

# Agenda

## Public Protection Committee

Date:	Wednesday, 21 November 2018 at 10am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Angela Jacques (Chairman) Councillor Frank Andrews (Vice-Chairman)  Councillors Jan Barker, Keith Beckett ISO, Brenda Blackshaw, Alan Clayton, Gail Goodman JP, Shirley Green, Peter Hardy, Neil Harvey, Sally Nash.

	<b>PROCEDURAL ITEMS:</b>	<b>PAGE</b>
<b>1</b>	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	<b>1</b>
<b>2</b>	<b>Confirmation of Minutes:</b> To confirm the minutes, as previously circulated, of the meeting held on <a href="#">18 July 2018</a> as a correct record.	<b>1</b>
<b>3</b>	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 22(c).	<b>1</b>
	<b>DECISION ITEMS:</b>	
<b>4</b>	<b>Caravan Site Licensing- Primrose Bank Caravan Park</b>	<b>3-7</b>
<b>5</b>	<b>Application for the Grant of a Hackney Carriage/Private Hire Drivers Licence - HGS</b>	<b>8-9</b>
<b>6</b>	<b>Application for the Grant of a Hackney Carriage/Private Hire Drivers Licence - JS</b>	<b>10-11</b>
<b>7</b>	<b>Hackney Carriage and Private Hire Driver - AH</b>	<b>12-13</b>

Contact: Sharon Wadsworth - Telephone: (01253) 658546 – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

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## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	21 NOVEMBER 2018	4
<b>CARAVAN SITE LICENSING- PRIMROSE BANK CARAVAN PARK</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

At a previous Public Protection Committee meeting Members proposed to include an additional site licence condition, for the site licence owner to maintain a register of names of owners/occupiers of individual caravans and to provide evidence of their main home address. Members must now consider, in the light of representations made by the licence holder, whether to confirm the inclusion of the additional condition.

### RECOMMENDATION

1. To consider whether to confirm the additional condition of the site licence proposed by the committee at its meeting on 14 February 2018, relating to maintenance of a register and proof of evidence of individual caravan owners/occupiers main home address, taking into consideration the licence holder's representations.

### SUMMARY OF PREVIOUS DECISIONS

The matter was initially discussed at the Committee meeting in February 2018, Members resolved to allow the site to operate all year holiday use and to include the additional condition to the site licence and to offer the licence holder the opportunity to make representations. The additional condition put to the license holder is-

- I. "Static holiday caravans shall be occupied for holiday purposes only and not as a person's permanent, sole or main place of residence".
- II. "The owners/operators of the caravan site shall maintain a register of all names of all owners/occupiers of individual caravans and evidence proof of their main home address, and shall make this information available at all reasonable times to the Local Authority".

18 July 2018: Committee considered whether to confirm the additional condition. See paragraph 9 of the report below.

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	√

## REPORT

### BACKGROUND

1. Primrose Bank Caravan Park, at High Moor Farm, Singleton Road, Weeton, is licenced by the council as a caravan site under the Caravan Sites and Control of Development Act 1960. Until earlier this year, the licence was subject to a condition requiring that the site be not used between 15 January and the last day of February in each year.
2. That condition was removed from the licence following an application from the licence holder, which the committee considered 14 February 2018. The effect was that the site licence now allows all year round use. However, a condition of the licence continues to require that caravans on the site be used solely as static holiday caravans.
3. The site benefits from two planning permissions (13/0531 and 15/0772) which permit touring caravans to be replaced by static caravans and allow caravans to be occupied for 12 months of the year. Conditions under the planning permissions require the caravans to be occupied for holiday purposes only and as not as a person's permanent, sole or main place of residence, and further require the owners/operators to maintain a register of names of all owner/occupiers and their main home addresses and to make this information available at all reasonable times to the Local Planning Authority. The reasons as stated in both permissions for these conditions include to ensure that the site is not occupied by owners as their permanent residential home.

### THE PROPOSED ADDITIONAL CONDITION

4. When the committee removed the restriction from the site licence to allow all year round use, they were minded to include an additional condition to the site licence. The condition which the committee were minded to add to the site licence was as follows-
  - I. "Static holiday caravans shall be occupied for holiday purposes only and not as a person's permanent, sole or main place of residence".
  - II. "The owners/operators of the caravan site shall maintain a register of all names of all owners/occupiers of individual caravans and evidence proof of their main home address, and shall make this information available at all reasonable times to the Local Authority".

The additional condition would reproduce the requirements of the planning conditions, save that it adds further requirements to '*evidence proof of* the main home address of owners and occupiers, and to make that proof available to the local authority. The first additional condition duplicates the effect of the existing licence condition referred to in paragraph 2.

### THE LICENCE HOLDER'S REPRESENTATIONS

5. Under section 8(1) of the 1960 act, a local authority must, before exercising their powers to alter the conditions of an existing site licence, afford to the holder of the licence an opportunity of making representations. Accordingly, the licence holder was consulted about the proposed additional condition.
6. They responded, that the wording for the site licence is ok except it may be better to change the reading of point II to read the following "*The owners/operators of the caravan site shall maintain a register of names and address of all owners/occupiers of individual caravans and, on request from an authorised officer from Fylde Borough Council, provide proof of this address*". Otherwise, the response continued, the licence holder would spend an awful lot of time gathering evidence from all owners which would not be used. The licence holder subsequently consolidated its representations in a letter dated 26 March, which is appended to this report.
7. The licence holder has been invited to attend or be represented at the meeting to amplify its representations and to assist members with any further information.

8. The committee is asked to consider, in the light of representations made by or on behalf of the licence holder, whether to alter the conditions of the licence by adding the condition set out in paragraph 4.

#### THE PREVIOUS COMMITTEE MEETING

9. The Committee considered a similar report to this one at its meeting on 18 July. However, that report omitted to draw the committee's attention to material representations that had been made by the licence holder. In the light of that omission, the decision made at that meeting was legally flawed in a material way and cannot be relied upon. The committee is therefore asked to consider afresh the issue of whether to alter the licence as proposed at its February meeting, taking into account this report, its appendix and the presentations and representations made at the meeting.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	As mentioned in the report, section 8 of the Caravan Sites and Control of Development Act 1960 allows the licensing authority to alter the conditions of an existing licence, including by adding conditions, but before exercising their powers the authority must give to the licence holder an opportunity of making representations. Conditions imposed on a caravan site licence must relate to the nature of the use of the land as a caravan park. Conditions attached for any other purpose may be beyond the powers given by the act.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	ianc@fylde.gov.uk Tel 01253 658506	8 November 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Primrose Bank File	5 <sup>th</sup> July 2018	Chaseley Building, 1 <sup>st</sup> Floor, Room F21
Letter from Apps Legal Ltd	12 September 2018	Town Hall, Lytham St Annes

Attached documents

Appendix 1- Letter dated 26 March 2018 from the licence holder.



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26<sup>th</sup> March 2018

**For the attention of the Public Protection Committee**

Dear Sirs/Mesdames

Pure Leisure are the owners of Primrose Bank Caravan Park at Weeton having purchased it from Michael Greaves. Mr Greaves had previously gained planning permission for a change of use of the touring caravan section of the park from the siting of 30 touring caravans to 20 static holiday caravans. As a result an amended caravan site licence was required under the Caravan Sites and Control of Development Act 1960 and an application for such was made.

The Public Protection Committee resolved to:

1. Amend Condition 1 of the holiday site licence to increase the total number of holiday caravans to fifty seven (57) in total
2. Amend Condition 2 of the site licence to allow all year round holiday use
3. Notify the licence holder that the Committee is minded to include the additional conditions to the site licence and to offer the licence holder the opportunity to make representations.
  - (i) "Static holiday caravans shall be occupied for holiday purposes only and not as a person's permanent, sole or main place of residence".
  - (ii) "The owner/operators of the caravan site shall maintain a register of names of all owner/occupiers of individual caravans and evidence of proof of their main home address, and shall make this information available at all reasonable times to the local authority".

Although Pure Leisure are happy with most of the above, there is one area of concern and we feel that this should not be part of the site licence i.e. "evidence of proof of their main home address".

We already maintain a full list of owners home addresses and this is available on request to the Environmental Health Departments' staff. This list is up to date and is the definitive list to which all communications and invoices are sent.

In addition, our park rules specify that the park is strictly a holiday park and no residential or trade use is permitted (See copy attached 1.3, 1.4 and 1.5 being relevant). Additionally no private post is allowed to be delivered to owners/occupiers of caravans on site. If, however, officers of Fylde Borough Council suspect that an owner/occupier is in breach of Planning and Environmental Health conditions 1.4 requires that the owner/occupier must provide evidence of their permanent home. Failure to provide such evidence may result in their occupancy being terminated.

To require **all** owners/occupiers to provide proof of their home address, we feel, is excessive and would result in substantial additional administrative responsibilities for our warden. It may also have serious implications under the Data Protection Act 1998 (2018). We would also challenge the fact that the enforcement of occupancy conditions is a requirement of the Planning Department and use of

the caravans is specified in the planning conditions. Dual enforcement is not normally permitted in law.

We would therefore request that the words "and evidence of proof of their main home address" be deleted from the proposed Caravan Site Licence conditions.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P H Lord', written in a cursive style.

Peter H Lord  
Project Manager

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	21 NOVEMBER 2018	5
<b>APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - HGS</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

Following an application made to Licensing Team, for the grant of a Hackney Carriage and Private Hire Driver's Licence, the Committee is requested to consider the application and determine if they consider the applicant fit and proper to hold such a licence.

### RECOMMENDATION

That the Committee consider the report and determine the application.

### SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions relating to this matter.

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	√
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	√
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	√

### REPORT

1. An application has been received from HGS for the grant of a Hackney Carriage and Private Hire Driver's licence.
2. In accordance with the standard procedure for all applications, the applicant was required to authorise licensing officers to access his driving licence details via the DVLA.
3. The DVLA check revealed a disqualification from driving for 6 months from 14<sup>th</sup> July 2017 to 13<sup>th</sup> January 2018 further information relating to this will be provided to members at the meeting.
4. The applicant declared on his application form that he had been convicted of an offence in July 2017, but made no declaration in respect of the previous penalty points he received previously and the nature of the conviction.

5. Section 59 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, “a district council shall not grant a licence to drive a hackney carriage ... unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence.”
6. Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, “a district council shall not grant a licence to drive a private hire vehicle unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence.”
7. The Council updated and adopted the Hackney Carriage and Private Hire Licensing Policy in November 2017. Appendix A of the Policy is the Taxi and PHV Licensing Criminal Convictions Policy and is to be taken into account during the decision making process.
8. The applicant has been invited to attend the hearing and the Committee is therefore asked to determine the application.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report
Legal	<p>The Committee should have regard to the requirements of fairness and proportionality in its procedures and to the European Convention on Human Rights in reaching its decision. However, the purpose of the system of driver licensing is to protect the public. If the committee considers that it should refuse the application in order to protect the public, it should not concern itself with the effect on the applicant.</p> <p>Where the council has adopted a policy which applies to a particular matter, it must take the policy into account when making its decision. Although it is not bound to follow the policy, any decision that is contrary to it should be supported and explained by clear and adequate reasons for departing from the policy.</p>
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability and Environmental Impact	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Andy Hough	<a href="mailto:andy.hough@fylde.gov.uk">andy.hough@fylde.gov.uk</a> Tel 01253 658606	25 <sup>th</sup> October 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Hackney Carriage & Private Hire Licensing Policy	Nov 2017	<a href="http://www.fylde.gov.uk/business/licensing/taxilicensing/">http://www.fylde.gov.uk/business/licensing/taxilicensing/</a>

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	21 NOVEMBER 2018	6
<b>APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - JS</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

Following an application made to Licensing Team for the grant of a Hackney Carriage and Private Hire Driver's Licence, the Committee is requested to consider the application and determine if they consider the applicant fit and proper to hold such a licence.

### RECOMMENDATION

That the Committee consider the report and determine the application.

### SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions relating to this matter.

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	√
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	√
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	√

### REPORT

1. An application has been received from JS for the grant of a Hackney Carriage and Private Hire Driver's licence.
2. In accordance with the standard procedure for all applications the applicant was required to authorise licensing officers to access his driving licence details via the DVLA.
3. The DVLA check revealed a total of 12 penalty points from 2015 to 2018 and further information relating to these will be provided to members at the meeting.
4. The applicant declared on his application form that he had received 3 penalty points in March 2018, but made no declarations in respect of the previous penalty points he received in November 2015 or January 2015.

5. Section 59 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, “a district council shall not grant a licence to drive a hackney carriage ... unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence.”
6. Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, “a district council shall not grant a licence to drive a private hire vehicle unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence.”
7. The Council updated and adopted the Hackney Carriage and Private Hire Licensing Policy in November 2017. Appendix A of the Policy is the Taxi and PHV Licensing Criminal Convictions Policy and is to be taken into account during the decision making process.
8. The applicant has been invited to attend the hearing and the Committee is therefore asked to determine the application.

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	<p>The Committee should have regard to the requirements of fairness and proportionality in its procedures and to the European Convention on Human Rights in reaching its decision. However, the purpose of the system of driver licensing is to protect the public. If the committee considers that it should refuse the application in order to protect the public, it should not concern itself with the effect on the applicant.</p> <p>Where the council has adopted a policy which applies to a particular matter, it must take the policy into account when making its decision. Although it is not bound to follow the policy, any decision that is contrary to it should be supported and explained by clear and adequate reasons for departing from the policy.</p>
Community Safety	No implications arising directly from the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Joanne Gallagher	<a href="mailto:joanne.gallagher@fylde.gov.uk">joanne.gallagher@fylde.gov.uk</a> Tel 01253 658609	9 <sup>th</sup> October 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Hackney Carriage & Private Hire Licensing Policy	Nov 2017	<a href="http://www.fylde.gov.uk/business/licensing/taxilicensing/">http://www.fylde.gov.uk/business/licensing/taxilicensing/</a>

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	21 NOVEMBER 2018	7

### HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER - AH

#### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### SUMMARY

AH is the holder of a combined Hackney Carriage driver and Private Hire driver's licence issued by this Authority. Information has been received regarding AH, the details of which will be presented to members at the Committee. The Committee will be requested to determine whether they consider AH a fit and proper person to hold a licence.

#### RECOMMENDATION

That the Committee considers the report and either:

- a) Notes the report and take no further action
- b) Issue a warning letter
- c) Suspend the licence
- d) Revoke the licence

#### SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions relating to this matter.

#### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	

#### REPORT

1. AH is a current licensed driver, holding a combined hackney carriage and private hire driver's licence which is due to expire on the 2<sup>nd</sup> December 2018.
2. Information has recently received regarding AH's conduct, the details of which will be provided to members at the meeting.

3. Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states, “a district council may suspend or revoke or ... refuse to renew the licence of a driver of a Hackney Carriage or a Private Hire vehicle on any of the following grounds:-
- a) that he has since the grant of the licence:-
    - i) been convicted of an offence involving dishonesty, indecency or violence
    - ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act; or
  - b) any other reasonable cause.”
4. Should the Committee feel it appropriate to suspend or revoke the licence, the grounds for such decision must be given to the driver within 14 days of the decision and a driver aggrieved by the decision may appeal to the Magistrates’ Court.
5. AH has been invited to the meeting and the Committee is therefore requested to consider the report and determine whether to:
- a) note the report,
  - b) issue a warning letter,
  - c) suspend the licence
  - d) revoke the licence

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	The Committee should have regard to the requirements of fairness and proportionality and to the European Convention on Human Rights in reaching its decision. Where the council has adopted a policy which applies to a particular matter, it must take the policy into account when making its decision. Although it is not bound to follow the policy, any decision that is contrary to it should be supported and explained by clear and adequate reasons for departing from the policy.
Community Safety	No implications arising directly from the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Chris Hambly	<a href="mailto:Chris.hambly@fylde.gov.uk">Chris.hambly@fylde.gov.uk</a> 01253 658422	8 November 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Hackney Carriage & Private Hire Licensing Policy	Nov 2017	<a href="http://www.fylde.gov.uk/business/licensing/taxilicensing/">http://www.fylde.gov.uk/business/licensing/taxilicensing/</a>