

General Licensing Panel Agenda



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Date: 27 July 2012
Website: www.whitehorsedc.gov.uk

A meeting of the
General Licensing Panel
will be held on Tuesday 7 August 2012 at 10am
Council Chamber, The Abbey House, Abingdon, OX14 3JE

Panel members:

Councillors

Charlotte Dickson
Aidan Melville
Melinda Tilley

A large print version of this agenda is available. In addition any background papers referred to may be inspected by prior arrangement.

Please note that this meeting will be held in a wheelchair accessible venue. If you would like to attend and have any special access requirements, please let the Democratic Services Officers know beforehand and they will do their very best to meet your requirements.

A handwritten signature in black ink, appearing to read "M Reed".

Margaret Reed
Head of Legal and Democratic Services

Members are reminded of the provisions contained in the code of conduct adopted on 30 September 2007 and standing order 34 regarding the declaration of personal and prejudicial interests.

Agenda

Open to the Public including the Press

Map and vision

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A map showing the location of the venue for this meeting is attached. A link to information about nearby car parking is http://www.whitehorsedc.gov.uk/transport/car_parking/default.asp

The council's vision is to take care of your interests across the Vale with enterprise, energy and efficiency.

1. Election of a chairman

To elect a chairman for this hearing.

2. Declarations of interest

To receive any declarations of personal or personal and prejudicial interests in respect of items on the agenda for this meeting.

3. Procedure for the meeting

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The procedure to be followed at this meeting is attached.

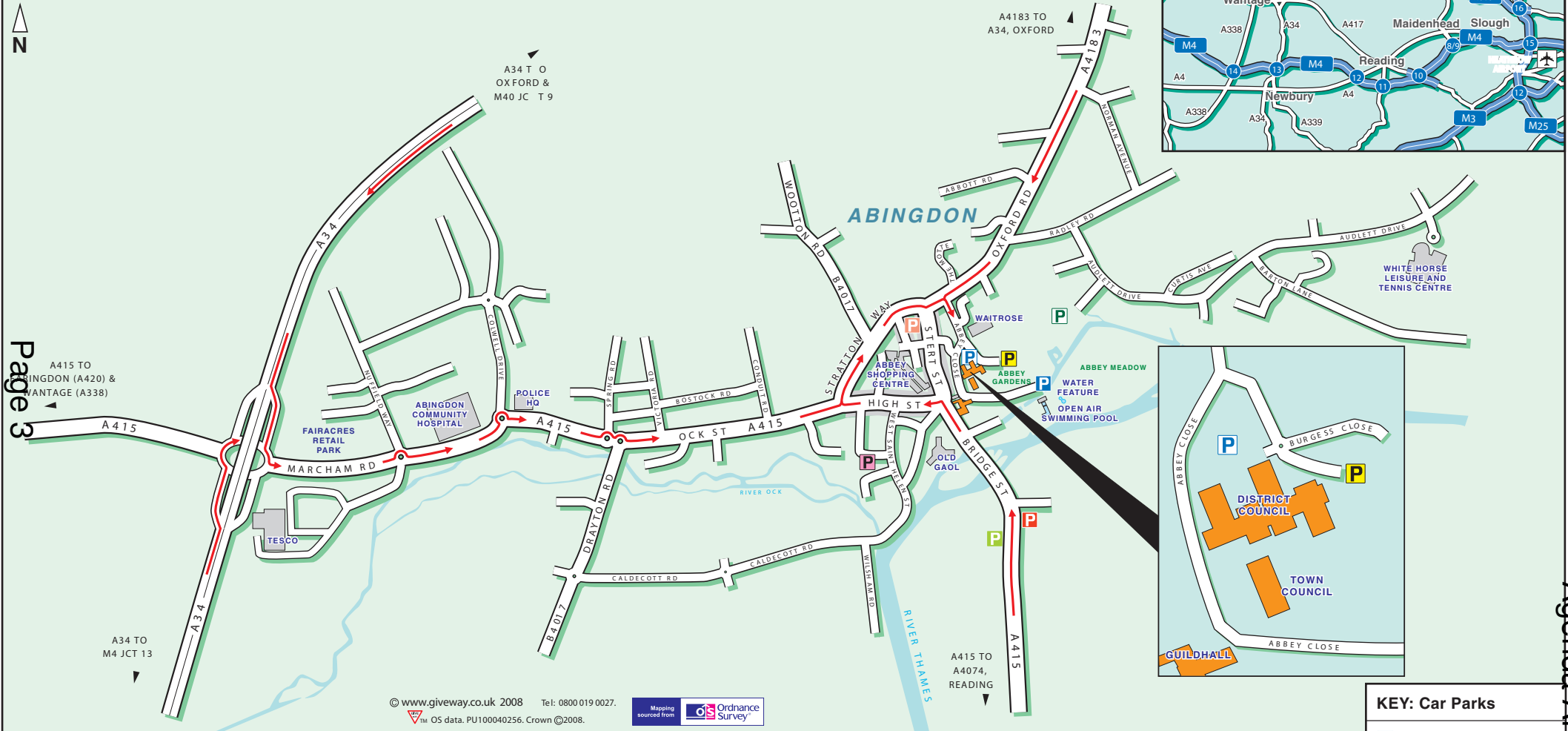
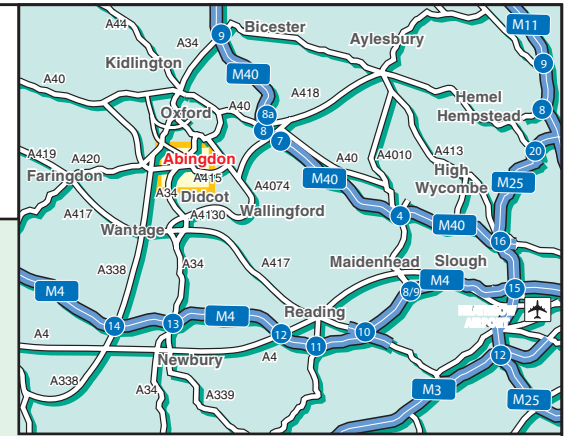
4. Review of a private hire vehicle licence

(Pages 5 - 10)

To consider the head of legal and democratic service's report.

Exempt information under section 100A(4) of the Local Government Act 1972

None



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OS data. PU100040256. Crown ©2008. Mapping sourced from Ordnance Survey

By rail – the nearest main line railway stations to Abingdon are either Didcot Parkway (seven miles) or Oxford (eight miles). Radley railway station is located on the main line between Oxford and Didcot and is three miles from Abingdon town centre. For details of train times visit www.nationalrail.co.uk or call 08457 484950

By bus – there are a number of bus routes serving Abingdon town centre. For details of services and timetables, visit Oxfordshire County Council’s website at www.oxfordshire.gov.uk. Contact details for bus operators can be found on the travel information pages on our website www.whitehorsedc.gov.uk

Parking – details of car parks charges can be found on our website

KEY: Car Parks

	Abbey Close
	Cattle Market
	Charter Multi-storey
	Civic
	Rye Farm
	Hales Meadow
	Audlett Drive
	West St Helen Street

Agenda Annex

GENERAL LICENSING PANEL – PROCEDURE

At the hearing, the procedure will be as follows:

1. Welcome and introductions - The chairman of the General Licensing Panel will welcome the parties to the hearing, introduce the members of the panel, and invite the parties to introduce themselves.
2. Outlining the procedure – the chairman will outline the hearing procedure.
3. Licensing officer's report – the hearing will begin with a presentation by the council's licensing officer who will present their report. Panel members can then ask any relevant questions of the licensing officer, after which the applicant/licence holder can ask the licensing officer questions.
4. The applicant/licence holder's case – the panel's chairman will invite the applicant/licence-holder (or their representative) to respond to the issues raised in the licensing officer's report. Panel members can ask any relevant questions of the applicant/licence holder, after which the licensing officer can ask the applicant/licence holder questions. The applicant/licence holder must provide any supporting material/references to the licensing officer before the meeting.
5. Final submissions – the licensing officer will be invited to summarise his/her case followed by the applicant/ licence holder or their representative.
6. Chair's final comments – the chairman will invite the parties to state whether they have had a fair opportunity to put their respective cases. The panel will deal with any issues arising prior to retiring to make its decision.
7. Consideration by the panel – at the end of the hearing, the panel will ask the parties to leave the room while the panel considers its decision. The panel can ask its legal adviser and democratic services officer to remain in the meeting to give legal or procedural advice. If the panel wishes to clarify any point that arose during the hearing, it will recall all parties, even if it only asks one party for a further explanation.
8. Panel's decision – when the panel has made its decision, its chair will invite the parties back into the meeting room and the chair will report the panel's decision to those present. The council will send a written decision notice explaining the reasons behind the decision to all parties within five working days of the hearing and give details of the licence holder's right of appeal against the decision.

Procedure updated 18 May 2012

General Licensing



Panel Report

Report of Head of Legal & Democratic Services

Author: Robert Draper

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E-mail: robert.draper@southandvale.gov.uk

Wards affected: All

To: General Licensing Panel

DATE: 7 August 2012

Recommendation to consider the evidence and decide whether to allow a private hire vehicle, W486YKM Ford Transit to operate as a wheelchair accessible vehicle

Recommendations

1. That the panel considers the evidence and decides whether to allow the reinstatement of the rear lift to allow the private hire vehicle, PV0101, W486YKM Ford Transit to be operated as a wheelchair accessible vehicle due to the vehicle not complying with the Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy'.

1. Purpose of Report

To present the facts and evidence concerning the application, the relevant legislation and the Vale of White Horse District Council's Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy to the general licensing panel, in order that they can determine whether or not a hackney carriage wheelchair accessible vehicle licence should be granted.

2. Strategic Objectives

The relevant policy objective is 'building the local economy' and the relevant corporate priority is that of 'support business growth in appropriate locations across the district, whilst protecting the character of our towns and villages'.

3. Background

- 3.1 The Council is responsible for licensing hackney carriages and private hire vehicles and the drivers of Hackney Carriages and private hire vehicles to maintain standards and public safety under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, which it has adopted.
- 3.2 Parsan Patti-Dhanjal (trading as Percys Travel) has requested that private hire vehicle, PV0101, W486YKM Ford Transit be classified as a wheelchair adapted vehicle.
- 3.3 Section 48(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall not grant a licence unless they are satisfied that the vehicle is:
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable
- 3.4 The Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy' states, 'The council will require all new hackney carriage or private hire vehicle licence applications for vehicles that have been manufactured or adapted to carry passengers in their wheelchairs, to have side-loading facilities and rear-loading shall be prohibited. Vehicles with rear-loading only facilities licensed at the commencement of this policy shall continue to be permitted so long as there is no lapse in the licence...' The vehicle was brought into service after this policy had been adopted. The vehicle has side access which is not suitable for wheelchairs as there is no ramp or lift but a built-in step instead. However, there is a lift at the rear for passengers in wheelchairs. This lift is currently disabled to allow the vehicle to continue to operate as a private hire vehicle. The operator wishes to reinstate the lift at the rear of the vehicle to allow its use by wheelchair users. The operator has provided documentary

evidence that the tracking and restraint systems fitted to the vehicle meet the required EC and UK standards (**Appendix 1**).

- 3.7 The decision to effectively phase out rear-loading was made when the policy was reviewed and consulted upon during 2009.
- 3.8 The reasons behind no longer permitting rear-loading vehicles were based upon the following safety concerns. Firstly, that to enter via the rear of the vehicle the passenger is likely to have to be on the road in their chair, rather than on the pavement. Secondly, that being seated in the centre of a vehicle rather than the rear is safer in the event of a rear impact and in many vehicles with rear-loading the wheelchair anchorages place the passenger at the rear, not centre of the vehicle. Thirdly, it was agreed to be important to treat wheelchair passengers equally to able-bodied passengers by giving passengers travelling in wheelchairs the maximum opportunities to escape should there be an accident: Appendix A of the Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy' states, 'the vehicle shall be of manufacturers' original specification and shall be constructed and designed:-
- With access and egress to all passenger seats which will not require the lying flat, folding, removal or re-positioning of any seat or equipment in order that passengers may escape without delay in case of an emergency...'

A passenger seated at the rear of a vehicle may be unable to reach or open a rear door in an emergency however passengers seated by side doors will have access to the door. The policy also states, 'The applicant will be required to submit a persuasive and substantial case for departing from the normal policy'.

- 3.9 The vehicle has been tested by one of the council's nominated garages and is in a suitable mechanical condition.
- 4.0 The South and Vale district councils will be considering the introduction of a harmonised licensing policy for Hackney Carriage and Private Hire Vehicles during 2012/13. The licensing of rear loading private hire and hackney carriage vehicles has been raised as a policy issue. The officer's recommendation is that the new joint policy allows licences to be granted for suitably adapted wheelchair accessible vehicles with rear access and a tail lift or ramp.

4. Options

The panel is requested to consider the evidence and decide whether to:

(a) Allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit and accept it as a wheel chair accessible vehicle maintaining its existing, standard, licence conditions.

(b) Allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit and accept it as a wheel chair accessible vehicle with the standard conditions attached to the licence and any attach additional condition(s) to the licence it deems necessary

(c) Refuse to allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit but allow it to continue to operate as a hackney carriage vehicle.

5. Financial Implications

Should the licence holder wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision is upheld.

6. Legal Implications

The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with convention rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant a licence the sub-committee will be aware of human rights considerations, specifically Part 1, Article 6, right to a fair trial.

The hearing of all applications is subject to the principles of natural justice.

Any person aggrieved by a decision of the council to refuse a vehicle licence or to attach any condition to a licence may appeal to a Magistrates' Court within 21 days of the date of the decision.

7. Conclusion

That the panel considers the evidence and decides whether to allow the reinstatement of the rear lift to allow the private hire vehicle, PV0101, W486YKM Ford Transit to be operated as a wheelchair accessible vehicle due to the vehicle not complying with the council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy'.

Background Papers

- None.

Certificate of Compliance

Vehicle: FORD KANSIT LWB SRW

Y404159

This certifies that the seating supplied against Rescroft Job number J21183

and the seating installation system supplied against reference number 6241/241

are manufactured and installed to the same standard as specified under the ISIS* project

Signature (Rescroft Ltd - Seating Manufacturer): J. Hendley

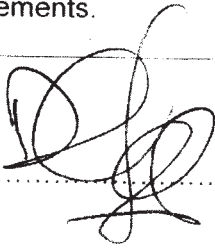
Date: 14.09.98

Signature (Vehicle Converter):

Date: 21.9.98

* The ISIS project validates the seating reinforcement system for Rescroft, Data for M2 vehicles in Community Directive 76/115/EEC (as amended) issued independently by the Vehicle Certification Agency.

EC DECLARATION OF CONFORMITY**PASSENGER LIFTS**

Supply of Machinery (Safety) Regs. 2008	
Business Name:	RATCLIFF PALFINGER Ltd.
Full Address:	Bessemer Road Welwyn Garden City Herts. AL7 1ET
Make:	RATCLIFF PALFINGER
Type:	RFA300
Serial No.:	L161448
Relevant Provisions:	Council Directive: Machinery Directive 2006/42/EC Council Directive: EMC Directive 2004/108/EC
European Standards	Generally complies with BS EN 1756- 2:2004 +A1:2009
National Standards	Generally complies with BS 6109 pt.2
Authorised Signatory	D. Agg
Conformity Assessment Procedure	As defined in Regulation 13 of Supply of Machinery (Safety) Regulations 2008. See Declaration below.
I declare that the above tail lift complies with the relevant Essential Health and Safety Requirements.	
 D Agg	16.05.12 Date