will be a public notice in the local newspaper advising of the consultation and period.
- 4.3 Consultation is proposed with the following:
- Rutland County Council Hackney Carriage Representatives
  - Taxi and private hire drivers and proprietors
  - Rutland County Council private hire operators
  - Rutland County Council Councillors
  - Parish Councillors
  - Passenger Transport
  - Local Children's Safeguarding
  - Police Chief Constable
  - Chamber of Commerce
  - Groups representing disabled people

- Campaign for Better Transport
- Neighbouring Licensing (Local) Authorities
- General public
- (And other bodies and groups that the Licensing Authority consider appropriate)

4.4 All responses to the consultation will be reported to the Planning and Licensing Committee for consideration at the next available meeting in Summer 2023, then the final policy will be recommended to full council to adopt the policy.

## **5 ALTERNATIVE OPTIONS**

5.1 Alternatively, the Council could continue without a formal policy, however, this is not best practise.

## **6 FINANCIAL IMPLICATIONS**

6.1 There are no financial implications associated with the consultation, however, depending on the outcome of the consultation there may be costs associated with implementation of the policy, such as Council support for driver training.

6.2 Consideration will be given to full cost recovery through future increases in licensing fees and charges, providing that these are allowable.

## **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

7.1 The Department for Transport's (DfT) statutory standards and best practise suggest that the Council publish a single licensing statement or policy for taxi and Private Hire Vehicle (PHV) licensing that brings together all its procedures in one place.

7.2 The recent audit of the Taxi Licensing Service recommended that the Council should publish such a licensing statement or policy for taxi and PHV licensing. A single, unified policy that is reviewed on a regular basis will provide clarity for drivers and operators, as well as strengthening the Council's position if there is a challenge against a decision in court. The DfT recommends policies should be reviewed every five years but that interim reviews should also be considered where significant issues arise.

7.3 It is important to take account of the views of the trade, customers, and other stakeholders when establishing the policy.

## **8 DATA PROTECTION IMPLICATIONS**

8.1 A Data Protection Impact Assessments (DPIA) has been completed. Risks/issues were identified and have been addressed in the following ways;

8.1.1 Minimal personal data will be collected and this will be optional,

8.1.2 Refreshed GDPR training will be provided for staff processing data and staff access to personal data will be limited. A copy of the DPIA can be obtained from (EFrikha@rutland.gov.uk).

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found. A copy of the EqIA can be obtained from (EFrikha@rutland.gov.uk).

## **10 COMMUNITY SAFETY IMPLICATIONS**

- 10.1 Taxi and private hire vehicles play a valuable role in transporting vulnerable members of the community such as children and those with disabilities or additional needs.
- 10.2 The policy presents an opportunity for the Council to set out expectations and to ensure that the standards required by operators are met. The successful implementation of the policy should have a positive impact on community safety and assist in the detection and reduction of crime.

## **11 HEALTH AND WELLBEING IMPLICATIONS**

- 11.1 There are no health and well-being implications in regard to the proposal to consult on the draft policy.

## **12 ORGANISATIONAL IMPLICATIONS**

- 12.1 There are no implications for the consultation.

## **13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 13.1 The new policy will provide guidance and information regarding the general approach taken by Rutland County Council, when administering its functions within the legislative framework of The Town and Police Clauses Act 1847 and the provisions within The Local Government (Miscellaneous Provisions) Act 1976.
- 13.2 It is important to take account of the views of the trade, customers, and other stakeholders when establishing the policy and therefore a consultation is proposed as set out in section for 6 weeks, the outcome of which will be brought back to the Committee for consideration.
- 13.3 The proposed policy for Hackney Carriage and Private Hire Licensing brings together all procedures in one place and provides guidance and information on determining the 'fit and proper' person test, licence conditions and vehicle standards. The draft policy is proposed for consultation and is provided at Appendix A.

## **14 BACKGROUND PAPERS**

- 14.1 There are no additional background papers.

## **15 APPENDICES**

- 15.1 Appendix A: Draft Hackney Carriage and Private Hire Licensing policy 2023

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.**

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**Rutland**  
County Council

**DRAFT**

# Rutland County Council

Hackney Carriage and Private Hire  
Licensing Policy

**2023**

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## Definitions

The Council	Means Rutland County Council
The Licensing Authority	Means the licensing function within Rutland County Council
The Controlled District	Boundary area of a local authority which has adopted the provisions of the 1976 Act
The Licensing Committee	Is the committee which determine licensing matters as set out in the council's constitution
Authorised Council Officer	A council officer who is authorised by the council to exercise powers and duties conferred by legislation
This Policy	Is this policy document and appendices
Applicant	Is a person or business who has submitted an application for either a grant or renewal of a licence
Licensed Vehicle	Is a vehicle which is licensed under the 1847 Act as a hackney carriage or licensed under the 1976 Act as a private hire vehicle
Proprietor	Is the registered owner or part owner of a vehicle
The Licence Plate	The plate which licensed vehicles must display which shows the licence number, the maximum number of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle
Date of First Registration	Means the date shown as the date of first registration on the vehicle's V5 logbook issued by DVLA
Driving licence	A full GB driving licence issued by DVLA, or acceptable equivalent as defined by DVLA
Licensed Driver	A driver licensed under the 1847 Act to drive a hackney carriage vehicle or under the 1976 Act to drive a private hire vehicle.
Badge	Issued to all licensed drivers and must be worn when working as a licensed driver
Operator	The business which invites and accepts bookings for private hire work
Private Hire Vehicle	A vehicle licensed under the 1976 Act
Private Hire Door Stickers	Door stickers which must be permanently affixed to the rear doors of private hire vehicles which display 'Private Hire vehicle – Insurance invalid unless pre-booked with an operator'
Hackney Carriage Vehicle	A vehicle licensed under the 1847 Act commonly referred to as a taxi
DVLA	Is the Driver and Vehicle Licensing Agency
DfT	Is the Department for Transport
DVSA	Driver and Vehicle Standards Agency (which replaced VOSA in 2014)
The Equality Act	Means the Equality Act 2010
Assistance Dog	Is a dog which is trained to assist people with disabilities to help them with their day-to-day life
Conditions	Mean the conditions of licence applied by the council to either a driver's licence, an operator's licence or a vehicle licence.
The 1847 Act	The Town and Police Clauses Act 1847 and the provisions within
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within
Road Traffic Acts	Including all associated legislation
PSV	Means Public Service Vehicle
WAV	Wheelchair Accessible Vehicle



## The County of Rutland

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, among the lowest 10% population density across English local authority areas at the last 2021 census.

Two main market towns, Oakham and Uppingham, plus 50 villages make up the County. Between the 2011 and 2021 census the population of Rutland has increased by 9.8% from around 37,400 in 2011 to around 41,000 in 2021. The population levels in Oakham and Uppingham are not large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

Rutland Water is the largest made reservoir in Europe and an amazing spot for every type of water sport. Set in 4200 acres of open countryside, Rutland Water lies at the very heart of the county and is as spectacular in beauty as it is in size. Created in the 1970's to meet an ever-increasing demand for water, nowadays it is widely regarded as a leading centre for water and land-based leisure activities and has year-round appeal for those wishing to fish, cyclists, sailors, and bird watchers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland.

There are approximately 200 licensed drivers, approximately 30 licensed hackney carriage vehicles (taxis), and over 100 licensed private hire vehicles and 16 operators.

Rutland County Council recognise the vital and important role that hackney carriage and private hire vehicles, drivers and operators play in an integrated transport system. They provide services in situations where other forms of transport are either not available such as rural areas, late night economy or for persons with mobility difficulties.

## SECTION 1

### 1. Introduction

#### Policy Purpose, Status and Scope

- 1.1 The purpose of this policy is to provide guidance and information regarding the general approach taken by Rutland County Council, when administering its functions within the legislative framework of the 1847 and 1976 Acts. It has traditionally exercised these responsibilities through a number of sets of conditions, guidelines, and procedures which have been developed and adopted over the years. It is widely considered best practice to create a unified policy that brings together all these procedures and documents in one overarching policy.
- 1.2 This policy does not override the legal requirements embodied in any primary or secondary legislation in force at the time of adoption or as may be enacted after the adoption of this policy. Where there are any subsequent changes made to the applicable legislation, or its interpretation by the courts that conflict with this policy, the conflicting elements shall not apply and will be amended at the earliest opportunity.
- 1.3 The legislation places a duty on the council as the licensing authority for licensing hackney carriage and private hire vehicles, drivers of those vehicles and operators of those vehicles. The licensing authority understands the importance and responsibility it has in ensuring that licensed vehicles in the district are safe, comfortable, properly insured, and available where and when required, and that drivers are fit and proper to undertake the role. This policy and the imposition of conditions found in the appendix documents are considered appropriate to address all these aspects.
- 1.4 The primary focus when administering its functions are public safety, safeguarding and wellbeing.
- 1.5 In exercising its discretion in carrying out regulatory functions, the council will have regard to this policy and appendices, statutory guidance, and best practice.
- 1.6 In formulating this policy, consideration has been given to local circumstances and requirements, the DfT best practice guidance March 2010, the DfT Statutory Taxi & Private Hire Vehicle Standards Guidance (July 2020) issued under section 177(1) of the Policing and Crime Act 2017, and Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades (April 2018).
- 1.7 Every decision, application and enforcement action will be considered on its own merits.
- 1.8 The council may depart from this policy if merited but will provide clear and compelling reasons for doing so.
- 1.9 This policy is not a comprehensive statement of the law; applicants should always obtain their own legal advice if they are unsure of the requirements of legislation.
- 1.10 It must be noted that vehicles and drivers licensed by different local authorities can be used for private hire purposes within this district. These vehicles and drivers are not subject to compliance with the conditions applied by this authority. But must still comply with their own local authority conditions and the general law.

#### Consultation and Revision

- 1.11 The council will consult with stakeholders prior to the adoption of this policy and will do so for the further continuation and development of the policy.
- 1.12 This policy and appendices will be kept under review and revised as appropriate and in any event, not less than every five years. The council expects licence holders to comply with its terms and conditions.

- 1.13 The council will keep the policy and appendices under review and will consult where appropriate on proposed revisions. Appendices and sections of the policy may be updated and amended by the licensing committee after consultation without the whole policy being consulted upon.
- 1.14 The initial policy will take effect after consultation with all stakeholders.
- 1.15 The consultation will take place between XXXXXX to XXXXX, with those listed in paragraph 1.17. All consultation responses will be given consideration when determining the final policy.
- 1.16 The consultation draft policy will be made freely available on the council's website and main council buildings. There will be a public notice in the local newspaper advising of the consultation.
- 1.17 Consultation takes place with the following:
- Rutland County Council Hackney Carriage Representatives
  - Taxi and private hire drivers and proprietors
  - Rutland County Council private hire operators
  - Rutland County Council Councillors
  - Parish Councillors
  - Passenger Transport
  - Local Children's Safeguarding
  - Police Chief Constable
  - Chamber of Commerce
  - Groups representing disabled people
  - Campaign for Better Transport
  - Neighbouring Licensing (Local) Authorities
  - General public

(And other bodies and groups that the Licensing Authority consider appropriate)

- 1.18 The Licensing Committee will fully consider all responses to the consultation at a meeting XXXXXX (to be arranged), then recommend to full council at a meeting XXXXXX (to be arranged), to adopt the amended policy. Where the adoption of this policy results in a process change, this will be implemented at the earliest opportunity.

### **The Licensing Regime – General overview**

- 1.19 The primary legislation applicable is the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Vehicles used for hire and reward which accommodate a maximum of up to eight passengers, drivers of those vehicles and operators of private hire vehicles are regulated by the above legislation. Vehicles which accommodate more than eight passengers are classed as Public Service Vehicles (PSV) and are not covered by the legislation or this policy. The council is not involved in the licensing of PSV's, they are the responsibility of The Traffic Commissioner.
- 1.20 Any person who carries out hire and reward work without the correct licences, would be breaking the law and therefore would not have valid insurance. This can have serious consequences for all parties involved if an accident or incident occurs.
- 1.21 In order to be licensed correctly the licenses must 'match,' i.e., issued by the same local authority. A hackney carriage vehicle and the driver must be licensed by the same local authority. For private hire, the operator, driver, and vehicle must be licensed by the same authority. This does not prohibit the operator subcontracting a booking to another operator licensed by a different local authority.
- 1.22 The legislation places a duty on the local authority to only licence those who are 'fit and proper.' The term 'fit and proper' is not defined in legislation therefore the widest interpretation will apply.
- 1.23 The legislation allows local authorities to set their own conditions, requirements, and application

processes. Licensing Authorities must have regard to the DfT Statutory Guidance (issued under section 177(1) of the Policing and Crime Act 2017) which sets minimum standards to directly address safeguarding of the public.

- 1.24 The aim of the legislation is to ensure that the public have reasonable access to services and to ensure the public are protected. Public safety is paramount and has a wide scope, it includes public safeguarding, protecting vulnerable persons and public wellbeing. To achieve the aim of the legislation and having regard to the guidance issued by the Secretary of State, the Council have set conditions and processes in place, which promote well run, safe and responsible businesses.

### **Applicant and Licence holders' responsibilities**

- 1.25 Other legislation is also applicable such as the Road Traffic Act, Health and Safety at Work Act, the Health Act, the Equality Act etc. This is not a definitive list and not all applicable legislation is enforced or regulated by the council. Rutland County Council expects licence holders to ensure that they keep up to date and comply with all applicable legislation pertaining to their roles.
- 1.26 All licence holders (proprietors, operators, and drivers) shall co-operate with any reasonable request made by an Authorised Officer.
- 1.27 All renewal applications must be submitted to the Council prior to the date of expiry of the existing licence. If a licence holder fails to submit a fully complete application to renew before the date of expiry of the licence, they will be required to apply as a new application and meet all the requirements. The Council will only consider a late renewal in exceptional cases R (on the application of Exeter City Council) v Sandle [2011] LLR480, in which case the renewal date will be from the date of expiry of the previous licence. The Council will accept licence renewals from 28 days before the date of expiry.
- 1.28 Licence holders must ensure that they are correctly registered with HM Revenue and Customs (HMRC) for tax purposes. Licence applications for drivers (hackney carriage and private hire) and operators licenses are subject to the requirements of the Finance Act 2021. The Licensing Authority is legally required to share information with HMRC and cannot consider a renewal application, until confirmation from them has been obtained that applicant(s) are correctly registered for tax purposes.
- 1.29 In order to assist the determination of an applicant's 'fit and proper' status, all applicants are required to provide a valid DBS check. The level of DBS required is determined by the type of application. Operators and Proprietors (who are not also licensed drivers) will be required to provide an annual basic disclosure. All licensed drivers must provide an Enhanced DBS and barred lists check, maintain continuous registration with the DBS update service and authorise the licensing authority to routinely check for new information.
- 1.30 As the DBS cannot access criminal records held overseas, all applicants who have spent an extended period (six months or more) living or working outside the UK since they were 18 years of age, will be required to submit a 'Certificate of Good Character' or criminal record(s) information, for each Country they lived or worked in for six months or more. Further information on applying for overseas criminal record information or 'Certificates of Good Character' can be found in the home Office guidance. (See link below)  
<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>
- 1.31 All licence holders must notify the licensing department within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including speeding offences.

## **Role of Hackney Carriage and Private Hire Trade and the difference between them**

- 1.32 The council recognises the importance of hackney carriage and private hire vehicles, drivers, proprietors, and operators. They play an essential role in the provision of local transport for those who have difficulty getting about on public transport, those enjoying the night time economy, taking children to school etc., and are vital in helping to maintain a healthy local economy.
- 1.33 Whilst the public do not always know the difference between a hackney carriage and a private hire vehicle, and often refer to both as taxis, there are significant distinctions in law, on how they are allowed to operate.
- 1.34 Within the district in which a hackney carriage vehicle and driver are licensed, they are available for immediate hiring, they can be hailed (or flagged) in the street, can wait on a rank and be approached directly by a member of the public i.e., 'ply for hire' in public places. They are not required to be booked via an operator. They must display a fare card within the vehicle which shows the current maximum fares to be charged as set by the local authority. In law, these are allowed to be called 'taxis' or 'cabs' and are sometimes also referred to as Black or London Cabs. Hackney carriages licensed by another local authority who operate within this district cannot ply for hire or wait on ranks. They may however be used for private hire purposes, i.e., carry out pre-booked journeys.
- 1.35 A private hire vehicle is not allowed to accept direct bookings from the public, they can only accept bookings from a licensed operator, they cannot operate independently, i.e., without a licensed operator. They cannot be hailed in the street or wait on ranks. If a private hire driver accepts a fare which has not been pre-booked through a licensed operator, they are committing an offence and potentially driving without valid insurance. The fares charged are not regulated by the authority but must be agreed with the operator at the time of booking. They are not allowed to use the term 'taxi' or 'cab' but may be called 'minicabs'.
- 1.36 In determining if a vehicle is being used for private hire purposes and needs to be licensed, the council will have regard to the guidance issued by DfT. See link below.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/3985/phv-licensing-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3985/phv-licensing-guidance.pdf)
- 1.37 The conditions set by this council require both hackney carriages and private hire vehicles to display the licence plate on the rear of the vehicle. A hackney carriage vehicle is required to display a white plate and a private hire vehicle must display a yellow plate, unless exempted. All licensed vehicles are required to display a sign identifying the vehicle licence number in the top left-hand side of the windscreen, unless exempted private hire.

## **Rutland Local Transport Plan**

- 1.38 Rutland County Council are an enabling council in relation to climate change and will encourage use of low emission vehicles using the local infrastructure residents can put in place. There are no plans for infrastructure changes in the Rutland County Council area due to low public need, as private need is rising.

## **Passenger Transport**

- 1.39 To become an approved operator for children's transport, please email the Transport Team. Email address: [transport@rutland.gov.uk](mailto:transport@rutland.gov.uk)

## **Information sharing**

- 1.40 The council works in partnership with many other enforcement agencies such as the Police, HM Revenue and Customs, the Home Office, DVSA (Driver Vehicle Standards Agency), Department of Work and Pensions, NAFN (National Anti-Fraud Network) NR3, benefit fraud etc. The council will share information with other departments or regulatory bodies including other Licensing Authorities

where appropriate. The council is legally required to provide information if requested, pursuant to a criminal offence, or to detect fraud, or immigration offences.

- 1.41 The legislation also requires local authorities to maintain a public register.
- 1.42 The council will work with neighbouring authorities and report to them any relevant matters that relate to their licence holders.

### **Decision making**

- 1.43 Each application and enforcement action will be determined on its own merits. Determination of applications will be made in accordance with this policy, the council's constitution, statutory guidance, common law precedent and industry best practice. Officers have delegated powers but may also refer certain matters to the licensing committee if appropriate.
- 1.44 Enforcement actions will be in accordance with this policy, the council's enforcement policy and the Regulators' Code 2014.
- 1.45 Any person who has been refused a licence, or has had their licence revoked or suspended, or who believes that the imposition of a condition is unfair, may appeal to the magistrate's court within 21 days of being given the decision. Except in the case of a refusal to grant a Hackney Carriage proprietors (vehicle) licence, in which case the appeal is directly to Crown Court.

### **Immigration Act – all licences**

- 1.46 The council has a statutory obligation to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licenses will be undertaken in accordance with the requirements of the Immigration Act 2016 with due regard to home Office guidance.
- 1.47 The council takes this responsibility seriously and has checks in place to ensure compliance with the Act and will liaise where required with relevant home Office departments. If, however, a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 days.
- 1.48 A licence may be suspended, revoked, or refused to be renewed if, since the grant of the licence there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.
- 1.49 Proprietors and operators also have an obligation to ensure that they only utilise persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the appropriate home Office department, which may result in a civil penalty or imprisonment and loss of licence.

### **Policing And Crime Act 2017**

- 1.50 The council will give full regard to the guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm. The policy includes provisions in line with the DfT Statutory Taxi & Private Hire vehicle Standards July 2020. If any future changes to the guidance affect any parts of this policy or related appendices, they will be amended at the earliest opportunity.
- 1.51 The Statutory guidance recommends adoption of several best practice minimum standards, to better protect children and vulnerable adults and by extension, the wider public, when using taxis and private hire vehicles. Some of these best practices were already in place, however, the following are now also incorporated;
  - Mandatory requirement for licensed drivers to maintain subscription to the DBS update service and allow the licensing authority to make enquiry checks with DBS
  - Annual basic DBS disclosure requirement for proprietors and operators, who are not also



licensed drivers

- Checking and reporting to NAFN NR3 (see Appendix J)
- Mandatory safeguarding training, including county lines, for all licensed drivers and operators.
- Requirement for all licence holders to notify the licensing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- Requirement for all applicants who since the age of 18, have spent an extended period (i.e., six months or more) outside the UK, to provide a Certificate of Good Character or criminal record(s) information.
- Revisions to the Guidelines Relating to the Relevance of Convictions
- Operators to maintain a register of staff, have sight of a basic DBS for staff on the register and provide a copy of their policy on employing ex-offenders.

## **SECTION 2**

### **2 General provisions for hackney carriages and private hire vehicles**

#### **Vehicles General**

- 2.1 Rutland County Council has not limited the number of hackney carriage vehicles it will licence. There is no provision for the council to limit the amount of private hire vehicles it licences.
- 2.2 Proprietors (who are not also licensed drivers) must provide a basic DBS disclosure with their application and annual renewal. Where the proprietor of the vehicle is a company or partnership, a basic DBS will be required for all directors, partners, secretary, etc. and any other persons with significant control. Proprietors who have not resided continuously in the UK since they were 18 years old, i.e., have spent an extended period (six or more continuous months) outside the UK, will be required to submit a Certificate of Good Conduct or criminal record information, from each Country applicable.
- 2.3 The maximum duration of a vehicle licence is one year; this is a requirement of legislation. However, a vehicle licence can be renewed up to the age at which it will be de-licensed as specified in the relevant appendices.
- 2.4 If a renewal application has not been received at the end of the vehicle's licensed period, the vehicle cannot be used for hire and reward purposes. Any vehicle which has not renewed before the expiry of the licence, will be classed as de-licensed, and will be required to apply as a new vehicle and meet the required age and specification criteria for a new vehicle. Exceptions may be made, in exceptional circumstances (see paragraph 1.27).
- 2.5 An application for a vehicle renewal must be submitted to the Licensing Authority, prior to the expiry of the existing licence and prior to having the vehicle tested.
- 2.6 It is the responsibility of the vehicle owner to ensure that renewal applications, paperwork and mechanical tests are carried out in a timely manner to avoid the unnecessary burden of a vehicle being de-licensed.
- 2.7 Once a vehicle is licensed as either a private hire vehicle or a hackney carriage vehicle it remains a licensed vehicle until it is de-licensed. This means that these vehicles can only be driven by licensed drivers. The only exception to this is where an applicant is undertaking a test, or the vehicle is being tested e.g., driven by a garage mechanic.
- 2.8 Therefore, any other person who is not a licensed driver themselves, are not permitted to drive licensed vehicles, even when the vehicle is considered 'off duty.' Any insurance policy which provides insurance for a licensed vehicle to an unlicensed person, is likely to be invalid and in any case, will not be accepted by the Licensing Authority. Insurance policies are usually invalid if the insured is knowingly breaking the law by driving the vehicle.

- 2.9 Vehicles which accommodate more than 8 passengers cannot be licensed as a hackney carriage or private hire vehicle.
- 2.10 The council has set conditions applicable to the testing requirements, internal and external specifications, of the vehicles it will licence. These can be found on the appendices attached, Appendix B for private hire vehicles and Appendix A for hackney carriage vehicles. There is a separate set of conditions applicable for Limousine and speciality vehicles, licensed as private hire vehicles, which can be found at Appendix E. These appendices also provide detail on vehicle specification, design, vehicle age limits, types of vehicles etc. that may be licensed.
- 2.11 This authority does not allow 'dual plating' of licensed vehicles. No vehicle will be granted a licence if it is licensed in another district. Any vehicle found to be licensed by another authority will have the licence suspended or revoked.
- 2.12 The council has set these conditions as the minimum standards to ensure that the public travel in safe, comfortable, and roadworthy vehicles. All vehicles must also conform to the M1 type approval and construction and use regulations. Vehicles which are not M1 type approved, (e.g., N1) must provide VIVA (Voluntary Individual Vehicle Approval) documentation confirming conformity and safety of alterations and updated V5C to correlate.
- 2.13 Whilst each application will be determined on its own merits, it is unlikely that the council would licence a vehicle which did not meet the licensing standards and specifications. Where a vehicle proprietor wishes to licence a vehicle which did not meet the specifications and standards, they are encouraged instead to put forward a case for modification of the standards.
- 2.14 All vehicles must provide adequate heating and ventilation systems for the driver and passengers. Passengers must be able to operate the windows independently.
- 2.15 All expired plates must be returned to the council or retained by the appointed testing station upon renewal.
- 2.16 All licensed vehicles must comply with the requirements of the Health Act 2006 and display a no smoking sign. Drivers are reminded that it is against the law to smoke or allow someone to smoke in a licensed vehicle at any time. For the avoidance of doubt, the council also forbids the smoking of electronic cigarettes and vaping in licensed vehicles, whether by the driver or passengers

### **Appearance**

- 2.17 Vehicles must be safe, comfortable, the passenger compartments must be clean and dry including upholstery, without rips or tears or sharp protrusions. Proprietors, drivers, and operators must ensure that the vehicles they utilise, meet the expectations of this council and the travelling public.
- 2.18 The exterior of the vehicle must be reasonably clean to ensure that passengers can get in and out of the vehicle without fear of getting their clothing dirty with dust, oil, mud, and other road debris. Drivers are also reminded to ensure that the licence plate and registration plate remain clean and visible.
- 2.19 Any vehicle damage that materially affects the safety, performance, appearance, or the comfort of the passenger must not be used for hire and reward purposes, until the vehicle has been suitably repaired.
- 2.20 All licensed vehicles must display the licence plate on the outside at the rear of the vehicle unless it is a private hire vehicle and has been granted a plate exemption certificate.
- 2.21 The licence plate must be securely fixed to the outside of the vehicle, in such a manner that the plate is not obscured from view by fixtures or fittings, and the plate does not obscure the vehicle registration plate. The plate must also be able to be easily removed by an authorised council officer or police officer.
- 2.22 All licensed vehicles (except private hire vehicles which have been granted a plate exemption



certificate) must display a sign identifying the vehicle licence number in the top left-hand side of the windscreen (as viewed from inside the vehicle). The approved sign provided by the council must be fitted internally, in such a manner that the sign can be clearly viewed from outside the vehicle. The sign shall be capable of being removed by a constable or authorised officer or the council should the licence be suspended or revoked.

- 2.23 The council will not permit any advertising which it considers inappropriate, therefore all advertising, (except for the operator's name and telephone number), on or in vehicles must be approved prior to being placed on or in the vehicle.
- 2.24 Private hire vehicles must display on the rear passenger doors in a prominent location, permanently affixed (not magnetic) door signage. This signage must state 'Private hire vehicle – insurance invalid unless pre-booked with operator.'
- 2.25 All signage relating to hire and reward (including door signage, company insignia etc.) must be removed from the vehicle, whenever it is sold or transferred outside Rutland's licensed trade, or delicensed.

**Age policy**

- 2.26 The council must ensure that the vehicles it licenses are fit and safe for the purpose they are licensed for, with consideration to reliability, environmental impacts, passenger comfort, and the need to sustain a high quality of licensed vehicles.
- 2.27 Therefore, there are various age restrictions and testing requirements applicable for vehicles it will licence. There are conditions regarding the maximum age a vehicle will be initially licensed, the age at which six monthly tests are required, and the age at which a vehicle will be de-licensed, and they are different for private hire, hackney carriages, speciality, and limousine vehicles.

The table and information provided below is a guide, but please refer to the appropriate appendices attached.

	<b>Hackney carriage</b>	<b>Private hire</b>
Maximum age limit beyond which the vehicle will not be licensed	15 years old	10 years old
Age at which the vehicle will be subject to six monthly inspections	10 years old	10 years old
Age at which the vehicle will be Subject to Critical testing criteria	10 years old	10 years old

To allow the trade a transition period, existing licensed vehicles will continue to be licensed for a further 2 years after this policy takes effect, providing the vehicle still meets all other required standards. After this time, all vehicles must meet all required standards.

**Insurance**

- 2.28 It is the responsibility of proprietors, operators, and drivers to ensure that they are properly always insured. Insurance provided by operators to cover their fleet and drivers is usually only valid when drivers are driving for that company. If drivers work for multiple operators, all parties must ensure that appropriate and valid insurance is in place to avoid an inadvertent criminal offence.
- 2.29 Applications for new or renewal of a vehicle licence will require submission of proof of valid insurance which covers the vehicle and driver for hire and reward purposes. The vehicle proprietor and the driver must ensure that valid insurance is maintained at all times. It is considered best practice for proprietors and or drivers to keep copies of expired insurance policies for a reasonable period in case of any retrospective claims.

- 2.30 Insurance policies for a licensed vehicle which contain named drivers who are not also licensed drivers, will not be accepted. (See paragraph 2.8)

### **Safety equipment**

- 2.31 All licensed vehicles must have a suitable and efficient fire extinguisher and first aid kit containing appropriate first aid dressings and appliances. Such equipment must be in date and carried in such a position in the vehicle as to be readily available and visible for immediate use in an emergency.

### **CCTV in licensed vehicles**

- 2.32 The installation of CCTV in licensed vehicles can be a deterrent to criminal and or anti-social behaviour and be a source of evidence in the case of disputes between drivers and passengers, other incidents, and accidents. If fitted correctly, it can assist the police and insurance companies with their investigations.
- 2.33 The installation of CCTV in licensed vehicles is not imposed as a condition. Whilst the council understands the benefits to the trade, as well as to passengers, and encourages its use in licensed vehicles, it is left to the judgement of the proprietors, drivers, and operators to determine.
- 2.34 Where drivers, proprietors and operators have considered it appropriate to install CCTV in their vehicles as a safeguarding measure, they must notify the council prior to installation. They must be registered with the ICO and comply with all aspects of data protection and CCTV codes of practice. Further information can be found on the following link <https://ico.org.uk/>
- 2.35 CCTV must be professionally installed to ensure no interference with other equipment, in such a manner that it does not increase the risk of injury or discomfort to the driver and passengers or affect any other safety system or in any way breach the motor vehicle construction and use regulations. It must be regularly checked and maintained, be openly overt and the vehicle must display the required signage.
- 2.36 CCTV must not be used to record conversations of the travelling public as it is highly intrusive. Some systems have a driver panic button which if activated does record sound, this should only be used in extreme circumstances, such as in response to a threat of physical violence.

### **Maintenance of vehicles**

- 2.37 It is expected by the council and the travelling public, that all vehicles over three years old are serviced in accordance with the manufacturer's requirements or at least annually. Licensed vehicles have high usage and mileage, and it is in the public interest, as well as the drivers, to ensure that vehicles are properly maintained.
- 2.38 Maintenance is a key factor with any vehicle and its good practice for all commercial vehicles to be part of a planned preventative maintenance programme, where all vehicles are routinely serviced to ensure safety and quality. The council expects this level of commitment from drivers and operators. It should be noted that the 12 monthly and 6 monthly tests carried out by the testing centre, is to confirm a level of safety and quality, rather than highlight to the driver what maintenance needs to be carried out.
- 2.39 Vehicles which present to the councils appointed testing station with multiple faults on multiple occasions which demonstrate that the vehicle is not being appropriately maintained, may be subject to 3 mechanical tests annually (every 4 months) to ensure public safety.

### **Vehicle testing**

- 2.40 The law requires all vehicles to have a yearly MOT test. However, as licensed vehicles provide a service to the public and have more usage, wear, and tear, it is appropriate to subject these vehicles

to a more stringent and enhanced test than the standard MOT test. Prior to licensing any vehicle, it must have passed this enhanced test.

- 2.41 Once a vehicle has passed this enhanced test and provided all required documentation, the council will issue a licence.
- 2.42 The appointed vehicle testing stations are to be determined and information will be made available on the council's website.
- 2.43 The council considers it appropriate to require all vehicles of a certain age, to be subject to a six-monthly vehicle test at the appointed testing station. This is to ensure that, as the vehicle gets older, it still meets the required standards applied by this council, and the law regarding vehicle emissions.
- 2.44 Vehicles must be presented for vehicle testing at the appointed testing station. Proprietors and or drivers, must book these appointments themselves. They must make sure that they organise the tests sufficiently in advance to ensure that the vehicle remains compliant with the vehicle testing requirements set out in the conditions (i.e., yearly or six monthly).
- 2.45 It is an offence to use on a public road a vehicle of testable age that does not have a valid MoT or current certificate of compliance, except when:
- Taking it away from the testing station after it has failed the test
  - Taking it to or bringing it away from a place whereby previous arrangement repairs are to be or have been made to remedy the defects for which the vehicle was failed
  - Taking it to the testing station for a test booked in advance.
- Even in the above circumstances you may still be prosecuted for driving an unroadworthy vehicle if it does not comply with the various regulations affecting its construction and use.
- 2.46 Vehicles which have failed the vehicle test must not be used for hire and reward work, until the vehicle has been re-presented to the testing station and been passed as fit for use and is licensed.

### **Accidents**

- 2.47 Any accident that causes damage which materially affects the safety, performance, appearance, or the comfort or convenience of the persons carried therein, must be reported to the council as soon as reasonably practicable, and in any case within 72 hours. Failure to report an accident within the given timeframe is an offence.
- 2.48 The driver involved in the accident must provide details to the licensing department of how, where and when the accident occurred. The damage to the vehicle must be assessed by an officer, where the vehicle is not capable of being driven, photos must be taken and given to the licensing department with the vehicle's licence plate and a vehicle suspension notice will be issued.
- 2.49 Drivers, proprietors and operators are advised that the council may be contacted by insurance companies to verify an accident damage report and details provided.
- 2.50 Vehicles which have sustained damage may apply for a temporary replacement vehicle whilst the vehicle is being repaired. The replacement vehicle will carry the same licence number as the damaged vehicle, therefore the licence plate for the damaged vehicle must be given back for the temporary plate to be released. Replacement vehicles must first be passed as fit for service by the council's appointed testing station and must meet all the other requirements and standards applicable. There is a separate application form and fee payable for this service and the reinstatement of the plate.

### **Transfer of ownership of the vehicle**

- 2.51 If a proprietor wishes to transfer ownership of a licensed vehicle, they must complete the required application, providing full details of the new owner of the vehicle as soon as possible, and in any case within 14 days. A proprietor who fails to give such notice, without reasonable excuse, is guilty of an offence.

## Accessibility of vehicles

- 2.52 An accessible public transport system where people with disabilities have the same opportunities to travel as other members of society is the aim of this council. The council expects that proprietors, drivers and operators consider the service they provide to ensure they provide service to all members of society without discrimination.
- 2.53 The council is committed to social inclusion and ensuring a wide variety of opportunity is available to all residents to enjoy a high quality of life. It is recognised that making door to door journeys easily and on-demand is crucial to social inclusion for disabled people.
- 2.54 All new (grant) hackney carriages licensed by this council will be designated for the purposes of section 165 of the Equality Act 2010, wheelchair accessible vehicles (WAV) and will appear on the maintained list under section 167 of the 2010 Act. This is to ensure that people with disabilities can hire the vehicle on the spot with the minimum delay or inconvenience.
- 2.55 Private hire vehicles which meet the criteria (ability to carry a passenger in their wheelchair) will be designated and added to the 167 published list. Exemptions will be considered on a case-by-case basis.
- 2.56 Drivers of designated vehicles are required to perform duties to assist passengers and must not refuse or charge disabled persons more than a non-wheelchair user for the same journey.
- 2.57 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair vehicles. The duties are:
- To carry the passenger while in the 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.
- The Act then goes on to define mobility assistance as 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.
- 2.58 Drivers of designated vehicles (who are not exempt) who fail to comply with the section 165 requirements will be committing an offence which will be taken particularly seriously.
- 2.59 All licensed drivers must ensure that no extra charges are applied for conveying persons with disabilities.
- 2.60 All licensed vehicles must convey assistance dogs for no additional charge. It is a breach of the Equality Act to refuse to carry an assistance dog, unless the driver has applied for and been issued an exemption certificate. (Further information on exemption certificates and notices can be found in section 3.75 to 3.80)
- 2.61 The council encourages all private hire operators to include wheelchair accessible vehicles amongst their fleet and to ensure that no additional costs are levied by them or their drivers, for conveying disabled passengers or assistance dogs.
- 2.62 Private hire vehicles fitted with a tail lift for wheelchairs, must provide a valid LOLER (Lifting Operations Lifting Equipment Regulations) certificate of compliance to prove that the tail lift has been

tested and checked to the required standards and must be retested every six months as per HSE (Health and Safety Executive) requirements.

### **Funeral and wedding vehicles**

- 2.63 There is no requirement for a vehicle to be licensed as a private hire if it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a funeral director for the purpose of funerals.
- 2.64 There is no requirement for a vehicle to be licensed as a private hire while it is being used in connection with a wedding.

### **Speciality Vehicles and Limousines**

- 2.65 Limousine and speciality vehicles are generally used for special occasions such as anniversaries, stag and hen parties, prom nights, etc. and may be vintage, specialist, or stretched vehicles.
- 2.66 Limousine and speciality vehicles used for the purpose of hire and reward are required to be licensed as private hire vehicles and all bookings must be made via a licensed operator.
- 2.67 These are specialist types of vehicles with their own set of conditions, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these specialist conditions, then these specialist conditions shall prevail. The conditions can be found at Appendix E.
- 2.68 The council strongly recommends that anyone wishing to purchase and licence a speciality vehicle or limousine, contacts the licensing team prior to purchase, to ensure that the vehicle will meet the conditions applied. Each application will be determined on its own merits.

### **Critical failure**

- 2.69 The council has an essential testing criterion for vehicles which have reached a certain age. The essential testing criteria are items which the council considers to be critical areas of a vehicle test, e.g., steering and suspension, brakes, exhaust emissions etc. This is considered a major failure and can indicate that regular preventative maintenance has not been carried out, or if it has, it has not been effective. See Appendix G for testing criteria for vehicles which have reached the standard age limit.
- 2.70 If a vehicle fails a mechanical test on one or more of these critical items, the vehicle will be automatically suspended, and the vehicle must not be used. The vehicle may be repaired and re-presented to the testing station within 30 days for retesting. If the vehicle passes the mechanical test within 30 days, the suspension notice will be lifted, and the vehicle may be relicensed.
- 2.71 If the vehicle does not pass the mechanical test within 30 days, it will be de-licensed.
- 2.72 Vehicle emissions are tested and checked on mechanical inspections. Vehicles will only pass the mechanical inspection, if the vehicle emissions continue to meet the defined criteria as set out in the V5 vehicle registration logbook.

### **Private hire exemption to display licence plate etc.**

- 2.73 The council recognises that there is a specialist market for the use of unmarked hire and reward vehicles. For example, executives who wish to give the appearance of using a chauffeur driven car, or who require an unmarked vehicle for security reasons. Such customers will expect these vehicles to be prestige high specification vehicles and will also expect the driver to be smartly dressed either as a chauffeur or in a business suit with collared shirt and tie.
- 2.74 The ability to exempt a vehicle from displaying the licence plate only applies to private hire vehicles, it does not extend to hackney carriages which must always display their plates.

- 2.75 Prestige high specification private hire vehicles which carry out contract work such as executive bookings etc. may apply for an exemption certificate, which exempts that vehicle from the requirement to display the vehicle licence number in the windscreen, Part 1 and Part 2 notice, the licence plate and door signage. It also exempts the licensed driver from wearing his badge, however the driver must carry his badge with him so that it is immediately available. The vehicle will still be issued with a licence plate, which must be affixed within the boot of the vehicle. Insurance which covers the driver and vehicle for hire and reward purposes must still be maintained.
- 2.76 Vehicles which have been issued with an exemption certificate must not be used for general daily private hire work. Exempted vehicles found to be carrying out standard private hire work will be subject to enforcement action and the exemption certificate may be revoked.
- 2.77 Exempted vehicles must not display any advertisements, signage, logos, or insignias advertising the operating company inside or outside the vehicle.
- 2.78 Operators and proprietors who wish to apply for an exemption certificate must complete the application form, pay the required fee, and provide sufficient supporting documentation to establish the vehicle will be solely used for executive bookings. Where issued, an exemption certificate renewal date will coincide with the renewal of the private hire vehicle licence.
- 2.79 There are extra conditions applicable to exempted vehicles, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these extra conditions, then these extra conditions shall prevail. The extra conditions can be found at Appendix H.
- 2.80 If an exemption certificate has been issued and the vehicle will no longer be utilised solely for executive type bookings, the certificate must be surrendered and returned to the council. If the vehicle is still licensed, it must then display the vehicle licence number in the windscreen, Part 1 and Part 2 notice, the plate and door stickers as required by the conditions for private hire vehicles.

#### **Required information to be displayed inside all licensed vehicles – Part 1 and Part 2 notice**

- 2.81 Members of the public who have cause for concern, or who wish to complain about a journey in a licensed vehicle, will need some information about the driver or vehicle which conveyed them to progress their complaint or report their concern.
- 2.82 Whilst licensed vehicles display their licence plate which contains identifying details, these are displayed on the outside of the vehicle. Members of the public do not routinely get the information off the licence plate prior to getting into a licensed vehicle. If they have a problematic journey, they may attempt to get the information, but this can be difficult if it is late at night, or the vehicle quickly drives away.
- 2.83 Also, whilst licensed drivers are required to wear their licence badge, which contains their information, a passenger may feel it too confrontational to request to see the driver's badge, especially if they have had a difficult journey.
- 2.84 In order to protect the public and to allow customers to correctly identify and report either a driver or a vehicle which caused concern, the council has determined that certain information must be displayed inside all licensed vehicles, (except for exempted (executive) private hire vehicles) in the form of a Part 1 and Part 2 notice.
- 2.85 A Part 1 notice must contain the following information and must be displayed in a conspicuous unobscured place which can be easily read by a passenger travelling in the rear and front of the vehicle;
- the proprietor of the vehicle,
  - the telephone number where a customer can make a complaint, report a concern, or comment positively e.g. Should you wish to comment positively or negatively on any aspect of your journey today, please call (insert telephone number)

the vehicle registration number, and  
the vehicle licence plate number.

- 2.86 A Part 2 notice must be displayed alongside the Part 1 notice and must contain a photograph of the driver of the vehicle and the driver's licence number in a conspicuous unobscured place which can be easily read by a passenger travelling in the rear and front of the vehicle. See Appendix I
- 2.87 By requiring the display of a Part 1 and Part 2 notice inside all licensed vehicles, the customer is fully empowered to easily report issues or concerns. It will also assist proprietors and operators to quickly identify the vehicle and driver utilised to address the complaint or concern reported.

### **SECTION 3**

#### **3. General provisions for hackney carriage and private hire drivers**

##### **Drivers general**

- 3.1 The council can only licence drivers that it considers are 'fit and proper' to hold a licence, and that the applicant is not disqualified by reason of their immigration status. There is no definition or general test that determines whether a driver is deemed 'fit and proper' to hold a licence. It is a matter of judgement for the licensing authority to assess any risks or concerns, taking into consideration such matters as the applicant's integrity, honesty, and previous character. Previous convictions and cautions are taken into account as well as other information.
- 3.2 Therefore, the council will require applicants and licence holders to undertake several checks and tests to establish their suitability to be considered 'fit and proper' to either be or remain licensed.
- 3.3 Applicants and existing licence holders are required to share information held about them by various bodies, such as DVLA, the police, medical information, right to work, immigration status, etc. The council can request any information it deems may be relevant to determine their fit and proper status. This may include checking a driver's prior history with this or any other council, use of NR3, using intelligence from the police or any other regulatory authority as appears relevant.
- 3.4 In order to be eligible to apply to be a licensed driver, an applicant must have held a valid full GB driving licence (or equivalent as defined by DVLA) for a minimum of 12 months. Therefore, the minimum age a person could be eligible to apply is 18 years old. There is no maximum age, so long as the applicant still meets the full criteria.
- 3.5 In order to be a licensed driver an applicant must:
- Submit a signed completed application form with fee,
  - Provide a tax check code
  - Provide proof of right to work in the UK,
  - Complete and pass the taxi competency course provided by Peterborough Regional College,
  - Provide a satisfactory enhanced DBS with barred list check and sign up and maintain registration with DBS update,
  - Provide a DVLA check,
  - Provide group 2 medical report,
  - Provide a recent passport type photo,
  - Undertake and pass the approved Safeguarding training, and
  - Pass the driving assessment test.
- 3.6 All new and renewal driver (and operator) applicants will be required to undertake mandatory safeguarding and County Lines training, as prescribed by the licensing authority prior to making an application. Existing drivers and operators will also be required to undertake mandatory training. A licence will not be renewed if the training has not been completed within an appropriate timeframe. Licensed drivers are required to attend refresher training every three years and provide proof of pass attendance with their renewal application.
- 3.7 Drivers' licenses are generally issued for a three-year duration. They may be issued for a lesser period

if appropriate, e.g., the applicant's right to work is of a shorter or limited duration. They may also be renewed, however, if a licensed driver fails to renew prior to the date of expiry of the existing licence, they will be required to apply as a new driver and meet all the requirements. Exceptions may be made in exceptional circumstances. (See paragraph 1.27)

- 3.8 In accordance with the tax conditionality requirements within the Finance Act 2021, from 04 April 2022, all **new** driver applicants are required to confirm that they have read and understood HMRC's published guidance in relation to their tax obligations.
- 3.9 In accordance with the tax conditionality requirements within the Finance Act 2021, from 04 April 2022, all driver applicants seeking to **renew** their licence are required to complete a HMRC tax check to confirm that the individual or company has been appropriately registered for tax and that the income from the licensed activity has been reported on a tax return. This is also a requirement for any driver licensed with another licensing authority that is seeking to be licensed with Rutland County Council. The Licensing Authority must receive confirmation that the applicant has completed a tax check before they are able to make a determination on any application.
- 3.10 It is the responsibility of the driver to ensure they apply for their renewal with all relevant supporting original documentation in good time to avoid any unnecessary burden.
- 3.11 It is important that drivers notify the council within 48 hours of any significant changes which occur after their licence has been granted. Such as change of name or address, or email address or telephone number, change of immigration status, changes in their physical or mental health which may affect their driving ability, all convictions, cautions or arrests, DVLA penalty points etc. or any other matter which may question their fit and proper status.
- 3.12 All licensed drivers are required to wear their drivers badge whilst working as a licensed driver. Failure to comply is an offence under the 1976 Act. Drivers are reminded that the driver's badge remains the property of Rutland County Council, all expired, surrendered, or revoked badges must be returned to the council.
- 3.13 This council issues two types of licences for drivers, a hackney carriage driver licence and a private hire driver licence. The driving assessment test for hackney carriage drivers is more rigorous. Therefore, a hackney carriage driver may drive a private hire vehicle, but a private hire driver cannot drive a hackney carriage vehicle.
- 3.14 Private hire drivers may apply to become hackney carriage drivers, they will need to submit the required application and fee and pass the enhanced test.

### **Suitability of driver**

- 3.15 Licensed drivers will encounter vulnerable people, drivers are expected to assist passengers with luggage, shopping etc., they will be driving for prolonged periods of time, and will have access to sensitive information, therefore the council must fully assess an applicant's suitability prior to and after issuing a licence.
- 3.16 Consideration of suitability includes character and patterns of behaviour and are not limited to incidents which occur whilst the driver is 'on duty.' Conduct or behaviour which may indicate that the safety and welfare of the public may be at risk, will also be taken into account when assessing their fit and proper status. For new applications, the onus is on the applicant to satisfy the council that they are 'fit and proper.'
- 3.17 The council requires applicants to fulfil certain criteria to ensure that the public are protected, and drivers can provide the service which is expected of them.
- 3.18 Applicants will be required to undertake and provide an Enhanced DBS (Disclosure and Barring Service) with barred list check and a medical health check to the DVLA group 2 standard, and share information held by DVLA and other licensing authorities upon new and renewal applications.



- 3.19 Applicants for new and renewals, who fail to report or declare an offence, or other relevant matter, will be taken particularly seriously. As it deliberately prevents the authority from taking into account that information in protecting public safety. It also shows a blatant breach of conditions and will go toward consideration of suitability and their fit and proper status.

### **Application process**

- 3.20 Applicants must fully complete an application and provide the relevant paperwork required and fee. Where supporting documentation is required to be submitted, only the original document will be accepted, not photocopies or photographs of the original. Applicants who deliberately fail to declare or who make false statements on the application form or during the application process, may be subject to legal action if it constitutes fraud.
- 3.21 Applicants must be able to prove their immigration status and that they have a right to work in the UK.
- 3.22 New applicants must complete and pass the Taxi Competency Course delivered by Peterborough Regional College and prescribed Safeguarding and County-Lines training.
- 3.23 Applicants who have criminal convictions, may submit an enquiry with the enhanced DBS and barred list check for consideration, prior to taking the college course, medical check and driving assessment test. The convictions and cautions will be assessed, and the applicant will be provided with an indicative decision. This does not prohibit the applicant from submitting a full application for a formal determination.
- 3.24 When an applicant has fulfilled all the application criteria, they will be required to take a driving assessment test, to assess driving ability, safety, control of the vehicle, awareness of controls within the vehicle, and local Knowledge, without the use of satellite navigation equipment.

### **Convictions, cautions and related matters**

- 3.25 In considering fit and proper, the council will take into consideration any prior convictions and cautions. Therefore, all applicants are required to undertake and submit an Enhanced DBS with barred list check. This check will detail all criminal convictions and cautions including those that are spent, and other relevant matters which may be held by the police about them. It does not prove an applicant's right to work.
- 3.26 The council uses an external provider called GB Group (First Advantage) to process the DBS certificates. Applicants are responsible for completing these checks and must register and apply online via the GB Group (First Advantage) website. After registering and completing the online process, applicants are required to print off the completed form and take it to a post office with the relevant identification and original documentation required. Applicants are also responsible for the payment of the appropriate fee to complete the issuing of the DBS certificate. DBS certificates must be no older than 3 months at the time of application.
- 3.27 All licensed drivers are required to maintain continuous registration with the DBS update service and provide authorisation to enable the licensing authority to routinely check for added information in accordance with statutory guidance and where there is reasonable cause for doing so.
- 3.28 Due to the type of work performed by licensed drivers, they do not fall under the Rehabilitation of Offenders Act. This means that what would be considered as spent, under the Rehabilitation of Offenders Act, are still taken into consideration when determining applications for licensed drivers.
- 3.29 Where convictions or cautions appear on a DBS, it is not the place of the council to go behind the existence or reason of that conviction. Whilst mitigating circumstances may have applied at the time of the conviction, the council cannot re-try the conviction. Depending on the offence committed, applicants may be able to demonstrate that it was a 'one off,' they acted out of character, so is unlikely to be repeated. Each application will be determined on its own merits.

- 3.30 Applicants who have not resided continuously in the UK since they were 18 years old, i.e., have spent an extended period (six or more continuous months) living or working outside the UK, will be required to submit a Certificate of Good Conduct or criminal record information, from each Country applicable, in addition to the Enhanced DBS certificate.
- 3.31 The existence of a criminal conviction or caution does not necessarily preclude an applicant from obtaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.
- 3.32 The National Anti-Fraud Network has developed a national register of taxi and private hire driver licence refusals and revocations known as NR3. The licensing authority provides information to NR3, a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire drivers licence revoked, or an application refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority, that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire driver licence.
- 3.33 It is a mandatory part of applying for or renewing a hackney carriage or private hire driver licence to disclose information on applications made and licences granted, refused, or revoked by another authority. All applicants will have their details checked against the register, and any relevant information considered in assessing the application. Where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register. Further information is contained in the policy on the use of the National Register of Taxi Licence Revocation and Refusals (NR3) attached at Appendix J
- 3.34 Further information is contained in the guidelines relating to the relevant of convictions / cautions in relation to taxi licensing attached at Appendix F.
- 3.35 Whilst each application is determined on its own merits, some offences are of such a serious nature that it is unlikely that a licence would be issued. Such as crimes resulting in death, exploitation and indecency offences relating to sexual assault or rape.
- 3.36 Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before conviction if there is a 'pressing social need.' This ensures that where there is a public protection risk, the police will pass information onto a regulator body to allow swift actions to mitigate any serious safeguarding risk. The CLPD replaced the Notifiable Occupation Scheme which was withdrawn in March 2015.
- 3.37 It is a requirement for licensed drivers to notify the licensing department of any cautions, convictions, arrests, immigration offences, road traffic offences such as speeding, or any other relevant matters criminal or civil, which may question their fit and proper status, that occur during or after the licence has been issued. In such circumstances, licensed drivers must notify the licensing department within 48 hours of an arrest and release, charge, or conviction.
- 3.38 If it comes to the attention of the council that a licensed driver has failed to notify the council of relevant matters which occur during or after the licence has been issued, it will be taken particularly seriously. It shows a propensity towards dishonesty and questions the fit and proper status of the licence holder.

## **DVLA**

- 3.39 As driving is the predominant aspect of a licensed driver, the council needs to consider if applicants hold a valid driving licence and if the licence holder has been issued any penalty points.
- 3.40 As the paper counterpart of the driving licence was abolished in June 2015, applicants and licensed drivers will be required to share information held about them by DVLA via an online process.
- 3.41 Applicants and licensed drivers are required to register online with the DVLA share my licence portal

and provide the access code to the council with their application and upon request. The access code will provide the council with information regarding penalty points etc. As the access code is only valid for a limited duration, drivers may be contacted and requested to provide another code, to enable progression of their application.

- 3.42 As the DVLA share my licence portal can only check driving licenses issued in Great Britain (England, Wales, and Scotland) applicants who hold an acceptable equivalent driving licence, (as defined by DVLA) will need to convert it to a GB driving licence prior to application.
- 3.43 Consideration of penalty points and driving offences will be made in accordance with the guidelines relating to the relevance of convictions / cautions in relation to taxi licensing which can be found at Appendix F

### **Medical Requirements**

- 3.44 It is essential that licensed drivers are in good health as they are expected to carry passengers' luggage, will drive on the road for longer periods than most car drivers, and may need to assist disabled passengers. The council must be satisfied that the drivers it licenses are sufficiently fit to undertake the tasks expected of them.
- 3.45 Being a licensed driver is a demanding role, safe driving requires the involvement of vision, hearing, attention, concentration, perception, good reaction time, judgement, coordination, muscle power and control etc. Therefore, various body systems need to be functional for safe driving.
- 3.46 Due to the length of time an occupational driver (hackney carriage and private hire) spends at the wheel, it is appropriate to have more stringent medical checks and standards than those applicable to normal car drivers.
- 3.47 The DVLA, The Royal Society of Medicine and the DfT recommend and consider it best practice for licensed drivers (hackney carriage and private hire) to be subject to the DVLA group 2 medical requirements. The DVLA group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers.
- 3.48 To ensure that public safety is protected, the council has chosen to adopt this best practice and require all applicants to obtain and submit a group 2 medical report with their application for new and renewals.
- 3.49 Therefore, applicants are required to undergo a medical examination by a registered general practitioner and submit the doctor's group 2 medical report with their application, to enable the council to consider their fitness to hold a licence.
- 3.50 The group 2 medical assessment must be completed by a doctor registered and licensed to practice in the UK or registered within the EU. If the applicant's own doctor completes the medical assessment it may speed up the application, as they already have full access to their medical records.
- 3.51 A group 2 medical report must be submitted with all new applications and every three years upon renewal and then annually thereafter when the applicant reaches 65 years old. Applicants must pay any fees to the registered medical practitioner for completing the medical and report. The medical assessment must be no older than four months at the time of submission with the relevant application.
- 3.52 Applicants must arrange and book these appointments themselves and provide photographic proof of identity to the registered medical practitioner. If the registered practitioner is unable to complete the vision assessment section of the medical, the applicant must arrange for an optician or optometrist to complete this part.
- 3.53 Licensed drivers must notify the council and their medical practitioner of any deterioration in their physical or mental health which may affect their ability to drive or complete their tasks as a licensed driver. The council expects licensed drivers to be responsible and to not continue to drive following

any deterioration in their health, or any health problems which could endanger the lives of the public.

- 3.54 If a licensed driver is involved in an accident in which s/he is injured, they must ensure that they are fit prior to returning to hire and reward work, this is for the safety of the driver and the public. Drivers who have suffered whiplash must ensure that they have sufficient movement in the neck area to enable them to observe any potential hazards.

### **Taxi Competency Course provided by Peterborough Regional College.**

- 3.55 Rutland County Council and Peterborough Regional College have jointly developed a course specifically for those who wish to be licensed drivers. The course tests some of the skills required to be a licensed driver, such as reading and writing, numeracy, equality and disability awareness, customer service, understanding of the conditions applied by the council, etc.
- 3.56 All new applicants must pass the taxi competency course provided by Peterborough Regional College. Those wishing to enrol on the course should contact the information centre at Peterborough Regional College, Park Crescent Campus, contact telephone number 01733 863068, where they will be issued with the course handbook and the pre-course reading material. When attending the course, applicants must take with them two forms of identification, one of which must be a DVLA driving licence with photo card, the other a utility bill no more than 3 months old.
- 3.57 Applicants must conduct themselves appropriately when attending the course. Behaviour of a rude or abusive manner will question their 'fit and proper' status and may result in their application being terminated.

### **Driving Assessment Test**

- 3.58 Once a complete application has been received and assessed, new applicants must take and pass a driving assessment test. The test will assess driving ability, control of the vehicle, awareness of controls within the vehicle, and local area knowledge without the use of satellite navigation equipment.
- 3.59 Applicants must provide a roadworthy licensed vehicle in which to take their test.
- 3.60 The tests applied are different for private hire driver applicants and hackney carriage driver applicants. As hackney carriage drivers can be hired on the spot, the local knowledge part of the test is more rigorous. Also, as all hackney carriages are designated WAV's, applicants must be able to demonstrate that they can safely load, unload, and safely secure a wheelchair in the vehicle.
- 3.61 Historically the driving assessment test has been provided in house by authorised council officers. The council have determined that the test should be delivered by an external provider whose assessors have been accredited by DVSA. This will ensure that the person undertaking the role of examiner is specifically trained in this role.
- 3.62 An approved list of Driving Assessment Test providers will be made available on the council's website. <https://www.peterborough.gov.uk/business/licences-and-permits/taxis-and-private-hire/hackney-carriages>

### **Service Expectations**

- 3.63 The council and the travelling public expect licensed drivers to provide good customer service and behave in a civil and courteous manner. They are expected to be clean and smart in their appearance. The vehicle must also be clean, presentable, and roadworthy. They are expected to provide reasonable assistance with luggage or shopping and provide a written receipt if requested with no extra charge. Arrive at the appointed time and not prolong any journey. As professional occupational drivers, they are expected to drive with consideration to other road users and weather conditions.
- 3.64 Drivers must be aware of and comply with the conditions applied by this council and other appropriate legislation. Drivers who fail to observe these requirements may be subject to enforcement action.

- 3.65 Conditions applicable to private hire drivers are attached at Appendix C.
- 3.66 Hackney carriage drivers can be conditioned by way of byelaws. The licensing authority are considering adopting byelaws, if adopted, they will be subject to a separate consultation process.
- 3.67 Drivers must not operate any equipment which may distract them whilst driving. Drivers must not cause annoyance to passengers during the journey by playing music or constantly talking on a hands-free mobile phone.
- 3.68 Drivers must be aware of their obligations under the Equality Act to provide a service and assistance to passengers with mobility problems, disabilities and to take assistance dogs, without extra charge.
- 3.69 Drivers who refuse or fail to take assistance dogs without an exemption certificate may be prosecuted by the passenger and may also be subject to enforcement action by the council.
- 3.70 This council condemns discriminatory behaviour, which is harassing, racist, religiously motivated, homophobic, sexist, or in any way offensive to disability or gender. Complaints of this nature are taken particularly seriously. The council does not have any power over passengers who use licensed vehicles but will give support to the trade where possible. Drivers who experience any of the above behaviour should report it to the police.
- 3.71 Licensed drivers must ensure that they fully consider the safety of the passenger, other road users, parking restrictions, street furniture and other hazards when stopping to allow a passenger to alight the vehicle.
- 3.72 Driving for long periods of time, when sleepy or fatigued impairs driving ability, reduces reaction time, vigilance, alertness, concentration, is dangerous and increases the risk of accidents. Licensed drivers have a duty to make a conscious decision to take regular rest periods, to ensure their own safety and the safety of the travelling and public. Licensed drivers must not drive if they are taking medication which impairs their judgement or driving ability.

#### **Requirement to display information – Part 1 and Part 2 notice**

- 3.73 As licensed vehicles may be driven by different licensed drivers and licensed drivers may utilise different licensed vehicles, the Part 1 and Part 2 notices can be interchanged. The driver must ensure that the correct information is displayed in the Part 1 and Part 2 notice prior to the commencement of all journeys with passengers.
- 3.74 The Part 1 notice must correctly reflect the proprietor information for that journey and drivers must ensure that they display their Part 2 notice in the vehicle they are driving. (See section 2.81 To 2.87 for further information and Appendix I for example)

#### **Exemption certificate**

- 3.75 Drivers may apply for an exemption certificate if, for health reasons, they are unable to convey assistance dogs, or provide physical assistance to passengers in wheelchairs. Drivers who have a medical condition, a disability or physical condition which makes it impossible or unreasonably difficult to provide the service, may apply for an exemption certificate.
- 3.76 The council will only consider exemption applications which are accompanied with a medical report signed by a registered medical practitioner. The period of the exemption certificate will be individually determined based on the medical practitioner's recommendation. The council may request applicants to be assessed by the council's professional qualified medical assessor, particularly where the period of exemption is likely to be long term.

- 3.77 Where an exemption application has been considered and approved by the council, the driver will be issued with an exemption certificate and an exemption notice. The exemption notice must be displayed in the vehicle on the nearside of and immediately behind the windscreen of the vehicle, in a manner that readily permits its removal, so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle, when they are driving. The exemption notice must be removed prior to another licensed driver driving the vehicle. Failure to display the notice could leave the driver open to prosecution, if they then do not comply with the requirements of the Equality Act. Only one exemption notice should be displayed in a vehicle at any one time.
- 3.78 If an exemption application is refused, the applicant will be informed in writing providing reasons for the decision to refuse. Applicants who have been refused an exemption can appeal the refusal to the Magistrates Court within 28 days.
- 3.79 Drivers who have been issued with an exemption certificate must inform proprietors or operators that they have the exemption, to avoid any unnecessary distress or delay to passengers.
- 3.80 Licensed drivers of designated WAV vehicles who fail to comply with the duties under section 165 of the Equality Act will be subject to enforcement action. Drivers convicted of failure to comply with this section are unlikely to be considered a 'fit and proper' person.

#### **Idling offence environmental impact**

- 3.81 Drivers are reminded that stationary idling is an offence under section 42 of the Road Traffic Act 1988.

#### **Monitoring of licensed drivers**

- 3.82 In the interests of public safety, the council has a duty to ensure that licensed drivers remain fit and proper and will intervene where appropriate. Complaints made to the council are recorded and monitored.
- 3.83 Where serious complaints, which question a drivers fit and proper status are received, they are investigated, and appropriate action is taken. Less serious complaints and minor infringements are not investigated to the same degree, but the accumulation of several complaints and infringements about the same driver could highlight that there is a cause for concern and will not go unnoticed. It could highlight a training need, a lack of understanding of conditions or legislation, or a failure to provide good customer care.

#### **Hackney carriage drivers**

- 3.84 It is understood that Hackney carriage drivers waiting on taxi ranks, will attempt to operate a first in the queue system. So that when a customer approaches, the taxi at the front of the rank will expect to take that passenger. Whilst this usually works without incident, drivers are advised that the customer may, for whatever reason, choose not to take the first taxi at the rank.
- 3.85 The customer has the choice in this situation, drivers who, whilst waiting on a rank, refuse or neglect to drive without reasonable cause are committing an offence.
- 3.86 Drivers are also advised that it is an offence to leave their vehicle unattended on a rank.
- 3.87 As the testing criteria for hackney carriage drivers is more stringent than those applied to private hire drivers, a licensed hackney carriage driver may also drive private hire vehicles.

#### **Hackney carriage proprietors – Part 1 notice**

- 3.88 Hackney carriage proprietors must ensure that their vehicles comply with the requirement to display required information in the form of a Part 1 notice as detailed in section 2.81 To 2.87 and example

provided at Appendix I.

- 3.89 If a proprietor is made aware of a safeguarding or serious complaint concerning the fit and proper status of a driver, they must notify the licensing department immediately or as soon as possible and provide details of their actions taken.

## **SECTION 4**

### **4 Operators**

#### **General**

- 4.1 The legislation requires any person, who during business makes provision for the invitation or acceptance of bookings for a private hire vehicle, must be licensed as a private hire operator.
- 4.2 Any individual, partnership, company, or other body that advertises the services of a private hire vehicle, provided with a driver, for hire and reward, is required to be licensed as an operator.
- 4.3 The acceptance of bookings may be provided for by a variety of methods, such as, in person, by telephone, text, email, internet, smart phone app, in writing, or by any other communication means.
- 4.4 The legislation requires the authority to only licence operators who are fit and proper to hold an operator's licence and who are not disqualified by reason of their immigration status.
- 4.5 All work undertaken by private hire vehicles (and drivers), must be pre-booked via a licensed operator. All three licences (private hire vehicle, private hire driver and operator) must be issued by the same local authority.
- 4.6 Operators can only utilise drivers and vehicles that are correctly licensed. Operators who fail to ensure that the drivers and vehicles they utilise have valid licenses, are guilty of an offence and will be subject to enforcement action.
- 4.7 An operator's licence is usually granted for a five-year duration but may be granted for a lesser duration if requested to do so in writing or if the applicant's immigration status limits it to a shorter duration.
- 4.8 All renewal applications must be submitted to the Council prior to the date of expiry of the existing licence. Exceptions may be made in exceptional circumstances. (See paragraph 1.27)
- 4.9 There is no provision within the legislation to transfer an operator's licence. New applicants must be subject to the fit and proper test and new premises must also be assessed for suitability.
- 4.10 An operator's licence cannot be issued to persons who do not have the right to work in the UK. A licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of their immigration status. Where this applies, the person must immediately cease to operate and return their operator's licence to the council within 7 days.
- 4.11 Licensed operators may accept bookings and may subcontract these bookings, but only to another licensed operator. However, the operator who accepted the initial booking remains responsible for that booking.
- 4.12 Operators are required by law to keep a record of bookings and records relating to each vehicle operated by the operator. Records of bookings must be made before the commencement of the journey. All such records must be made available to an authorised officer for inspection. Further information can be found in the Operator's conditions at Appendix D.

## **Application – suitability of applicant**

- 4.13 Operators are generally the owners of the private hire business. They have access to private information, are responsible for ensuring they only utilise properly licensed, insured, and safe vehicles and drivers, therefore the council is required to ensure that they are also fit and proper.
- 4.14 The council requires applicants to complete the application and submit it with the appropriate fee, with supporting documentation, which will be used to establish that they are fit and proper to hold an operator's licence. The supporting documents must be the originals, not photocopies or photographs.
- 4.15 Operators (who are not also licensed drivers), are required to submit a basic DBS disclosure with their application and on an annual basis. The basic disclosure will list any current convictions and cautions, but nothing which is considered spent under the Rehabilitation of Offenders Act. Applicants who have not resided continuously in the UK since they were 18 years of age, i.e., have spent an extended period (six or more continuous months) outside the UK, will be required to submit a Certificate of Good Conduct or criminal record information, from each Country applicable.
- 4.16 Where the application for an operator's licence is in the name of a company, the DBS requirement (including annual DBS) extends to all named Directors, Partners, Company Secretaries, and all persons with significant control. Operators are required to notify the licensing authority in writing of any changes in directors, partners, or other persons with significant control, within seven days. This notification must include a basic DBS for any new person.
- 4.17 Applicants for operators' licences are required to provide details of their name and address. The address where they intend to operate the business, any trade or business activities s/he has carried on before making the application, any prior applications made for an operator's licence, if any prior operator's licence has been suspended or revoked, details of any convictions. This includes any convictions where applicants or those associated in running the business have been convicted of any offences. This is to ensure that those involved in the operation of the business are fit and proper to operate a business.
- 4.18 In accordance with the tax conditionality requirements within the Finance Act 2021, from 04 April 2022, all operator applicants seeking to renew their licence are required to complete a HMRC tax check to confirm that the individual and or company has been appropriately registered for tax and that the income from the licensed activity has been reported in a tax return. This is also a requirement for any operator licensed with another licensing authority that is seeking to be licensed with Rutland County Council. The licensing authority must receive confirmation that the applicant has completed a tax check before they are able to determine any application.
- 4.19 Applicants who intend to operate a radio system will be required to provide proof of their licence from Ofcom. This licence was previously issued by the Department of Trade and Industry but changed to Ofcom in 2003.
- 4.20 The council will not grant a licence to an operator whose premises are located outside our area. This is to ensure that proper regulation and enforcement measures may be taken by the council and is in no way intended to be a restraint of trade.
- 4.21 All new and operator (and driver) applicants will be required to undertake mandatory safeguarding and County Lines training, as prescribed by the licensing authority prior to making an application. Existing operators (and drivers) will also be required to undertake mandatory training. A licence will not be renewed if the training has not been completed within an appropriate timeframe. Operators are required to attend refresher training every five years and provide proof of pass attendance with their renewal application.

## **Suitability of premises**

- 4.22 When considering an application for an operator's licence at a new premises, consideration may be given to the location, the vicinity, facilities, parking arrangements, planning permission etc. to ensure



that the grant of a licence will not negatively impact on the surrounding area, including businesses, residents, and the public.

- 4.23 Operators intending to operate from new premises will be required to submit with their application proof of planning permission, or proof that planning permission is not required. Where planning permission is required, operators must comply with any condition attached to such permission. Whilst any breach of planning legislation will be enforced by the planning department, it may also be used in consideration of an operator's fit and proper status.

### **Operators' responsibilities and obligations**

- 4.24 Operators are responsible for keeping accurate records of bookings and retaining them for a period of not less than six months. These records must detail required information about each booking taken and fulfilled by the operator. Further information is contained within the operator's conditions attached at Appendix D
- 4.25 If an operator subcontracts a booking to another licensed operator, both operators must keep a record of the booking. The operator who accepted the initial booking remains fully responsible for that journey even though it has been subcontracted to another licensed operator. The initial operator must record what checks they made to ensure that the operator they passed the booking onto is correctly licensed.
- 4.26 Regardless of which operator fulfils the booking, the operator can only dispatch a vehicle licensed by the same authority that licenses the operator and driven by a driver also licensed by that same authority.
- 4.27 It is not expected that subcontracting of bookings would be commonplace. Customers who book through a Rutland operator would expect a vehicle and driver also licensed by this authority. The conditions and standards applied by other licensing authorities are different to those applied by this authority, therefore, may not meet the licensing requirements of this authority.
- 4.28 The customer has the choice of which operator they book through. This means that the customer may choose an operator licensed by a neighbouring authority, known as cross border hiring. The legislation permits these bookings, and the council cannot get involved in these private hire contracts. Operators should aspire to ensure that their drivers and vehicles provide the highest standard of service, so that they are the operator of choice.
- 4.29 The Licensing Authority must be satisfied that private hire operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles, do not pose a risk to the public. To this end, operators are required to keep and maintain a register of all staff that will be taking bookings and/or dispatching vehicles.
- 4.30 Operators are required to evidence that they have had sight of a Basic DBS check for all individuals on their register of booking and dispatch staff and must ensure that Basic DBS checks are conducted on any individuals added to their register. Should an employee cease to be on the register and is then later re-entered, a new Basic DBS certificate must be requested for that individual and sight of this recorded.
- 4.31 Operators are required to provide a copy of their policy on employing ex-offenders in roles that would be on the register as above.
- 4.32 Operators need to be aware of their obligations when it comes to data protection. Where databases containing personal information, such as records of bookings are maintained electronically or if they have CCTV, they are required to be registered with the Information Commissioner's Office (ICO). Further information including a self-assessment, can be found on the ICO website;  
<https://ico.org.uk>
- 4.33 Operators must ensure they have all the correct insurances in place for the vehicles and drivers they utilise. Those who provide a waiting area for customers must ensure that they have valid public liability

insurance.

- 4.34 Operators must make customers fully aware of any additional charges which may be applied, e.g., for waiting time and for cleaning a soiled vehicle. These additional charges must be clearly displayed in the operator's office and website where available.
- 4.35 Operators are responsible for ensuring that the vehicles utilised are clean, fit for the purpose of the booking and comply with the conditions applied by this council. It is expected that operators have a planned maintenance programme in place for all vehicles it utilises. The testing requirements applied by this council are to confirm a level of safety and quality, rather than to highlight what maintenance needs to be carried out.
- 4.36 The council encourages all private hire operators to include wheelchair accessible vehicles amongst their fleet. They must ensure that no additional costs or charges are levied by them or their drivers for conveying disabled passengers or assistance dogs.
- 4.37 Operators who provide wheelchair accessible vehicles must ensure that the driver is appropriately trained to safely load, unload, and convey passengers in a safe and secure manner. This training must be documented and refreshed at suitable intervals. These training records must be available for inspection by an authorised officer.
- 4.38 Operators must ensure that the drivers they utilise are fit and proper to carry out the bookings and are appropriately trained for their role. Operators should be able to demonstrate how they will achieve this by way of a policy to include any training (or checks) provided by the operator, customer service company policies and practices, including disability awareness.
- 4.39 Where a private hire vehicle is unsuitable to fulfil a booking on the basis that a vehicle of more than eight passenger seats is required (vehicles which accommodate more than eight passengers are classed as Public Service Vehicles), the operator must inform the person making the booking that PSV's are not licensed by the council, but rather are the responsibility of the Traffic Commissioner, and that the driver of such vehicles are subject to different checks and are not required to undergo an enhanced DBS check.
- 4.40 Operators must be aware of their obligations under the Immigration Act and only utilise persons who have the right to work in the UK. Failure to observe this requirement or to provide due diligence checks may be subject to enforcement action by the relevant home Office department.

#### **Part 1 notice and complaint policy**

- 4.41 As responsible business owners, operators will understand that the drivers and vehicles they utilise represent their business when undertaking bookings. Operators will want to ensure good customer service, as this builds a respected reputation, resulting with repeat bookings and a successful business. Where vehicles or drivers fail to provide a good service, the operators business can suffer.
- 4.42 Whilst a vast majority of bookings take place without problem, there are occasions where a customer has cause for concern or complaint. Aggrieved customers have a right to complain if the service provided fails to meet expectations. It is also right for responsible operators to attempt to find an amicable resolution to the complaint, without any unnecessary regulatory burden or intervention.
- 4.43 Complainants must be dealt with in a respectful timely manner in an open and transparent way. To ensure this is achieved, operators are required to have a formal complaints policy and procedure which is made freely available to all customers and maintain records of complaints received.
- 4.44 A copy of the complaints policy and procedure must be given to the council and will be required with all new and renewal applications.
- 4.45 The complaint records must detail specific information, be monitored, and be made available to authorised officers upon request.

- 4.46 The specified information to be recorded must include the following information as a minimum:  
the name of the complainant and how they can be contacted,  
the date the complaint was made and the time and date of the journey,  
If the booking was subcontracted the details of the licensed operator who fulfilled the booking and any action taken by the subcontractor regarding the complaint or concern  
the name of the driver and vehicle being reported,  
the nature of the complaint or concern,  
The date by which the operator will respond to the complaint, which must not exceed 72 hours from time of receipt,  
The action taken if any, by the operator to resolve the complaint or concern.
- 4.47 Operators must also inform the complainant, that they can further their complaint to the council if they remain dissatisfied with the outcome of their complaint.
- 4.48 If an operator is made aware of a safeguarding or serious complaint concerning the fitness of a driver, they must notify the licensing department immediately or as soon as possible and provide details of the actions taken by the operator.
- 4.49 Operators must ensure that the vehicles they utilise display a correctly completed Part 1 notice (See section 2.81 to 2.87 and appendix I for further information) and door signage

## **SECTION 5**

### **5. Safeguarding**

- 5.1 Safety, security and welfare applies to passengers and licensed drivers. Licensed drivers deal with strangers, they work alone often late at night, carry cash and may be at risk of violence, non-payment of fares, verbal abuse etc. Proprietors and operators must consider these factors when determining what safeguarding measures should be in place. The council encourages the use of CCTV in licensed vehicles but has not made it a condition of licences due to the financial burden involved. However, proprietors and operators should consider the benefits and disadvantages of safeguarding measures such as, CCTV, cashless payment systems, communication systems, etc. in licensed vehicles in their risk assessments.
- 5.2 Drivers and operators may refuse to carry any passenger if they have good cause, e.g., a customer's behaviour or demeanour is threatening, offensive or abusive or has previously refused 'bilked' payment. Where this occurs drivers and operators should keep records of why the service was refused.
- 5.3 Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur using technology.
- 5.4 Licensed drivers, proprietors and operators provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable. Should a licensed driver, proprietor or operator have any concerns about the vulnerability of a child or public safeguarding they must report this immediately as it may prevent the vulnerable child from becoming a victim. Reports of imminent danger should be made to the police on 999. Where there is no immediate danger, or you wish to pass on some information or intelligence please call 101.
- 5.5 All new and renewal driver and operator applicants will be required to undertake mandatory safeguarding and County Lines training, as prescribed by the licensing authority prior to making an application. Existing drivers and operators will also be required to undertake mandatory training. A

licence will not be renewed if the training has not been completed within an appropriate timeframe. Licensed drivers are required to attend refresher training every three years and provide proof of pass attendance with their renewal application. Operators are required to attend refresher training every five years and provide proof of pass attendance with their renewal application.

- 5.6 Further information can be found on the following link: <https://lrsb.org.uk/>

## **SECTION 6**

### **Enforcement**

- 6.1 The council has a responsibility to ensure that all licence holders adhere to the standards and conditions applied by this authority and the legislation.
- 6.2 As all licence holders are 'fit and proper,' they are expected to fully understand the conditions and requirements placed on them by this authority and other applicable legislation.
- 6.3 The council will take appropriate action against licence holders upon receipt of evidence that an offence has been committed. An offence may be a breach of the legislation or condition imposed on a licence or this policy.
- 6.4 Offences under legislation outside that applicable to private hire and hackney carriages, may be considered, if they call into question the fit and proper status of the licence holder.
- 6.5 The council will undertake overt and covert targeted enforcement operations as well as ad hoc compliance checks on licence holders. These operations and compliance checks may be inside and outside normal office hours and may involve partner agencies.
- 6.6 Some breaches of legislation cannot be enforced by the council, but will be enforced where appropriate, by other partner agencies, e.g., the Police, DVSA, the Home Office etc.
- 6.7 Every enforcement action taken by the council, will be determined on the individual circumstances, will be in accordance with this policy, the council's enforcement policy and the Regulators Code.
- 6.8 There are a range of sanctions and actions which may be taken by the council, e.g., prosecution, suspension, revocation, refusal to renew, formal written warning, caution, verbal warning, advisory letter, note on records and no action. The course of action will depend on the severity of the offence committed, the evidence available and the risk to public safety.
- 6.9 Prosecutions will be taken where it is in the public interest.
- 6.10 The council will revoke, suspend, or refuse to renew a licence where the licence holder has committed offences that put public safety at risk.
- 6.11 Any person who witnesses speeding, dangerous, reckless, or careless driving by a licensed driver or otherwise, should report each incident to the police (as they are the enforcing body for driving offences) with sufficient information to allow the police to take appropriate action.

### **Right of appeal**

- 6.12 This Licensing Authority retains absolute discretion to decide that a licence will not be granted if the vehicle, driver, or operator does not meet the requirements of the policy or conditions of licensing. There is a right of appeal to the Magistrates' Court within 21 days of being given that decision, and thereafter to the Crown Court. In the case of a refusal to grant a hackney carriage proprietors (vehicle) licence, the right of appeal is directly to the Crown Court within 21 days.

## SECTION 7

### 7. Fees, Charges and Refunds

- 7.1 The licence fees applied by this council are set on a cost recovery basis. They are regularly reviewed, and any increase or reduction will be published and consulted upon as required by the legislation. The current fees and charges are available on the website. (See link below)  
<https://www.rutland.gov.uk/licensing/licence-fees>
- 7.2 The council has no power to regulate the fares charged by private hire operators, they are a private contract between the customer and the operator. Operators are required to display any additional fees which may be charged e.g., for waiting time or for cleaning a soiled vehicle.
- 7.3 Requests for refunds by licence holders must be made in writing and will be considered on a case-by-case basis. Consideration will be given to the reason for the request and the costs incurred by the council at the point of request, including the cost incurred to arrange the refund. Please note that some fees are non-refundable.

### Appendices

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**RUTLAND COUNTY COUNCIL CONDITIONS OF FITNESS FOR HACKNEY CARRIAGE VEHICLES**

**Hackney Carriage Vehicle Specification and Type Approval**

**SECTION 1. APPROVED VEHICLES**

- 1.1 The following vehicles are approved by Rutland County Council (the Licensing Authority) to be licensed as Hackney Carriage Vehicles: LTI TX2, TX4, LEVC TX, Mercedes-Benz Vito and M8 Taxis, the Peugeot E7 SE and XS short wheelbase models, the Nissan Dynamo Taxi and any other vehicle that meets the requirements specified within the conditions of fitness.
- 1.2 To allow the trade a transition period, existing licensed vehicles will continue to be licensed for a further 2 years after this policy takes effect, providing the vehicle still meets all other required standards. After this time, all vehicles must meet all required standards

**SECTION 2. VEHICLE APPROVAL**

- 2.1 It must be understood that, although the conditions set out in this document have been complied with, approval will be withheld if the Licensing Authority is of the opinion that a vehicle is unsuitable for public use.
- 2.2 Although the Licensing Authority may extend approval of any type of taxi to all other taxis conforming to the design of that type, it must be understood that the Licensing Authority may withdraw such general approval if, in its opinion, any unsuitable features arise.
- 2.3 No vehicle will be authorised as a Hackney Carriage Vehicle unless it conforms with the requirements as set out within this document unless; where justifiable reasons exist, the committee may decide to approve the vehicle.
- 2.4 Vehicles will be licensed subject to the following restrictions.

Maximum age limit beyond which the vehicle will not be licensed	15 years old
Age at which the vehicle will be subject to six monthly inspections	10 years old
Age at which the vehicle will be Subject to Critical testing criteria	10 years old

- 2.5 Years of age; calculated from the date on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994. The operating period being subject to compliance with the council's standard of fitness.
- 2.6 Vehicles subject to 6 monthly inspections at a time and place to be notified by the authorised officer of the council.
- 2.7 An application for the approval of a new type of Hackney Carriage vehicle must be made in writing to the Licensing Authority.
- 2.8 The applicant must study the Conditions of Fitness set out in Section 3 of this document and provide detailed specifications of the proposed vehicle, or vehicle conversion demonstrating that the vehicle meets the requirements of the Conditions of Fitness. It will also be necessary to arrange a preliminary inspection of the vehicle.
- 2.9 The applicant should address any current guidance issued by the Department for Transport (DfT) [or any replacement body if this should change] for the design of Hackney Carriage Vehicles and indicate to the Licensing Authority the extent to which those guidelines have been accommodated. Applicants should demonstrate that they have taken account of current DfT guidance as regards ergonomic requirements for accessible taxis.
- 2.10 There shall be provided and maintained in the vehicle at all times a suitable and efficient fire

extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances. Such equipment must be in date and carried in such a position in the vehicle as to be readily available for immediate use in an emergency.

- 2.11 Arrangements must then be made to present the completed vehicle for inspection by the Licensing Authority. When presented, all associated equipment must be present for the inspection and testing of the vehicle; i.e., wheelchair ramps, straps, safety equipment etc. A declaration must be provided by the manufacturer or authorised person that the vehicle conforms to the law and is safe for use as a public carriage, together with a certificate of registration and summarised documentary evidence that the vehicle meets the Conditions of Fitness as stated in Section 3 of this document.
- 2.12 Any proposed structural alterations to the original specification must be submitted to the Licensing Authority for approval.
- 2.13 The approval of the vehicle will be determined by the Licensing Committee who will consider each application under its own merits. Although a vehicle may meet the criteria as set out by the Conditions of Fitness, where justifiable reasons exist the committee may decide after consideration not to approve the vehicle. Where a vehicle does not completely comply with the Conditions of Fitness, however justifiable reasons exist the committee may decide after consideration to approve the vehicle.

### **SECTION 3. CONDITIONS OF FITNESS**

#### **3. General Construction**

- 3.1 Every new type of hackney carriage vehicle must comply in all respects with the requirements of the Motor Vehicle (Type Approval) Regulations 1980, the Motor Vehicle (Type Approval) Regulations (Great Britain) 1984, the Motor Vehicles (EC Type Approval) Regulations 1998 and with any further national or international legislation as may be applicable.
- 3.2 Every new type of Hackney Carriage Vehicle offered for approval must comply in all respects with the Road Vehicles (Construction and Use) Regulations 1986 (C & U). Every new type of taxi offered for approval must comply in all respects with British and European vehicle regulations and be “type approved” to the requirements of the M1 category of European Whole Type Approval Directive 2007/46/EC as amended. Those taxis which have not been “type approved” to the M1 category (e.g., conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category.
- 3.3 Vehicles offered for Hackney Carriage approval must be constructed in a way as to allow the carriage of disabled persons and must accommodate as a minimum a disabled person in a Department of Transport reference wheelchair in the passenger compartment.
- 3.4 No equipment and/or fittings, other than those approved by the Local Authority may be attached to or carried on the inside or outside of the vehicle.
- 3.5 No modification may be carried out to a Hackney Carriage Vehicle without prior approval from the Licensing Authority.
- 3.6 Before considering any modification to a Hackney Carriage Vehicle, approval must be sought from the Licensing Authority.

#### **4. Steering**

- 4.1 The steering wheel must be on the offside of the vehicle.

#### **5. Tyres**

- 5.1 All tyres must comply with the relevant legislation and be marked accordingly.

- 5.2 Tyres must be of the designated size, speed and weight rating for that make and model of vehicle as prescribed by the vehicle manufacturer.
- 6. Brakes**
- 6.1 An anti-lock braking system is to be fitted.
- 7. Interior lighting**
- 7.1 Adequate lighting must be provided for the driver and passengers.
- 7.2 Separate lighting controls for both passenger and driver must be provided. In the case of the passenger compartment, an illuminated control switch must be fitted in an approved position. This must be within reach of wheelchair passengers. Lighting must also be provided at floor level to each passenger door and be activated by the opening of the doors.
- 8. Electrical Equipment**
- 8.1 Any additional electrical installation and/or aftermarket components to be used within the taxi must meet the requirements of the relevant Automotive Electromagnetic Compatibility (EMC) Directive, as amended, and be marked accordingly.
- 9. Fuel Systems**
- 9.1 Any engine powered by liquid petroleum gas (LPG), compressed natural gas (CNG), liquid natural gas (LNG), petrol or any combination of these fuels must be fitted with an automatic inertia fuel cut off device.
- 10. Exhaust emissions standards**
- 10.1 New taxi models must meet the current and relevant EC Directive for exhaust emissions, i.e., the respective Euro standard. Current, approved, taxi models must meet prescribed emissions standards.
- 11. Body**
- 11.1 The body must be of the fixed head type with a partially glazed partition separating the passenger from the driver.
- 11.2 The overall length must not exceed 5.2 metres. This is essential for determining the size of taxi ranks, other pick-up points in Rutland.
- 12. Facilities for the disabled**
- 12.1 Every new (grant) taxi must be equipped to approved standards in order that wheelchair passengers may be carried. Vehicles licensed prior to this policy taking effect can remain licensed for a further 2 years without being wheelchair accessible, provided all other required standards are met.
- 12.2 Approved anchorages must be provided for wheelchair tie downs and the wheelchair passenger restraint. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other.
- 12.3 Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- 12.4 The door and doorway must be so constructed as to permit an unrestricted opening across the



doorway of at least 75cm. The minimum angle of a hinged door when opened must be 90 degrees.

- 12.5 The clear height of the doorway must be not less than 1.2 metres.
- 12.6 Grab handles must be placed at door entrances to assist the elderly and disabled. All grab handles must be in a contrasting colour.
- 12.7 The top of the tread for any entrance should normally be at floor level of the passenger compartment and comply with the following requirements:
  - a. be not more than 380 mm from the ground, (measured at the centre of the tread width);
  - b. the surface shall be covered in a slip-resistant material;
  - c. have a band of colour across the entire width of the edge which shall contrast with the remainder of the tread and floor covering.

Should any entrance be more than 380 mm from the ground, an external interim step must be made available when the associated passenger door is opened and comply with the following requirements-

- a. not be more than 380 mm in height from the ground, (measured at the centre of the step width);
  - b. not be less than 250 mm deep;
  - c. the surface shall be covered in a slip-resistant material;
  - d. have a band of colour across its leading edge which shall contrast with the remainder of the step and floor covering;
  - e. not be capable of operation whilst the vehicle is in motion;
  - f. if automatic or powered, be fitted with a safety device which stops the motion of the step if the step is subject to a reactive force not exceeding 150N in any direction and if that motion could cause injury to the passenger;
  - g. can fold or retract so that it does not project beyond the side face of the vehicle and the vehicle is not capable of being driven away unless the step is so folded or retracted.
- 12.8 The vertical distance between the highest part of the floor and the roof in the passenger compartment must not be less than 1.3 metres.
- 12.9 Where seats are placed facing each other, there must be a minimum space of 350mm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level.
- 12.10 Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab, measured along a horizontal plane at the centre of the cushion.
- 12.11 A ramp for the loading of a wheelchair and occupant must be always available for use, as a minimum, at the nearside passenger door on all new vehicles presented for licensing. The ramp must be 70cm wide, as a minimum, and comprise a single non-slip surface. It is desirable for this facility to be available at the offside passenger door also. An adequate locking device must be fitted to ensure that the ramp does not slip or tilt when in use. Provision must be made for the ramp to be stowed safely when not in use.

### **13. Passenger compartment**

- 13.1 Occasional seats must be at least 40cm in width and the distance from the back of the upholstery to the front edge of the seat must be not less than 35.5cm.
- 13.2 Occasional seats must be so arranged as to rise automatically when not in use. When not in use, they must not obstruct doorways.
- 13.3 The rear seat dimensions must be adequate to carry the appropriate number of adult passengers comfortably.

- 13.4 Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.
- 13.5 Lap and diagonal seatbelts must be fitted on all seats (including rear facing seats).
- 13.6 Colour contrasting sight patches are required on all passenger seats.
- 13.7 Head restraints must be fitted for all (forward and rear facing) seats. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.
- 13.8 An induction loop system (or equivalent) must be fitted.

#### **14. Driver's compartment**

- 14.1 The driver's compartment must be so designed that the driver has adequate room, can easily reach, and quickly operate, the controls.
- 14.2 The controls must be so placed as to allow reasonable access to the driver's seat and, when centrally placed, controls must be properly protected from contact with luggage.
- 14.3 Every vehicle must be provided with an approved means of communication between the passenger and the driver. If a sliding window is fitted on the glazed partition, the maximum width of the opening must not exceed 11.5cm.
- 14.4 Where a single piece glazed partition is fitted, a facility must be provided for making payment to the driver.

#### **15. Visibility – Driver**

- 15.1 A single-piece, full width rear window must be fitted. The design of headrests should maximise rear sightlines for the driver when any of the passenger seats are not occupied.

#### **16. Visibility – Passenger**

- 16.1 The windows should maximise passenger visibility into and out of the vehicle.
- 16.2 The bottom of the window line for front and side windows must be low enough to afford passengers adequate visibility out of the vehicle.
- 16.3 A proportion of the window area in the passenger compartment must be available for opening by the seated passenger.
- 16.4 Windows must conform with both Type Approval and Construction and Use Regulations. Post manufacturer window tinting is not permitted.
- 16.5 Passenger windows must be capable of being opened easily by passengers, including those in wheelchairs, when seated. The control for opening a window must be clearly identified to prevent it being mistaken for any other control.

#### **17. Heating and ventilation**

- 17.1 An adequate heating and ventilation system must be provided for the driver and passengers and means provided for independent control by the driver and the passengers. All switches must be within easy reach of seated passengers, including those in wheelchairs.

#### **18. Door fittings**

- 18.1 An approved type of automatic door securing device must be fitted to passenger doors to prevent them being opened when the vehicle is in motion.
- 18.2 When the vehicle is stationary, the passenger doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.
- 18.3 The door must not open from the inside if the driver has the foot brake depressed.
- 18.4 The interior door handle must be clearly identified to prevent it being mistaken for any other control.
- 19. Fare table and number plate**
- 19.1 A frame must be provided for the fare table and fixed in an approved place. A position for an interior number plate is to be provided with the words "The number of this taxi is...." Shown immediately above the position of the plate.
- 20. Floor covering**
- 20.1 The flooring of the passenger compartment must be covered with a slip resistant material, which can be easily cleaned.
- 20.2 The floor covering must not impede the movement of wheelchairs. The colour of the floor covering must contrast with any up-stand areas around it and with the colour of the seats.
- 21. Luggage**
- 21.1 Suitable dedicated provision for the secure carriage of luggage must be made, separated from the passenger compartment and proportionate in size to the number of passengers carried.
- 22. Taxi Roof Sign**
- 22.1 A "Taxi" roof sign approved by the council must be fitted and be clearly visible daytime and night-time when the taxi is available for hire.
- 23. Radio Equipment**
- 23.1 Where equipment for the operation of a two-way radio system is fitted to a taxi, no part of the apparatus may be fixed in the passenger compartment or in the rear boot compartment if LPG tanks or equipment are situated therein.
- 23.2 Any other radio equipment, either in the passenger or driver compartment, must be approved by the council.
- 24. Electrical Equipment**
- 24.1 Any additional or non-standard electrical installation to the original vehicle must be installed and tested by a professional installer and be protected by a suitably rated fuse. Any additional installation must comply with all relevant regulations.
- 24.2 Approval from the licensing authority must be obtained prior to installing CCTV in a vehicle.
- 25. Required information to be displayed inside the vehicle – Part 1 and Part 2 notice**
- 25.1 The proprietor must ensure that the vehicle displays a Part 1 notice, which must contain the following information in a conspicuous unobscured place so that it can be easily read by a passenger travelling in the rear and front of the vehicle;
- The name of the vehicle proprietor
  - The contact telephone number where a customer can make a complaint, report a concern, or positive comment e.g. Should you wish to comment positively or

- negatively on any aspect of your journey today, please call (insert telephone number)
- The vehicle registration number
- The vehicle licence plate number

25.2 Alongside the Part 1 notice, vehicles must also display a Part 2 notice, which must contain the following information in a conspicuous unobscured place so that it can be easily read by a passenger travelling in the rear and front of the vehicle;

- The licensed drivers photograph and
- The driver's licence number

25.3 All licensed vehicles must comply with the requirements of the Health Act 2006 and display a no smoking sign. Drivers are reminded that it is against the law to smoke or allow someone to smoke in a licensed vehicle at any time. For the avoidance of doubt, the council also forbids the smoking of electronic cigarettes and vaping in licensed vehicles, whether by the driver or passengers

25.4 All licensed vehicles must display a sign identifying the vehicle licence number in the top left-hand side of the windscreen (as viewed from inside the vehicle). The approved sign provided by the council must be fitted internally, in such a manner that the sign can be clearly viewed from outside the vehicle. The sign shall be capable of being removed by a constable or authorised officer or the council, should the licence be suspended or revoked.

## 26 **Other licence holder responsibilities**

26.1 All licence holders (proprietors, operators, and drivers) shall co-operate with any reasonable request made by an Authorised Officer.

RUTLAND COUNTY COUNCIL  
PRIVATE HIRE VEHICLE LICENCE CONDITIONS

The following are conditions attached to the Private Hire vehicle licence. These conditions are additional to the requirements imposed upon proprietors/drivers and vehicles by the Local Government (Miscellaneous Provisions) Act 1976, Equality Act 2010, and the Town Police Clauses Act 1847. Breach of any of these conditions may lead to suspension or revocation of the licence and/or prosecution.

Appearance, Design, Signs, Notices etc

1.
  - (a) The vehicle must not be equipped with roof fittings except that a wireless aerial which may be fitted but only in such a manner to satisfy the Council.
  - (b) All vehicles must also conform to the M1 type approval and construction and use regulations. Vehicles which are not M1 type approved, (e.g., N1) must provide VIVA (Voluntary Individual Vehicle Approval) documentation confirming conformity and safety of alterations and updated V5C to correlate.
2.
  - (a) There shall be no lights, plates, signs, advertisements or other fittings (other than the licence plate referred to in Condition 6 and other signage referred to in (c) to (g) below) displayed on or from the vehicle, except those approved by the Council in accordance with or displayed to comply with requirements under the current lighting and licensing regulations approved by the appropriate Secretary of State.
  - (b) The vehicle must not be equipped with any sign or notice such as the word "CAB" or "TAXI" or be of such design or appearance as to lead any person to believe that the vehicle is a hackney carriage.
  - (c) The vehicle to display on the rear passenger doors in a prominent position, **"Private Hire Vehicle – Insurance Invalid Unless Pre-Booked with Operator"** door stickers, as issued by Rutland County Council and be permitted to advertise the name and telephone number of the Operator employing the vehicle, and that words "Taxi" or "Cab" are not featured. These stickers must be permanently affixed to the vehicle. Magnetic door signs are not permitted.
  - (d) Vehicles must display a Part 1 notice, which must contain the following information in a conspicuous unobscured place so that it can be easily read by a passenger travelling in the rear and front of the vehicle;
    - The name of the proprietor
    - The contact telephone number where a customer can make a complaint or report a concern, e.g. Should you wish to comment positively or negatively on any aspect of your journey today, please call (insert telephone number)
    - The vehicle registration number, and
    - The vehicle licence plate number
  - (e) Alongside the Part 1 notice, vehicles must also display a Part 2 notice, which must contain the following information in a conspicuous unobscured place so that it can be easily read by a passenger travelling in the rear and front of the vehicle;
    - The Driver's photograph and
    - The driver's licence number
  - (f) Vehicles must display a no smoking sign as required by the Health Act 2006
  - (g) All licensed vehicles must display a sign identifying the vehicle licence number in the top left-hand side of the windscreen (as viewed from inside the vehicle). The approved sign provided by the council must be fitted internally, in such a manner that the sign can be clearly viewed from outside the vehicle. The sign shall be capable of being removed by a constable or authorised officer or the council should the licence be suspended or revoked.

### Radio, Microphone, PDA, mobile phone etc

3. Any radio, microphone, PDA, mobile phone etc. installed in the vehicle shall be fitted in such a position that its use by the driver would not impair his control of the vehicle when it is in motion.

### Maintenance of Vehicle

4. The vehicle shall:
  - (a) be of such design to enable any person in the carriage to communicate with the driver;
  - (b) be fitted with a roof or covering which can be kept watertight;
  - (c) contain windows and a means of opening and closing not less than one window on each side;
  - (d) contain seats which must be properly cushioned or covered;
  - (e) be provided with a proper carpet, mat, or other suitable covering for the floor;
  - (f) contain fittings and furniture kept in a clean condition safe and well maintained and in every way fit for public service;
  - (g) be fitted in such a way to enable luggage to be secured if the vehicle is so constructed to carry luggage;
  - (h) be provided with at least four doors (or three doors in the case of the diesel "Fortwo" Smart Car);
  - (h) be a right-hand drive vehicle.
  - (i) Vehicles fitted with a passenger tail lift must maintain a valid LOLER (Lifting Operations Lifting Equipment Regulations) certificate of compliance and produce it upon request.
5. A plate provided by the Council identifying the vehicle as a Private Hire vehicle must be securely fixed to the outside the vehicle at the rear in such a manner that the plate is not obscured from view by any fixtures or fittings.

The plate shall be capable of being removed by a constable or authorised Officer of the Council should the Licence be suspended or revoked. Whilst the vehicle is not being used as a Private Hire vehicle the licence plate must be covered from public view. Drivers are reminded that it is an offence to drive a licensed Private Hire vehicle whilst not being in possession of a current private hire driver's licence.

6. The vehicle shall be submitted for annual inspection at the place, date and time as notified by the Council in each year during which the licence is in force and at any other time at the Authority's discretion. When submitted for inspection it shall be in a complete and thoroughly good condition and the engine, chassis, body, wheels, fittings, furniture, and all parts must be in good repair and order. All steering parts and braking linkages must be thoroughly cleaned. All vehicles more than six years old to be tested every six months.
7. All brakes, machinery, furniture, and fittings shall be kept in good order and condition.

### Safety Equipment

8. There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances, such equipment must be in date and carried in such a position in the vehicle as to be readily visible and available for immediate use in an emergency.

### Licence Period

9. Private Hire vehicle Licences shall be granted for a period of 12 months or such other period as the Council may determine from time to time. Expired plates must be returned to the council or retained by the appointed testing station upon renewal.

10. Change of Address or Ownership of vehicle

- (a) The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place. The proprietor must also complete and submit the required application with fee, as soon as practically possible, and in any case within 14 days if they transfer ownership of the vehicle.
- (b) All signage relating to hire and reward (including door signage, company insignia etc.) must be removed from the vehicle, whenever it is sold or transferred outside Rutland's licensed trade, or delicensed.

Vehicle Documentation

11. The proprietor of a Private Hire vehicle licensed by the Council shall at the request of an authorised Officer or any Police Constable produce for inspection the following documentation within 7 days from the time the request is made at a place notified to the driver by the authorised Officer or Police Constable.
- (a) a certificate of the policy of Insurance or security required by Part IV of the Road Traffic Act 1988 or other enactment in respect of such Private Hire vehicle;
  - (b) the Private Hire vehicle Licence issued by the County Council;
  - (c) a current Ministry of Transport Test Certificate (where applicable) or CoC issued by the authority;
  - (d) the vehicle registration documents; and
  - (e) the driving licence issued by DVLA, or acceptable equivalent defined by DVLA

12 Alteration of Vehicle

- (a) No material alteration or change in the specification, design, condition, or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force. Approval from the licensing authority must be obtained prior to installing CCTV in a vehicle.
- (b) Windows must conform with both Type Approval and Construction and Use Regulations. Post manufacturer window tinting is not permitted

Employees

13. If the proprietor permits or employs any other person to drive a licensed vehicle as a Private Hire vehicle, he shall before that person commences to drive the vehicle ensure that the driver holds a valid private hire driver's licence, is insured as required by the Road Traffic Act and that the driver fully understands the conditions attached to both this licence and the private hire driver's licence.

14 Vehicle Requirements

- (a) Vehicles will be licensed subject to the following restrictions.

Maximum age limit beyond which the vehicle will not be licensed	10 years old
Age at which the vehicle will be subject to six monthly inspections	10 years old
Age at which the vehicle will be Subject to Critical testing criteria	10 years old

- (b) To allow the trade a transition period, existing licensed vehicles will continue to be licensed for a further 2 years after this policy takes effect, providing the vehicle still meets all other required standards. After this time, all vehicles must meet all required standards

- (c) A vehicle will continue to be licensed as set out above, subject to the vehicle passing any necessary tests laid down by the County Council and there being no break during the licensing period.
- (d) Vehicles will be subject to 6 monthly inspections at a time and place to be notified by the authorised Officer of the Council.
- (e) Any vehicle damage that materially affects the safety, performance appearance, or the comfort of the passenger, must not be used for hire and reward purposes, until the vehicle has been suitably repaired.  
Where a vehicle is off the road due to accident damage, subject to satisfactory documentary evidence being produced to the authorised Officer, the Council may allow a replacement vehicle that meets the above criteria to be licensed as a replacement for the accident damaged vehicle for a period not exceeding 3 months. All accidents must be reported to the council within seventy-two hours.

#### **Cheques**

- 15. A licence in respect of which the licence fee has been paid by cheque shall not be effective until the cheque has been cleared.

#### **Other licence holder responsibilities**

- 16. All licence holders (proprietors, operators, and drivers) shall co-operate with any reasonable request made by an Authorised Officer.



RUTLAND COUNTY COUNCIL  
PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

The following are conditions attached to the private hire driver's licence. These conditions are additional to the requirements imposed on private hire drivers and vehicles by the Local Government (Miscellaneous Provisions) Act 1976, Equality Act 2010, and the Town Police Clauses Act 1847. Breach of any of these conditions may lead to suspension or revocation of the licence and/or prosecution.

1. Fare to be Demanded

(a) The driver shall not demand (from any hirer of a private hire vehicle) a fare in excess of (any previously agreed for that hiring between the hirer and the operator The driver **must** confirm prior to the commencement of the journey, the name of the hirer, the destination, and the cost of the journey;

(b) The driver of a private hire vehicle shall not demand from any hirer a fare in excess of any previously agreed for that hiring between the hirer and the operator

2. Shortest Route

The driver of a private hire vehicle shall not without reasonable cause unnecessarily prolong in distance or in time, the journey for which the private hire vehicle has been hired.

3. Driver's Identification Badge

The Driver must always when acting as a driver of a private hire vehicle wear his identity badge, as provided by the Council, in such manner as to be plainly and distinctly visible. The badge must be handed over for inspection, if requested, to any authorised officer or Police Officer for the purposes of the Local Government (Miscellaneous Provisions) Act 1976.

4. The driver of a private hire vehicle shall, when required to do so by an authorised officer of the Council or any Police Officer, return the driver's badge and licence to the Council and obtain a receipt for it. The driver shall upon the expiry (without immediate renewal), revocation or suspension of this licence forthwith return the driver's badge to the Council. Badges must be renewed before the expiry date of the existing badge. (Exceptions may be made in exceptional circumstances, see paragraph 1.27) Drivers are reminded that it is an offence to drive a licensed Hackney / Private Hire vehicle whilst not being in possession of a current licence.

5. Assistance with Luggage

The driver of a private hire vehicle so constructed as to carry luggage shall:

- (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 a person.

6. Operation of Vehicle

(a) Once a passenger has alighted the vehicle, the driver may park the vehicle whilst waiting for the next booking, provided that there are no parking restrictions and it is not causing an obstruction, Drivers must switch off their vehicle engine when waiting, and not leave their engine idling when parked for more than a couple of minutes anywhere.

7. Drivers of private hire vehicles shall always carry a written record of all hirings to be produced on demand to an authorised officer of the County Council or any Police Officer. **THE DRIVER SHALL ONLY ACCEPT HIRINGS THAT HAVE BEEN PASSED VIA THE PREMISES OF THE LICENSED OPERATOR FOR WHOM HE WORKS AND IMMEDIATELY UPON RECEIPT OF SUCH A HIRING**

**THE DRIVER MUST RECORD THE SAME IN HIS OWN RECORD OF BOOKINGS BEFORE PROCEEDING TO THE PICK-UP POINT.**

8. Lost Property

The 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. Any property found shall be returned to the hirer or handed in to the nearest Police Station within 24 hours.

9. Carriage of Other Persons

The driver of a private hire vehicle shall not permit any other person to be conveyed in the vehicle without the express consent of the first hirer.

10. Licence Plate

- (a) The driver of a private hire vehicle shall not wilfully or negligently cause or suffer any licence plate to be concealed from public view whilst the vehicle is being used for the purpose of hire. The driver must ensure that the plate is securely fixed to the rear outside of the vehicle in such a manner as to be easily removed by an authorised officer of the Council or Police Officer.
- (b) The licensed driver must ensure that the vehicle is displaying a sign identifying the vehicle licence number in the top left-hand side of the windscreen (as viewed from inside the vehicle). The approved sign provided by the council must be fitted internally, in such a manner that the sign can be clearly viewed from outside the vehicle. The sign shall be capable of being removed by a constable or authorised officer or the council, should the licence be suspended or revoked.

11. Prompt Attendance

The driver of a private hire vehicle shall, if he is aware that the vehicle has been hired, be in attendance at an appointed time and place or he has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that time and place, unless delayed or prevented by reasonable cause.

12. Change of Address

The driver shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place.

13. Conduct of Driver

The driver shall:

- (a) always be clean and respectable in his dress and person and behave in a civil and orderly manner;
- (b) take all reasonable steps to ensure the safety of passengers conveyed in, entering, or alighting from the vehicle driven by him;
- (c) not drink, eat, or smoke in the vehicle;
- (d) not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- (e) at no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle (Drivers are reminded that it is an offence to sound a horn whilst stationary except in traffic and not at all between 11.30pm and 7.00am in areas where there is a 30mph speed limit in force); and
- (f) NOT consume ANY alcohol whilst on duty and ensure that he/she complies with statutory legislation in relation to drink driving offences.

(g) Co-operate with any reasonable request made by an Authorised Officer.

14. Smoking

It is against the law for a driver or passenger to smoke in a licensed vehicle. For the avoidance of doubt, the council also forbids the smoking of electronic cigarettes and vaping in licensed vehicles, whether by the driver or passengers

15. Passengers

(1) The driver shall not convey or permit to be conveyed in a private hire vehicle a greater number of persons than that prescribed in the licence for the vehicle.

(2) The driver shall not allow any child below the age of twelve years to be conveyed in the front of a private hire vehicle:

16. Written Receipts

The driver shall if requested by the hirer of a private hire vehicle provide the hirer with a written receipt for the fare paid.

17. Vehicle Damage Notification

The driver of a private hire car shall within seventy-two hours report all accidents in writing to the Council.

18. Animals

The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself, the proprietor or operator of the vehicle. Any animal belonging to or in the custody of any passenger may be conveyed at the driver's discretion.

19. The carrying of hearing dog, guide dog or other assistance dog shall not be at the driver's discretion and such a dog accompanying a visually or hearing-impaired person must be carried at no additional cost.

20. Health of Driver

The driver of a private hire vehicle must inform the Council without delay about the onset or worsening of any health condition likely to cause them to be a source of danger to the public when driving either now or in the future. Examples are giddiness, fainting, blackouts, epilepsy, strokes, multiple sclerosis, parkinson's disease, heart disease, angina, 'coronaries', high blood pressure, arthritis, disorder of vision, mental illness, alcoholism, drug taking and loss of a limb or use of a limb. THIS LIST DOES NOT INCLUDE ALL THE DISABILITIES THAT MUST BE REPORTED. THESE EXAMPLES ARE GIVEN ONLY TO INDICATE THE TYPES OF DISABILITIES.

Temporary conditions, other than recurrent ones, not expected to last more than three months need not be reported. Drivers who are in doubt about whether their health condition is one which should be reported should consult their doctor.

21. A Group 2 medical certificate completed by a registered general practitioner who is licensed to practice in the UK must be submitted with all new applications and every three years upon renewal and then annually thereafter when the applicant reaches 65 years old.

22. Period of Licences

Private Hire Drivers Licences are generally issued for a three-year duration but may be granted for a lesser duration if appropriate, or if the applicant's right to work is of a shorter or limited duration. Drivers are responsible for ensuring they renew their licence at the appropriate time. Drivers who fail to renew

their licence prior to expiry will be required to apply as a new driver, except in exceptional cases R (on the application of Exeter City Council) v Sandle [2011] LLR480.

23. Acceptance of Hirings

The driver shall not whilst driving or in charge of a private hire vehicle ply for hire or otherwise:

- (a) tout or solicit on a road or other public place any person to hire or be carried in any private hire vehicle;
- (b) cause or procure any other person to tout or solicit on any road or other PUBLIC place any person to hire or be carried for hire in any private hire vehicle; or
- (c) offer the vehicle for immediate hire whilst the driver is on a road or PUBLIC PLACE or PRIVATE PROPERTY.

24. Before commencement of a journey the driver shall confirm the passenger's name and destination. The driver shall confirm the fare before the commencement of the journey

25. Before commencement of duty, a private hire driver shall ensure:

- (a) that the vehicle is licensed in accordance with the County Council's regulations;
  - (b) the vehicle is correctly insured as required by the relevant Road Traffic Regulation Act or any other enactment; and
  - (c) that he inspects the vehicle to ensure that it is in a fit and proper condition to be used as a private hire vehicle.
- (d) the vehicle is displaying the required notice in the windscreen identifying the vehicle licence number
- (e) the vehicle is displaying the correct Part 1 and Part 2 notice, in a conspicuous unobscured place which can be easily read by a passenger travelling in the rear and front of the vehicle. The part 1 notice must contain the following information;
- name of the proprietor,
  - the telephone number where a customer can make a complaint or report a concern, e.g. Should you wish to comment positively or negatively on any aspect of your journey today, please call (insert telephone number)
  - the vehicle registration number, and
  - the vehicle licence plate number.
- The Part 2 notice must display the driver's photo and licence number

26. When a driver is not using a licensed vehicle for private hire purposes, the driver shall ensure that the licence plate is obscured from public view. Drivers are reminded that it is an offence to drive a licensed Private Hire vehicle whilst not being in possession of a current private hire driver's licence.

27. Documentation

At the request of an authorised officer of the Council or a Police Officer the driver must within 7 days produce for inspection the following documents:

- (a) the vehicle licence;
- (b) the vehicle registration documents;
- (c) a Certificate of the policy of motor insurance as required by Part IV of the Road Traffic Act 1988 or any other enabling Act;
- (d) where appropriate a Ministry of Transport Test Certificate; or CoC and
- (e) his own driving licence issued by DVLA or equivalent as defined by DVLA.

28. Convictions/Cautions

- (a) The proprietor/driver shall within 48 hours disclose to the Council in writing details of an arrest and release, charge or conviction of any sexual offence, or offence involving dishonesty, or violence, any convictions, cautions, DVLA penalty points etc. imposed on him (or if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.
- (b) Licensed drivers must also report to the council within 7 days any changes to their immigration status,

or any convictions of an immigration offence, or any requirement to pay an immigration penalty. A licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 days.

- (c) All licensed drivers are required to maintain continuous registration with the DBS update service and provide authorisation to enable the licensing authority to routinely check for added information in accordance with statutory guidance and where there is reasonable cause for doing so

29. Advertisements etc.

The driver of a private hire vehicle shall not place or suffer to be placed any printed, written, or other matter by way of advertisement on any part of the vehicle except with the prior written consent of the Council.

**Cheques**

- 30. A licence in respect of which the licence fee has been paid by cheque shall not be effective until the cheque has been cleared.

DRAFT

## Rutland County Council Private Hire Operator's Licence Conditions

### Introduction

Private Hire Operators are licensed to provide pre-booked journeys for passengers at an agreed fare. Legislation states that the journey must be pre-booked with the operator prior to commencing, where a fare is undertaken without being pre-booked it is against the law and the driver's insurance will almost certainly be invalid.

The council has a responsibility to regulate Private Hire Operators in accordance with legislation, when receiving an application as well as considering any legislative requirements local authorities also can take into consideration local factors or issues that may be relevant when granting a licence.

When considering a new application for an operator's licence we will consider the location of the premises, parking arrangements for vehicles and what the effect of granting the licence is likely to have on anyone in the vicinity, this includes residents, the public and other businesses.

Some locations such as the town centre and other densely populated areas do not easily accommodate businesses such as the private hire trade due to the space required for vehicles etc. Due to this we would not grant a licence unless the applicant can demonstrate such measures to ensure that there will not be a detrimental effect on anyone in the vicinity, this will also include any parking infringements by drivers visiting the office that are encouraged due to the location. Any application for a town centre location will also be considered in accordance with the Rutland County Council Development Plan.

In granting a licence the authority will attach conditions to the licence, and as part of the authority's role within regulation it will ensure compliance by the operator to these conditions. Some conditions are prescribed by legislation and are mandatory; others are adopted locally were deemed appropriate or necessary.

It is good practice and appropriate to regularly review the conditions to ensure that they remain relevant and are fit for purpose. It should be remembered that where conditions are set by legislation then these cannot be amended or removed and therefore will continue to be attached to all operator licences.

These conditions are in addition to the requirements imposed upon operators by the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. Breach of any of these conditions may lead to enforcement action which could lead to suspension or revocation of the licence and/or prosecution.

### 1. Planning Requirements

- (a) There shall (where planning legislation and practice requires it) be in force for the premises from which the business is to be conducted a valid planning consent in these cases. Operators must comply fully with any condition attached to such consent.
- (b) Where planning consent is not required written confirmation from the council's planning department will be required.
- (c) In the case of an operator with only one vehicle operating from a residential address and the council's planning department has confirmed that planning permission is not required the following conditions must be adhered to:
  - (i) only one vehicle can operate from the premises
  - (ii) customers must not visit the premises
  - (iii) customers must be picked up away from the premises
  - (iv) any advertising from the premises must have prior approval from the council's planning department.

## 2. Records

### 2.1 Records of vehicles and drivers

- (a) The operator shall be responsible for maintaining at his premises **(AND AT EACH SUCH PREMISES IF OPERATING FROM TWO OR MORE PREMISES)** particulars of all vehicles operated by him, which shall include the following: -
- (i) the call sign or other identifying mark used on booking records;
  - (ii) the licence plate number;
  - (iii) the vehicle registration number;
  - (iv) the name and address of vehicle proprietor;
  - (v) a valid current certificate of motor insurance or security for the vehicle together with, where appropriate, a Ministry of Transport certificate and or certificate of compliance, and ensure both the driver and vehicle hold a current licence issued by the same authority;
  - (vi) the names and addresses of drivers and the badge numbers of drivers.
- (b) The above records to be produced on request to an authorised officer of the Council or to a Police Officer.
- (c) Operators must provide due diligence in the form of written records to demonstrate that staff and drivers are fully trained and aware of their responsibilities. Operators may demonstrate this with training records to include safeguarding and disability awareness, other checks performed by the operator, company policies etc. The due diligence records must be made available to an authorised officer upon request.
- (d) Operators who provide wheelchair accessible vehicles (WAV) must ensure that the driver is appropriately trained to safely load, unload, and convey passengers in a safe and secure manner. This training must be documented and refreshed at suitable intervals. These training records must be available for inspection by an authorised officer.
- (e) Operators are required to keep and maintain a register of all staff that will be taking bookings and/or dispatching vehicles.
- (f) Operators are required to evidence that they have had sight of a Basic DBS check for all individuals on their register of booking and dispatch staff and must ensure that Basic DBS checks are conducted on any individuals added to their register. Should an employee cease to be on the register and is then later re-entered, a new Basic DBS certificate must be requested for that individual and sight of this recorded.
- (g) Operators are required to provide a copy of their policy on employing ex-offenders in roles that would be on the register as above.

### 2.2 Records of bookings

- (a) Before the commencement of each journey of every private hire booking the operator shall enter in a suitably bound book, **TO BE HELD AT THE PREMISES FROM WHICH THE BOOKING IS MADE**, the pages of which are numbered consecutively, the following details: -
- (i) the time and date of each booking;
  - (ii) by what method the booking was received, i.e., telephone or personal call;
  - (iii) journey from \_\_\_\_\_ to; (Full address including house number where appropriate)
  - (iv) the full name of the hirer;
  - (v) cost of fare quoted for journey.
  - (vi) the name of the driver who fulfilled the booking
  - (vii) that driver's licence number or individual call sign
  - (viii) the vehicle registration number which fulfilled the booking
  - (ix) the name of the individual that dispatched the vehicle or accepted the booking

If the above data is to be retained electronically, the operator must make appropriate provision to

ensure it is backed up to maintain data integrity and retention period.

(Note: If a licence plate number or call sign is used, a record showing the vehicle registration number and the plate number or call sign allocated shall be displayed and kept on the licensed premises).

- (b) If an operator subcontracts a booking to another licensed operator, both operators must keep a record of bookings. The initial operator who accepted the booking must provide due diligence of checks made to ensure the operator they passed the booking onto is correctly licensed. This due diligence must be documented and made available to an authorised officer.
- (c) The records shall be kept for a period of not less than six months from the date of the last entry, or such longer period as required by an authorised officer of the Council and must be produced on reasonable request to any such officer or to a Police Officer.

### 3. **Information as to Charges**

No operator of a private hire vehicle which is licensed by the Authority under this Act shall invite or accept a booking for such vehicle, or control or arrange a journey to be undertaken by such vehicle, without first drawing the attention either orally or in writing to the person making the booking, information as to the basis of charge for the hire of the vehicle. The Operator shall ensure that such information is passed to the driver.

### 4. **Statement of Fares**

Operator's must make customers fully aware of any additional charges which may be applied, e.g.

- (a) the minimum charge of each hiring (if any);
- (b) the fare tariff;
- (c) any additional charges (e.g., cleaning a soiled vehicle)

These additional charges must be clearly displayed in the operator's office and website where available.

### 5. **Term of Licence**

A Private Hire Vehicle Operator's Licence is usually granted for a five-year duration but may be granted for a lesser duration if requested to do so in writing, or the applicant's immigration status limits it to a shorter duration.

### 6. **Ofcom licence**

Operators who utilise a radio system will be required to provide proof of their current licence from Ofcom.

### 7. **Standard of Service**

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: -

- (a) Ensure that when a private hire vehicle has been hired to attend an appointed time and place the vehicle shall, unless delayed or prevented by reasonable cause, punctually attend at that appointed time and place.
- (b) 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.
- (c) Ensure that any waiting area provided by the operator has adequate seating facilities and has valid public liability insurance in place for this area.



- (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- (e) Ensure that if it is intended that a diesel "Fortwo" Smart Car is to be dispatched to fulfil a booking, it is highlighted with the customer and if requested, an alternative licensed vehicle is supplied.
- (f) Ensure that no additional charges or costs are levied or applied by them or their drivers for the conveying of assistance dogs.
- (g) Where the operator has a wheelchair accessible vehicle within their fleet, ensure that no additional costs are levied by them or their drivers for conveying disabled passengers.

**8. Disorder**

The holder of an operator's licence shall not permit any person who is drunk, or is behaving in a disorderly manner, to remain upon the premises in respect of which the licence is in force.

**9. Change of Address**

- (a) 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.
- (b) Where there is a change of address from which the business is conducted, the operator must ensure that all necessary requirements including any planning permissions are in place prior to the business operating from the new location.

**10. Convictions/Cautions**

- (a) The operator shall within 48 hours disclose to the Council in writing details of any conviction/cautions imposed on him or arrests and release, charge or conviction of any sexual offence, or offence involving dishonesty or violence, (or if the operator is a company or partnership, on any of the directors or partners or other persons with significant control) during the period of the licence.
- (b) The operator must notify the council within seven days of any changes to their immigration status or, if since the grant of their licence there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.
- (c) An operator's licence ceases to be in effect if the person to whom it was granted becomes disqualified by reason of their immigration status. Where this applies, the person must cease to operate and return their operator's licence to the council within 7 days.
- (d) Operators (who are not also licensed drivers), are required to submit a basic DBS disclosure on an annual basis
- (e) Where the operator is a company, the annual DBS requirement extends to all named Directors, Partners, Company Secretaries, and all persons with significant control. Operators must notify the licensing authority in writing of any changes in directors, partners, or other persons with significant control, within seven days. This notification must include a basic DBS for any new person.

**11. Facilities for Passengers**

- (a) The operator shall ensure that where any passenger waiting area or room is provided it is kept physically separate from any driver rest area and operations room.
- (b) The operator shall ensure that his/her staff, driver's, vehicle proprietors, passengers or prospective passengers are not allowed to congregate on a public road, footpath, or any other

public place adjacent to his/her licensed premises whilst waiting for the arrival of vehicles.

- (c) The operator shall ensure that the internal and exterior of **EACH of HIS/HER** premises ARE kept in good repair to the satisfaction of the Council.

## 12. **Complaints and requirement to display required information - Part 1 notice**

- (a) Operators must have a formal written complaints procedure and policy in place which must be made freely available to all customers. The procedure must, as a minimum include and document the following matters:
- (i) The way in which customers can complain, including the operator's business name and telephone number.
  - (ii) When the complaint was made (date and time)
  - (iii) Who made the complaint
  - (iv) The nature of the complaint
  - (v) When the complainant can expect to be contacted by the operator regarding the complaint (not more than 72 hours from receipt).
  - (vi) The resolution offered by the operator, and
  - (vii) That the complainant may further their complaint to the licensing department if they remain unsatisfied with the operator's resolution.
- (b) The operator is responsible for ensuring that the complaint records are documented in a written or electronic format, contain all the information required in 12 (a) (ii) to (vi), be retained for a minimum period of six months and made available to an authorised officer.
- (c) These requirements are to remain the responsibility of the operator who accepted the booking, even where the booking has been subcontracted to another licensed operator.
- (d) All vehicles utilised by the operator (except were subcontracted to another licensed operator) must clearly display a Part 1 notice, which must contain the following information in a conspicuous unobscured place, which can be easily read by a passenger travelling in the rear and front of the vehicle:
- (i) The name of the proprietor
  - (ii) The contact telephone number where a customer can make a complaint or report a concern, e.g. Should you wish to comment positively or negatively on any aspect of your journey today, please call (insert telephone number)
  - (iii) The vehicle registration number, and
  - (iv) The vehicle licence plate number
- (e) Operators must monitor complaints to see if there are any trends, or if they relate to drivers or vehicles. Where a trend is apparent, appropriate action must be taken by the operator to address the issue.
- (f) If an operator is made aware of a safeguarding or serious complaint relating to the 'fit and proper' status of a driver, they must notify the council immediately and provide details of the actions taken by the operator.

## 13. **Acceptance of Bookings**

- (a) The operator must advise all drivers **OF VEHICLES IN RESPECT OF WHICH HE ACCEPTS A BOOKING THAT**, whilst on duty, being in charge of a licensed private hire vehicle HE shall not ply for hire or otherwise: -
- (i) tout or solicit on a road or other public place any person to hire or be carried in any private hire vehicle;
  - (ii) cause or procure any other person to tout or solicit on any road or other PUBLIC place any person to hire or be carried for hire in any private hire vehicle; or

(iii) offer the vehicle for immediate hire whilst the driver is on a road or public place or private property.

(b) The Operator/Proprietor shall not permit any person not being the holder of a valid licence issued by the County Council to drive a licensed private hire vehicle.

#### 14. **Satellite Offices**

Where a satellite office is in operation the following conditions will apply in addition to those previously mentioned:

- (a) Private hire vehicles must not park illegally on the public highway in the vicinity of the satellite office, breach road traffic legislation or breach parking restrictions or cause obstruction or annoyance to the public, other road users or other businesses.
- (b) Vehicles must not be allowed to congregate in the vicinity of the satellite office unless there is adequate off-street parking to accommodate all vehicles.
- (c) Private hire vehicles must only attend the satellite office to undertake pre-booked fares and should depart immediately on the collection of their passenger
- (d) Vehicles should not be dispatched to the satellite office unless the passenger is ready for collection.
- (e) Booking records must be kept in accordance with section 2 of this document.
- (f) Private Hire Marshals must be clearly identifiable to the public and fully aware of their responsibilities in accordance with the conditions as attached to the operator's licence and all associated legislation.
- (g) Private Hire Marshals or any other person representing the operator must not approach the public or any prospective customer and offer a vehicle for hire, regardless of their location, be it in a public or private place. This includes handing out business cards to prospective customers without the customer making an initial enquiry.
- (h) Where official marshals are not employed by the operator and existing members of staff of a premises are acting as an agent for the operator, then the agent representing the operator must not approach the public or any prospective customer and offer a vehicle for hire, regardless of their location, be it in a public or private place. This includes handing out business cards to prospective customers without the customer making an initial enquiry.
- (i) Driver's must not take bookings direct from customers.
- (j) Where a driver is temporarily undertaking the role of a marshal, the driver must be clearly identifiable as such and must not be in the vicinity of his vehicle.
- (k) Where a driver is temporarily undertaking the role of a marshal, the driver must not take a booking and then carry out the job himself.

#### 15. **Licence Fees**

(a) A licence in respect of which a licence fee has been paid by cheque shall not be effective until the cheque has been cleared.

#### 16 **Other licence holder responsibilities**

17 All licence holders (proprietors, operators, and drivers) shall co-operate with any reasonable request made by an Authorised Officer.

# RUTLAND COUNTY COUNCIL

## Limousine and Speciality Vehicles Licence Conditions

Rutland County Council reserve the right to consult with DVSA (Driver and Vehicle Standards Agency (formerly VoSA)) if it believes a vehicle does not meet the standards set out in the latest version of their document for Guidance for Limousine Operators. The authority may refuse any vehicle upon application that does not meet the criteria.

It is the responsibility of each applicant to ensure that no more than 8 (Eight) passengers are ever transported in the vehicle at any one time. Seating capacity can be defined by the number of seating positions, which again can be defined by sculpting in the seat and/or seat belts. When signing the vehicle licence application, you are confirming that you will adhere to this.

On application for a limousine vehicle licence the applicant must be able to prove that the vehicle is of an approved standard to be used on the UK highway. If a vehicle is less than ten years of age it will require an IVA (Individual Vehicle Approval) certificate, a current MOT test certificate and a V5 vehicle registration certificate. Any vehicle over ten years of age will require a current MOT test certificate and a V5 vehicle registration certificate.

If any applicant is unsure how to obtain the relevant registration documentation, they should contact DVLA and/or DVSA.

Limousines should ideally be chauffeur driven vehicles and will not be permitted to be used for standard day to day private hire work.

For the licensing of prestige cars each vehicle must comply with the Road Vehicle (Construction and Use) Regulations. It is expected that the type of vehicle relevant to this category of licensing would be a Rolls Royce, Daimler, Bentley, Jaguar, or other high-end models from manufacturers such as BMW or Mercedes Benz however this list is non-exhaustive, and approval will be at the council's discretion; Also incorporated into this section would be vintage or classic cars. Other vehicles that the authority may be asked to licence could be Kit cars, or something of a more retro nature such as those from television, examples being a Ford Capri or a Reliant three-wheeler.

All vehicles when presented for inspection must have all relevant documentation such as the MOT test certificate and a V5 vehicle registration certificate.

All speciality vehicles should ideally be chauffeur driven vehicles and will not be permitted to be used for standard day to day private hire work.

Rutland County Council reserve the right to consult with DVSA if it believes a vehicle does not meet the standards of roadworthiness as set out in the categorisation of vehicle defects.

It should be noted that at the time of writing there is an exemption under the Local Government (Miscellaneous Provisions) Act 1976, when vehicles are used for weddings and funerals. However, this may change once the results of the law commission consultation are known, and changes made to legislation.

### 1. **Licensing Requirements**

- 1.1 The general conditions imposed by Rutland County Council (hereafter referred to as the Council) for private hire vehicle operators and drivers will be applicable to the licensing of stretch limousines and Speciality Vehicles unless amended by the following provisions.
- 1.2 The general conditions imposed by the Council for private hire vehicles where applicable to the

licensing of stretch limousines and speciality vehicles are included in section 12. General Conditions for Private Hire Vehicles.

1.3 The type of work undertaken by stretch limousines will differ significantly from that of regular private hire work in that the vehicle will only be licensed for the carriage of passengers for special events, examples of which are:

- Prom nights
- Theatre trips
- Hen nights
- Stag nights
- Party trips
- Race days

or any other similar events considered by the Council to be special in nature. However, vehicles used solely for weddings and funerals are exempt from the requirements of private hire licensing.

## 2. Private Hire Operator's Licence

2.1 Persons taking bookings for private hire work using stretch limousines or speciality vehicles will be required to hold a private hire operator's licence issued by the Council.

2.2 All bookings of a limousine or speciality vehicle for use as a private hire vehicle must be made through a licensed private hire operator. Any vehicle licensed by the Council will only be used for hire under the terms of a private hire operator's licence already issued or granted to an operator within the District or to any new licensed operator.

## 3. Private Hire Driver's Licence

3.1 Any person driving a stretch limousine or speciality vehicle for private hire will be required to be licensed as a private hire driver by the Council.

## 4. Stretched Limousine - Definition

4.1 A stretch limousine is defined as a motor vehicle that has been lengthened by the insertion of an additional body section and modified by an authorised coachbuilder that can carry up to but not exceeding 8 passengers. There will be no age limit for first registration and no maximum upper age limit, subject to the vehicle being mechanically and physically maintained in accordance with the provisions of the Council's standard conditions relating to private hire vehicles.

4.2 In order for the limousine to be considered for licensing, the applicant must prove that the "stretch" was carried out by the manufacturer or by a coachbuilder approved by the vehicle manufacturer. American limousines must have been built by an approved coachbuilder under the QVM programme, (Qualified Vehicle Modifier) for Ford vehicles or the CMC programme (Cadillac Master Coachbuilders). The onus is placed upon the applicant to prove that the vehicle meets the prescribed standards.

4.3 Once licensed as a private hire vehicle, the limousine will be subject to any statutory requirements imposed by Part II of the Local Government (Miscellaneous Provisions) Act 1976.

4.4 Stretch limousines will be regarded as luxury vehicles used for special events. The use of such a vehicle for standard private hire work is not considered to be appropriate.

## 5. Vehicle Testing

5.1 A stretched limousine vehicle will be subject to a **twice-yearly mechanical examination at** intervals to be specified by the Council at its authorised testing station to determine its safety and suitability for

the type of work for which it is to be licensed. This will apply to all stretched limousines regardless of age, date of import or date of registration. **A licence for a stretched limousine will be issued for a period of 12 months only**, renewal subject to a satisfactory retest.

5.2 The Vehicle Registration Document V5 must indicate in the field "Type Approval Number" that it has undergone one of the following approvals and meets the technical standards of either:

- a European Whole Vehicle Type approval, or
- a British National Type approval, or
- an Individual Vehicle Approval (IVA) (formerly known as the Single vehicle Approval scheme (SVA)).

5.3 Where applicable, the Vehicle Identification Number (VIN) plate shall display '1L1' to confirm conversion completed by an authorised dealer.

5.4 Documentation is to be provided proving that the 'stretch' was performed by the manufacturer or by a coachbuilder approved by the vehicle manufacturer e.g., American limousines must have been built by an approved coachbuilder under the QVM programme for Ford Vehicles or the CMC programme for Cadillac Vehicles.

5.5 A plate on the door pillar shall confirm the total weight of the vehicle.

5.6 DVLA V5 or equivalent shall be produced to authenticate registration.

5.7 A speciality vehicle will be subject to an **annual MOT test** at any DVSA authorised MOT testing centre. This will apply to all speciality vehicles regardless of age, date of import or date of registration. **A licence for a speciality vehicle will be issued for a period of 12 months**, renewal subject to a satisfactory retest.

5.8 Limousine and speciality vehicles will receive an exemption to display an external identification plate, a paper permit will be issued which must be clearly displayed on the nearside of the front windscreen.

5.9 An exemption notice will be issued and must be always carried in the vehicle; the notice must be produced upon request by an authorised officer of the council or any police officer on request.

5.10 The driver will also be exempt from wearing a private hire badge under the exemption notice. But must have it available for immediate inspection by an authorised officer of the council or any police officer on request.

5.11 The vehicle will be exempted from displaying the vehicle licence number in the windscreen and the Part 1 Part 2 notice.

## 6. **Vehicle Requirements**

6.1 Given the increased weight of the vehicle, tyres of the correct weight and size rating must be always used. The limousine must be fitted with tyres that meet the appropriate specification for both the size and weight of the vehicle, such as 235/75R-15 108D (BF Load) or 225/70R-16 107T Town Car Limo Tyre (Reinforced).

6.2 Where applicable, an installation certificate must be produced from a Liquefied Petroleum Gas Association (LPGA) Approved UK Vehicle Conversion Company, in the case of vehicles converted to run on LPG.

6.3 The vehicle must maintain valid road vehicle excise duty.

6.4 Vehicles may either be left or right-hand drive.

6.5 Vehicles must be fitted with at least 4 doors (limousines).

6.6 All seats shall be fitted with appropriate seat belts, which must be fitted in accordance with the current Road Vehicle (Construction & Use) Regulations (limousines). In the case of speciality vehicles seat belt requirements will depend on the Road Vehicle (Construction and Use) Regulations relating to the age of the vehicle; where this allows for seatbelt exemption children must not be carried in the vehicle.

6.7 Stretch limousines with heavily tinted glass in the windows behind the driver's cockpit will be considered for licensing. Glass in the driver cockpit must satisfy the current legal requirements. Tinted glass shall conform to the legal requirements as laid down by DVSA.

## 7. **Passengers**

7.1 The limousine's seating capacity must have been reduced where necessary to a maximum of 8 passengers.

7.2 The vehicle must not carry more than 8 passengers at any time and for this purpose a babe in arms will be classed as a passenger no matter what their age.

7.3 Passengers must not be carried in the front compartment.

## 8. **Insurance**

8.1 The vehicle must have 'hire and reward insurance' to carry out private hire work and a full policy of insurance must be presented before the vehicle is licensed. An insurance cover note will not be accepted.

## 9. **Alcohol**

9.1 Alcohol shall only be served while the vehicle is stationary and afterwards all bottles shall be placed in a secure receptacle.

9.2 No intoxicating liquor shall be provided in the vehicle unless there is in force an appropriate licence under the licensing Act 2003 permitting the sale or supply of the same.

9.3 If there are any passengers below the age of 18, then there shall be no alcohol in the vehicle.

9.4 Any 'glassware' in the vehicle must be made of either shatterproof glass or plastic.

## 10. **Entertainment**

10.1 The driver shall not play or permit the performance of any media which, because of its age restricted classification or its content, is unsuitable for the age of the passengers in the vehicle (based on the age of the youngest passenger).

10.2 Entertainment provided in the vehicle shall be under the terms of any relevant legislative requirements. Activities which are prohibited within the vehicle are:

- Striptease
- Lap Dancing
- Pole Dancing
- Any other activity or performance of a like kind.
- The driver of the vehicle shall not knowingly permit to be played any video, DVD or other recording image that is unsuitable having regard to the age of passengers being conveyed. In deciding what a suitable regard shall be, the driver must take notice of the classification of the video, DVD or recorded image awarded by the British Board of Film Classification

## 11. **Advertisements**

11.1 No signs, notices or any other markings will be displayed on or in the vehicle without the written

permission of the Council. There is no requirement for the vehicle to display a door sign denoting the operator's details.

- 11.2 In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry a maximum of 8 passengers and a sign to this effect must be displayed within the passenger compartment of the vehicle.

## 12. **General Conditions for Private Hire Vehicles**

- 12.1 Listed in this section are the conditions taken from the council's general conditions for private hire vehicles which are applicable to the licensing of stretch limousines and speciality vehicles.

### 12.2 Maintenance of Vehicle

- a) The vehicle shall be of such a design to enable any person in the carriage to communicate with the driver;
- b) The vehicle will be provided with a proper carpet, mat, or other suitable covering on the floor;
- c) The vehicle will be kept in a clean, safe condition and well maintained and in every way fit for public service; and
- d) The vehicle will be fitted in such a way to enable luggage to be secured if the vehicle is so constructed to carry luggage.

### 12.3 Safety Equipment

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances, such equipment to be carried in such a position in the vehicle as to be readily visible and available for immediate use in an emergency.

### 12.4 Change of Address

The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

### 12.5 Vehicle Documentation

The proprietor of a Private Hire vehicle licensed by the Council shall at the request of an authorised Officer or any Police Constable produce for inspection the following documentation within 7 days from the time the request is made at a place notified to the driver by the authorised Officer or Police Constable.

- a) a certificate of the policy of Insurance or security required by Part IV of the Road Traffic Act 1988 or other enactment in respect of such Private Hire vehicle;
- b) the Private Hire vehicle Licence issued by the County Council;
- c) a current Ministry of Transport Test Certificate or CoC (where applicable);
- d) the vehicle registration documents; and
- e) the driving licence (issued by DVLA)

### 12.6 Alteration of Vehicle

No material alteration or change in the specification, design, condition, or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.

### 12.7 Employees

If the proprietor permits or employs any other person to drive a licensed vehicle as a Private Hire vehicle, he shall before that person commences to drive the vehicle ensure that the driver holds a valid private hire driver's licence, is insured as required by the Road Traffic Act and that the driver fully understands the conditions attached to both this licence and the private hire driver's licence.



13. **Right of Appeal**

- 13.1 Under Section 48 (7) of the 1976 Act, any person aggrieved by the refusal of the council to grant a private hire vehicle licence, or any conditions specified in such a licence may appeal to a Magistrates' Court.
- 13.2 Please note that failure to comply with any of the conditions including the general conditions relating to private hire vehicles may result in the commencement of criminal proceedings, and/or in the suspension or revocation of an existing licence, or in the refusal to issue a new licence.

DRAFT

## **Rutland County Council - Guidelines Relating to the Relevance of Convictions / Cautions in Relation to Taxi Licensing**

### **Introduction**

Rutland County Council as the Taxi Licensing Authority, has the responsibility to ensure all drivers of hackney carriages and private hire vehicles that are available for hire to the public, are 'fit and proper' persons to hold the relevant drivers' licences, and are not disqualified by reason of their immigration status. The taxi Licensing Authority will take such measures as appropriate to protect members of the public, other road users and the drivers themselves.

There is no definition or test that determines whether a driver is deemed 'fit and proper' to hold a licence. It is a matter of judgment for the Licensing Authority to assess any risks or concerns, taking into consideration such matters as the applicant's integrity, honesty, and previous character. Previous convictions and cautions are considered as well as other information.

Convictions and cautions do not necessarily mean that an application will be refused, or a licence will be revoked. Also, where an applicant does not have any convictions or cautions, the applicant must still be deemed 'fit and proper' by the Licensing authority. Each case is treated on its own merits.

The assessment is ongoing, and drivers have a duty to disclose within 48 hours, any convictions or cautions which might affect their suitability to hold a private hire or hackney carriage driver's licence.

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person
- The safeguarding of children and young persons

These guidelines will be referred to by officers exercising their powers of delegation, under the Council's Scheme of Delegations in determining whether a person is 'fit and proper' to hold a driver's licence.

### **1. General**

#### **1.1 Scope**

These guidelines apply to the grant, revocation, suspension, or renewal of Operator's Licences ("Operator's Licences"), Licences to drive hackney carriages and/or private hire vehicles ("Driver's Licences") and hackney carriage and/or private hire proprietors' licences (vehicle licenses) issued by Rutland County Council ("the Council").

#### **1.2 Purpose**

The purpose of these guidelines is to facilitate the Council's duties and responsibilities in determining the impact of convictions and cautions on the grant or renewal of Driver's, Operator's, and Proprietors Licences in accordance with the legislative considerations set out below.

### **2. Legislative Background**

#### **2.1 Licensing Legislation**

The Council licences drivers, operators and proprietors under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 ("the Relevant Legislation").

## 2.2 Grant and Renewal of Licences

Sections 51, 55 and 59 of the Relevant Legislation prescribe that the Council shall not grant a Driver's or Operator's Licence unless satisfied that the applicant is fit and proper for that purpose.

Whilst the relevant legislation is not specific as to what will constitute a fit and proper person for the purpose of determining whether to issue a Licence, it is commonly accepted that any history of offending will be a relevant consideration. The overriding aim of the licensing authority is to protect the public.

## 2.3 Immigration Act 2016

The immigration Act also places a duty on the licensing authority to verify an applicant's right to work in the UK prior to issuing a licence. The council is prohibited from issuing a licence, (drivers and operator's licence) to anyone who is disqualified by reason of their immigration status. This means that driver and operator licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence.

Where a person's immigration permission to be in the UK is time-limited to less than the statutory length for a driver or operator's licence, the licence must be issued for a duration which does not exceed the applicant's period of permission to be in the UK and work.

The provisions also add immigration offences and penalties to the list of grounds on which operator and private hire and hackney carriage driver licences may be suspended or revoked by this authority. Where licences expire, or are revoked or suspended on immigration grounds, the licence must be returned within seven days. Failure to return the licence within seven days is a criminal offence.

## 2.4 Suspension or Revocation of Licence

Section 61 of the Relevant Legislation prescribes that the Council may suspend, revoke, or refuse to renew a Driver's Licence in the following circumstances:

- (a) there has been a conviction/caution for an offence involving dishonesty, indecency, or violence;
- (b) there has been a conviction or caution for an offence under or a failure to comply with the Relevant Legislation; or
- (c) that since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or
- (d) any other reasonable cause

Similarly, Section 62 of the Relevant Legislation prescribes that the Council may suspend, revoke, or refuse to renew an Operator's Licence in the following circumstances:

- (a) there has been an offence under or non-compliance with the Relevant Legislation;
- (b) any conduct on the part of the Operator which renders him unfit to hold a licence;
- (c) 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;
- (d) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or
- (e) any other reasonable cause.

## 2.5 The Council will also have due regard to:

- (a) s.17 of the Crime and Disorder Act 1998 which states 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.
- (b) The Department for Transport's Statutory Taxi & Private Hire Vehicle Standards Guidance which

recognises the need for criminal record checks as an important safety measure and details that a licence should not be granted in relation to: Crimes resulting in Death, Exploitation, Sexual Offences, including applicants on the Sex Offenders Register or on any barred list.

### 3. Disclosure of Convictions/Cautions

- 3.1 All persons (“Applicants”) seeking to obtain an Operator’s, Driver’s or Proprietors Licence will be required to disclose the existence and detail of all relevant convictions and/or cautions they may have.
- 3.2 For the purpose of meeting their disclosure obligations, applicants for a driver's licence will be required to obtain an Enhanced Disclosure with barred list check from the Disclosure and Barring Service (“DBS”) and maintain continuous registration with the DBS update service, and provide authorisation in order to enable the licensing authority to routinely check for new information in accordance with statutory guidance, and where there is reasonable cause for doing so.
- 3.3 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.
- 3.4 The Council will decide what level of disclosure is required and in doing so will have regard to the Rehabilitation of Offender’s Act 1974 and the Rehabilitation of Offender’s Act 1974 (Exceptions) Order 2002 (“the Order”). In particular, the following is of note:

### 4. Drivers

- 4.1 Hackney and private hire drivers working with children and/or vulnerable adults are included within the scope of the Order. This means that all convictions, irrespective of age or sentence imposed can be considered if relevant to the application and will not become spent for this purpose.
- 4.2 In view of the application of the Order, the Council will request an Enhanced Disclosure with barred list check from the Disclosure and Barring Service (DBS) the response to which will contain information of any current or spent convictions, cautions, reprimands, or warnings as well as for example other relevant information held by the Police. More information about the DBS and the checks that they perform is available on their website.

### 5. Operators and proprietors

- 5.1 Private Hire Operators and vehicle proprietors do not fall within the Exemption of the Order, however it is acknowledged that whilst that individual may not be directly responsible for transporting members of the public, they will have access to personal information about passengers and afforded access to them if they walked into the Operator’s office to hire a private hire vehicle.
- 5.2 In view of the above and requirement of the Relevant Legislation, that Operators and Proprietors are fit and proper persons, the Council will require operators and proprietors (who are not also licensed drivers) to submit a basic DBS disclosure with their application and on an annual basis.
- 5.3 Where the application for an operator's licence is in the name of a company, the DBS requirement (including annual DBS) extends to all named Directors, Partners, Company Secretaries, and all persons with significant control. Operators are required to notify the licensing authority in writing of any changes in directors, partners, or other persons with significant control, within seven days. This notification must include a basic DBS for any new person.
- 5.4 Information obtained from the DBS will be shared only with those authorised to receive it in the course of their duties.

### 6. Assessment of Applications

- 6.1 The Council will not preclude applications from persons who have previous criminal convictions /cautions subject to the application of these guidelines. Having a criminal record will not necessarily be a bar from obtaining a Licence. Each case will be decided on its own merits.

- 6.2 The fact that no convictions/cautions are revealed does not mean that applications will automatically be granted. In some cases, the applicant's history may be such that they can never be deemed a fit and proper person. The Council retains absolute discretion as to whether a Licence will be granted, having regard to the legislation outlined at paragraph 2 above, all information obtained, and observations made during the relevant application process.
- 6.3 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to consider as appropriate.
- 6.4 Careful consideration of the evidence provided should be given if an applicant has on more than one occasion been arrested, charged, but not convicted of a serious offence, which suggests on the balance of probabilities that they could pose a danger to the public. Consideration will be given to refusing the application. In assessing the action to take, the safety of the travelling public must be the paramount concern.
- 6.5 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material, particularly in giving information required on the application form. Where an applicant has made a false statement, false declaration or omitted to include information on their application for the grant or renewal of a licence, the licence will normally be refused.
- 6.6 The Council is also entitled to use other records and available information when determining applications. This may include information held by the council or other Licensing Authorities, use of NR3, information disclosed by the Police under the Common Law Police Disclosure (CLPD) scheme for reporting offences where there is a pressing social need, or with the Home Office regarding immigration offences. Anyone on the Disclosure and Barring Service (DBS) Barred List will normally be refused a licence. Any licence holder who is subsequently included on the DBS Barred List will normally have their licence revoked.

## 7. **Impact of Cautions/Convictions**

- 7.1 Each application will be carefully assessed and in each case the information provided will be considered in relation to the circumstances and shall consider one or more of the following (non-exhaustive) factors:
- 7.2 **Level of Responsibility.** The Council will consider the level of independence afforded to the Applicant. An Applicant who works alone with minimal supervision will be considered a greater risk than one who works in a group and/or is closely supervised.
- 7.3 **Date of Offence(s).** The Council recognises that historic offences may have less relevance than recent offences. As a general rule, a pattern of unrelated or similar offences over a period will be considered more serious than an isolated minor conviction.
- 7.4 **Attitude of the Applicant.** The Council will look for evidence that the applicant has been rehabilitated and has demonstrated a determination not to re-offend.
- 7.5 **Mitigating Circumstances.** The Council may ask applicants about offence(s)/convictions so that the context can be considered. Consideration will also be given to any references provided.
- 7.6 **Sentence Imposed.** The Council will consider any sentence imposed as an indication of the Court's view of the seriousness of the offence.

## 8. **Rehabilitation**

- 8.1 These guidelines prescribe the minimum periods of rehabilitation which will ordinarily need to have elapsed before an application can be approved. These minimum periods will be considered in

conjunction with the general considerations outlined above, as well as with reference to any additional information provided or observations made during the disclosure procedure.

8.2 Representatives of the Council tasked with deciding whether to approve an application have absolute discretion as to the application of the minimum periods of rehabilitation. This will apply both in favour of granting an application prior to the expiry of a rehabilitation period (for example where exceptional circumstances exist) or in declining an application before or after the expiry of a rehabilitation period (for example where there is evidence of any recent, persistent, or habitual offending history). Simply remaining free of conviction may not be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

## 9. Right of Appeal

9.1 Applicants have a right to appeal against decisions made in pursuance of these guidelines in the following circumstances:

### 9.2 Licences

A right of appeal arises against the following decisions:

- Refusal to grant or renew an Operator's or Driver's Licence;
- Suspension or revocation of an Operator's or Driver's Licence; and
- The imposition of conditions which may have been placed on the grant of an Operator's or Driver's Licence.

**Any such appeal must be made in writing to the Magistrates Court within 21 days of the date of the decision letter having been served.** The appeal will be processed and determined by the Magistrates Court.

9.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes this statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver (Road Safety Act 2006, s 52, 2A & 2B).

9.4 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the operator.

## 10. Updating and Repeat Checks

10.1 Successful applicants are required to notify the Council within 48 hours of any convictions or cautions, arrests and release, charge or conviction of any sexual offence, or offence involving dishonesty or violence, or any other relevant matter criminal or civil, which may question their fit and proper status, they may receive after the grant of their Licence/Approval.

10.2 In order to assist the determination of an applicant's 'fit and proper' status, all applicants are required to provide a valid DBS check. The level of DBS required is determined by the type of application. Operators and Proprietors (who are not also licensed drivers) will be required to provide an annual basic disclosure. All licensed drivers must provide an Enhanced DBS and barred lists check, maintain continuous registration with the DBS update service and authorise the licensing authority to routinely check for new information.

10.3 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

## 11. Breaches of these guidelines

- 11.1 Applicants are prohibited from driving a private hire or hackney carriage vehicle, or performing the duties of an operator without first having obtained a relevant Licence for this purpose.
- 11.2 Persons who have previously been granted a Driver's or Operator's Licence which has been suspended or revoked are prohibited from continuing to drive or perform the duties of an operator unless they have submitted an appeal in accordance with paragraph 9 of this Policy.

## 12. Guidelines

The following paragraphs offer a general guide on the decision, which might be taken where cautions or convictions are disclosed.

### **Offences Involving Violence**

#### **Offences against Children under 14 years and Young Persons 14 to 17 years**

- 12.1 Drivers of hackney carriages and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken when offences of violence involve children or young persons.
- 12.2 Where the commission of an offence involved loss of life a licence will normally be refused. In other cases, anyone of a violent disposition will normally be refused to be licensed until they have at least been 10 years free of such conviction or the end of a term of imprisonment if applicable must have passed before an application is likely to be considered favourably. However, given the range of the offences that involve violence, consideration must be given to the seriousness and nature of the conviction and the term of rehabilitation could be reduced or increased.

#### **Offences against Other Persons**

- 12.3 As hackney carriage and private hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a licence will normally be refused. In other cases, minimum periods of time from completion of any sentence imposed will be applicable before an application is likely to be considered favourably. Each case is assessed on its own merits and consideration must be given to the seriousness and nature of the conviction and the term of rehabilitation could be reduced or increased.
- 12.4 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide whilst driving
  - Terrorism offences
  - Exploitation
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 12.5 A licence will not normally be granted where the applicant has a conviction for an offence such as:
- Malicious wounding or grievous bodily harm which is racially aggravated
  - Arson
  - Actual bodily harm which is racially aggravated
  - Grievous bodily harm with intent
  - Robbery
  - Possession of a firearm
  - Riot
  - Assault on the Police

- Common assault which is racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction is less than 10 years prior to the date of application.

12.6 An application will normally be refused where the applicant has a conviction for an offence such as:

- Racially aggravated criminal damage
- Racially aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction or completion of any sentence imposed is less than 7 years prior to the date of application.

12.7 An application will normally be refused where the applicant has a conviction for an offence such as:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- Fear of provocation of violence (S4 Public Order Act 1986)
- Intentional harassment, alarm, or distress (S4A Public Order Act 1986)

and the conviction or completion of any sentence imposed is less than 10 years prior to the date of application.

12.8 An application will normally be refused where the applicant has a conviction for an offence such as:

- Obstruction
- Criminal damage
- Harassment, alarm, or distress (S5 Public Order Act 1986)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

and the conviction or completion of any sentence imposed is less than 3 to 5 years prior to the date of application

### 13. **Weapon Offences**

13.1 If an applicant has been convicted of possession of a weapon or a weapon related offence, this will give serious cause for concern as to whether the person is a fit and proper person to carry members of the public. Depending on the circumstances of the offence, an applicant should be conviction free and completed any sentence imposed at least 7 years prior to the date of application.

### 14. **Sex and Indecency Offences**

14.1 Any applicant currently on the Sex Offenders Register will not be granted a licence.

#### **Offences against Children under 14 years and Young Persons 14 to 17 years**

14.2 Drivers of hackney carriage and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. Where the commission of a sexual offence involves a child or young person an application for a licence will normally be refused.



## **Offences against Other Persons**

- 14.3 As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers; an application will normally be refused where an applicant has a conviction for an offence of:
- Rape
  - Assault by penetration
  - Offences involving children or vulnerable adults
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 14.4 An application will normally be refused where the applicant has a conviction for an offence relating to:
- Sexual or indecent assault
  - Possession of indecent photographs, child pornography etc
  - Exploitation of prostitution
  - Trafficking for sexual exploitation
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 14.5 An application will normally be refused where the applicant has a conviction for an offence relating to:
- Indecent exposure
  - Soliciting (including kerb crawling)
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 14.6 A licence will not normally be granted if an applicant has a conviction for any sex or indecency offence.
15. **Dishonesty Offences**
- 15.1 Drivers of hackney carriages and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare. It should also be noted that a private hire driver is not bound by a set fare structure and therefore is open to potential abuse by dishonest drivers. Customers often use the trade for journeys to airports and drivers are privy to the knowledge that premises will be empty for a period. In addition, overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.
- 15.2 For these reasons a serious view is taken of any convictions involving dishonesty. In general, a minimum period of 7 years from conviction or completion of any sentence imposed should be required before an application can be considered favourably. Offences of dishonesty include, but are not limited to:
- Theft
  - Burglary
  - Fraud
  - Benefit Fraud
  - Handling or receiving stolen goods
  - Forgery
  - Conspiracy to defraud
  - Obtaining money or property by deception
  - Other deception
  - Taking a vehicle without consent
  - Or any similar offences / offences involving dishonesty (including attempted or conspiracy to commit) offences which replace the above.

## 16. Drug Offences

- 16.1 A serious view will be taken regarding any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered. A licence will not normally be granted where the applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, until at least 10 years have elapsed since the conviction or completion of any sentence imposed.
- 16.2 An application will normally be refused where an applicant has any conviction for possession of drugs, or related to the possession of drugs, until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense, to demonstrate that they are not using controlled drugs.
- 16.3 If there is evidence of persistent drugs use, misuse or dependency, a medical examination (in accordance with the DVLA Group 2 Medical Standards) will be required before an application will be considered. If the applicant was an addict, then they will be required to show evidence that they have been free from drug taking for a period of at least 5 years after detoxification treatment.

## 17. Driving Offences

- 17.1 A serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where an applicant has a conviction for an offence such as:
- Causing death by dangerous driving
  - Causing death by careless driving whilst under the influence of drink or drugs
  - Causing death by driving unlicensed, disqualified, or uninsured drivers or
  - Or any similar offences
- 17.2 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions may reflect the fact that the licensee does not take their professional responsibilities seriously and is therefore not a 'fit and proper' person to be granted or retain a licence.
- **Major offences / High risk offences** (see Annex A for examples of major/high risk offences). An application received which details one of the major / high risk traffic offences in Annex A, on the DVLA licence, will normally be refused or a current licence suspended or revoked. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or sanction imposed.
  - **Minor offences** (see Annex B for examples of minor offences). 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 at least 5 years have elapsed since the completion of any sentence or sanction imposed

## 18. Drunk driving / driving under the influence of drugs / using a mobile phone whilst driving

- 18.1 A serious view shall be taken of convictions for driving or being in charge of a vehicle whilst under the influence of alcohol or other substances. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not normally be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed.
- 18.2 If there is any indication that the applicant is an alcoholic, a medical examination (in accordance with the DVLA Group 2 Medical Standards) shall be arranged by the applicant, at their expense, before an application is considered. If the applicant was an alcoholic, then they will be required to show evidence that they have undergone rehabilitation and have been free from any issues for a period of

at least 7 years.

18.3 An isolated conviction for drunkenness shall not debar an applicant from obtaining a licence. However, several related convictions could indicate a problem necessitating a medical, as laid down in 18.2.

18.4 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- Are much less aware of what is happening on the road around them
- Fail to see road signs
- Fail to maintain proper lane position and steady speed
- Are more likely to 'tailgate' the vehicle in front
- React more slowly, take longer to brake and longer to stop
- Are more likely to enter unsafe gaps in traffic
- Feel more stressed and frustrated.

18.5 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. Considering this, serious view will be taken of convictions for driving whilst using a mobile phone. Where an applicant has a conviction for using a hand-held mobile telephone or hand-held device whilst driving, a licence will not normally be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

18.6 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

## 19. **Discrimination Offences**

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

## 20. **Licensing Offences**

20.1 Licensing legislation is designed to ensure the public are protected and as such a serious view will be taken of convictions for offences under the Acts, such as plying for hire, overcharging, and refusing to carry disabled persons, when deciding whether an applicant is fit & proper. In general, a period of 3 to 5 years free of conviction must have elapsed before an application should be considered.

20.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

20.3 If an applicant has had a licence suspended, revoked, or refused by another authority, then checks will be made with that authority to aid the decision-making process.

## 21 **Insurance offences**

21.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided 7 years have elapsed since the completion of any sanction or sentence imposed.

21.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

21.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operator's' licence revoked immediately and be prevented from holding a licence for at least 3 years.

## 22. **Outstanding Charges and Summonses**

- 22.1 If an applicant is the subject of any outstanding charge, summons, or is currently on bail awaiting a charging decision, no decision will be made, or licence granted until these outstanding matters are resolved.

## Annex A

### MAJOR TRAFFIC OFFENCES

- AC10 Failing to stop after an accident  
AC20 Failing to give particulars or to report an accident within 24 hours  
AC30 Undefined accident offences
- BA10 Driving while disqualified by order of court  
BA30 Attempting to drive while disqualified by order of court
- CD10 Driving without due care and attention  
CD20 Driving without reasonable consideration for other road users  
CD30 Driving without due care and attention or without reasonable consideration for other road users  
CD40 Causing death through careless driving when unfit through drink  
CD50 Causing death by careless driving when unfit through drugs  
CD60 Causing death by careless driving with alcohol level above the limit  
CD70 Causing death by careless driving then failing to supply a specimen for analysis  
CD71 Causing death by careless driving then failing to supply a specimen for drug analysis  
CD80 Causing death by careless, or inconsiderate driving  
CD90 Causing death by driving: unlicensed, disqualified, or uninsured drivers
- DD40 Dangerous driving  
DD60 Manslaughter or culpable homicide while driving a vehicle  
DD80 Causing death by dangerous driving  
DD90 Furious driving
- DR10 Driving or attempting to drive with alcohol level above limit  
DR20 Driving or attempting to drive while unfit through drink  
DR30 Driving or attempting to drive then failing to supply a specimen for analysis  
DR40 In charge of a vehicle while alcohol level above limit  
DR50 In charge of a vehicle while unfit through drink  
DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive  
DR61 Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive  
DR70 Failing to provide specimen for breath test  
DR80 Driving or attempting to drive when unfit through drugs  
DR90 In charge of a vehicle when unfit through drugs
- IN10 Using a vehicle uninsured against third party risks
- LC20 Driving otherwise than in accordance with a licence  
LC30 Driving after making a false declaration about fitness when applying for a licence  
LC40 Driving a vehicle having failed to notify a disability  
LC50 Driving after a licence has been revoked or refused on medical grounds
- MS50 Motor racing on the highway  
MS60 Offences not covered by other codes
- UT50 Aggravated taking of a vehicle

## Annex B

### MINOR TRAFFIC OFFENCES

- MS10 Leaving a vehicle in a dangerous position

- MS20 Unlawful pillion riding
- MS30 Play Street offences
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- MS90 Failure to give information as to identity of driver etc
  
- MW10 Contravention of Special Road Regulations (excluding speed limits)
  
- PC10 Undefined contravention of Pedestrian Crossing Regulations
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
  
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a "Stop" sign
- TS40 Failing to comply with direction of a constable or traffic warden
- TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign
- TS70 Undefined failure to comply with a traffic direction sign
- TT99 To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified
  
- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
  
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- C80 Using a mobile phone while driving a vehicle
  
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type or vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway

### **Aiding, Abetting, counselling, or procuring**

Offences as coded above, but with 0 change to 2 (for example CU10 becomes CU12)

### **Causing or permitting**

Offences as coded above, but with 0 change to 4 (for example CU10 becomes CU14)

### **Inciting**

Offences as coded above, but with 0 changed to 6 (for example CU10 becomes CU16)

### **Non-endorsable offences**

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences, but they carry a period of disqualification. At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

## Testing criteria for vehicles which have reached the standard age limit

Modern technological advances have improved the build quality and durability of all vehicles so that they are now designed with a longer lifespan. However, this is dependent on regular preventative maintenance and servicing being carried out effectively and in accordance with the manufacturer's specifications. Failure to carry out such checks and tests can lead to costly repairs and even failure of critical safety features.

Licensed vehicles are subject to increased mileage and wear and tear than general vehicles. To ensure that the licensing of older vehicles does not have a negative impact on public safety or the environment, the council has an essential testing criteria. The criteria are items which the council considers to be critical areas of a vehicle test, which, if failed on a mechanical inspection are considered a major failure. Failure of these essential items can indicate that regular preventative maintenance has not been carried out, or if it has, it has not been effective.

Vehicles which remain licensed beyond a standard age are subject to this essential testing criteria. The age of the vehicle is determined from the date when first registered as indicated on the vehicle's V5 registration logbook.

Where a licensed vehicle fails a mechanical inspection on one or more of the items contained in the table below, it will be immediately suspended and must not be used. The vehicle may be repaired and re-presented to the appointed testing station within 30 days for retesting. If the vehicle passes the mechanical test within 30 days, the suspension will be lifted, and the vehicle may be re-licensed. If a vehicle does not pass the mechanical test within 30 days, for whatever reason, it will be de-licensed.

Licensed vehicles should be presented to the appointed testing centre in a good serviceable condition, and subject to routine planned preventative maintenance and servicing to ensure the safety of passengers, the driver, and the public.

Age and type of vehicle subject to critical test criteria:

Hackney Carriage	Private Hire Vehicle
10 years old	8 years old

### Critical Items

<b>Steering and Suspension</b>	Steering mechanism / system
	Transmission shafts
	Front suspension
	Rear suspension
<b>Brakes</b>	Condition of service brake system
	Condition of parking brake system
<b>Tyres and Wheels</b>	Tyre type and condition
	Road wheels
<b>General</b>	Exhaust emissions
	Vehicle structure
	Appearance – interior
	Appearance – exterior
<b>Road Test</b>	Where an issue is highlighted by the appointed testing centre, this will be determined on an individual basis depending on diagnosis

## Rutland County Council - Private Hire Vehicle Plate Exemption

### 1. Objectives

- 1.1 The aim of the policy is to ensure public safety whilst taking a balanced approach to licensing requirements. Its objective is the provision of an exemption to allow “executive vehicles” to operate without displaying external identification plates (private hire vehicle licence plate).

### 2. Introduction

- 2.1 The displaying of the external identification plate on a licensed vehicle and a driver's badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to assist with public safety issues.
- 2.2 However, there are occasions when the requirement to display an external identification plate may have the opposite effect in the terms of customer safety and could have commercial implications for the operating business. The display of local authority licence plates may also deter some corporate customers from using the service; and in some cases, the identification of the vehicle as licensed may allow “high risk” passengers to more readily be targeted putting both them and the driver at risk.
- 2.3 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate (licence plate), and drivers of those vehicles wear a driver's badge. The same legislation also allows Rutland County Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a private hire driver's badge.
- 2.4 It is not intended that a significant number of private hire vehicles licensed by Rutland County Council should be exempt from the council's requirement to display an external vehicle identification plate, however the council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption.
- 2.5 In creating its policy Rutland County Council does not seek to provide a definite list of vehicles it considers to be suitable (subject to use) for exemption from the requirement to display external vehicle identification plates.
- 2.6 This section provides guidance to potential applicants on the standards of vehicle, comfort, and equipment that the council considers should be the minimum standard of comfort and vehicle type before the Authority would consider such an application.

### 3. Policy

- 3.1 Exemptions from displaying external identification plates (vehicle licence plates) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles will not be allowed.
- 3.2 Each application will be assessed on its own merit and each vehicle will be inspected by an authorised council officer to ensure that it is fit for purpose.
- 3.3 Applications for the exemption from the requirement to display an external identification plate on the rear of a private hire vehicle may be considered where the following requirements are met;
- Vehicle models must be either four door saloons, or five door estates or five door hatchbacks. Applications will not normally be accepted in respect of people carrier type vehicles.
  - Vehicles must be of a standard of comfort and equipped to a level equal to or above luxury brands of vehicles such as “S” and “E” Class Mercedes- Benz, 7 Series BMW, Lexus “GS” or “LS” models, Audi A8 Series, Jaguar, Rolls Royce, and Bentley saloons. (The highest specification executive

- type cars from other manufacturers may also be considered).
- c) The vehicle will be in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim and seating.
  - d) The type of work is “executive” in nature. This means that the vehicle is used specifically and exclusively to provide transport under a written contract to a company or person, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable.
- 3.4 Applications may only be made by a person holding a private hire operator's licence issued by Rutland County Council.
  - 3.5 Where an operator wishes to make an application for a vehicle to be exempt from displaying an external identification plate, they will be required to complete the appropriate application form. The application must be accompanied by supporting documentation and a non-refundable fee.
  - 3.6 The council may require applicants to provide additional documentation as reasonably necessary to allow the council to make an informed decision. Where such documentation is not provided to the satisfaction of the council the application will be refused.
  - 3.7 Rutland County Council is entitled to recover its costs in relation to the application for and issuing of an exemption notice and may charge such fees as it believes are appropriate to recover all or part of those costs.
  - 3.8 The fee to accompany an application for an exemption notice is listed in the council's Taxi Fees and Charges schedule and is non-refundable.
  - 3.9 Where an application is granted, an exemption notice will be issued as soon as practical after the decision is made.
  - 3.10 Where a vehicle is exempted from the requirement to display an external identification plate the licensed driver of the vehicle will also be exempted from wearing a driver's badge.
  - 3.11 Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for the same period as that vehicle private hire licence unless either the licence or notice is otherwise surrendered or revoked.
  - 3.12 Exemption notices may be renewed annually subject to the vehicle undergoing an inspection by a licensing officer to ensure that it continues to be fit for purpose for an exemption. The annual renewal fee for an exemption notice is listed in the council's Taxi Fees and Charges schedule and is non-refundable.
  - 3.13 The fee for a replacement plate or exemption notice is listed in the council's Taxi Fees and Charges schedule.
  - 3.14 The authority to determine any application for an exemption notice is by delegation to the Licensing Manager.
  - 3.15 Applicants have the right to appeal a decision where a grant of a notice is refused or revoked; appeals must be in writing and will be reviewed by the licensing committee.
  - 3.16 All vehicles granted an exemption notice must in addition to this policy also comply in accordance with the requirements of the council's standard private hire conditions.
  - 3.17 Where there is any inconsistency between the standard private hire conditions and these conditions, then these conditions shall prevail.



## Rutland County Council - Private Hire Vehicle Plate Exemption Conditions

The conditions listed below apply to all private hire vehicles granted an exemption from Rutland County Council from the requirement to display an external identification plate (private hire vehicle licence plate). The following conditions in addition to the standard conditions required for private hire vehicles.

- a) The vehicle licence plate and exemption notice issued by the council in accordance with the requirements of the Local Government (Miscellaneous Provisions) Act 1976 shall remain the property of the council.
- b) Any vehicle granted an exemption from displaying a vehicle licence plate will be required to have the vehicle licence plate normally displayed on the rear of the vehicle affixed to the inside of the boot lid. The plate when so affixed must be readily visible when that boot lid is raised.
- c) In the event of loss or damage rendering the plate or notice unserviceable the operator shall make immediate application for a replacement which a fee is payable.
- d) The exemption notice issued by the council must be always carried in the vehicle and must be produced upon request to an authorised officer of the council or any police officer on request.
- e) When issued an exemption notice, the vehicle will not be required to display door signs which the council require private hire vehicles to display.
- f) When issued an exemption notice a taximeter must not be installed in the vehicle.
- g) The operator will not display in, on or from the vehicle any advertisement, signage, logos, or insignia advertising the operating company or the vehicle's status as a private hire vehicle.
- h) The operator will not display in, on or from the vehicle any advertisement, signage, logos, or insignia advertising third party companies, products, or services.
- i) During the period of the exemption notice the driver will not be required to wear a private hire drivers badge but must have it available for immediate inspection by an authorised officer of the council or any police officer on request.
- j) During the period of exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed in either a formal chauffeur's uniform or business suit with collar and tie.
- k) The operator will notify the council immediately of any change of use of the vehicle.
- l) The vehicle must not be used for private hire purposes other than for executive use (i.e., not for "normal" airport journeys or daily private hire use).
- m) The driver and passenger front side window glass and front windscreen must clear. However tinted windows can be fitted to the rear side and rear window glass of the vehicle provided they are factory fitted, comply with current legislation, and comply with any current private hire vehicle conditions.
- n) The exemption will cease to have an effect on the sale or transfer of the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale or transfer of ownership immediately and in writing. The exemption notice must be returned to the council along with the private hire vehicle licence plate unless being sold to another private hire operator licensed by the council; in which case the only the exemption notice must be returned.
- o) Exempted vehicles will not be required to display a Part 1 or Part 2 notice, or the licensed plate number in the windscreen

Example of a Part 1 Notice



Drivers licence number  
**PHD / HCD 01234**

Complaints can be made to  
Rutland County Council  
[rclicensing@peterborough.gov.uk](mailto:rclicensing@peterborough.gov.uk)  
or by calling 01572 758366

Example of a Part 2 notice

The proprietor of this  
vehicle is:  
**XYZ vehicles**

Should you wish to  
comment positively or  
negatively on any aspect of  
your journey today, please  
call 01234 567890

Vehicle registration  
**AB01CDE**

Licence plate number  
**PH/HC 0123**

DRAFT

## Policy on the use of the National Register of Taxi Licence Revocation and Refusals (NR3)

### 1 Background

- 1.1 Licensing Authorities are required to satisfy themselves that those holding hackney carriage and private hire driver licenses are 'fit and proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the currency of a licence. For example, when evidence is obtained that suggests that a licensed individual is not a fit and proper person, the licensing authority is entitled to suspend, revoke, or refuse to renew a licence.
- 1.2 Information which may question the 'fit and proper' status of an applicant or licensed driver, may come from many sources, one of which is other licensing authorities.
- 1.3 All applicants for either a new or renewal driver licence, are required to declare if they have previously applied for a hackney carriage or private hire driver licence with this or any other licensing authority and declare if any previous application was granted or refused.
- 1.4 Prior to the introduction of NR3, if drivers did not disclose information about a previous revocation or refusal of a licence, there was often no way to find this information out, which could have public safety implications and be relevant to an individual's 'fit and proper' status.
- 1.5 The Local Government Association commissioned the development of a national register of hackney carriage and private hire driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The objective of NR3 is to ensure that licensing authorities can make properly informed decisions on whether an applicant is 'fit and proper'.
- 1.6 The register allows licensing authorities to record details of where a hackney carriage or private hire drivers' licence has been refused or revoked and allows licensing authorities to check driver licence applications against the register.
- 1.7 All applications for a new driver's licence or drivers licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received because of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.
- 1.8 Each application will be considered on its own merits. However, where an applicant fails to fully disclose information as requested, which is subsequently identified through NR3, this will, in all instances, raise questions about an applicant's integrity and status as a 'fit and proper' person.
- 1.9 Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision, or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

### 2 Scope

- 2.1 This policy covers how Rutland County Council will use NR3 and how the Council will comply with data protection requirements.
- 2.2 In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

### 3 Overarching Principles

- 3.1 NR3 is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire vehicle driver's licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official

authority vested in the licensing authority (Rutland County Council) that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire vehicle drivers' licence.

- 3.2 This policy covers the use that this authority, Rutland County Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of a hackney carriage or private hire driver's licence. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.
- 3.3 Rutland County Council have signed up to use NR3. This means that when an application for a hackney carriage or private hire drivers' licence is refused, or when an existing hackney carriage or private hire driver's licence is revoked, that information will be entered onto the register.
- 3.4 When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Rutland County Council will make a search the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.
- 3.5 Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period processing that application, making a decision, notifying the applicant of the outcome of that decision, and any appeal processes.
- 3.6 For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application.
- 3.7 Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned.
- 3.8 Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned.
- 3.9 Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed).
- 3.10 If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.
- 3.11 The data will be held securely in accordance with Rutland County Council's general policy on the secure retention of personal data. Which is available at:  
<https://www.rutland.gov.uk/sites/default/files/2022-11/Data%20Protection%20Policy.pdf>
- 3.12 At the end of the retention period, the data will be erased and/or destroyed in accordance with Rutland County Council's policy on the erasure and destruction of personal data.  
<https://www.rutland.gov.uk/sites/default/files/2022-11/Document%20Retention%20and%20Record%20Disposal%20Policy.pdf>

#### **4 Adding information of refusal or revocation to NR3**

- 4.1 Where an application for a licence is refused, or an existing licence is revoked, Rutland County Council will record this decision on NR3. The information recorded on NR3 will be limited to an individual's:

- name
- date of birth
- address and contact details
- national insurance details
- driving licence number
- decision taken
- date of decision
- date decision effective

- 4.2 Recording this information on NR3 does not mean that applicants will be automatically prevented from securing a licence in the future but is intended simply to ensure that licensing authorities are able to access an applicant's full licensing history, should further licence applications be made elsewhere.
- 4.3 Data is held on the NR3 register for a period of 25 years, in line with the national NR3 guidance. If during that time another authority requests further details relating to this decision, because of an application made, the licensing authority may provide reason for the refusal of or revocation of the application or licence.
- 4.4 Applicants and licence holders have various rights in relation to their data:
- the right to request access to their data;
  - the right to rectification or erasure of their data;
  - the right to restrict processing of their data; and
  - the right to object to the processing of their data for this purpose.
- 4.5 If an applicant or licence holder wishes to object to their information being added to the NR3 register, they are required to appeal in writing within 28 days of receiving notification of the council's intention to add details to NR3. The authority will consider any such requests and respond within one month.
- 4.6 If applicants for and licence holders of, hackney carriage or private hire driver licenses, wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, enquires can be made by contacting:

Data Protection Officer  
 Rutland County Council  
 Catmose  
 Oakham  
 Rutland  
 LE15 6HP  
[dataprotection@rutland.gov.uk](mailto:dataprotection@rutland.gov.uk)

Information on submitting a subject access request, can be found on the link below.  
<https://www.rutland.gov.uk/council-councillors/gdpr-data-protection/your-rights-how-make-subject-access-request>

- 4.7 Individuals also have a right to make a complaint to the Information Commissioner's Office, who can be contacted as below.

The Information Commissioner's Office  
 Wycliffe House, Water Lane  
 Wilmslow, Cheshire  
 SK9 5AF  
 Tel: 01625 545700  
<http://www.ico.org.uk>

## 5 Checking the NR3 register as part of the application and renewal process

- 5.1 When an application is made to Rutland County Council for the grant of a new, or renewal of, a hackney carriage or private hire driver's licence, Rutland County Council will check the NR3.
- 5.2 Rutland County Council will then retain a clear written record of every search that is made of the register. This will detail:
- the date of the search;
  - the name or names searched;
  - the reason for the search (new application or renewal);
  - the results of the search; and
  - the use made of the results of the search (this information will be entered to the register later)
- 5.3 This record will not be combined with any other records (i.e., combined with a register of licences granted) and will be retained for the retention period of 25 years.
- 5.4 If the Council discovers any match (i.e., there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of Rutland County Council's data protection policy in relation to the use of any data that is obtained as a result of this process.
- 5.5 This request will be made in writing in accordance with the form at Appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

## **6 Responding to a request made for further information regarding an entry on NR3**

- 6.1 When the Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e., combined with a register of licences granted) and will be retained for the retention period of 25 years.
- 6.2 The Council will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.
- 6.3 The Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.
- 6.4 If the Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function.
- 6.5 Any disclosure must be considered and proportionate, taking into account the data subject's rights and the position and responsibilities of a licensed driver. Data is held on the NR3 register for a period of 25 years, but Rutland County Council (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.
- 6.6 The Council will disclose information relating to a revocation or refusal to grant a driver's licence in accordance with the timescales contained within the licensing authority's Guidelines Relating to the Relevance of Convictions / Cautions in relation to Taxi Licensing (as attached at Appendix G of the overarching policy).
- 6.7 Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the councils Guidelines) which is within the timescales determined in those Guidelines, the information will be disclosed.
- 6.8 Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the councils Guidelines) which is outside the timescales determined in those Guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of

the decision, and there may be occasions where information is provided other than in accordance with this policy.

- 6.9 Any information about convictions will be shared in accordance with this policy under part 2 of schedule 1, to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.
- 6.10 The officer will record what action was taken and why. Rutland County Council will make and then retain a clear written record of every decision that is made because of a request from another authority. This will detail:
- the date the request was received
  - how the data protection impact assessment was conducted and its conclusions
  - the name or names searched
  - whether any information was provided
  - if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
  - if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
  - how and when the decision (and any information) was communicated to the requesting authority

This record will not be combined with any other records (i.e., combined with a register of licences granted) and will be retained for the retention period of 25 years.

## **7 Using any information obtained as a result of a request to another authority**

- 7.1 When Rutland County Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a hackney carriage and private hire drivers' licence. This will be in accordance with the usual process for determining applications.
- 7.2 Rutland County Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

**Information disclosure form**

This form is submitted following a search of the National Register of Refusals and Revocations (NR3)

*(For completion by requestor authority)*

Name of licensing authority requesting information:			
Requestor authority reference number:			
Name of licensing authority from which information is sought:			
Name of individual in respect of whom the request is made:			
Decision in respect of which the request is made	Refusal	Revocation	
Other details for this record			
Address:	Driving licence number:	NI:	Reference number:

**Declaration by requesting authority:**

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of hackney carriage and private hire licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used, and saved by the authority in connection with this application and in accordance with the authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at (TBA)

<b>Signed</b>		<b>Print Name</b>	
<b>Position</b>		<b>Date</b>	

*(For completion by providing authority)*

Further information to support the decision recorded on NR3 in respect of the above-named individual:

**Declaration by providing authority:**

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. If the authority becomes aware that this information is no longer accurate, we will advise the above-named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a hackney carriage or private hire driver licence, the above-named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

<b>Signed</b>		<b>Print Name</b>	
<b>Position</b>		<b>Date</b>	



**PLANNING AND LICENSING COMMITTEE**

14 March 2023

**PROPOSED DIVERSION OF FOOTPATH E229, KETTON**

**Report of the Strategic Director for Places**

Strategic Aim:	A special place	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr R Powell, Deputy Leader and Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Penny Sharp, Strategic Director for Places	01572 758160 psharp@rutland.gov.uk
	Stuart Crook, Highway Asset & Policy Manager	01572 758260 scrook@rutland.gov.uk
Ward Councillors	Ketton - Cllr G Brown and Cllr K Payne	

**DECISION RECOMMENDATIONS**

That the Committee:

1. Approves the application to divert public footpath E229 and authorises legal services to make an order under section 257 of the Town and Country Planning Act.

**1 PURPOSE OF THE REPORT**

- 1.1 To consider an application (Appendix A) submitted on 9th of February 2022 by Kate Wood of Eddisons on behalf of Beeson Wright Limited to divert part of public footpath E229 in the parish of Ketton, as shown on the attached plan (Appendix B).
- 1.2 The application is made under section 257 of the Town and Country Planning Act 1990 (the 1990 Act), which gives the local planning authority (Rutland County Council) the power to make orders to extinguish or divert footpaths, bridleways, or restricted byways where it is necessary to enable development for which planning permission has been granted.

**2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 In 2020 planning permission was sought to alter the access from the High Street to

Home Farm in Ketton and convert several old farm buildings into modern housing and offices. The application sought to construct a privately maintained estate road, over which the public footpath would be diverted and was submitted under reference 2020/1254/MAF.

- 2.2 It's recognised that the legal route of footpath E229 is rarely used. An alternative route more commonly used by the public is where the applicant seeks to divert the footpath and construct the estate road.
- 2.3 The Planning and Licensing Committee considered the application on the 11th of January 2022. The effects of development on public rights of way are material considerations, and in their report the case officer stated that, *'in terms of the public footpath running through the site, the access lane does follow the existing route and whilst it would preferable be on a separated alignment to the road, in this case it would be difficult to disrupt the layout by providing a separate PROW route through the development. In terms of the overall length of the footpath this short section on the development is a minor part'*.
- 2.4 Planning & Licensing committee members accepted the case officer's recommendation, approval subject to conditions, and a decision notice was eventually issued on the 29th of July 2022.
- 2.5 Public footpath E229 is approximately 3.5 km in length and connects Home Farm on the High Street in Ketton, to bridleway E228 by Woodside Farm just south of Empingham. It's a category 2 (semi-rural) footpath but is well used and features on several long distance and promoted routes, including the Rutland Round, the MacMillan Way, and the Hereward Way.
- 2.6 It [footpath E229] has been the subject of significant local interest being the subject of a 7-year temporary diversion to enable the surface working of minerals.
- 2.7 Following the expiration of the temporary diversion in 2014, the reinstated footpath was 'constructed' to a standard suitable for a bridleway (including the new bridge over the quarry haul road). This was done to avoid delaying the temporary diversion in the face of undetermined applications for higher (bridleway) rights but presents the council with an opportunity to make a significant improvement to the [rights of way] network for cycling and equestrian interests.

### **3 LEGAL FRAMEWORK**

- 3.1 Before exercising its powers, a local planning authority must consider whether a proposal meets the requirements of the Town and Country Planning Act (the 1990 Act). It must also consider any other relevant legislation, supplementary guidance, and policy.
- 3.2 Section 257 of the Town and Country Planning Act 1990:

*Footpaths bridleways and restricted byways affected by development:*

*Orders by other authorities.*

- (1) *Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted*

*byway if they are satisfied that it is necessary to do so in order to enable development to be carried out—*

*(a) in accordance with planning permission granted under Part III or section 293A, or*

*(b) by a government department.*

*(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—*

*(a) an application for planning permission in respect of development has been made under Part 3, and*

*(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.*

*(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—*

*(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;*

*(b) for authorising or requiring works to be carried out in relation to any footpath, bridleway or restricted byway for whose stopping up or diversion, creation or improvement provision is made by the order;*

*(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath, bridleway or restricted byway;*

*(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.*

*(3) An order may be made under this section authorising the stopping up or diversion of a footpath, bridleway or restricted byway which is temporarily stopped up or diverted under any other enactment.*

*(4) In this section “competent authority” means—*

- (a) *in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State or by the Welsh Ministers, who would have had power to grant it;*
- (b) *in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.*
- (c) *in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A or to the Welsh Ministers under section 62D, 62F, 62M or 62O, the local planning authority to whom the application would otherwise have been made.*

3.3 Section 259 of the Town and Country Planning Act 1990:

*Confirmation of orders made by other authorities.*

- (1) *An order made under section 257 or 258 shall not take effect unless confirmed by the appropriate national authority or unless confirmed, as an unopposed order, by the authority who made it.*
  
- (1A) *An order under section 257(1A) may not be confirmed unless the appropriate national authority or (as the case may be) the authority is satisfied—*
  - (a) *that planning permission in respect of the development has been granted, and*
  - (b) *it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.]*
  
- (2) *The appropriate national authority shall not confirm any order under section 257(1) or 258 unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.*
  
- (3) *The time specified—*

- (a) *in an order under section 257 as the time from which a footpath [F6, bridleway or restricted byway] is to be stopped up or diverted; or*
- (b) *in an order under section 258 as the time from which a right of way is to be extinguished,*

*shall not be earlier than confirmation of the order.*

- (4) *Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.*
- (5) *The appropriate national authority, for the purposes of this section, is—*
  - (a) *in relation to England, the Secretary of State;*
  - (b) *in relation to Wales, the Welsh Ministers.*

### 3.4 Section 149(1), Equality Act 2010:

In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010. Pursuant to these legal duties Councils must, in making decisions, have due regard for the need to:

- (1) eliminate unlawful discrimination
- (2) advance equality of opportunity
- (3) foster good relations on the basis of protected characteristics

## 4 POLICY FRAMEWORK

### 4.1 [DEFRA Circular 1/09](#) states at section 7.8:

*In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic.*

### 4.2 [DEFRA Circular 1/09](#) states at section 7.11:

*The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or*

*extinguishment of the right of way, will invariably be made or confirmed...*

4.3 [DEFRA Circular 1/09](#) states at section 7.15:

*The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.*

4.4 [Rutland County Council Rights of Way Improvement Plan](#) (second edition) action 4B:

*Ensure that new development not only preserves but enhances the local rights of way network, either within the limits of development or beyond, and publish guidance for developers defining best practice. Existing paths within the limits of development should be improved by the dedication of additional width and/or higher rights, whilst off-site improvements should focus on the creation of new routes to integrate the development into the wider network:*

*Development is often seen as detrimental to the rights of way network, and perhaps in the past we haven't always fully appreciated its value. We believe that in the future developers should be required to enhance rights of way affected by their proposals in anticipation of increasing levels of use and raised expectations.*

4.5 [Rutland County Council Rights of Way Improvement Plan](#) (second edition) action 2C:

*Local authorities have discretion in how they exercise their powers to divert right of ways. Such decisions should not be taken lightly and when resources are limited so the 'do-nothing' option is going to appear far more appealing unless an application has clear public benefit. Otherwise, we're using our resources on a power, to the advantage of owners and occupiers, whilst possibly having to neglect our statutory duties which have wider benefits.*

4.6 [Rutland Local Plan](#) Policy CS23 (Green infrastructure, open space sport, and recreation):

*The existing green infrastructure network will be safeguarded, improved, and enhanced by further provision to ensure accessible multi-functional green spaces by linking existing areas of open space. This will be achieved by:*

*a) the continued development of a network of green spaces, paths and cycleways in and around the towns and villages*

*b) requiring new development to make provision for high quality and multifunctional open spaces of an appropriate size and will also provide links to the existing green infrastructure network;*

c) resisting development resulting in the loss of green infrastructure or harm to its use or enjoyment by the public. Proposals involving the loss of green infrastructure will not be supported unless there is no longer a need for the existing infrastructure, or an alternative is provided to meet the local needs that is both accessible and of equal or greater quality and benefit to the community;

d) resisting the loss of sport and recreation facilities where they are deficient and supporting the provision of additional new facilities in an equally accessible location as part of the development, particularly where this will provide a range of facilities of equal or better quality on a single site or provide facilities that may be used for a variety of purposes.

## **5 CONSULTATION**

- 5.1 Responses to the consultation [attached at Appendix B] on the proposed development made several references to the proposed diversion and the impact [of the development] on public footpath E229.
- 5.2 Consultees, including both the local representative of the Ramblers Association and the parish council, expressed concern about the construction of a privately maintained estate road over a popular public footpath, to create a 'shared surface'.
- 5.3 The Rutland Countryside (Local) Access Forum considered the effects of the proposed development, and the application to divert footpath E229, at a meeting held on the 9th of March 2022. Members raised no objections to the proposals.

## **6 ADDITIONAL CONSIDERATIONS**

- 6.1 Public footpath E229 is a highway maintained at public expense. The council has a duty under [Section 41 of the Highways Act 1980](#) to maintain all such highways in a condition suitable for use by the public.
- 6.2 There is no duty to maintain to a higher standard facilitating private (vehicular) use and by constructing an estate road over public footpath E229 lines of responsibility in relation to maintenance of the surface may become blurred. Those exercising private vehicular rights over the footpath will need to take responsibility for and bear the costs of maintenance.
- 6.3 It is an offence under [Section 34 of the Road Traffic Act](#) to drive a mechanically propelled vehicle over a public right of way without lawful authority. Lawful authority may mean owning the land crossed by the public right of way or having the permission of the owner. The council should seek to clarify the situation in relation to the lawful authority being asserted.

## **7 ALTERNATIVE OPTIONS**

- 7.1 Reject the application to divert public footpath E229 which would prevent the development, in its current form, from proceeding.

## **8 FINANCIAL IMPLICATIONS**

- 8.1 There are no significant financial implications arising from the report.

## **9 LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 Set out within the report.

## **10 DATA PROTECTION IMPLICATIONS**

10.1 There are no significant data protection implications arising from the report.

## **11 EQUALITY IMPACT ASSESSMENT**

11.1 An Equality impact Assessment has not been completed because the report does not propose a significant change to an existing policy or service provision.

## **12 COMMUNITY SAFETY IMPLICATIONS**

12.1 There are no significant community safety implications arising from the report.

## **13 HEALTH AND WELLBEING IMPLICATIONS**

13.1 There are no significant health and wellbeing implications arising from the report.

## **14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

14.1 The overall effect of the proposed development / diversion on the local rights of way network is slightly negative, as despite meeting the required legal tests it seems to fall a little short when measured against both local and national guidance referenced above.

14.2 However, it's assumed that Planning and Licensing Committee considered these issues and deemed the proposals impact on the footpath (a material consideration) to be acceptable, having granted permission for the development. In which case an order for the diversion of the footpath should be made.

14.3 It's recommended that the width of the diverted section of the footpath be recorded as being the full extent of the shared surface. This will avoid any ambiguity about position of the footpath within the shared surface, and the increased width can be presented as public benefit further to ROWIP actions 2C & 4B.

14.4 It's also recommended that an agreement binding those exercising private vehicular rights to maintain the surface of the estate road / public footpath be required prior to confirmation of the diversion order.

## **15 BACKGROUND PAPERS**

15.1 Set out within the report.

## **16 APPENDICES**

16.1 Appendix A – Diversion application

16.2 Appendix B – Draft order map

16.3 Appendix C – Consultation



A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

Appendix A. Application form



**Rutland**  
County Council

**FORM H257**

Public Rights of Way (Highways)  
Rutland County Council, Catmose  
Oakham, Rutland LE15 6HP  
Tel: 01572 722577  
Email: [rightsofway@rutland.gov.uk](mailto:rightsofway@rutland.gov.uk)

**Application for Stopping Up or Diversion of a Public Right of Way**

TOWN AND COUNTRY PLANNING ACT 1990, Section 257

Please read the 'Applicant Guidance Notes' carefully before completing all sections of this form. The application form should be accompanied by (1) A map clearly showing the existing and alternative routes, ideally to a scale of 1:2500, (2) A letter of consent and accompanying plan showing the extent/interest of each affected landowner, occupier, lessee or other party affected by the proposal (where applicable, a plan showing and unidentified ownership should also be included), and (3) An environmental statement and other supporting documentation, where applicable.

**CONTACT DETAILS**

Applicant	Mr/Mrs/Miss/Ms/Other:		Full Name:	[REDACTED]
	Address:	[REDACTED]		
	Telephone:	[REDACTED]	Email:	[REDACTED]
Agent	Mr/Mrs/Miss/Ms/Other:		Full Name:	KATE WOOD
	Address:	EDISON'S THE LAWNS 33 THORPE ROAD PETERBOROUGH PE3 6AB		
	Telephone:	[REDACTED]	Email:	[REDACTED]

**LAND OWNERSHIP**

Are you the freehold owner and occupier of all the land affected by the diversion proposal? Yes  No

If no, please list the names and addresses of all those who stand to be affected by the proposal, along with the nature of their interest in the affected land:

Name	Address	Interest



Give details of any land affected by the proposal for which the owner has not been identified (refer to plan):	
N/A	
Are you aware of the existence of any apparatus belonging to statutory undertakers in, on, over or across the land affected by the existing route(s)? If yes, please provide details:	
N/A	
<b>PROPOSAL</b>	
Status:	DIVERSION APPLICATION
Path reference:	ROUTE E229
Town/Parish:	KETTON
OS Grid Reference:	SK 980047
Annotating the proposal map accompanying this application, please give a detailed description of the new route in terms of its width, surface, proposed structures (gates/stiles etc) and any relevant topographic features.	
<p>THE PROPOSED NEW ROUTE FOR THE FOOTPATH FOLLOWS THE PRIVATE UNADOPTED ROAD THROUGH THE RESIDENTIAL DEVELOPMENT SITE. THE ROAD MEASURES 3.5 METRES AT ITS NARROWEST POINT AND WILL BE LAID TO TARMACADAM (AS IS THE SURFACE OF THE EXISTING ROUTE). THE PROPOSED NEW ROUTE IS THAT USED BY A MAJORITY OF USERS AT PRESENT. THE ENTRANCE/START OF THE FOOTPATH WHEN LEAVING THE HIGH STREET WILL REMAIN UNCHANGED, AS WILL THE EXIT POINT WHEN LEAVING THE DEVELOPMENT SITE. SEE PLAN HF-PR-PROV-02.</p>	
<b>LEGISLATIVE TESTS</b>	
An authority may by Order authorise the stopping up or diversion of a footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to take place [Sect on 257(1), Town and Country Planning Act 1990]. Please describe the nature of the development necessitating the stopping up/diversion.	
HOME FARM IN KETTON HAS BEEN GRANTED PLANNING CONSENT FOR A RESIDENTIAL DEVELOPMENT. THIS DIVERSION APPLICATION IS NECESSARY IN ORDER TO IMPLEMENT THE RESIDENTIAL DEVELOPMENT SCHEME.	
Please provide the planning reference for the development and the date of consent.	
2020/1254/MAF RESOLUTION TO GRANT PLANNING AT COMMITTEE MEETING HELD ON 11TH JANUARY 2022.	

## COSTS

DIVERSION AT APPLICANTS COST

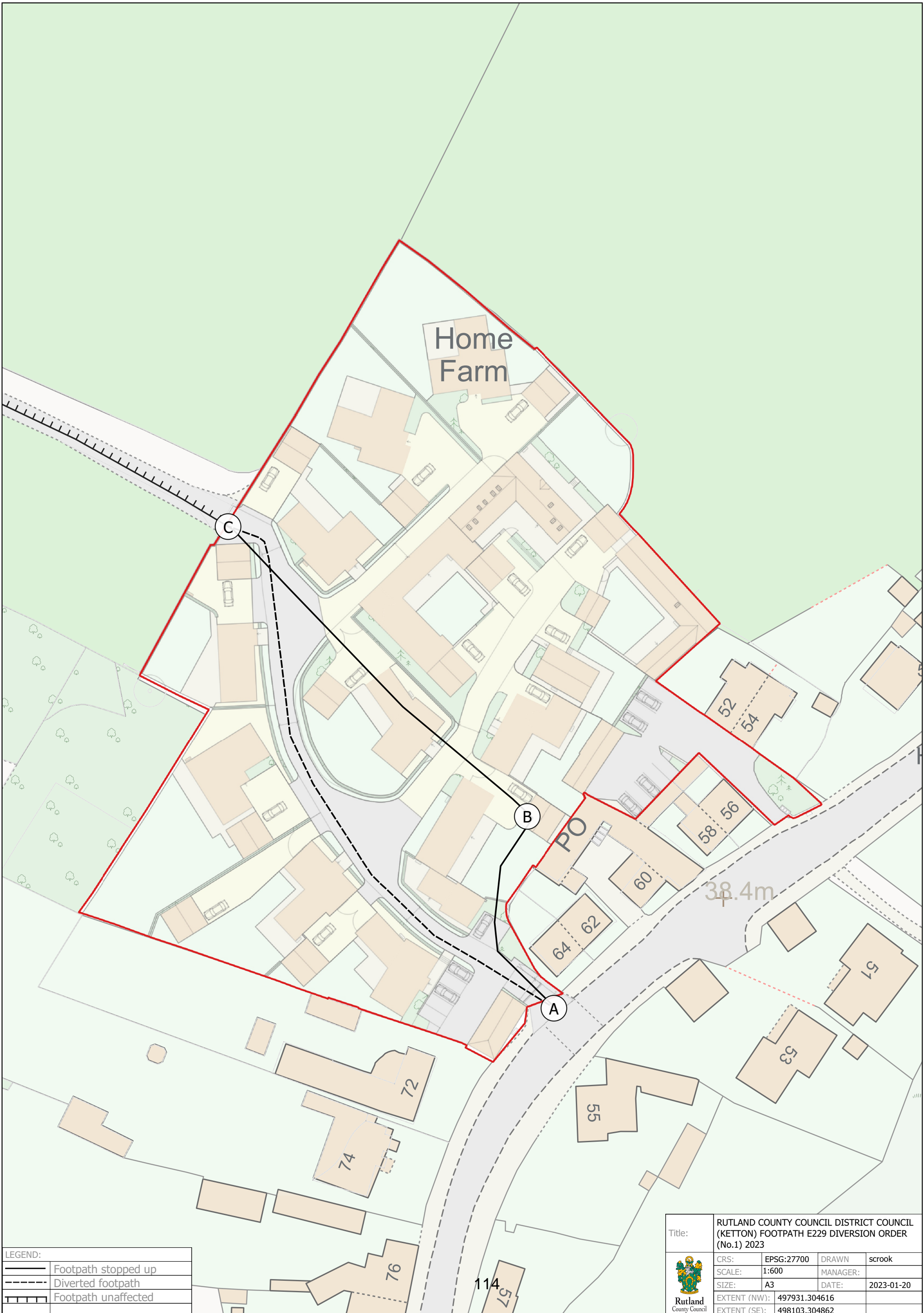
## DECLARATION

1. I/We understand that no authority for the diversion of a public right of way is conferred unless:
  - a. The appropriate Order has been made and confirmed.
  - b. Any works necessary to bring the alternative route into operation have been certified as acceptable by Rutland County Council.
2. I/We have noted the costs which are payable for processing a Public Path Order application and agree to pay the charges outlined above when invoiced by Rutland County Council. I/We understand that in the event that objections are received, a proportion of the specified fee and the cost of the initial newspaper notice will still be payable in the event the Order is not confirmed.
3. In the case of a Public Path Diversion Order being confirmed pursuant to the application, I/We agree that Rutland County Council will not be liable for any compensation which may become payable to a third party and I/We agree to defray any such claim. I/We also waive my/our right to claim compensation under Highways Act 1980 Section 28.
4. I/We understand that the information provided on this form cannot be treated as confidential and that all supplied information may be made available to members of the public on request.
5. I/We hereby declare that the information provided in respect of this application is correct to the best of my/our knowledge.

Signature	
Print name	
Date of statement	01/02/22

**Appendix B. Order plan**





Home Farm

C

B

A

PO

38.4m

52  
54

58  
56

60

64  
62

51

53

55

72

74

76

114

57

LEGEND:	
	Footpath stopped up
	Diverted footpath
	Footpath unaffected

Title:		RUTLAND COUNTY COUNCIL DISTRICT COUNCIL (KETTON) FOOTPATH E229 DIVERSION ORDER (No.1) 2023	
	CRS:	EPSG:27700	DRAWN: scrook
	SCALE:	1:600	MANAGER:
	SIZE:	A3	DATE: 2023-01-20
	EXTENT (NW):	497931.304616	
	EXTENT (SE):	498103.304862	

## Appendix C. Consultation

### Comments for Planning Application 2020/1254/MAF

#### Application Summary

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

#### Customer Details

Name: Mr Mark Homer

Address: 72 High Street, Ketton Stamford

#### Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Andrew,

Objection to application ref. 2020/1254/MAF - Home Farm, High Street, Ketton, Rutland

We do not object to the principle of the proposed development in general, However, we have serious concerns about the design and layout of the scheme and potential impacts upon highway safety and the character and appearance of the conservation area.

This letter sets out a number of issues that we have identified with the proposed development. We have also set out recommendations as to how these issues should be addressed through amended plans.

#### Access arrangements

Whilst the proposed 4.8m main access may be technically acceptable to allow two vehicles to pass at low speeds this limited width leaves little space for wider vehicles to use the access. Given the ever greater reliance on commercial deliveries of comparison goods and groceries as a result of the Covid-19 pandemic there is the potential for conflict to arise when wider delivery vehicles use the main access if another vehicle is coming in the opposite direction. The provision of a 1m strip for pedestrians, which is narrow for a footway, means that where two vehicles pass each other at the access one of them may need to mount the footway.

The Transport Statement and submitted plans indicate the visibility splays for vehicles leaving the site but do not adequately assess the impact on the High Street of vehicles manoeuvring to enter the main access. The cart shed and boundary wall of 64 High Street would restrict distance views of vehicles leaving the site. Moreover, with customers of the Post office and Village Stores parking near to the main access this further reduces the limited visibility for vehicles entering the site. This

could result in vehicles entering the site having to brake sharply if they have not had sight of a vehicles leaving the site. Again, the narrow width of the access and the increasing reliance on wider delivery vehicles would potentially exacerbate this issue. Given the existing pressures on parking in this part of the High Street, as a result of customer parking for the Post Office and Village Stores, there is a potential impact upon the safety of highway users. Especially pedestrians using the footpath near to the site access. If pedestrians were forced to walk round cars waiting to enter the site, whilst another one leaves, then this would put them at risk. The constrained width of the main access should therefore be considered in detail by the Local Highway Authority (LHA). If it is considered to be unacceptable then alternative access arrangements should be proposed.

#### Internal layout

With the proposed commercial building adjacent to the main access there is the potential for conflict between users of the rear parking court and traffic entering the site. Once drivers have entered the site they would immediately be confronted by the parking court for the commercial unit on their left and the parking for Plot 1 on their right. Any vehicles manoeuvring into or out of these parking areas would impede vehicles entering the site. This could result in vehicles having to wait on the High Street to enter the site. Given the limited visibility from the High Street for vehicles entering the site they could end up having to pull off the carriageway and straddle the footpath until the access clears.

The constrained access arrangements of the main access would create an environment dominated by vehicular movements, which would discourage pedestrian and cycle use. Whilst the main access includes a short section of 1m wide footway the internal roads within the site do not include footpaths. This appears to be as a result of comments from the Council's Urban Design Officer that "a tighter street with shared surfaces is welcome as this fits with the local urban form of the most historic parts of the village." (Planning, Design and Access Statement, page 3). The Transport Statement references the roadway of Redmile's Lane, Ketton as justification for the narrowing of the roadways within the site. However, the proposed development differs from Redmile's Lane, which is only at its narrowest as the number of properties served off it are reduced. Moreover, there is a footway on the first part of the Redmile's Lane where there is a higher density of properties.

In contrast with Redmile's Lane the proposed development immediately narrows the internal roadway between Plot 1 and Plot 9 to 3.5m. Paragraph 7.2.3 of the Manual for Streets identifies the need to limit narrowing of roadways and states "widths between 2.75 m and 3.25 m should be avoided in most cases, since they could result in drivers trying to squeeze past cyclists." The provision of stretches of 3.5m roadway would only allow an additional 25cm space for vehicles to pass pedestrians and cyclists.

The lengths of the 3.5m roadways would mean that some drivers inevitably try to squeeze past pedestrians and cyclists, especially delivery drivers with wider vehicles who may be more restricted on time. This would create an environment where travel by foot and cycle is considered less safe than being in a car. Such an environment would result in a higher car usage amongst residents, which would put further pressure on the constrained access and exacerbate the



aforementioned potential impacts upon highway safety.

Both the Planning, Design and Access Statement and the Transport Statement confirm that the site is a sustainable location that is within walking and cycling distances of facilities within the village, namely shops (30m), play area (300m) the primary school (300m) and the Ketton Sports and Community Centre (900m). The proximity of the site to the primary school and the offer of family housing will make the site attractive to young families. However, if parents feel that the environment within the site is not safe for their children to walk or cycle then they are likely to drive them to school and other facilities within the village. This would reduce the sustainability benefits of the site's location.

An environment that discourages sustainable travel by making pedestrians and cyclists feel unsafe means more reliance on the car. This means more cars per household and subsequent pressures on parking. Whilst there is an overprovision of in-curtilage parking in some cases this parking is gated. Therefore, unless visitors are expected they would have to park on the roadway and/or grass verges. This would inevitably be the case for delivery drivers who are unlikely to park on customers' drives. Instead these drivers would most likely block the internal roadway creating a further danger to pedestrians and cyclists. The Planning, Design and Access Statement refers to the grassed verge "step off" points for pedestrians. However, as the roadways would not be offered for adoption by the LHA there are no guarantees that these verges would be retained or that controls would be in place to stop vehicles parking on them.

The main access includes part of the Hereward Way, a public footpath that runs through the site. This introduces pedestrians who would not be familiar with the proposed layout of the site. The potential conflict between these users and drivers accessing the site needs to be given due consideration. Shared surfaces can work in small scale residential schemes but with the shared surface also accommodating a public footpath this adds further users that may be at risk from vehicles trying to squeeze past them where the roadways narrow. This is especially the case for disabled, partially sighted and other vulnerable users who can find shared surfaces challenging to navigate.

The layout plan includes an access through to the land to the northwest. If this land were to subsequently be developed then the potential issues with the shared surface layout, narrowing of the roadway and constrained main access would be further exacerbated by increased volumes of vehicular traffic.

#### Waste collection arrangements

Drawing HF-PR-PL-01 Tracking Proposed Site Plan Showing Refuse Tracking shows that waste collection vehicles would have to reverse into or out of parts of the site to access all the dwellings. They would also have to carry out two three-point-turns within the site. This would result in significant disruption to highway users on bin collection days with waste collection vehicles blocking the narrow roadways. Moreover, waste collection vehicles reversing around the site

would put vulnerable users on foot or cycle at further risk.

The aim of narrowing the roadway appears to be lost with the provision of large areas of tarmac that are necessary for waste collection vehicles to manoeuvre within the site. These introduce further confusion for pedestrians, who are likely to take the most direct route across them and therefore may come into conflict with vehicular traffic.

The route through the site represents a confusing environment for all users that starts with a dedicated space for pedestrians at the entrance of the site, albeit at only 1m wide. Residents and public footpath users then enter an environment where the roadway narrows and they are forced into close proximity to vehicles before entering the heart of the site, which is defined by a large area of tarmac that they have to navigate. Finally, the roadway narrows again as it turns to the north. There is only limited visibility for drivers to check whether this section of roadway is clear of other users before entering the northern part of the site.

#### Impact upon the conservation area

The present views into the site from the High Street includes a view of the verdant south-eastern area. This view would be lost in favour of the hard surfacing of the parking court for the commercial unit and the proposed dwelling at Plot 9. The amenity value of this area is acknowledged in Paragraph 7.21 of the Heritage Impact Statement, which states:

"A small group near the site entrance includes an unmanaged conifer hedge and a Norway Maple. The maple is currently medium-sized and is visible in combination with the dovecot. In spite of its split /bifurcated trunk it has some degree of amenity value, but will ultimately become forest sized posing a risk to the listed dovecot."

This view accords with Paragraph 8.2 (Trees) of the Ketton Conservation Area Appraisal Review January 2020, which identifies that "Large mature trees are a particular feature of the conservation area contributing towards a verdant character." In addition to the Norway Maple (T12069) the south-eastern part of the site includes a Rowan (T0284) and Holly tree (T0285) that are also clearly visible from the High Street and would be lost as a result of the development.

Given that the Conservation Area Appraisal recognises the importance of mature trees in contributing towards a verdant character, and the amenity value that is attributed to the Norway Maple in particular, we would have expected greater consideration of the impact upon the character and appearance of the conservation area as a result of the loss of the aforementioned trees. This assessment should have been carried out alongside detailed landscaping plans that would demonstrate how the verdant character of this part of the conservation area would be preserved.

Both the Heritage Impact Statement and Arboricultural report refer to a scheme of landscaping. However, the application is not supported by one and Paragraph 11.23 of the Heritage Impact Statement states:

"As part of a holistic vision for the site, a philosophy and design rationale for a meaningful and robust landscape scheme will be developed as a reserved matter."

This is a full application and not an outline application that would be followed by reserved matters submissions. Therefore, sufficient details of the proposed landscaping should have been submitted to assess whether the loss of the mature trees within the site would be mitigated by "a meaningful and robust landscape scheme".

The landscaping of the development is integral to assessing the impact of the development and whether it would preserve or enhance the character of this part of the conservation area. This is not a matter that can be considered through a discharge of condition application.

Paragraph 7.22 of the Heritage Impact Statement states:

"Travelling south along the High Street the post office, cart shed, No.s 72, 74 and 55 form a pleasant cluster of stone buildings as one approaches the bend in the road. These buildings together with the previously identified non-designated heritage assets and stone boundary walls have a good degree of group value and provide a good sense of enclosure. This busier zone of higher density development is identified as forming an important view in the Conservation Area Appraisal document."

The introduction of a two-storey dwelling (Plot 9) to the rear of the cart shed would visually dominate the lower building on the High Street and detract from the group value of the "pleasant cluster of stone buildings" that is identified in paragraph 7.22. However, there is no discussion of how this impact would be mitigated through the design and layout of the development.

Impact upon amenity

The aforementioned issues with the constrained access would have the potential to result in greater vehicular movements in close proximity to the garden and habitable rooms of the bungalow at 64 High Street. Especially if vehicles would have to reverse to allow another vehicle to pass or enter the site. As a result of the proposed access arrangements, the development has the potential to impact negatively upon the amenity of the neighbour at 64 High Street.

Affordable Housing

Core Strategy Policy CS11 (Affordable housing) requires new residential development to deliver 35% affordable housing, unless a viability argument is made as to why this percentage, or lower, cannot be achieved. Sites allocated for housing in Policy SP2 (Sites for residential development) will include a proportion of the development to be provided as affordable housing in accordance with Policy CS11.

The Planning Policy Guidance (PPG) issued by the Government confirms that viability assessment should be subject to public disclosure where exceptional circumstances do not exist. The PPG states:

"Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available. Information used in viability assessment is not usually specific to that developer and thereby need not contain commercially sensitive data. In circumstances



where it is deemed that specific details of an assessment are commercially sensitive, the information should be aggregated in published viability assessments and executive summaries, and included as part of total costs figures." Paragraph: 021 Reference ID: 10-021-20190509  
If the applicant has submitted a viability assessment, then we would like to understand the exceptional circumstances as to why it has not been made publicly available. If they have not submitted any evidence that the scheme would not be commercially viable with 35%, or lower, affordable housing, other than the brief comments in the Planning, Design and Access Statement, then the application should be refused for not complying with Policy CS11.

#### Conclusion

The application that has been submitted does not comply with Policy SP2 of the 'Rutland Site Allocations and Policies Development Plan Document 2014' as it does not include development in Use Class C3 only. Moreover, it does not comply with Policy CS11 of the 'Rutland Core Strategy Development Plan Document 2011' as no viability assessment appears to have been submitted to demonstrate why 35% affordable housing is not achievable.

Paragraph 122 of the National Planning Policy Framework 2019 identifies the importance of securing well-designed, attractive and healthy places. Based on the issues identified in this letter, the development would fail to meet the requirements of Paragraph 122 as it is not well-designed and would not encourage active transport by residents.

Paragraph 127 identifies that planning decisions should ensure that development are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and create places that are safe, inclusive and accessible and which promote health and well-being. Similarly, the development would fail to meet the requirements of Paragraph 127 as there are no detailed landscaping proposals and the layout would not create a place that is safe, inclusive and accessible and which promotes health and well-being.

The development would not accord with the requirements of Policy SP5 (Built development in the towns and villages) as it would adversely affect local amenity, and the character and appearance of the area. It would also be detrimental to features and spaces which contribute to the important character of the locality, namely the verdant area to the southeast of the site and the cluster of stone buildings identified in the Heritage Impact Assessment.

The development would not accord with the requirements of Policy SP15 (Design and amenity) as it would not provide for adequate landscaping, to preserve visual amenity, that is designed as an integral part of the layout. The development would result in the loss of trees that would detract from the visual amenity in the area, without any proposed mitigation. The design and location of the proposed main access would also have an unacceptable adverse impact on the highway network.

The development would not accord with the requirements of Policy SP20 (The historic environment) or Core Strategy Policy CS22 (The Historic & Cultural Environment) as it would not

## Comments for Planning Application 2020/1254/MAF

### Application Summary

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

### Customer Details

Name: Mr Graham Layne

Address: 13 Bartles Hollow Ketton Stamford

### Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: Having read through the Planning Application documentation on the RCC website for the Home Farm Development I'd like to highlight the following concerns.

### Housing Type

The application is for 6x5 bed, 5x4 bed, 3x3 bed & 1 x 1bed properties with no affordable/social housing. The survey carried out by the Neighbourhood Planning Group in 2020 found that the majority of villages considered that 1 - 3 bed houses were needed along with affordable/social housing was most needed. Although this is not policy it needs to be considered given the impact on the community. If the housing mix is approved will a levy be applied for affordable/social housing to be developed elsewhere in the village?

### Flood Risk

The application indicates that there is no flood risk however the UK Gov flood warning information service (<https://flood-warning-information.service.gov.uk/>) shows that there is a high risk of surface water flooding through the site.

### Traffic

The Transport Statement states that there will be c124 two way vehicle movements on and off the development once complete. The application also states that the access road to the site is wide enough for 2 vehicles to pass safely. I question if the access is wide enough for 2 vehicles except

for smaller city cars. This will therefore create restrictions to traffic flow on the High street at one of its narrowest/heavily used points. This is particularly concerning when larger vehicles need to access the development (Farm vehicles, refuse collection etc). Traffic flow also needs to be considered in parallel with the other developments on the High Street (2020/1263/MAF [CF] 2020/1262/MAF [TC]).

Traffic flow will also be impacted by pedestrians using the popular public footpath that runs through the site. This will increase during inclement weather and during the winter months as it is one of the few footpaths around the village that remains mostly mud free making it particularly popular for dog walkers

#### Parking

Parking allocation for the properties and businesses included in the development appears to be inadequate.given its location in the village. The application states that the roads will be of a lane type with no pavements. This will not allow for very limited on road/communal parking for visitors, who will therefore be very likely to park on the high street where parking is already a problem.

## Comments for Planning Application 2020/1254/MAF

### Application Summary

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

### Customer Details

Name: Mr Michael Gillon

Address: 7 Chater Road, Oakham, Rutland LE15 6RY

### Comment Details

Commenter Type: Amenity Group

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: As footpaths officer for the Rutland Ramblers (part of the national organisation - Ramblers UK), I have major concerns over the impact this proposed development will have for the Right of Way access that passes through it.

This is an important and extremely well-used footpath. It is popular with locals, and forms part of prestigious county and national long-distance walking routes - namely the Rutland Round and Hereward Way.

One concern is over the safety of walkers, and the potential for that to be compromised. The proposal to divert the existing public footpath (E229) and essentially construct a tarmac road over it will inevitably increase risk. I note the developer (Planning, Design and Access Statement) refers to walkers having '.....a pleasant environment to walk through, benefiting from natural surveillance and reduced traffic speeds ....' Would that really be the case?

My other major concern is about the quality of the footpath in the future, and the potential for walkers to enjoy using it. We should be taking every opportunity to enhance the 'open' and 'green' nature of our RoW network in Rutland; these proposals do not appear to do that. I cite the following in support of the walker's experience:

"In considering potential revisions to an existing RoW that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid use of estate roads for the purpose wherever possible, and preference should be given to the use of made up footpaths through landscaped or open space areas - away from vehicular

traffic." (DEFRA RoW Circular - 1/09)

".... must ensure the new development not only preserves but enhances the local RoW network. Existing paths ... should be improved by the dedication of additional width and/or higher rights. We believe that future developers should be required to enhance RoW affected by their proposals ... in anticipation of increased levels of use and raised expectations."  
(Rutland County Council - RoW Improvement Plan - Action 4B)

"The existing green infrastructure network will be safeguarded, improved and enhanced .... (The Local Plan) promotes green infrastructure ... this can be achieved by resisting development resulting in the loss of green infrastructure, or harm to its use or enjoyment by the public."  
(Rutland Local Plan - Policy RLP42)



## **Comments for Planning Application 2020/1254/MAF**

### **Application Summary**

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

### **Customer Details**

Name: Mrs Sarah Ayling

Address: Ketton Parish Council, Parish Office Stocks Hill Lane, Ketton Stamford

### **Comment Details**

Commenter Type: Parish Council

Stance: Customer objects to the Planning Application

#### **Comment Reasons:**

Comment: Archaeology and site investigation reports 1 to 4, storm water calculations, exceedance flow diagrams and manhole detail - noted.

Plot 3 plans (revised) - no objections

Proposed site plan (revised) – objections.

Although the revision to Plot 8 boundary will improve the width of the road as it curves through the site, we were disappointed to note that there are still no plans for a continuous dedicated footway/pavement through the site. Users of the popular Public Right of Way (part of the Hereward Way) will still be sharing the route with vehicles, with few options of 'step off' points for refuge.

We have no objections to the plans for 'flush laid cobblestones' and the drainage channel at the site entrance, and the stone boulder at the corner of building 1. However, the white line on the road, across a widened entrance to the site, will remove the only parking spaces available for 78 High Street. Providing some parking within the development site for nearby residents with no off street parking options is essential in terms of safety, and lessening the impact of this development on the village as a whole.

Proposed site plan (revised) - objections.

We were very disappointed to note that it was not possible to provide parking for the 2 bungalows and the shop (and see comment above).

The use of a 2016 Dept for Transport traffic survey data to justify not repeating their traffic survey out of lock down and at times to include the 'school run' is not acceptable. The DfT data is 5 years out of date, and there is no indication as to where between Ketton and Tinwell the survey was carried out - it could be missing traffic that turns off at Steadfold Lane, which is a well used route to N Stamford from Ketton.

#### Drainage Strategy – objections

We refer to Anglian Water's comments from Nov 2020, section 4, with respect to surface water disposal plans for this site "The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to a sewer seen as the last option.....The environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse" We note that these proposals are for all surface water to drain into the main surface water/clean sewer which would take the water across the road and the field beyond, into Sinc Stream and thence into the R Chater, as based on the dye tracing exercise carried out. The dramatic effects of this dye tracing exercise on Sinc Stream and the Chater were observed by chance by several villagers, including parish councillors. The proposed surface water disposal system is unacceptable in terms of the possible detrimental effects on the water quality, and hence biodiversity, of Sinc Stream and the Chater.

## Stuart Crook

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**From:** Mary Cade <cade\_mary@hotmail.com>  
**Sent:** 19 January 2023 08:53  
**To:** Stuart Crook  
**Cc:** Ketton Council; Cllr Karen Payne; Cllr Gordon Brown; Sinclair Rogers  
**Subject:** [EXTERNAL] Proposed diversion FP E229, Home Farm, Ketton

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Dear Stuart

Thank you for contacting us about the Home Farm E229 footpath diversion.

We still have considerable concerns about the lack of a dedicated footway alongside the 'estate road' . The road way through the estate will effectively be replacing the foot path. Given that the footpath is very well used by people of all ages and physical abilities, and the inevitable parking of vehicles along the road (deliveries, visitors etc), footpath users' safety will be compromised. The original planning application explained that the lack of a dedicated footway would be mitigated by intermittent banked (as far as I can remember) verges for 'refuge' - not easy for those with less mobility to 'leap' onto!

Best wishes

Mary Cade

Ketton Parish Council Planning Committee

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**From:** Stuart Crook <[SCrook@rutland.gov.uk](mailto:SCrook@rutland.gov.uk)>  
**Sent:** 16 January 2023 10:42  
**To:** Ms S Ayling ([kettonpc@btinternet.com](mailto:kettonpc@btinternet.com)) <[kettonpc@btinternet.com](mailto:kettonpc@btinternet.com)>  
**Subject:** Proposed diversion FP E229, Home Farm, Ketton

Morning Sarah,

I'm putting together a brief report on the diversion of the footpath required by the developers at Home Farm in Ketton.

The parish council made a comment regarding the public right of way when consulted by the Planning team (attached) which I will include in the report.

If there anything else that you would like me to add I would be grateful if you could let me have it before the end of the week (sorry for short notice).

Regards

Stuart Crook | Highways Asset Management and Policy Manager

Rutland County Council

Catmose, Oakham, Rutland LE15 7HP

t: 01572 758260 | f: 01572 758307

e: [scrook@rutland.gov.uk](mailto:scrook@rutland.gov.uk) | w: [www.rutland.gov.uk](http://www.rutland.gov.uk)

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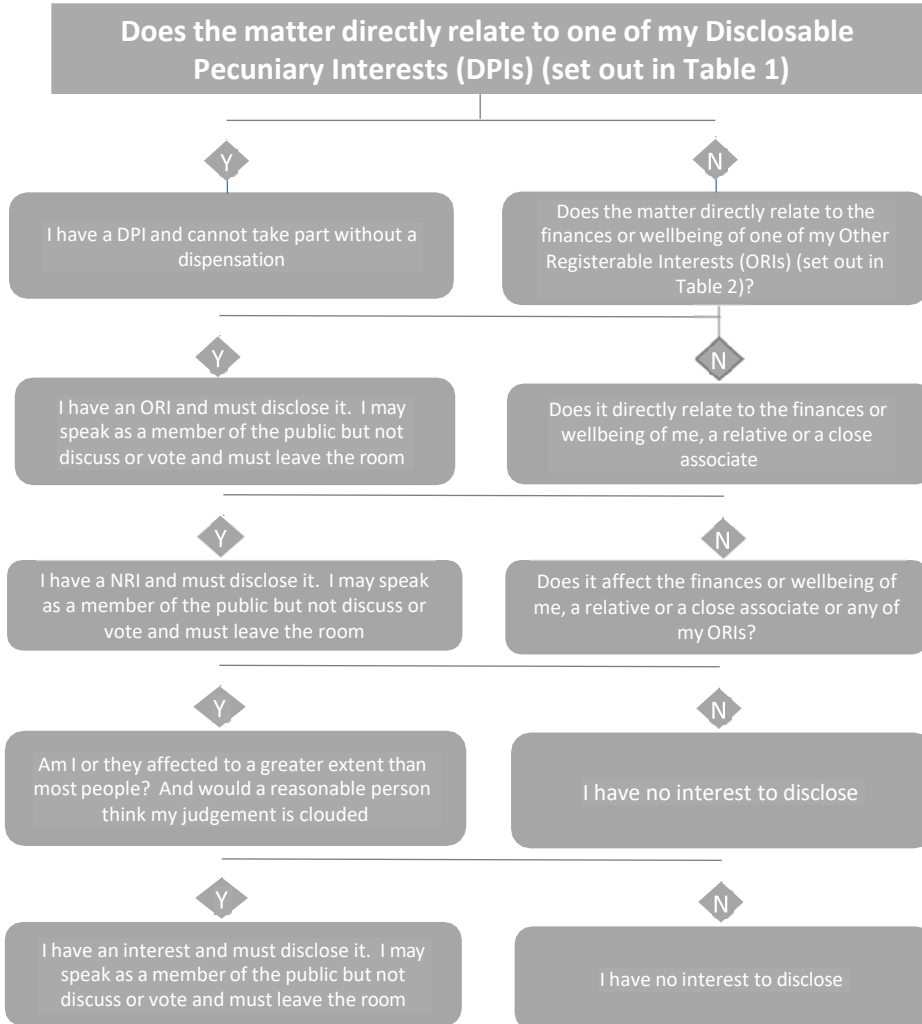
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Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.

Bias Test	Predetermination Test
In all the circumstances, would it lead a fair minded and informed observer to conclude that there was a real possibility or a real danger that the decision maker was biased	At the time of making the decision, did the decision maker have a closed mind?

**If a councillor appears to be biased or to have predetermined their decision, they must NOT participate in the meeting.**

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### Leadership

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**PLANNING AND LICENSING COMMITTEE**  
**PLANNING APPLICATIONS TO BE DETERMINED BY THE**  
**PLANNING AND LICENSING COMMITTEE**  
**REPORT OF THE STRATEGIC DIRECTOR OF PLACES**

**Rutland County Council**

**Planning & Licensing Committee – Tuesday 14<sup>th</sup> March 2023**

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2022/0778/FUL



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**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	<b>2022/0778/FUL</b>	<b>ITEM 1</b>	
Proposal:	<b>Erection of 8 dwellings, comprising 5 no. bungalows and 3 no. two-storey houses. Formation of a new access onto Main Street.</b>		
Address:	<b>Land South of Lodge Trust, Main Street, Market Overton, Rutland</b>		
Applicant:	<b>Mr &amp; Mrs Hutton</b>	Parish	<b>Market Overton</b>
Agent:	<b>Class Q</b>	Ward	<b>Cottesmore</b>
Reason for presenting to Committee:	<b>Call-in</b>		
Date of Committee:	<b>14<sup>th</sup> March 2023</b>		
Determination Date:	<b>5<sup>th</sup> September 2022</b>		
Agreed Extension of Time Date:	<b>17<sup>th</sup> March 2023 (TBC)</b>		

## **EXECUTIVE SUMMARY**

The proposal is for the construction of eight new dwellings on the land, comprising three 2-storey properties and five single-storey dwellings. The properties would be accessed off a central spine road serving all eight properties and with a turning head at its north end.

The site lies outside the planned limits of development of the village of Market Overton, but there have been no objections from the public and the proposal is supported by the Parish Council seemingly due to the provision of a number of bungalows on the site, which are a type of development encouraged by the Neighbourhood Plan.

The scheme would result in a development that would provide amenity areas serving the dwellings that are overshadowed by a row of mature deciduous trees that would have a detrimental impact on the amenity of the gardens serving the dwellings, as well as parts of the rear of the dwellings themselves. These impacts are considered likely to result in increased pressure to removed the protected trees in order to provide acceptable amenity levels in the areas serving the dwellings. The proposals also result in the loss of a tree within the site whose value cannot be replaced by compensatory planting as part of the scheme. This would require a legal agreement to provide a contribution of equal value towards planting elsewhere within the county to make the development acceptable in planning terms.

The documentation supporting the scheme currently fails to demonstrate how the central spine road is able to adequately provide for longer vehicles such as a refuse lorry or fire appliance to turn around within the site so as to enter and leave in a forward gear. The parking arrangements for the two northernmost plots are also substandard as they are accessed from the corners of the proposed turning head.

Finally, the application fails to make provision for a contribution towards affordable housing, noting within its supporting documentation that it falls below the threshold for requiring provision to be made for affordable housing. This is not the case as the location is designated as a rural area, resulting in a reduced lower threshold for such provision of sites comprising 6 units or more.

Although it is considered that the preparation of a legal agreement including appropriate clauses, and the provision of tracking plans may be able to overcome some of the issues associated with the development, the issues remaining in relation to amenity and location beyond the planned limits of development remain and could not be overcome. Consequently, the application is recommended for refusal.

## RECOMMENDATION

**REFUSAL**, for the following reasons:

1. Policy CS4 of the Core Strategy (2011) identifies that development beyond the planned limits of the villages requires special justification in order to gain planning policy support, identifying a number of types of development considered appropriate to the countryside. The application proposes the construction of 8 market housing units on a parcel of land that lies beyond the planned limits of development within a countryside location. The proposal does not accord with any of the exceptions to development within the countryside set out in the Core Strategy or Site Allocations and Policies Development Plan Document (2014) and therefore is contrary to policies CS4 and of the Core Strategy (2011) and SP6 of the Site Allocations and Policies Development Plan Document (2014). There are no material considerations that outweigh these policies to justify approval of the application.
2. Policy SP15 of the Site Allocations and Policies Development Plan Document (2014) requires development to be designed so as to provide appropriate and adequate parking facilities for the development, as well as to ensure that it does not have an unacceptable adverse impact on the highway network. The proposed layout indicates unacceptable access proposals to the parking arrangements for plots 4 and 5, and fails to demonstrate adequately how a refuse vehicle/fire appliance would be able to enter and leave the site in a forward gear. The development is therefore contrary to the provisions of policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
3. Policy SP15 of the Site Allocations and Policies Development Plan Document (2014) requires development proposals to meet the requirements for good design as set out in policy CS19 of the Core Strategy (2011) as well as addressing a number of specific criteria set out in policy SP15. Plots 1-4 of the development have outlooks to the west where their main amenity spaces are located. The western boundary of the current site is formed from a row of mature deciduous trees that have been assessed during the consideration of the application and deemed worthy of protection under a Tree Preservation Order. The rear gardens of these plots are located under and immediately to the east of the canopies of these trees, and as a consequence will experience heavy shade once the sun passes the midday point. This will also result in shading of the rear elevation of the dwellings, and the combination of these effects will restrict the amenity levels experienced by residents of the proposed dwellings contrary to the provisions of policy CS19 of the Core Strategy (2011) and SP15 of the Site Allocations and Policies Development Plan Document (2014).
4. The documentation accompanying the application states that the scheme falls below the threshold for providing an affordable housing contribution. The location of the site however is a designated rural area and therefore the threshold for provision of an affordable housing contribution is 6 units and above. The proposal also involves the removal of a tree from the site with a calculated value of £4088. The proposal does not allow for a new tree to be planted that could reach this value within the site. The proposal is not accompanied by a completed S106 agreement detailing an appropriate contribution towards affordable housing, nor compensatory tree planting elsewhere within the county, both of which are matters that would be required to make the development acceptable in planning policy terms.

## Site & Surroundings

1. The application site is an existing field adjoining the main road leading into Market Overton from Cottesmore (to the south), it is flanked by a row of mature trees to the west, sporadic mature tree planting along the southern boundary, and further sections of similar land to the north and east.

2. The application site lies outside of the planned limits of development of the village of Market Overton and is therefore consequently located within the countryside. The Lodge Trust, a complex providing accommodation for adults with learning disabilities, lies further to the north with associated facilities including café open to members of the public, play equipment and log cabin/camping facilities also open to the public.
3. The application site is largely flat, its open land separated from the public highway by a post and rail fence. A roadside footway runs along the highway side of this fence. The land lies within flood zone 1, the lowest risk of flooding.

## **Proposal**

4. The proposal is for the construction of eight dwellings on the land, accessed via a single spine road running directly north from the existing highway. Four dwellings lie to the east of this new road, with each of these properties being single-storey in nature with tandem parking adjacent to their built form. Three dwellings lie to the west of the new road, with a further dwelling located at the end of the new road to the north-west. Three of these four dwellings are proposed to be two-storey in nature.
5. Access would be provided from Main Street to the south, flanked on both sides by pedestrian footway and with a turning head at the northern end to allow vehicles to turn and exit the site in a forward gear.

## **Relevant Planning History**

There is no relevant planning history.

## **Planning Guidance and Policy**

### **National Planning Policy Framework (NPPF) 2021**

Chapter 2 – Achieving Sustainable Development  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 11 – Making efficient use of land  
Chapter 12 – Achieving well designed places

### **Site Allocations and Policies DPD (2014)**

SP5 - Built Development in the Towns and Villages  
SP6 - Housing in the Countryside  
SP9 - Affordable Housing  
SP15 - Design and Amenity  
SP20 - The Historic Environment  
SP23 - Landscape Character in the Countryside

### **Core Strategy DPD (2011)**

CS04 - The Location of Development  
CS03 - The Settlement Hierarchy  
CS08 - Developer Contributions  
CS10 - Housing Density & Mix  
CS11 - Affordable Housing  
CS19 - Promoting Good Design  
CS22 - The Historic and Cultural Environment

## Neighbourhood Plan

The Market Overton Neighbourhood Plan

MOP1 – Dwelling sizes and types

MOP2 – Landscape Character

MOP5 – The design of new buildings and extensions

MOP6 – Residential amenity and traffic management

## Officer Evaluation

6. The main issues are the principle of the development, residential amenity including the impact of the adjacent trees, impact of the development of the site on the character of the area and its relationship with the settlement.

### Principle of the use

7. The application is proposing the development of the site for the provision of 8 residential dwellings, four single-storey and four two-storey units. The site lies outside the established planned limits of development of the settlement, in an area defined as countryside where the development of open market residential dwellings such as these is not supported. Policy CS4 notes that development within the countryside will be strictly limited to that which has an essential need to be so located, meeting specific development types or affordable housing needs. Policy SP6 of the Site Allocations and Policies DPD identifies the specific instances where housing will be permitted in the countryside. The proposal does not meet any of the identified exceptions and there are no material considerations that indicate that permission should be granted contrary to those policies.
8. The Local Planning Authority has recently confirmed that it is able to demonstrate a five-year housing land supply (6 years) and as such it is considered that the tilted balance set out in paragraph 11 d) of the National Planning Policy Framework no longer applies.

### Design/Layout

9. The proposal is of a simple design, comprising a central access road and turning head at its north end. The driveways serving the dwellings are accessed directly from the central spine road, including the two northernmost properties, whose driveways are directly adjacent to the turning head.
10. In design terms the dwellings themselves are relatively simplistic, the three two-storey properties fronting the road with a central access door under a canopy porch. Symmetrical front elevations sit under a pitched roof with parapets to the gable side elevations. Internal chimneys are located on either gable and visual clutter to the front elevations of the properties is minimised. Materials are shown as being natural stone although this would need to be secured by an appropriately worded condition.
11. Four of the bungalows follow a similarly simplistic design style, with limited architectural features that add to the appearance of the properties and ensure a connection with the local vernacular. Only plot 1, the first bungalow to the southwest corner of the site does not follow this approach, being of a more complex layout and external design including a detached single garage, southern projecting element of the property and an enclosed projecting porch to the front elevation. Notwithstanding this more complex appearance of the proposed property however, it does not appear overtly out of place within the development proposals and would not impact adversely from an appearance point of view with the local vernacular.

12. This point will be explored in more detail later in the report however the proposed layout of the properties within the site combined with the number of dwellings proposed and the number of single-storey dwellings proposed results in a layout that provides substandard amenity space for the proposed dwellings. This takes the form of limited private space to the properties on the eastern side of the access road, and amenity space dominated and overshadowed by mature trees protected by a TPO to the west of the site.

#### Impact of the use on the character of the area

13. The application site lies outside the planned limits of development of the village of Market Overton as set out in the Site Allocations and Policies Development Plan Document. In 2012 a landscape sensitivity and capacity study was carried out on land adjoining a number of villages including Market Overton, and this particular site was examined in respect of its contribution to the village and its character. In particular, the line of trees adjoining the boundary of the site to the west is mentioned in the report, which states:  
*“The exception to this is the south-western field which is slightly detached from the main area by a strong line of mature deciduous trees which run south to north from Main Street. These are an important local landscape feature and contribute to the relatively soft delineation between the village and open countryside when viewed from the south.”*
14. It is clear therefore that the trees adjoining the boundary of the site to the west form a significant part of the visual definition of the village at this point, marking the extent of the formal built development and softening its edge into the countryside to the east.
15. Development to the east of this line of trees would therefore allow the formal built form of the village to spill beyond this visual boundary and into the wider countryside landscape resulting in harm to the current character of this edge of settlement location.

#### Impact on the neighbouring properties

16. The site does not immediately adjoin any residential dwellings, although properties are located immediately to the west of the western boundary on the other side of the row of mature trees that form the delineation of the western edge of the site. Plots 1-4 are orientated so that their rear gardens are located between the dwellings and these nearby properties.
17. In considering the impact of the proposal on those neighbouring dwellings, the existing mature tree line makes a significant contribution to the relationship between the properties, and the recently served Tree Preservation Order would, if confirmed, ensure that privacy and amenity between the two developments would be protected.
18. On that basis, it is not considered that the proposal would result in unacceptable impact on the amenity of the neighbouring dwellings contrary to the relevant policies of the Development Plan.

#### Amenity Provision

19. Amenity is not a matter for consideration in relation to neighbouring properties alone, and it falls upon the Local Planning Authority to ensure that dwellings approved are fit for purpose, whilst the relevant policies of the Development Plan contain aspirational aims to ensure that dwellings approved meet high standards of design, including matters relating to amenity.
20. The site is an unusual one in terms of its constraints, in particular its relatively limited scale and its relationship with the significant row of trees along the western boundary. These trees and their significance to the wider character of the settlement impose a limitation on

the development with regard to their impact on daylight and sunlight received by the proposed properties, as well as limiting the level of amenity provided by the external areas associated with the proposed properties. This has resulted in the scheme being designed to allow for larger gardens on the western side of the proposed properties, which has also resulted in the siting of the properties on the eastern side closer to the boundary than would otherwise have been necessary, and this siting limits the scale and amenity provision made by those properties.

21. Concerns in this regard were raised with the agent prior to the application being reported to committee, and their response was to undertake an 'Internal Daylight Report' regarding the properties.
22. This report states that all four of the proposed dwelling on the western side of the site meet the BRE guidance for sunlight provision, and of the 19 rooms considered as part of the survey six would fall short of the guidance for daylight provision in summer, with all spaces complying with this provision in winter. Of those six spaces, the report notes one falls only marginally short (but short all the same) whilst three others are considered secondary bedrooms.
23. Notwithstanding the findings of this report, as alluded to above the overall impact on amenity levels of the trees forming the western boundary does not simply relate to light received within the rooms of a house. Consideration must also be given to the outdoor space available, the nature and quality of that outdoor space and the impacts of the trees upon it, particularly in view of the recently placed Tree Preservation Order.
24. In the professional opinion of the Officers of the Local Planning Authority, the proximity of the proposed dwellings to the trees would lead to significant pressure from amongst the residents of those properties to reduce the height of the trees or to remove them entirely due to their impact on the quality of the amenity space, an opinion which is shared by the Forestry Officer who has visited the site to undertake a formal assessment of the trees.

#### Highway issues

25. The Highways Authority has responded to the proposal indicating that the layout plan provided in relation to the scheme does not demonstrate that the turning head shown makes sufficient provision for turning of refuse vehicles/fire engine, whilst the parking provision at plots 4 & 5 is compromised as a result of being accessed via the corner of the turning head as shown on the layout plan.
26. There is the potential for the applicant to overcome this matter through the submission of further information, however it is considered that the addressing of this matter would not overcome the outstanding issues in respect of the proposed development and therefore the applicant has not been requested to amend the plan prior to the reporting of the matter to the Planning Committee.

#### Section 106 Heads of Terms

27. The Housing Strategy and Enabling Officer has confirmed that an off-site affordable housing contribution would be required in relation to this development due to the designation of the majority of the county as a 'rural area'.
28. No such agreement has been made at this time and the overall recommendation to refuse is such that the Officer has not sought to progress such an agreement. Should Members consider that approval of the scheme is appropriate, determination should therefore be delayed until such time as an appropriate agreement has been completed.

### Crime and Disorder

29. It is considered that the proposal would not result in any significant crime and disorder implications.

### Human Rights Implications

30. Article 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
31. It is considered that no relevant Article of that act will be breached.

## **Consultations**

### **32. Market Overton Parish Council**

The Parish Council supports the application, and considered the density level on the site in keeping with the forthcoming Neighbourhood Plan, particularly the inclusion of bungalows.

The adjacent site would make provision for affordable housing to meet the village's needs.

### **33. Highways**

No tracking provided to demonstrate how a refuse lorry or fire engine would turn within the site.

Parking for these plots is accessed from the corner of the footpath, encouraging vehicles to access their parking over this area, bringing them into conflict with pedestrians and potentially resulting in damage.

The Local Highways Authority therefore recommends refusal on the above grounds.

### **34. Housing Strategy & Enabling Officer**

Consideration should be given to whether policy SP9 applies or not. The Planning Statement is noted regarding provision of affordable housing, however as almost the entirety of Rutland is classed as a 'designated rural area' as defined by the NPPF and Statutory Instrument 2004/418, a commuted sum for off-site provision of affordable housing would be required prior to the issuing of a decision notice in that respect.

### **35. Forestry Officer**

Inaccuracies within the tree survey

Amendments required to root protection areas due to species sensitivities

Cellular confinement system required pre-development to serve the access and cover the root protection areas of the retained trees

T7's value requires replacement, but the site does not allow for planting that could reach this value. S106 contribution will therefore be required for planting off-site.

The four units to the west of the site are likely to result in complaints about the trees to the west and pressure for their removal.



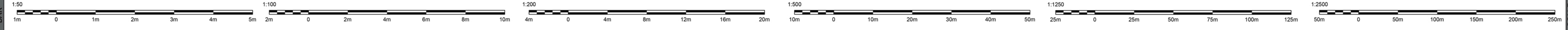
## Neighbour Representations

36. Two responses were received in relation to the proposal, neither expressing support for nor objection to the proposal.
37. The first sought to establish what the intention is for the remainder of the land and where access for future housing may come from. In this regard, the response has no bearing on the proposal as the only consideration for the Committee is the application before them. No application has been submitted for the remainder of the land nor any proposals for accessing the land.
38. The second response stated no objections to the proposal, but also confirmed its expectation that the proposal would not have a detrimental impact on the Lodge Trust's land and its residents.

## Conclusion

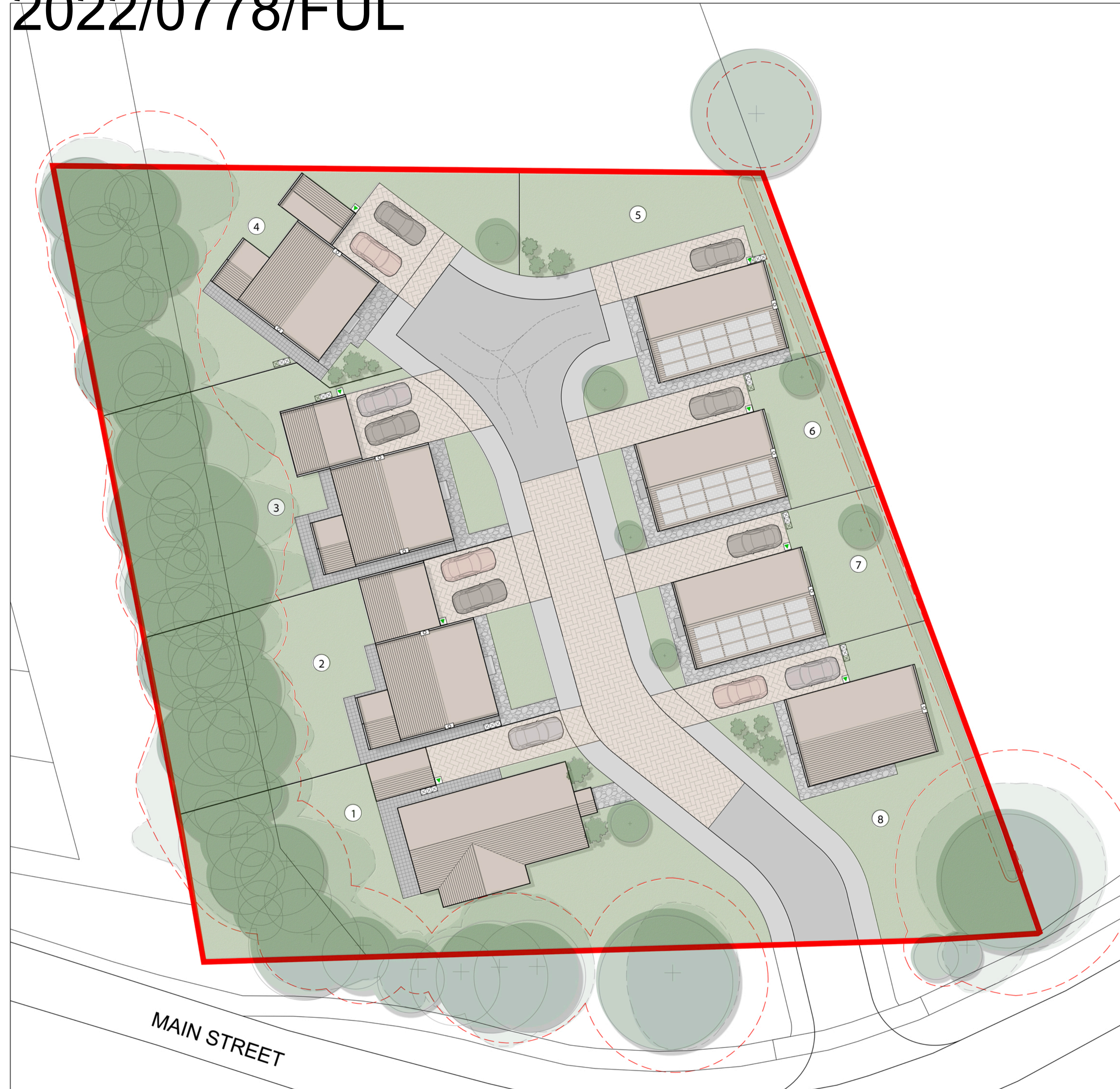
39. In conclusion, the application proposal is in a location where development is not supported unless it meets one of a number of exceptions, and it is acknowledged that the proposals do not meet any of those exceptions. The principle of the application is therefore not supported by the development plan and planning law requires the decision is made in accordance with the policies of that plan unless material considerations indicate otherwise.
40. In addition to the principle of the development being contrary to the policies of the development plan, the proposal would also result in residential dwellings being provided where the amenity levels of those properties is compromised by the existing constraints of the site. Such impacts would be contrary to the relevant policies of the development plan, resulting in further justification for refusal of the scheme.
41. It is acknowledged that the proposal makes provision for single-storey dwellings in line with the Neighbourhood Plan, and that the scheme has the support of the Parish Council, however the Neighbourhood Plan acknowledges and supports the planned limits of development set out in the Site Allocations and Policies Development Plan Document (2014) and on that basis, the site is not considered to conform to the policies of the Neighbourhood Plan. The weight attributed to the support from the Parish Council is therefore considered to be less than would be required to justify a recommendation of approval contrary to the policies of the development plan.
42. The proposed internal layout does not satisfactorily demonstrate that it is possible to turn a refuse vehicle/fire engine within the site, and the advice of the Local Highway Authority is that it would require amendments to the positioning of the dwellings and the turning head to facilitate this. The application is not accompanied by evidence demonstrating how this is possible, and therefore the scheme is considered not to comply with policy SP15 of the Site Allocations and Policies DPD, along with Design Guidelines for Rutland (SPD), The National Design Guide (2021) and Paragraph 112(d) of the National Planning Policy Framework (2021). It may be possible to overcome this matter through submission of appropriate tracking details, however given the earlier conclusions it is not considered appropriate to require the applicant to undertake to provide them at this stage as they would not be sufficient to outweigh the justification for refusal.





# 2022/0778/FUL

# Appendix 1



Location Plan  
Scale 1:1250



- Refuse storage
- EV Charging point
- Solar Panels
- Tree Canopy
- Root Protection Area
- Boundary Line

Internal Areas	Total	External Areas
Plot 1 GF GIA: 122m <sup>2</sup>	122 m <sup>2</sup>	Plot 1 GEA: 156m <sup>2</sup> Curtilage: 778m <sup>2</sup>
Plot 2 GF GIA: 111m <sup>2</sup> FF GIA: 70m <sup>2</sup>	181 m <sup>2</sup>	Plot 2 GEA: 130m <sup>2</sup> Curtilage: 557m <sup>2</sup>
Plot 3 GF GIA: 111m <sup>2</sup> FF GIA: 70m <sup>2</sup>	181 m <sup>2</sup>	Plot 3 GEA: 130m <sup>2</sup> Curtilage: 600m <sup>2</sup>
Plot 4 GF GIA: 111m <sup>2</sup> FF GIA: 70m <sup>2</sup>	181 m <sup>2</sup>	Plot 4 GEA: 116m <sup>2</sup> Curtilage: 632m <sup>2</sup>
Plot 5 GF GIA: 96m <sup>2</sup>	96 m <sup>2</sup>	Plot 5 GEA: 133m <sup>2</sup> Curtilage: 378m <sup>2</sup>
Plot 6 GF GIA: 96m <sup>2</sup>	96 m <sup>2</sup>	Plot 6 GEA: 133m <sup>2</sup> Curtilage: 285m <sup>2</sup>
Plot 7 GF GIA: 96m <sup>2</sup>	96 m <sup>2</sup>	Plot 7 GEA: 133m <sup>2</sup> Curtilage: 300m <sup>2</sup>
Plot 8 GF GIA: 96m <sup>2</sup>	96 m <sup>2</sup>	Plot 8 GEA: 133m <sup>2</sup> Curtilage: 463m <sup>2</sup>
	<b>1049 m<sup>2</sup></b>	

Date	Revision	Description	By
27/05/22	B	Plot updates	CC
28/03/22	A	General updates	CL
07/02/22	/	First Issue	CL



PLANNING | ARCHITECTURE | PROJECT MANAGEMENT

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Project  
211052 Main Street  
Main Street, Market Overton

Drawing Title  
211052\_001\_Proposed Site Plan

Date	Revision	Scale @ A1
March 2022	B	As Indicated

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Site Plan

Scale 1:200



## PLANNING AND LICENSING COMMITTEE

14<sup>th</sup> March 2023

### APPEALS

#### Report of the Strategic Director of Places

Strategic Aim:	Delivering Sustainable Development	
Exempt Information	No	
Cabinet Member Responsible:	Councillor Rosemary Powell - Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Penny Sharp, Strategic Director of Places	Tel: 01572 758160 <a href="mailto:psharp@rutland.gov.uk">psharp@rutland.gov.uk</a>
	Justin Johnson, Development Control Manager	Tel: 01572 720950 <a href="mailto:jjohnson@rutland.gov.uk">jjohnson@rutland.gov.uk</a>
Ward Councillors	All	

#### DECISION RECOMMENDATIONS

That the Committee notes the contents of this report

#### 1. PURPOSE OF THE REPORT

- 1.1. This report lists for Members' information the appeals received since the last meeting of the Planning & Licensing Committee and summarises the decisions made.

#### 2. APPEALS LODGED SINCE LAST MEETING

- 2.1 None

### **3. DECISIONS**

#### **3.1 APP/A2470/W/22/3301045 – Mr Odedra – 2022/0028/FUL 39B Main Street, Whissendine, Rutland LE15 7ES**

Section 73 application to vary condition 1 of application 2018/1187/PRC (Notification of Prior Approval) - Change of use from Class A1 to Class A3 to allow for new coffee shop. In order to extend the opening hours to 10.30pm everyday and to open on bank holidays.

**Delegated Decision**

**Appeal Dismissed 15<sup>th</sup> February 2023**

**No application for costs**

### **4 APPEALS AGAINST ENFORCEMENTS LODGED SINCE LAST MEETING**

4.1 None

### **5. ENFORCEMENT DECISIONS**

5.1 None

### **6. CONSULTATION**

6.1 None

### **7. ALTERNATIVE OPTIONS**

7.1 Alternatives have not been considered as this is an information report

### **8. FINANCIAL IMPLICATIONS**

8.1 None

### **9. LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 As this is only a report for noting it has not needed to address authority, powers and duties.

### **10. EQUALITY IMPACT ASSESSMENT**

10.1 An Equality Impact Assessment (EqIA) has not been completed for the following reason; because there are no relevant service, policy or organisational changes being proposed.

### **11. COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no such implications.

### **12. HEALTH AND WELLBEING IMPLICATIONS**

12.1 There are no such implications

**13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

13.1 This report gives details of decisions received since the last meeting for noting.

**14. BACKGROUND PAPERS**

14.1 There are no such implications

**15. APPENDICES**

15.1 None

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

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