



NOTICE OF THE MEETING OF THE LICENSING SUB-COMMITTEE

THURSDAY 9 NOVEMBER 2023, 2.00pm
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON (HYBRID MEETING)

Agenda of Business

Apologies

Declarations of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

1. Minutes for Approval – Licensing Sub-Committee, 12 October 2023 **(pages 1-8)**
2. Application for Grant of a Licence to Operate a Short-Term Let
32 Douglas Marches, North Berwick **(pages 9-66)**
3. Proposed Amendment of Resolution on Public Entertainment Licensing Regime –
Report by the Head of Corporate Support **(pages 67-78)**
4. Taxi Fare Review – Report by the Head of Corporate Support **(pages 79-90)**
5. Taxi and Private Hire Car Licensing – Report by the Head of Corporate Support
(pages 91-142)

PRIVATE

6. Application for Grant of a Taxi Driver Licence **(pages 143-156)**
One applicant invited to attend
7. Application for Renewal of a Licence for a Business Undertaking Tattooing or Skin
and Body Piercing **(pages 157-166)**
One applicant invited to attend

NOTE: Access to Information.

The Committee will exclude the public from items 6 and 7 in terms of paragraph 6 (information relating to the business affairs of particular persons) of Schedule 7A to the Local Government (Scotland) Act 1973.

Monica Patterson
Chief Executive

**John Muir House
Haddington**

2 November 2023



East Lothian
Council

**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE**

**THURSDAY 12 OCTOBER 2023
ONLINE DIGITAL MEETING FACILITY**

1

Committee Members Present:

Councillor C McGinn (Convener)
Councillor C Cassini
Councillor J Findlay
Councillor C McFarlane
Councillor J McMillan
Councillor T Trotter

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration
Ms C Aitken, Licensing Officer
Ms K Harling, Licensing Standards Officer

Others Present:

Sgt G Wood, Police Scotland

Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

Declarations of Interest:

Item 3a: Councillor Findlay lived in a neighbouring property.

1. MINUTES FOR APPROVAL – LICENSING SUB-COMMITTEE, 14 SEPTEMBER 2023

The minutes were agreed as an accurate record of the meeting.

2. REGULATION OF SHORT-TERM LETS: AMENDMENT OF EXISTING ADDITIONAL CONDITIONS AND UPDATE OF POLICY STATEMENT

A report had been submitted by the Head of Corporate Support to ask the Licensing Sub-Committee to amend the existing Additional Conditions of Licence for Short-Term Lets, and to update the Short-Term Let Policy Statement, both of which had been agreed at the Licensing Sub-Committee meeting on 9 June 2022.

Ms Fitzpatrick presented the report and highlighted the salient points. Following agreement of the current conditions in June 2022, questions had come from applicants, and officers wished to make the licensing process as simple as possible. The same conditions relating to property safety and the landlord being a fit and proper person would remain, and she said the proposed changes were designed to make the process simpler for STL hosts. She read the proposed condition relating to the use and storage of liquid petroleum gas (LPG), noted below, which she said would ensure properties not connected to mains gas could continue operation. She explained that updates to floor plan conditions would mean the same ask was being made across both documents. The updates would allow hosts to provide their own site plan if it was a legible, accurate, and measurable plan of the premises, preferably at a scale of 1:100; this would hopefully negate the need for architect's plans. She explained that the third recommendation was a change to local policy so that the licensing authority may not require a further application in relation to applications considered to breach planning control and refused to be considered by the licensing authority, provided an application to the planning authority be made within three months of the date the applicant is notified of the licensing authority refusing to consider the application. She explained that this would mean further fees would not be required if evidence could be provided that an application to the planning authority had been made.

Responding to a question from Councillor McMillan, Ian Forrest, Senior Solicitor, said that there was a list of delegated powers which allowed officers to make decisions on matters without recourse to the Licensing Sub-Committee, however, STLs were not included under the current delegated powers list. He said that this could be amended in the future.

Councillor McMillan thanked officers for the very full briefings they had provided as the legislation was coming in. He understood that such matters would arise following the introduction of new legislation and a new licensing regimen.

Councillor Trotter felt it made sense to regularly review matters based on the variety of applications coming in. He said this would make sure that East Lothian remained ahead of the game and welcomed the changes.

The Convener then moved to a roll call vote, and Members unanimously agreed the recommended changes,

DECISION

The Sub-Committee agreed to:

1. Expand the current Additional Condition (6) from the current wording to:

“The licence holder shall not permit the use or storage, on the premises, of LPG room-heaters or, unless in an external store designed and approved for such storage, the storage of any liquefied petroleum gas (LPG) or any highly inflammable liquid, gas, or substance. This condition shall not apply to small amounts of liquids or gas sold in small non-refillable retail packs (e.g., lighter fuel or cosmetic appliance cartridges) kept by guests for their own use. Nor shall it apply to the external storage of LPG in cylinders or tanks which are provided by the licence holder for the provision of gas for cooking or for water or space heating or other domestic use, provided the storage complies fully with LPGA Codes of Practice and Building Regulation Technical Standards and that any installation connected to such cylinders or tanks complies with The Gas Safety (Installation and Use) Regulations 1998 or any amendment thereto.”

2. Amend the Short-Term Lets Guidance and Policy in relation to floor plans (which are to be lodged along with an application) to:

A legible, accurate and measurable plan of the premises (preferably to a scale of 1:100) is required, indicating the following:

- Room sizes
- Sanitary ware
- Cooking facilities
- Power outlets
- Lighting points and switches
- Accommodation intended for guests with mobility impairment
- Number of guests occupying each bedroom

3. Approve the updating of the Short-Term Let Policy on license refusals (Section 9.2) so that the Licensing Authority may not require a further application in relation to applications received after 1 October 2023 which are considered to breach planning control and are refused to be considered by the licensing authority, provided application to the planning authority is made within three months of the date the applicant is notified of the Licensing Authority refusing to consider such application. The authority may require a new application is submitted should applications to the planning authority be made outwith the abovementioned three-month period.

Sederunt: Councillor Findlay left the meeting.

3. APPLICATION FOR THE GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET

a. Seaview, Goose Green Road, North Berwick

An application had been received from Nicky Cadzow for a licence to operate 25 Balfour Street, North Berwick, as a short-term let (STL). The application would be heard by the Licensing Sub-Committee on the basis that one objection had been

received. The Sub-Committee was required to focus on the suitability of the property to operate as an STL, and on the applicant to hold an STL licence.

Ian Forrest, Senior Solicitor, introduced the application. He highlighted the number and terms of the one public objection and confirmed that no objections had been received from any of the statutory consultees. He highlighted the impact of a recent court decision in Edinburgh which, in summary, said that in determining a short-term let licence application, the Licensing Sub-Committee should not look at matters already addressed as part of the planning process. He advised that Members were entitled to include conditions they thought fit and that were within the remit of the Sub-Committee. He also advised that a licence period of three years was usual unless the Sub-Committee determined a lesser period to be appropriate.

Nicky and James Cadzow were present to speak to their application. Mr Cadzow acknowledged the representation by the objector relating to parking and the potential for guests making noise. He explained that the property had been purchased in December 2022 and the family planned to move to Gullane and use it as their family home. However, due to Mrs Cadzow having been diagnosed with a serious health condition, the move had not yet gone ahead; thus, they wished to use the property flexibly as they had only been able to live there for two months out of the previous nine. It was hoped that an STL licence would enable flexible use of the property and for costs to be covered. He said that up to seven people had stayed in the property and there had been no complaints from neighbours.

Responding to a question from Councillor Cassini, Mr Cadzow confirmed that the current arrangement was expected to be in the short term and was only due to his wife's medical diagnosis; they had family in the area and still planned to move into the property.

Councillor McMillan asked how the property would be managed from a distance. Mr Cadzow explained that their property was separated from the objector's house by a garden and hedge. He advised that the property was managed by North Berwick Holiday Homes, and could be let to up to 8 people. He explained that private parking for up to four cars was available on the premises, but any bookings to date had not brought more than one or two cars. North Berwick Holiday Homes had their own conditions, including no excessive noise and no parties, and these conditions were reiterated in the Seaview house rules. He reassured Members that any issues with noise would be brought to the attention of guests. He said that he had communicated with the immediate neighbours in the adjoining house and asked them to raise any problems.

Responding to questions from Councillor Trotter, Mr Cadzow said that North Berwick Holiday Homes would enter the property every week for cleaning and would also be present to make sure guests had arrived safely. He said his brother would also visit periodically, as he lived locally. He said there had been no issues letting the property so far. Immediate neighbours had reported that guests had not caused issue.

It was established that when the property was being used as a family home and no longer in use as an STL, Mr and Mrs Cadzow would have to make the licensing authority aware so that the register of STLs could be updated.

Responding to questions from the Convener, Mr Cadzow said the property had been used as an STL only since July. The Convener also noted that there had been no concerns raised by statutory consultees.

The Convener then moved to a roll call vote and Members unanimously voted to grant the licence.

DECISION

The Sub-Committee agreed to grant the short-term let licence.

Sederunt: Councillor Findlay re-joined the meeting.

b. Bay Cottage, Sea Wynd, Aberlady

An application had been received from Alexander Mihulka for a licence to operate Bay Cottage, Sea Wynd, Aberlady, as a short-term let. The application would be heard by the Licensing Sub-Committee on the basis that one objection had been received. The Sub-Committee was required to focus on the suitability of the property to operate as an STL, and on the applicant to hold an STL licence.

Mr Forrest introduced the application. He highlighted the terms of the one public objection and confirmed that no objections had been received from any of the statutory consultees. He advised that the application was in the same terms of as that which had been previously heard, and he reminded Members of the recent court decision in Edinburgh which, in summary, said that in determining a short-term let licence application, the Licensing Sub-Committee should not look at matters already addressed as part of the planning process.

Mr Mihulka spoke to his application. He had purchased the property about a year previously and had visited five times this year. It was used mainly as a secondary home for family holidays. He had initially considered letting the property, but there had been a good deal of renovation to carry out before this could begin. Since this time, the family had enjoyed staying there so much that they were unsure whether they wanted to let the property, but still thought it would be helpful to apply for the licence. He responded to the objector's assertion that the property had been purchased only as an investment; Mr Mihulka said that his family had found friends in the village and taken part in community events, and had not bought the property only as an investment. He said the plan in the future was to let the property when the family were not using it.

Responding to a question from Councillor Trotter, Mr Mihulka said that East Lothian Property Management carried out an inspection every two weeks. When letting the property, he would use Coast Properties, who had visited the property when it was first purchased and awaited Mr Mihulka's decision as to whether he wished to let the property. Coast Property would take care of all arrangements relating to the property letting.

Responding to questions from Councillors Trotter and McMillan, Ms Fitzpatrick said that if Mr Mihulka would have to notify the licensing authority if he decided not to let the property. She suggested that the property remain on the register until a final decision was made. She added that Coast Properties should be formally added as an agent/day-to-day manager for the property. Mr Mihulka had indicated there would be no day-to-day manager on the application form, but Ms Fitzpatrick said it was useful to have a local contact for inclusion on the STL register. She confirmed that it was acceptable to make a decision on the application when this information was still outstanding, but it would be possible to impose conditions to require appointment of

a local agent to manage the property; she acknowledged that 'local' was a subjective term. Mr Mihulka added that a language problem had caused him to neglect to list Coast Properties as day-to-day managers on the application; he advised that the company had been on board throughout the process.

Responding to a question from Councillor McMillan, Mr Mihulka advised that the property had not been used for letting in the past. Coast Properties had visited the property before and after renovation, and he felt it had not made sense to let the property prior to completion of renovations.

The Convener then moved to a roll call vote and Members unanimously voted to grant the licence.

DECISION

The Sub-Committee agreed to grant the short-term let licence.

***Sederunt:** Councillors Findlay, McMillan, and Trotter left the meeting. They would not take part in Item 3c due to this being a continued application first heard at a meeting for which they had submitted their apologies.*

c. 1 Ivory Court, Langriggs, Haddington (Continued application)

An application had been received from Elizabeth Doig for a licence to operate 1 Ivory Court, Langriggs, Haddington, as a short-term let. The application had been heard by the Licensing Sub-Committee on 14 September 2023 on the basis of objections received. Having heard from the applicant and several objectors, the Sub-Committee had agreed to continue the application to allow them to undertake a site visit to familiarise themselves with the area around the property. The site visit had taken place on Friday 6 October.

Mr Forrest introduced the continued application. He advised that the applicant, Ms Doig, was unavailable until later in the day; the Sub-Committee had determined to proceed since all submissions had been heard at the previous meeting. He reported that all three Members had viewed the front of the property at the site visit, and one Member had viewed the rear of the property. He reminded Members that only those who had been present when the application was first heard could vote on the application, although any Councillor could ask questions.

The Convener asked Councillors Cassini and McFarlane whether they now felt in a position to determine the application, having heard the submissions at the previous meeting and undertaken a site visit. Councillors Cassini and McFarlane confirmed they felt able to give a view.

Councillor McFarlane said she had walked around the back of the property and observed that the houses of Carlyle Court retirement village appeared to be quite close to the property. She noted that there had been several representations from these residents.

Councillor Cassini said she had looked at the garden, which was only accessible by a gate by the side of 1 Ivory Court. She suggested that if the gate was kept locked when visitors were staying then people could not access this area. She said that the

area at the back of 1 Ivory Court was very small and there was a very high and thick wall between this area and Carlyle Court. She noted that close neighbours had business operations from their home and used the shared access and parking, and this was considered acceptable. She felt that if customers could not access the shared spaces for the short-term let business then it should not be acceptable for anyone to access the area for business purposes. She said that there did not appear to be evidence that noise would cause a problem.

The Convener had been keen to find out more about the parking situation, and felt there would need to be manoeuvrability and accommodation of other neighbours. He had found the site visit helpful and was content to make a decision based on the representations from the previous meeting and the site visit.

The Convener asked whether it would be acceptable to grant the application for a shorter timeframe than the standard three years. He suggested 18 months would give time to ascertain whether arrangements were working. Mr Forrest responded that three years was the default position unless there was reason for granting a lesser period. He advised there would need to be clear reasoning as to why a shorter timeframe was being granted. Councillor McGinn said that, based on the site visit, he could see that some negotiation around parking was required in the immediate area. He was minded to grant the application, but was concerned that parking could become an issue. He felt that a grant of 18 months would allow the applicant and objectors to establish what would work, and representations could be made sooner upon renewal. Mr Forrest confirmed that this would be competent as it was within the Licensing Sub-Committee's gift to grant for any period. He felt the Convener had explained his reasons for suggesting a shorter timeframe and Mr Forrest had no legal concerns about this proposed course of action.

Councillor McFarlane seconded the Convener's proposal to grant the licence for a period of 18 months.

The Convener then moved to a roll call vote and Members unanimously voted to grant the licence for a period of 18 months in order to monitor and assess any parking concerns. Ms Fitzpatrick confirmed that when a renewal application was required, a site notice which invited public representations would have to be displayed once more.

DECISION

The Sub-Committee agreed to grant the short-term let licence for a period of 18 months.

Signed

Councillor C McGinn
Convener of the Licensing Sub-Committee

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

APPLICATION FOR GRANT / RENEWAL OF SHORT-TERM LET LICENCE

PART 1: ABOUT YOU

Are you applying as an individual or corporate entity?

Individual

Corporate Entity

2

Fill in if you are applying as an individual:

Your full name Klaus Frommel

Date of birth

Place of birth

Home Address

Postcode

Tel. No.

Email address

Please provide your **home address history for the last 5 years** with no gaps or overlaps, starting with the most recent. Please confirm the dates you resided at these properties (continue on a separate sheet if necessary):

Addresses (last 5 years)	Postcode	Date from (mm/yy)	Date to (mm/yy)
32 Douglas Marches	EH395LZ	07/18	09/23

Agent(s) & Day to Day Manager(s)

Do you have or intend to appoint an agent or day-to day manager?

Yes No

If you answered yes, please provide details for your agent(s) or day to day manager(s).

Full name Kristian Frommel

Date of birth [REDACTED]

Tel. No. [REDACTED] Email address [REDACTED]

Addresses (last 5 years)	Postcode	Date from (mm/yy)	Date to (mm/yy)
[REDACTED]			

Joint Ownership

Is your property jointly owned? Yes No

If you answered yes, please provide details for all joint owners.

Joint owner(s) (continue on a separate sheet if necessary):

Full name	Date of birth	Addresses (last 5 years)	Email	Tel. No.

Individuals, please go to Part 2.

Corporate entities

Corporate entities, please complete the relevant sections on the following pages.
Fill in if you are applying as a corporate entity (e.g. company, partnership, trust or charity)

Corporate entity name _____

Limited company number (if applicable) _____

First name and surname _____

Registered or principal office address _____

Tel. No. _____ Email address _____

Names and private addresses and dates and places of birth of its directors, partners or other persons responsible for its management, including trustees in the case of charities (continue on a separate sheet if necessary).

Full name	Personal address	Place of birth	Date of birth

Please complete for all other named persons on the licence (e.g. any agent or day-to-day manager) (continue on a separate sheet if necessary):

Full name	Date of birth	Addresses (last 5 years)	Email	Tel. No.



PART 2: APPLICATION AND LICENCE TYPE

(to be completed by all applicants)

Please select the application type:

First application (existing operator*)

First application (new operator)

New application (where property has been used as licensed STL previously)

Renewal

Change to existing licence

**This option is only available for applications made on or before 1 April 2023 by existing operators (ie those operating the premises in which a licence is being applied for as a short-term let on or before 1 October 2022).*

If you are applying to renew or alter your licence, please complete the following fields. If submitting a new application where the property has never been used as a licensed short-term let before, please proceed to '**The Type of Short Term Licence you require**' (below).

Existing licence number _____

Existing licence expiry date _____

If you are submitting a new application where the property has been used as a licensed short-term let before, please complete the following fields.

Previous licence number _____

Previous licence expiry date _____

Please select the type of short-term let licence you require:

Home sharing

Home letting

Home sharing & home letting

Secondary letting

If you do not own the property which is the subject of this licence application, do you have proof of permission from the owner(s):

Yes No N/A

If you are applying for a change to your existing licence, please indicate the reason for your request (e.g. a change of agent, changes to the property – e.g. an extension to increase maximum occupancy).

PART 3: PREMISES DETAILS

Premises Address 32 Douglas Marches, North Berwick, East Lothian

Postcode EH395LZ

Unique Property Reference Number (if known) _____

EPC Rating* B (86)

** (if applicable – not required for home sharing or unconventional accommodation)*

Please select the type of premises:

Detached House	<input checked="" type="checkbox"/>	Semi-detached house	<input type="checkbox"/>
Terraced House	<input type="checkbox"/>	Flat	<input type="checkbox"/>
Unconventional accommodation	<input type="checkbox"/>		

From the following options, please select the description that best describes your short-term let:

Self-catering	<input checked="" type="checkbox"/>	B&B	<input type="checkbox"/>
Guest house	<input type="checkbox"/>	Other form of home sharing	<input type="checkbox"/>
Home letting	<input type="checkbox"/>		

Specify the number of rooms within the premises used as:

Bedrooms 5 Bed/Sitting rooms 1

Bathrooms 4 Kitchens 1

Lounges 1

Other (please specify) _____

Specify the maximum number of guests 8
(excluding children under 2 years of age)

Advise if you operated this premise as a short-term let prior to 1 October 2022

Yes No

PART 4: CONVICTIONS

Has anybody named on the application been convicted of any offence? Please include details of any unspent convictions in the table below:

NAME	DATE	COURT	OFFENCE	SENTENCE

PART 5: APPLICATION CHECKLIST

Note – this check list must be fully completed in order to submit your application

I have enclosed the following (please tick to confirm (or enter N/A))	
Correct application fee	See East Lothian Council website – Civic Licence Fees ✓
Annual gas certificate (for premises with a gas supply)	✓ Valid to: 17/08/24
Electrical Installation Condition Report	✓ Valid to: 28/08/27
Portable Appliance Testing Report	Valid to: N/A All Portable appliances are brand new.
Fire Risk Assessment	✓
Fire Service Safety Checklist	✓
Legionella Risk Assessment	✓
Planning permission (for premises within a control area or where requested by the licensing authority)	Planning application reference number: N/A (proof supplied in document)
Floor plan	✓
EPC Certificate (for premises which are dwellinghouses)	✓ Valid to: 28/08/27
Public Liability Insurance	✓ Valid to: 09/09/24 (Page 12 PLI document)
Proof of consent from owner (if applicable)	N/A
Evidence of operation as a short-term let on or before 1 October 2022 (for existing hosts applying during transitional period)	N/A

I have: (please tick to confirm (or enter N/A)	
Identified the owners and those involved in the day-to-day management of my premises	✓
Ensured that to the best of my knowledge all those named on my application are fit and proper persons	✓
Prepared information that will be available to guests at the premises including: (a) a certified copy of the licence and the licence conditions, (b) fire, gas and electrical safety information, (c) details of how to summon the assistance of emergency services, (d) a copy of the gas safety report, (e) a copy of the Electrical Installation Condition Report, and (f) a copy of the Portable Appliance Testing Report.	✓
Applied for planning permission (if required).	✓
Noted the requirement to display my licence number and EPC rating on listings for my premises	✓
Proof that furniture and furnishings/the furniture and furnishings guests have access to, comply with fire safety regulations	✓
Read and understood the mandatory conditions that will apply to my licence	✓
Read and understood the additional conditions that will apply to my licence	✓

My premises (please tick to confirm (or enter N/A)	
Meets current statutory guidance for provision of fire, smoke and heat detection	✓
Meets statutory guidance for carbon monoxide alarms	✓
Meets the required regulations for private water supplies (for premises with a private water supply i.e not provided by Scottish Water)	✓
Meets obligations with regard to the Tolerable and Repairing standard (applicable to dwellinghouses)	✓

PART 6: DECLARATION

East Lothian Council, as licensing authority, will use information it holds about you to determine whether you are a fit and proper person to operate a short-term let. In addition, licensing authorities to which you apply may share relevant information they hold about you with one another to help those authorities determine whether you are a fit and proper person to act as a landlord, or to act for a landlord. They may also share and seek relevant information with Police Scotland and, if appropriate, other relevant authorities.

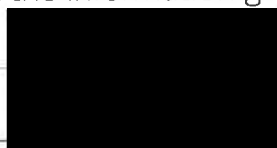
Anyone who gives false information on this form, or fails to provide the information required by this form, is committing an offence which could lead to prosecution.

I declare that I have read and understood the mandatory conditions that apply to short-term let licences and East Lothian Council's additional conditions

I will comply with the requirement to display a site notice in accordance with paragraph 2 of Schedule 1 of the Civic Government (Scotland) Act 1982

I declare that the information given in this application is correct to the best of my knowledge

Signed



Print name

KLAUS FROMMEL

Date

05/09/23

DATA PROTECTION ACT 2018

Please note that the information given on this form may be stored electronically by this Authority for the purpose of licensing.

The Identity of the Data Controller under the Data Protection Act 2018 ("the Act").

East Lothian Council, John Muir House, Haddington, East Lothian EH41 3HA ("the Council")

The purpose or purposes for which the data are intended to be processed.

The Data will be processed in order for East Lothian Council to fulfil its statutory duty under the Civic Government (Scotland) Act 1982 in receiving, registering, determining and granting applications for licenses under the said Act. The Data will be shared with public bodies who require to be consulted about the application, such as the Police. It will also be shared with internal East Lothian Council services, particularly within the Environment Department who give advice to the Council as Licensing Authority, in respect of the application.

East Lothian Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Further information can be obtained from:

Data Protection Officer
Licensing, Administration and Democratic Services
John Muir House
Haddington
dpo@eastlothian.gov.uk

Consultation Responses

Scottish Fire and Rescue Service – No objections (28 September 2023)

Police Scotland – No objections (14 September 2023)

Antisocial Behaviour Team – No objections (13 September 2023)

Parking Team – No objections (14 September 2023)

Planning Authority – See below (27 September 2023)

Allan, James

27 September 2023 13:20 Short Term Lets

RE: Short Term Let application - Klaus Frommel, 32 Douglas Marches, North Berwick, EH39 SLZ

Good afternoon

Thank you for your email below with attachment.

Please be advised that planning permission is required if there is a material change of use and, whether a change of use is material or not, is a question of the facts and circumstances of the individual situation.

Accordingly, in assessing whether the proposed change of use of this house {32 Douglas Marches, North Berwick) is material or not, we must consider a range of factors that distinguish the intensity and scale of the alleged use from what would reasonably be expected from typical residential use of a property of this size and type. These include but are not limited to the character of the property, periods and manner of lettings, frequency of arrivals and departures and the intensity of noise and disturbance.

Whilst I note that this property is a detached house which is capable of sleeping 8 people this information is not, in itself, sufficient in order for us to establish whether or not there is a material change of use relating to this property operating as a short term holiday let. Accordingly, please can you advise the applicant that they will need to submit details of their proposal to environment@eastlothian.gov.uk in the first instance for our further review and consideration.

The information we require is set out below:

- How long has the property been marketed/used for short term holiday lets?
- How often is the property used as a holiday let per year?
- What is the maximum occupancy of the property? (i.e. how many visitors can occupy the property in one booking)
- What is the minimum and maximum length of stay and what is the most common length of stay?
- How are stays managed for the check in/check out processes (i.e. are guests met at the property by the applicant, a letting company or is a key safe used etc.?)
- What type of guests does this property appeal to (e.g. singles, couples, families, holiday makers, stag/hen dos, people working in the area, family members etc.?)
- How is recycling/bins managed and is the property cleaned between each changeover before new guests arrive? Is this done by the applicant or an appointed cleaning company?

Otherwise, please be advised that I have no records of planning permission having been sought nor granted for a change of use of this property for use as a short term holiday let. Neither does it benefit from a Certificate of Lawfulness.

Rafferty, Alison (Licensing)

From: [REDACTED]
Sent: 04 October 2023 13:54
To: Short Term Lets
Cc: Kristian Frommel
Subject: short term let licensing 32 Douglas Marches North Berwick

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Alison or Gillian

I just heard from the Planning Department. We only need to send photos of the house and the communal areas. I will send the photos by Monday.

Will this be it for the licence or is there anything else that we need to do?

Kind regards,

Klaus

----- Forwarded message -----

From: [REDACTED]
To: Robertson, Scott <srobertson2@eastlothian.gov.uk>
Cc: Kristian Frommel [REDACTED]
Sent: Wednesday, 4 October 2023, 14:18:24 CEST
Subject: Re: STL75274 - further information required

Hi Scott

That is great to hear, thank you.

I will take the photos over the weekend and send them to you on Monday.

Kind regards,

Klaus

On Wednesday, 4 October 2023, 14:05:13 CEST, Robertson, Scott <srobertson2@eastlothian.gov.uk> wrote:

Hi Klaus,

The only further information I require is some photographs of the property and of any communal areas. You have already provided all the other information that I require.

If you can email this to me when you have the time that would be great and I can confirm if planning permission is required.

Kind Regards

Scott

Scott Robertson | Assistant Planner – Development Control | East Lothian Council | John Muir House | Haddington
EH41 3HA

T. 01620 827585 | E.srobertson2@eastlothian.gov.uk Visit our website at www.eastlothian.gov.uk

From: [REDACTED]
Sent: 04 October 2023 12:03
To: Robertson, Scott <srobertson2@eastlothian.gov.uk>
Cc: Kristian Fromme [REDACTED]
Subject: Re: STL75274 - further information required

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon Mr Robertson

Thank you for your email. It feels good to get a reply. I can guess that you and your colleagues must be busy with applications.

I would like to understand you correctly. For me anything that is sent to environment sounds like planning permission.

Do we need to answer all questions that you sent on Monday? Perhaps they have nothing to do with planning permission.

We already sent a floor plan. Do we need to send it on scale 1:50 or 1:100?

We haven't yet sent a location plan 1:1250 and coloured photographs of the communal areas. It should be easy enough to do this.

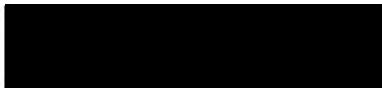
All other questions would just be copy and paste, we already answered them.

This is what you sent us.

- Location Plan (scale 1:1250)
- Floor Plan (as existing layout) (scale 1:50/1:100)
- Coloured Photographs of all communal areas including garden ground
- Is the property a Flat or House?
- How often will the house/flat be used as a holiday let per year?
- How many people can it accommodate?
- Will it be let to groups or people from same household?
- How often will the property be let per week and what would the average length of stay of guests be? (Approximately)
- Is it cleaned after every let and is this by a commercial cleaning company?
- How long has the property operated as holiday let?
- Planning Officer will do site visit
- If the information is not provided within 10 working days the case will be closed and a new enquiry will require to be resubmitted.

Kind regards,

Klaus



On Wednesday, 4 October 2023, 12:25:26 CEST, Robertson, Scott <srobertson2@eastlothian.gov.uk> wrote:

Good afternoon

I can confirm that based on the information you have provided that planning permission will not be required for the change of use of your house to a short term holiday let.

You will appreciate that the content of this email is an expression of officer opinion only and is given without prejudice to any decision taken by the Council in respect of any forthcoming application for planning permission/certificate of lawfulness.

Kind regards

Scott

Scott Robertson | Assistant Planner – Development Control | East Lothian Council | John Muir House | Haddington EH41 3HA

T. 01620 827585| E.srobertson2@eastlothian.gov.uk Visit our website at www.eastlothian.gov.uk

From: KLAUS FRÖMMEL [REDACTED]
Sent: 02 October 2023 17:18
To: Environment Reception <environment@eastlothian.gov.uk>
Cc: Kristian Frommel <[REDACTED]>
Subject: Re: STL75274 - further information required

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear planning officer

Please communicate with us.

In our application to licensing and then also our last communication with environment, we attached an email of the Planning Officer from environment that confirms that we do not need planning for our application! That was the very first thing that we did when starting to contact you about a short-term lead licensing.

I understand that it is possible for things to change.

I don't see how they could within a few weeks, but, if they did, you need to communicate with us and explain why you believe that things are different a few weeks later. Please call us on [REDACTED]

You already have floor plans and we already answered all questions to environment within one day of receiving your questions last week Thursday. By far most of the questions in your last communication are exactly the same as the ones from two working days ago. That just cannot be.

I think there may be a communication error, perhaps within the council or perhaps an email got lost.

Thank you for calling or communicating via email, please reply tomorrow.

Kind regards,

Klaus Frommel

Sent from my iPhone

On 2 Oct 2023, at 17:22, Environment Reception <environment@eastlothian.gov.uk> wrote:

I refer to your email enquiring about short term let.

The information listed below is required to be submitted before any comments can be given. The STL reference number in the Subject Field of this email is required to be quoted on any correspondence to ELC Planning Department.

- Location Plan (scale 1:1250)
- Floor Plan (as existing layout) (scale 1:50/1:100)
- Coloured Photographs of all communal areas including garden ground
- Is the property a Flat or House?
- How often will the house/flat be used as a holiday let per year?
- How many people can it accommodate?
- Will it be let to groups or people from same household?
- How often will the property be let per week and what would the average length of stay of guests be? (Approximately)
- Is it cleaned after every let and is this by a commercial cleaning company?
- How long has the property operated as holiday let?
- Planning Officer will do site visit
- If the information is not provided within 10 working days the case will be closed and a new enquiry will require to be resubmitted.

Kind Regards

Planning Admin Team

From: Licensing <licensing@eastlothian.gov.uk>
Sent: 29 September 2023 13:55
To: Environment Reception <environment@eastlothian.gov.uk>
Subject: FW: Planning permission queries

Can Planning go back to this gentleman.

Gillian

From: [REDACTED]
Sent: 29 September 2023 13:46
To: Licensing <licensing@eastlothian.gov.uk>; Short Term Lets <stl@eastlothian.gov.uk>
Cc: Kristian Frommel <[REDACTED]>
Subject: Fw: Planning permission queries

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Alison or Planning Technician

This house is my main residence and will only be let out when it is sitting empty. North Berwick is a beautiful destination that allows families to make amazing memories that they can cherish forever. It seems a waste for me not to use my house as a home for other families when I am away and that is the main clientele I am looking for. I think that the house will be let out for a maximum of two months in one year.

My house **WILL NOT** be used for partying and will not cause any noise problems. This will be made clear in the listing and I will personally be greeting guests to ensure that this is the case. The house is at the end of a private cul de sac and has its own parking. The lawn is not set up for use for guests. The house is very modern and insulated.

With regards to your point that 'there being no records of planning permission being sought'. I have attached a document below highlighting an email chain between my son and the planning technician in whereby it was clearly stated that no planning permission is needed. This should have been sent to you by the licensing team but I will attach it in case they did not.

I have answered your questions below. Please be assured that this home will be let out to families and no groups who are planning on having parties/creating noise. It is a place for memories family memories to be made and this will be highlighted in the listing.

- **How long has the property been marketed/used for short-term holiday lets?**

- It hasn't been used as a short-term let.

- **How often is the property used as a holiday let per year?**

- It isn't used as one as we have not got the license yet.

- **What is the maximum occupancy of the property? (i.e. how many visitors can occupy the property in one booking)**

- 8

- **What is the minimum and maximum length of stay and what is the most common length of stay?**

- The minimum length will be 7 days. The maximum length will be 31 days. I assume the average length will be between 1 and 2 weeks. If you have further questions on this please ask.

- **How are stays managed for the check-in/check-out processes (i.e. are guests met at the property by the applicant, a letting company or is a key safe used etc.?)**

- All guests will be met at the property personally by the applicant or his son.

- **What type of guests does this property appeal to (e.g. singles, couples, families, holiday makers, stag/hen dos, people working in the area, family members etc.?)**

- All of the above excluding any party groups and stag/hen dos. It will be marketed as a family holiday home.

- **How is recycling/bins managed and is the property cleaned between each changeover before new guests arrive? Is this done by the applicant or an appointed cleaning company?**

- The applicant or his son will deal with the recycling/bins and the cleaning of the property before guests arrive.

Kind regards,

Klaus Frommel

On Thursday, 28 September 2023, 10:13:57 CEST, Short Term Lets <stl@eastlothian.gov.uk> wrote:

Hi

We have gone out to consultation for your application for the above, the Planning Team have come back to us with the information below.

You should now contact the Planning Technicians on the email address provided below to discuss your proposal.

The application for your Short Term Let Licence will now be placed on hold for 3 months with the Licensing Team.

Regards

Alison

Licensing Officer | East Lothian Council | John Muir House | Haddington EH41 3HA | T. 01620 827664 | E. licensing@eastlothian.gov.uk

NHS Coronavirus Information



Please be advised that planning permission is required if there is a material change of use and, whether a change of use is material or not, is a question of the facts and circumstances of the individual situation.

Accordingly, in assessing whether the proposed change of use of this house (32 Douglas Marches, North Berwick) is material or not, we must consider a range of factors that distinguish the intensity and scale of the alleged use from what would reasonably be expected from typical residential use of a property of this size and type. These include but are not limited to the character of the property, periods and manner of lettings, frequency of arrivals and departures and the intensity of noise and disturbance.

Whilst I note that this property is a detached house which is capable of sleeping 8 people this information is not, in itself, sufficient in order for us to establish whether or not there is a material change of use relating to this property operating as a short term holiday let. Accordingly, please can you advise the applicant that they will need to submit details of their proposal to environment@eastlothian.gov.uk in the first instance for our further review and consideration. The information we require is set out below:

- How long has the property been marketed/used for short term holiday lets?
- How often is the property used as a holiday let per year?
- What is the maximum occupancy of the property? (i.e. how many visitors can occupy the property in one booking)
- What is the minimum and maximum length of stay and what is the most common length of stay?
- How are stays managed for the check in/check out processes (i.e. are guests met at the property by the applicant, a letting company or is a key safe used etc.?)
- What type of guests does this property appeal to (e.g. singles, couples, families, holiday makers, stag/hen dos, people working in the area, family members etc.?)
- How is recycling/bins managed and is the property cleaned between each changeover before new guests arrive? Is this done by the applicant or an appointed cleaning company?

Otherwise, please be advised that I have no records of planning permission having been sought nor granted for a change of use of this property for use as a short term holiday let. Neither does it benefit from a Certificate of Lawfulness.

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Rafferty, Alison (Licensing)

From: Licensing
Sent: 27 September 2023 11:55
To: Short Term Lets
Subject: FW: Short term planning let application representation
Attachments: PXL 20230927 080649299.jpg; PXL 20230927 080640661.jpg; PXL 20230927 080629986.jpg

From: fee andrews [REDACTED]
Sent: 27 September 2023 11:54
To: Licensing <licensing@eastlothian.gov.uk>
Subject: Re: Short term planning let application representation

You don't often get email from [REDACTED]. [Learn why this is important](#)

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Good morning

Just to follow up our previous email, I have attached photos to show the placement of the notices. One photo is from the street end of our shared driveway - the space we are concerned will become overrun with cars instead of a safe quiet place for our kids.

It is a quiet, friendly neighbourhood with lots of young children playing in the street. This property has 5 good size bedrooms so could potentially attract big groups with several cars. There is insufficient parking for this and it will compromise the safety of our children.

I would also like it noted that there are many different way this notice could have been shared with the local residents, especially the immediate neighbours. (WhatsApp, messenger, letter, conversation etc). And lampposts the notice could have been attached to in order to make it visible for everyone.

I am also concerned that several close neighbours have not seen anything about this notice as they are on holiday this week.

Kind regards
Fee

On Mon, 25 Sept 2023, 22:52 fee andrews, <[REDACTED]> wrote:

To whom it may concern

We wish to lodge our concerns about the application for short term let at the address 32 Douglas Marches, North Berwick, Eh39 5LZ.

My name is Fiona Andrews and my address is [REDACTED]

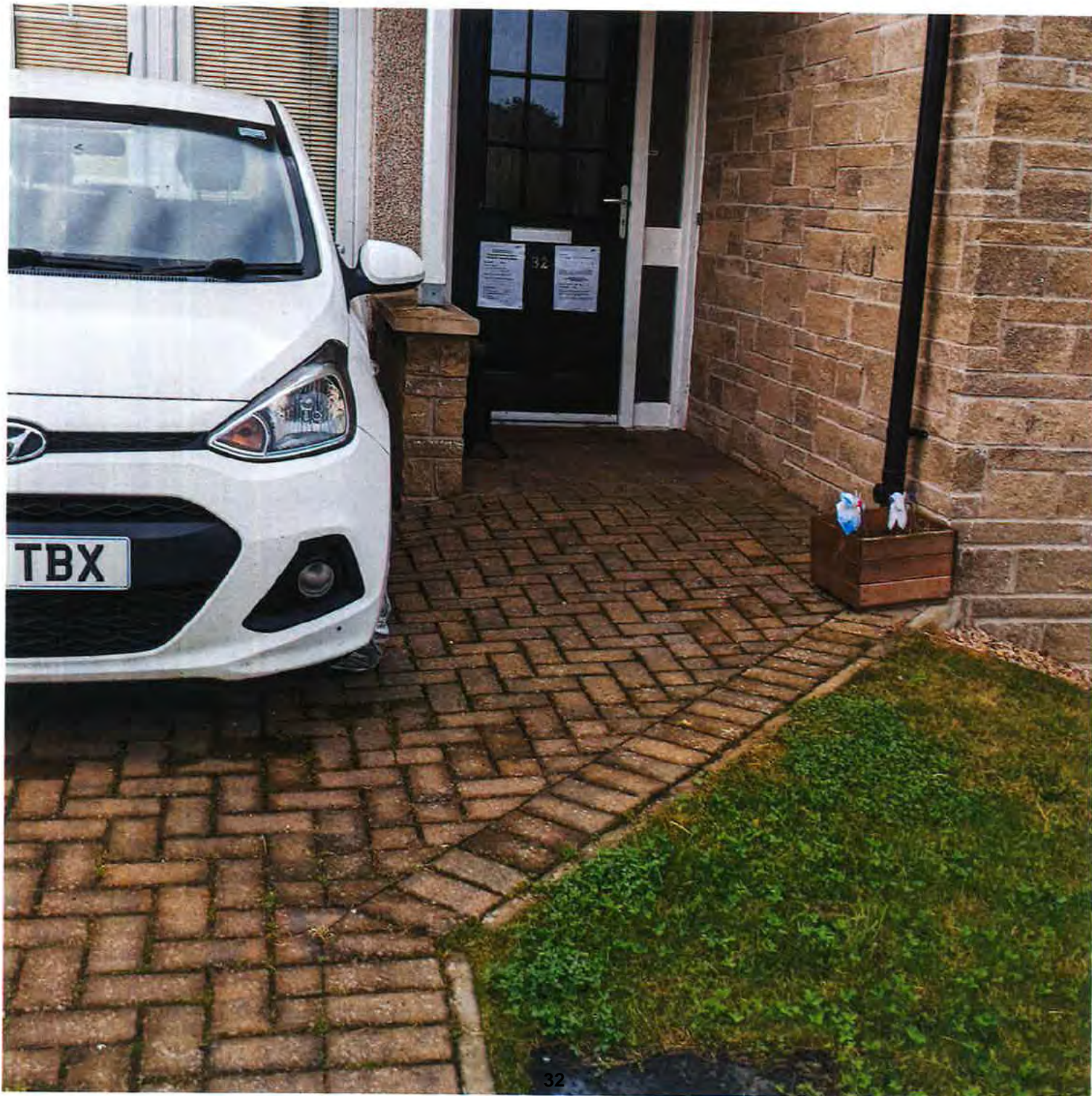
Our concerns are as follows:

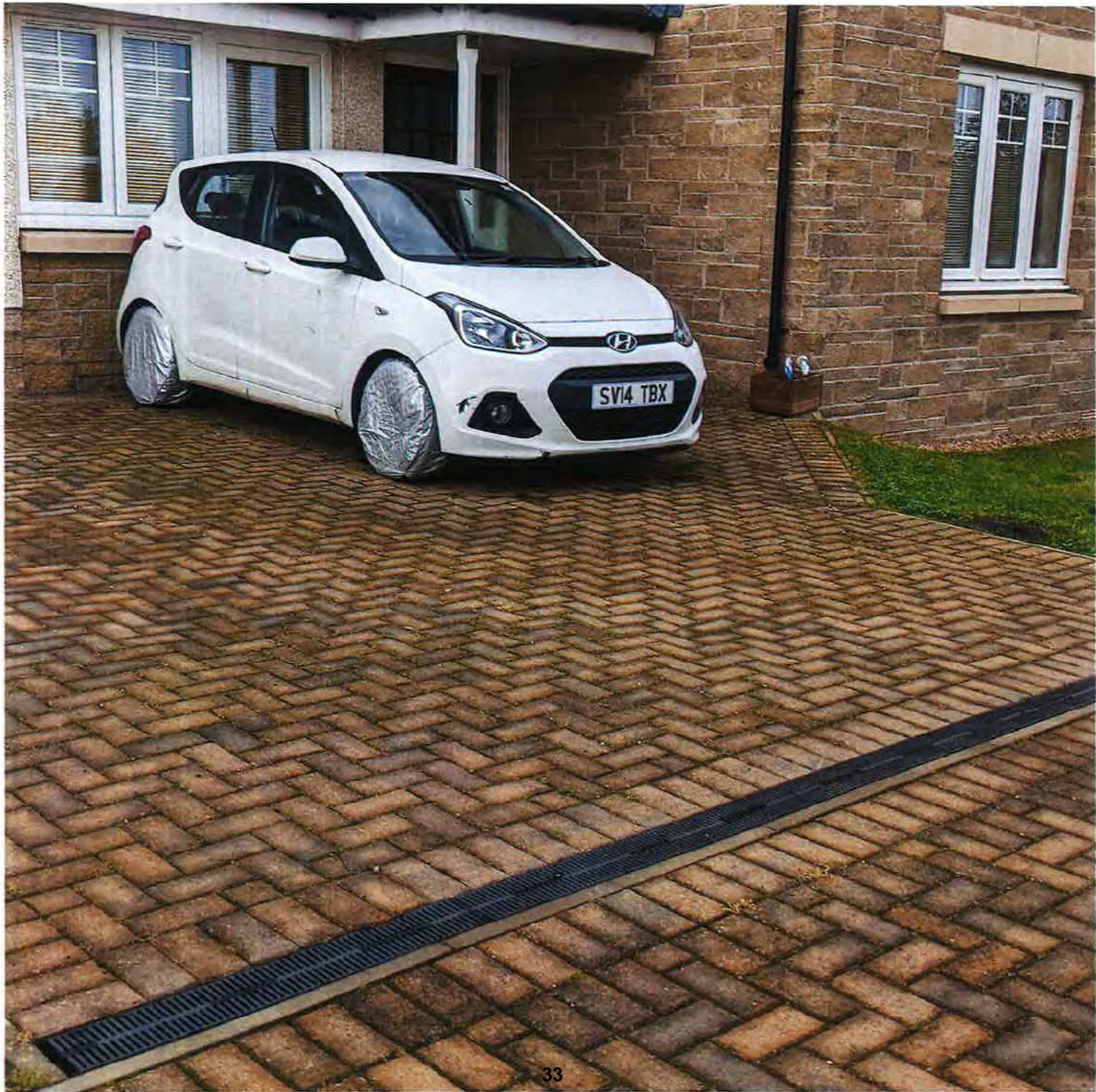
1. Noise. People coming and going at all hours, potential for loud parties - both in the house and in the garden/hot tub. We have young children and feel this could be disruptive.

2. Parking. We share a driveway with this property and are concerned that this space will be taken over.
3. Security. Strangers in the vicinity of our property, including our driveway.
4. Safety. More cars in our driveway, which up until now has been a quiet space that our children can play in.

Apologies for this representation being in email form but we have only just seen the notices as the notices on the property regarding this application are not visible to the public

Kind regards
Fiona







Licensing

From: maxinecowie <[REDACTED]>
Sent: 26 September 2023 17:25
To: Licensing
Subject: Objection to a home let 32 Douglas Marches, North Berwick EH395LZ

You don't often get email from [REDACTED] [learn why this is important](#)

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Good afternoon Sir/Madam [REDACTED]

It has come to my attention that in the residential street of Douglas Marches that a resident (Klaus Frommel) wishes to let out the home, applying for a short term license for the above property 32 Douglas Marches, North Berwick EH39 5LZ. The sign informing residents of their intent has not been displayed publicly- on their front door at the end of a cul-de-sac is not visible for the public to see and therefore be informed, so I guess you will have received a few emails today objecting.

This will increase noise substantially as well as traffic and security of the residents of this close community on Tweedie Place and Douglas Marches.

Grounds for objection:

1. Noise pollution will be increased significantly.
2. Young children live on this estate, it is a family community with children attending the local schools. They know the residents and we are concerned for their safety.
3. The parking on the street is already at a premium (busy) adding to this will cause greater parking and road safety issues.
4. The overall safety and security as well as the health and well being of the residents young and old will be effected.
5. Short term lets in this area will create further pressure on supply, rent levels and housing prices for families who need them. East Lothian does have an accessible housing crisis currently.

Yours sincerely

M.Cowie/ R.Cowie

Mr and Mrs R Cowie
[REDACTED]

Licensing

From: Sophie Duns <[REDACTED]>
Sent: 26 September 2023 16:47
To: Licensing
Subject: Short Term Let licence application -Objection

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Good afternoon,

I would like to formally notify you of my concerns regarding the short term licencing application submitted for the following:

32 Douglas Marches, North Berwick
Klaus Frommel

- **LACK OF PARKING:** there is already a lack of parking within the development and short term let users coming and going will add to already congested streets causing concern over accidents taking place particularly when there are so many young children out playing.
- **INCREASED TRAFFIC:** to an area which is already inundated with cars, delivery vans etc, an increase in regular visitors who are new to the development causes increased concern over accidents taking place.
- **NOISE LEVELS:** concern over noise levels, given the size of the house there may be larger groups of visitors who may cause disruption for neighbouring properties, many of whom have young children.
- **SECURITY AND SAFETY:** to homeowners property and children playing out in the common areas. Having regular unknown visitors coming and going at all hours of the day is concerning to the security of other properties in the area and our children out playing.

Regards

Sophie Duns
[REDACTED]



Dear Sir / Madam

My neighbour, Klaus Frommel, at 32 Douglas Marches, North Berwick. EH39 5LZ has applied for a home letting licence and I would like to place an objection regarding this application.

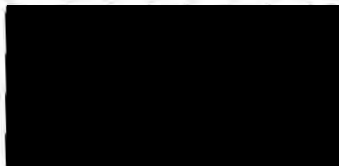
I live  this house, and I am very concerned about having this as a home let.

My concerns:

1. The parking on our street is atrocious at the best of times. Having this house as a let will cause a greater parking burden.
2. Noise pollution will increase significantly.
3. Young children live on this estate and play on the street, I'm concerned about security. Strangers arriving at all times of the day and night concerns may greatly.

I will look forward to hearing from you.

Kind Regards,



Claire Espie

Licensing

From: lyndsay Hogg <[REDACTED]>
Sent: 27 September 2023 12:16
To: Licensing
Subject: Objection to short term let application.

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

I wish to object to the application for a short term let application by:

**Klaus Frommel at
32 Douglas Marches, North Berwick**

I object on the following grounds –

1. My principal objection relates to concerns over noise and anti-social behaviour commonly associated with short term lets. We are a family focused, residential community, with long term rentals or privately owned properties. The community is close knit and looks out for one another, in particular the children who play safely in the streets and communal spaces. Short term lets, associated with party weekends, holidays, stag and hen do's are incongruous in our estate and open up concerns of noise, nuisance and anti-social behaviour. Given the size of the house (5 bedrooms) this could accommodate a huge amount of people, further emphasising the noted concerns.
2. Given the size of the property will it require an HMO?
3. The property owner has a very large, glazed extension which already encroaches on the privacy of his immediate neighbours; if the property is full of people this further impact their privacy?
4. The Public Notice of Application has been VERY discretely displayed, given the property is positioned at the end of a private drive/cul-de-sac, where there is no public passing point. Had a postman not flagged this up, no one would have been aware that this was displayed.
5. Parking – again given the size of the house and potential number of short-term residents at any one time, is there sufficient parking?

I hope these concerns will be taken seriously and a precedent for short term lets will not be opened within our residential community.

Many thanks
Lyndsay Fraser
[REDACTED]

Licensing

From: Ellie Graham <[REDACTED]>
Sent: 27 September 2023 09:38
To: Licensing
Subject: Objection to Application for Short Term Lets Licence - 32 Douglas Marches, North Berwick. EH39 5LZ

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To Whom it May Concern,

We are writing to formally express our objections to the Application for Short Term Lets Licence located at 32 Douglas Marches, North Berwick. EH39 5LZ. This property backs on to our residence at [REDACTED]. We believe that granting a licence for short-term lets at this location poses several significant concerns for our neighbourhood and community.

Firstly, we would like to emphasise our commitment to maintaining a safe, peaceful and residential atmosphere in our community. Our objections to the Short Term Lets Licence are as follows:

- **Noise Disturbances.** We have considerable concerns that there will be a risk of a significant increase in noise disturbances associated with guests staying for short term lets at this property - including late night parties, loud music and disruptive behaviour that disrupts the tranquillity of our neighbourhood. In the past there has been a number of parties on the property and the noise has disturbed our young family during the evening.
- **Safety Concerns.** We have concerns regarding the safety of our neighbourhood due to the frequent turnover of short term let guests. There will be an influx of strangers and this raises security issues as it will be difficult to monitor who is residing at the back of our house. There are numerous families residing in the area and many young children playing in the street, including our own young family and we have serious concerns about the safety of the neighbourhood with strangers regularly staying in the property.
- **Traffic Issues.** Due to the aforementioned issues of the number of young families and children in the community, we have serious concerns about strangers driving without knowledge about the local community and the risk it poses to the safety of the children in the residential area.

In addition, the Application for Short Term Lets Licence was not displayed in the visible fashion. 32 Douglas Marches is set back from the main road and was placed on the front door, which we would neither drive or walk past. It was an employee of the Post Office that alerted my neighbour to the notice and without that, we would not have been aware of the application.

We kindly request that the licencing authorities consider these concerns seriously when evaluating the Short Term Lets Licence for 32 Douglas Marches, North Berwick. EH39 5LZ. We believe that preserving the character of our residential neighbourhood should be a top priority.

Please keep us informed of any developments regarding the application and the decision-making process.

Thank you for your attention to this matter. We look forward to a resolution that supports the well-being of our community.

Sincerely,

Ellie and Malcolm Graham



Sent from [Outlook](#)

Licensing

From: Warren Higgs <[REDACTED]>
Sent: 26 September 2023 14:13
To: Licensing
Cc: Elaine
Subject: Objection: Short Term Lets Licence - 32 Douglas Marches, North Berwick, EH39 5LZ

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Dear Licensing

We are writing to raise our objection to the Short Term lets Licence Application for 32 Douglas Marches, North Berwick, EH39 5LZ.

Firstly the Notice of application was only posted onto the door of the address in the application and therefore because of the location of the property quite hidden, not visible to the street or to the public and only drawn to our attention by the immediate neighbour who happened to see it.

Our objections are based on concerns for the potential usage of the property and short term letting leading to a high level of disruption, increased noise and increased traffic, The other major concern is the reduced security of the area due to the high turnover of potentially unvetted short term residents.

Thank you in advance for considering these objections when reviewing this application.

Your sincerely

Warren Higgs
Elaine Bannerman



Licensing

From: Fiona Johnston <[REDACTED]>
Sent: 18 October 2023 20:24
To: Licensing
Subject: Re: Objection to proposal for short term let property in North Berwick

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi

Following my email below I am writing to clarify that the property I am objecting against as a short term rental is 32 Douglas Marches, North Berwick, EH39 5LZ

Thank you

Fiona

On Wed, 27 Sep 2023 at 10:31, Fiona Johnston <[REDACTED]> wrote:

Hi

I am writing to object to a request to allow a property in Tweedie Place, North Berwick be set up as a short term rental.

I would firstly like to complain about the positioning of the notification of this request. To allow members of the public to raise a concern, this proposal should have been displayed in a public place so that people could easily read it, and have the opportunity to raise concerns if they have them. The paperwork for this request has been displayed on the requestors front door, where there is no through thoroughfare, and therefore no passing members of the public have had the chance to see this request. It is by pure luck that I found out about this proposal in time to raise my concerns today.

I cannot think of a more inappropriate place for a short term rental property to be approved, than a beautiful housing development like Glen Ora, and here are my reasons:

- This area is a residential area full of families. To allow this property to be used for short term rentals has huge safety concerns for the people who live here permanently. Lots of children play out in the street, at the moment quite safely. Allowing strangers to arrive at all times of the day and night is a major concern, not only for children's safety but other residents' property and belongings too.
- Parking and traffic are already a major issue in this area so bringing others to the area will only exacerbate this issue.
- Noise pollution. Tweedie Place is a quiet residential area - it should not be ruined by the comings and goings of people letting this property. This is a major concern for me as a local resident.
- There is already a huge accessible housing crisis in East Lothian. Surely allowing this property to be set up as a short term let is a really bad decision in resolving this issue.

Please take into consideration my comments above and keep me updated on how things proceed.

Many thanks

Fiona Johnston

Licensing

From: K March <[REDACTED]>
Sent: 26 September 2023 22:35
To: Licensing
Subject: 32 Douglas Marches, North Berwick

[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

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I wish to raise my objection for the short term let of 32 Douglas Marches, North Berwick, EH39 5LZ.

My objections are for the following reasons :

This is a family estate and would not be conducive to having a short term let property.

The whole estate support one another within the neighbourhood and ensure there is a safety around the estate

There is communal grounds and play park which the residents all fund therefore ensure they are well maintained and no persons within a short term let will have any allegiance to maintaining the communal grounds and facilities

A short term let properly could result in noise pollution, unknown people within the estate on a regular basis. This then leads to security risks

Having a short term let property will definitely decrease the value if our properties.

This is a family estate and not one in which a short term letting property fits.

I would like to add that the notice was put in the front door in a way which would lead residents not to see it hence the short email and objection reasons.

Regards
Kathryn March

[REDACTED]

Sent from my iPhone

Licensing

From: Pamela Mitchell <[REDACTED]>
Sent: 26 September 2023 22:00
To: Licensing
Subject: Objection regarding 32 Douglas Marches

You don't often get email from [REDACTED] [Learn why this is important](#)

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Hi,
Please find my objection
Ref; Klaus Frommel
32 Douglas Marches
North Berwick
EH39 5LZ

I would like to send my objection to a short term let being applied for on our estate.
My name is;
Pamela Mitchell

[REDACTED]

I have only recently seen the application as it has not been displayed publicly. But on the door of the property which is at least 3 meters off the street and not any lamposts.

This estate is not designed for short term let's. There are many families and young children around and parking is not sufficient for short term let's.

The house in question shares a drive way with a young family without defined boundaries on the drive which could be poorly managed and problematic with the neighbour.

It is a quiet estate and often short term let's can attract parties, disruption and noise. Littering and poor respect for the comunal areas that we as residents pay a huge amount of money in factoring fees to up hold.

The design of the estate does not lend itself to drivers easily finding the property with multiple cul-de-sac within the design of the estate.

I don't feel that this is the right environment to have a a short term letting.

Kinds regards,
Pamela Mitchell

Licensing

From: Aaron Rock [REDACTED]
Sent: 26 September 2023 23:06
To: Licensing
Subject: Objection - Short Term Let Application - 32 Douglas Marches, North Berwick, EH39 5LZ

You don't often get email from [REDACTED] [Learn why this is important](#)

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Hi

Please find my objection to the application for a short term let submitted by Klaus Frommel for the property at:-

32 Douglas Marches
North Berwick
EH39 5LZ

My name is:-

Aaron Rock
[REDACTED]

Firstly I would like to point out that this 'Public Notice' has not been displayed correctly for the required period of time. It has been stuck on the front door of the property, which is detached and located at the end of a closed driveway or cul de sac. None of the fellow residents of the housing development would have been aware of this application unless they had specific cause to knock on the front door of the property. It has only come to our attention by chance, which surely contravenes the principle of a 'Public Notice'. The applicant will have had numerous opportunities to draw his neighbours attention to the notice or application, but has elected not to, which makes one wonder if it has been designed for the time period to pass without neighbours being aware of it.

With respect to the actual application there are a numbers of points upon which I would like to object.

This estate or housing development is not designed for short term lets, but is a residential area with many families and young children. This is not the correct environment for a short term let to be granted or even considered.

Parking is already an issue on the development with limited excess or public parking available. This issue would be exacerbated by a short term let given that it is common for short term lets involving a large property such as this to be occupied by several groups at once, likely travelling individually to meet at the location of the property. Put in other words, one booking tends to equal several vehicles. This potentially leads to parking on pavements which can cause real danger for children being seen by other vehicles and also crossing roads.

Collectively the residents pay significant factoring and maintenance fees for the upkeep of communal areas. Given that short term lets tend to be associated with parties and celebrations, and can often lead to littering and a lack of respect for public spaces, it would be unfair to expect the other residents to bear the burden of this so that the applicant may benefit financially.

The housing development is quite a complex road system with multiple cul de sacs and roads which cross a cycle and pedestrian lane. This means it can be quite difficult for people unfamiliar with the estate to find certain

addresses and therefore I do not think adding additional visitor traffic is wise. If there were ever to be an accident involving one of the visitors to the short term let and one of the many children who live here the responsibility would lie squarely on the shoulders of the council for approving this application.

The property in question shares a drive way without any defined boundaries with a young family next door. It is completely unreasonable to disrupt their lives by having frequent comings and goings of new visitors, and changeovers being managed by the property manager or cleaners.

Finally I would kindly suggest that this application runs counter to local and national housing policy. There is a shortage of housing stock available in North Berwick, East Lothian, and Scotland for those who wish to become resident here and be part of the community. In North Berwick specifically there is already an abundance of short term property lets, two caravan parks, a recently refurbished large hotel, as well as many other accomodation options for visitors. By turning what are clearly residential homes into short term lets the council would risk turning a vibrant town with a thriving year round community into a seasonal hotspot that becomes a ghost town during the off season. I have witnessed this happen to other Scottish towns, for example Killin, and it rips the heart and soul out of a community. Ultimately homes should be for living in and we should not be encouraging the hoarding of property as second homes or financial assets in this manner.

I ask that you consider the points raised in this objection and decline the application.

Kinds regards
Aaron Rock

Rafferty, Alison (Licensing)

From: Licensing
Sent: 27 September 2023 10:42
To: Short Term Lets
Subject: FW: Objection - short term let application for 32 Douglas Marches, North Berwick, EH39 5LZ
Attachments: PXL_20230927_092812888.jpg; PXL_20230927_092739513.jpg; PXL_20230927_091957335.jpg; PXL_20230927_092802078.jpg

From: Katie Rock <[REDACTED]>
Sent: 27 September 2023 10:33
To: Licensing <licensing@eastlothian.gov.uk>
Subject: Objection - short term let application for 32 Douglas Marches, North Berwick, EH39 5LZ

You don't often get email from [REDACTED] [Learn why this is important](#)

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Good morning

I am emailing to formally object to the application for a short term let licence, submitted by Klaus Frommel, at the following property:
32 Douglas Marches
North Berwick
EH39 5LZ

I apologise for the late notice of my objection. The notice has not been displayed publicly as required and was only brought to my attention by a postal worker yesterday. For reference, 32 Douglas Marches sits at the closed end of a driveway shared with one other property. The notice has been attached to the front door of the property which is entirely hidden from public view with no passing traffic (either pedestrian or vehicular). The notice has not been fixed to any other areas surrounding the property e.g. lamp posts, fences etc. This is a friendly development and with numerous lines of communication between neighbours (WhatsApp groups, Facebook pages etc) the applicant could have easily made fellow residents aware of the application but has clearly elected not to in the hope that the plans would go unnoticed. I have attached photos to illustrate the intentional lack of visibility of the notices.

With respect to the application itself there are a number of points upon which my objection is based.

This is a quiet residential housing development with no other short term lets. There is a friendly, established and close-knit community and introducing short term let licences is not appropriate to the overall ambience of the area. Within North Berwick there is ample holiday accommodation of various types, sizes (including a caravan park directly over the fence from 32 Douglas Marches) and the introduction of more short term lets would be to the detriment of a thriving community.

Parking is already an issue on the development with limited visitor parking available. The property in question is a sizable property having already been extended and having had a garage converted. In my estimation, if the property was to be let out as holiday accommodation it would be possible to sleep a minimum of 10-12 guests. This is likely to involve numerous groups of people travelling independently to holiday at the same location, therefore one booking could result in 5+ extra vehicles at the site. This leads directly to safety issues for local residents, their children and their pets, not to mention the young family next door with whom this property shares a drive.

Further to this, the road system within the estate is complex, particularly to those who are unfamiliar with it. Traffic is already an issue within the development with numerous blind corners and unmarked junctions posing a risk to pedestrians at the best of times without the additional traffic that the short term letting of properties would bring. As well as those renting the accommodation on a short term basis, traffic would also be increased on changeover days by property managers and/or cleaners.

As residents, we pay significant factoring and maintenance fees for the upkeep of communal areas. A further concern would be that short term lets understandably increase the likelihood of celebrations and parties and with that a lack of respect for surrounding areas. With this in mind I have serious concerns about noise pollution and littering within the neighbourhood should this application be approved.

I ask that you seriously consider the points raised in this objection and decline the application.

Kinds regards,

Katie Rock











Licensing

From: marella minardi [REDACTED]
Sent: 26 September 2023 16:43
To: Licensing
Subject: Objection to Application for Short Term Let – 32 Douglas Marches, North Berwick EH39 5LZ

[Non ricevi spesso messaggi di posta elettronica da [REDACTED] Per informazioni sull'importanza di questo fatto, visita <https://aka.ms/LearnAboutSenderIdentification>.]

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I am writing to express my objections to the above Application.

I have a number of concerns regarding this. Firstly being that this sign is not fully displayed in a visible area easily available for the public to read forcing me to suspect this has been done to prevent neighbours making objections.

I have noted my concerns below:

A short term let will have an unacceptable impact on the neighbourhood particularly including:
Increased antisocial behaviour.

Intrusion by frequent turnover of strangers in a family neighbourhood with children living and playing on the estate.
This is a huge security risk.

This property is close to other residential properties and communal shared spaces (driveway).

Noise pollution.

Overall impact on shared communal areas such as bins and parking which are already strained.

Overall this will have a detrimental impact on the living conditions for those living next to this property.

In addition I am also concerned about the impact on Short term leases in North Berwick and the spread into family estates will affect the ability of the area to function as a socially sustainable place.

There is a lack of accessible family homes in North Berwick and short term let's only impact that negatively.

Can you please confirm receipt of my email.

Kind Regards
Marella and David Simpson

[REDACTED]
Sent from my iPhone

Licensing

From: Cat [REDACTED]
Sent: 26 September 2023 22:18
To: Licensing
Subject: Objection to short term let license

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Dear team

I would like to object to the new application for a short term let license regarding the property at 32 Douglas Marches, North Berwick.

I feel a short term let in our neighbourhood would be a risk for the following reasons:

- 1) Child safety- the location of this property is within walking distance of a primary & secondary school & the pre-school nursery (in the near future). It is also walking distance to 3 children's playparks. The extra traffic & parking would put children at risk from a road safety aspect as well as the child protection risk from potential predators who might stay at the property.
- 2) Noise pollution- the residents might have late night parties which may result in disruptions to the surrounding residents, leading to an increase in call-outs from the police.

Yours sincerely
Caitriona Tulloch

Sent from my iPhone

Licensing

From: Craig Wright [REDACTED]
Sent: 26 September 2023 18:11
To: Licensing
Subject: Re: Objection to Short Term let application

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Good Afternoon,

Objection to Application for Short Term Let – 32 Douglas Marches, North Berwick EH39 5LZ

I am writing to express my complete objection to the above Application. I have a number of concerns regarding this.

As a matter of principle the sign is not fully displayed in a visible area easily available for the public to read forcing me to suspect this has been done to prevent neighbours making objections. I would expect that an extension to this deadline is wholly reasonable to allow residents the opportunity to object now that this has become visible.

My concerns are detailed below:

A short term let will have an unacceptable impact on the neighbourhood particularly including:

- Increased antisocial behaviour (or the risk of)
- Intrusion by frequent turnover of strangers in a family neighbourhood with children living and playing on the estate. This is a huge security risk to the well being of children.
- This property is close to other residential properties and communal shared spaces (driveway).
- Noise pollution.
- Overall impact on shared communal areas such as bins and parking which are already strained.

Overall, this will have a detrimental impact on the living conditions for those living next to this property.

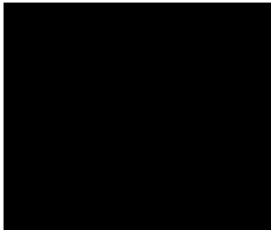
In addition I am also concerned about the impact on Short term leases in North Berwick and the spread into family estates will affect the ability of the area to function as a socially sustainable place. There is a lack of accessible family homes in North Berwick and short term let's only impact that negatively.

With Gisland Grange caravan park right next door, I fail to see what additional or beneficial short term accommodation this is bringing to the area.

Can you please confirm receipt of my email.

Best Wishes

Mr Craig Wright



Licensing

From: Joanne <[REDACTED]>
Sent: 26 September 2023 14:34
To: Licensing
Subject: Objection to Short Term let application

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Good Afternoon,

Objection to Application for Short Term Let – 32 Douglas Marches, North Berwick EH39 5LZ

I am writing to express my objections to the above Application. I have a number of concerns regarding this.

Firstly being that this sign is not fully displayed in a visible area easily available for the public to read forcing me to suspect this has been done to prevent neighbours making objections.

I have noted my concerns below:

A short term let will have an unacceptable impact on the neighbourhood particularly including:

- Increased antisocial behaviour.
- Intrusion by frequent turnover of strangers in a family neighbourhood with children living and playing on the estate. This is a huge security risk.
- This property is close to other residential properties and communal shared spaces (driveway).
- Noise pollution.
- Overall impact on shared communal areas such as bins and parking which are already strained.

Overall, this will have a detrimental impact on the living conditions for those living next to this property.

In addition I am also concerned about the impact on Short term leases in North Berwick and the spread into family estates will affect the ability of the area to function as a socially sustainable place. There is a lack of accessible family homes in North Berwick and short term lets only impact that negatively.

Can you please confirm receipt of my email.

Kind regards

Joanne Wright



From: [Short Term Lets](#)
To: [Crichton, Rebecca](#)
Subject: FW: Short-term Let (STL) licence application - Licensing Sub-committee 9 November 2023
Date: 01 November 2023 10:30:11
Attachments: [image001.png](#)

Hi Becky

Sheila has asked me to sent this to you to go out with the Licensing Sub Committee Papers.

Many thanks

Gillian

Gillian Herkes
Licensing Officer
Democratic & Licensing Services
John Muir House
Haddington
East Lothian Council
01620 820114
gherkes@eastlothian.gov.uk



From: [REDACTED]
Sent: 31 October 2023 23:33
To: Short Term Lets <stl@eastlothian.gov.uk>
Subject: Re: Short-term Let (STL) licence application - Licensing Sub-committee 9 November 2023

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Ms Fitzpatrick and officers of the Licensing Sub Committee

I am sending you information ahead of the meeting, responding to objections and explaining how I intend to accept guests to my home. I hope that this will make your task easier.

I am glad that we can have a meeting as I am disappointed that there are

objections. I am glad that I have an opportunity to respond to the worries that some people have. I don't want my neighbours to worry. I trust most such worries come from a misunderstanding of the scale of letting and the type of guests that I would like to welcome. It is very important to me that we live in a good neighbourhood where everyone can be happy.

I am a respected member of the community, a family father of three respectful and successful young adult children that I raised on my own after their Scottish mother died and I have also been a company director for most of my adult life who looked after his employees. I live off a private pension. I need to supplement my income. I don't have the choice of letting my house to a long-term tenant, as it is our family home that my children visit. During a few winter months, largely for health reasons, I live in Spain. I will not accept guests in my home in North Berwick in the winter months.

My house will not be run as a business, but remain a family home. I love my home and our neighbourhood. I will welcome guests personally to my home and I will be in the house with most guests to make sure that they have a wonderful experience and that my neighbours are happy. I don't want my neighbours to worry. I will only welcome guests in my home for a few weeks in the summer. Guests will stay for a week or more.

There will be only families with children or golfers and no other type of guests. There will be no noise whatsoever other than what can perhaps already be heard in the neighbourhood, which is children playing. I will not let guests with children use the garden after dinner time. I would not expect more than 6 guests in any of the few weeks that I will be letting my home. There will not be many guests. I will not allow pets. I have clear house rules.

My house is situated very privately, right at the edge of the estate and the built-up area of North Berwick. It's at the end of a double car wide driveway and has no neighbours to one side. This is perfect for welcoming guests without disturbing neighbours or the town of North Berwick. Environmental Officers have confirmed that I don't need planning permission.

I will deal with all the recycling and the rubbish collection. I know when to put out the recycling and the bin and when to collect them.

11 of the 14 objectors are not my direct neighbours. I don't know them

and I don't know where they live. At least one of these objectors doesn't seem to know where my house is and objects against my house in a different street. I am surprised and sorry to hear that some more distant residents have expressed worries. At least, this seems to confirm that my notices did the job. I would like to reassure these further-away residents that they don't need to worry. There will be no impact on communal parking or any noise.

I am sorry to read that perhaps some residents were unable to see the notices I placed concerning my wish to have a holiday let and apologise for any inconvenience caused. I can see that I could have done this better. I thought it was adequate to post the notice at the front of my house, but now realise that it would have been more helpful to have also posted it on a telegraph pole. It is regrettable that the placement of the notice has caused the concern to these neighbours that the majority express in their objection. The instructions for hanging up the notices do not specify any particular place.

The notices were displayed on the door and were easily seen. The area is sheltered from the strong wind that we have. You can see the door from the street. I attach a photo that I took after displaying the notices. In any case, it seems obvious that displaying the notices worked well and that all neighbours saw it, understood it and talked about it. I spoke to my direct neighbours who wrote to ELC to try to ease their concerns after I received the invitation to the meeting of the Licensing Sub-Committee. I also spoke to other direct neighbours who did not have any worries.

I will stress to any guest as the last thing before arriving, that guests must be respectful and drive very slowly. Surely families travelling by car would always drive slowly and considerately, particularly as the estate's streets are designed to ensure slow and careful driving.

I will only accept guests who come vetted and have an excellent customer rating, fill in my questionnaire, forward a copy of their passport and pay a large security deposit. I will speak to guests before arrival and meet them at the property. I wouldn't want it any other way as I want guests to look after my property as I would look after their property and I want them to be respectful to the neighbourhood.

My direct neighbours usually go away on holiday many weeks in July and August. They would not notice half of the guests that could possibly visit.

What one neighbour wrote about parties in my house is not correct. I have not had loud parties; actually, I have not had one party in the five years that I have lived at Douglas Marches other than small family birthday get togethers. Also, my neighbour never complained to me. Surely this would be the first thing that a neighbour would do.

I would hope a few visiting families could be a nice thing for my neighbours. For instance, their children could make friends with visiting children, or it would give their parents an opportunity to socialise with visiting, interesting parents, if they chose to do so. That is my own experience of being on holiday abroad or in the UK with my family. I am sure that is my neighbours' own experience of being on holiday.

I looked at the objections and made a list of the concerns. Many people worried about the same things. I would like to address all concerns. I hope I have listed them all.

PARKING ON STREET & DRIVEWAY

As part of the holiday let agreement with my guests, there will be a maximum of 2 cars allowed for the party, both of which will be parked in front of my house on the allocated parking spaces. No guest will park or interfere with the shared driveway, even though it is more than two cars wide and you could park 10 cars alone just on the driveway. There will be no parking allowed by guests on the street. Currently my neighbours have family members who sometimes park on the driveway in front of my house, but I appreciate they do not wish strangers to park on the driveway or on the street in front of their houses.

NOISE POLLUTION and SECURITY FOR CHILDREN & ADULTS

Before I accept any guests to stay in my property, they will be vetted, in that no parties, stag/ hen events, or celebrations will be allowed. My guests will be families, like my neighbours, with young children, enjoying the beaches and parks in North Berwick, or golfers who are here to visit our lovely golf courses and spend money locally supporting our local businesses. I will not accept any other type of guests. I will be very clear in my information and letting agreement that the property is in a residential area and that noise and anti-social behaviour will not be tolerated. I will be at the property most of the time or in North Berwick. My neighbours have my direct dial number, to contact

me, following which I will go directly to the property to resolve any issues.

SAFETY ON THE ROAD

I am of course very conscious of the safety of my fellow residents and will advise my guests to take adequate care when driving around the estate. I will direct my guests around the outside of the estate on Douglas Marches.

Not all guests come by car. We have a fantastic train link from Edinburgh and Edinburgh Airport. I always prefer to take the train and so do many other people. Why would you need the car if you're on holiday for a week in North Berwick? The house is just a 10 minute walk from the train station.

NOTICE PLACED WHERE IT WAS DIFFICULT TO SEE

I am sorry to read that perhaps some residents were unable to see the notice I placed concerning my wish to have a holiday let & apologise for any inconvenience caused. I can see that I could have done this better. I thought it was adequate to post the notice at the front of my house, but now realise that it would have been more helpful to also post it on a telegraph pole. It is regrettable that the placement of the notice has caused such concern for my neighbours as the majority describe in their objections. The instructions for hanging up the notices did not specify any particular places. I am convinced that my placement of the notices still worked, as it is obvious that all neighbours and even many farther away residents of the estate and of North Berwick know about my application.

SUPPLY OF HOUSES FOR FAMILY HOMES

I do not wish to take away a family home, as I wish to live in mine and welcome my children home to stay and live with me when needed. I only wish to do some part time letting in the summer to supplement my income and in no way would ever want to change my house from being mainly a family home.

RENTS IN AREA GOING UP

I don't clearly see how I could influence rents for long time letting either way, but I do realise that North Berwick is a very desirable place to visit and to stay both short and long term and rents can be expensive. I would hope that, as I am only letting my house part time and only for a few weeks, I would not contribute to further rent increases in the area. In any case, I don't have an option to rent my house full time. It's our family home.

HMO NEEDED

On looking at your website, I understand that this property will not need an HMO as it is not a long term let property, but of course I am open to your clarification.

COMMUNAL GROUNDS AND PLAY PARK CONTRIBUTION

As I will be living in the house much of the time and paying all bills to factors and services, I will be contributing both in time and money to any initiatives in the area, as I want to be a valued and active member of my community. I have also been cleaning the beach with the local school, contributed to big community projects and have worked as a class helper. I am always open to helping the community.

DECREASE VALUE OF OTHER PROPERTIES IN AREA

Whilst speaking to local estate agents, I raised this reasonable concern but were assured by the agents that the existence of letting properties has no measurable effect on house prices in neighbouring properties. I would think it may even be a boost to prices as it shows how desirable our area is.

FINDING THE PROPERTY IN THE MAZE OF STREETS

I would agree that finding a house in a new estate can be a test of navigation and I can guess the difficulties that delivery drivers, maintenance contractors and other visitors have. I will attach a plan with every welcome package sent to guest, with booking confirmation, a detailed map and list of instructions to hopefully ensure they find the house easily and do not add to any cars driving around our streets. Furthermore, practically everyone uses Google and will find my house easily. My guests will be reminded, as the last thing on their invitation, to drive very cautiously. Visitors arriving by car will not need to drive through North Berwick.

PARTIES & CELEBRATIONS BEING HELD & LITTERING & RESPECT FOR AREA BY GUESTS

As above, I will be very strict on who will visit my home as a guest, both from a vetting process through a questionnaire and a large security deposit held for damage or nuisance caused. I love my home and respect my neighbours and I would never allow any guest to disturb either.

PLENTY OF OTHER HOLIDAY LETS IN AREA

On speaking to estate agents in the area, I have been advised that they are struggling with finding enough holiday let properties, with the apparent reduction in available properties caused by new licensing regulations. I do not pretend to be an expert in this area but I have also been told by friends that it is more difficult in 2023 to get affordable holiday accommodation in our area. A holiday home for a few weeks in the summer at the edge of North Berwick may help.

To sum up,

- The house will only be let for a few weeks a year.
- I will only accept families and golfers. They will stay for a week or more.
- There will be no access to the garden. If ok with my direct neighbours, I think it would be nice to let children play in it during the day, but the house rules will restrict access only until dinner time.
- I will ensure that there will be no noise.
- I will restrict any guests to strictly to a maximum of two cars that must be parked directly in front of the property.
- I will deal with all recycling and rubbish collection.
- Guests will be met personally at the property. I will be in the house with my guests.
- There will be perhaps six people as an average number of guests. Probably, there will be fewer guests.
- Environment confirmed that my house does not need planning permission, which hopefully shows that there should not be any reasons to worry about short let holidays in my home.
- 11 of the 14 objections to my application are not from my neighbours.
- 3 of 7 reasonably close neighbours have objections, 4 neighbours do not. I hope I can ease the worries of these 3 neighbours about the scale and type of guests that I would welcome.

I'm sorry that my application causes work in the form of a public meeting. I hope I can ease my neighbours' worries. I want them to be happy.

Kind regards,

Klaus Frommel

On Friday, 20 October 2023, 16:34:45 CEST, KLAUS FRÖMMEL [REDACTED] wrote:

Dear Ms Fitzpatrick

Thank you for your letter informing me of objections to my application and announcing a public meeting to discuss it.

I am glad that we can have a meeting. I didn't expect for anyone to have objections and I am glad that I have an opportunity to respond to the worries that some people have. I am sure that by far most of the worries come from a misunderstanding of the scale of letting and the type of guests that I would welcome.

I have nice direct neighbours to my house in 30, 34 and 38 and I want to take their worries away. The direct neighbour in no 30 did not find a problem with my application.

I am inviting guests to my family home. It will stay a family home. I love my home and our neighbourhood. I will welcome guests personally to my home and look after them personally to make sure that they have a wonderful experience and that my neighbours are happy.

Kind regards,

Klaus Frommel

On 19 Oct 2023, at 14:11, Short Term Lets <stl@eastlothian.gov.uk> wrote:

Please find attached letter, inviting you to the above meeting in respect of your STL application for 32 Douglas Marches, NORTH BERWICK, EH39 5LZ.

Regards,

Sheila Fitzpatrick

Team Leader – Licensing and Landlord Registration

East Lothian Council

Democratic & Licensing Services

John Muir House

HADDINGTON, EH41 3HA

01620 820623

stl@eastlothian.gov.uk

REPORT TO: Licensing Sub-Committee
MEETING DATE: 9 November 2023
BY: Head of Corporate Support
SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing regime

3

1 PURPOSE

- 1.1 To advise the Sub-Committee of proposals to amend the list of activities within the Resolution to licence Public Entertainment Activities.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee -
- (i) approve the proposed wording of the amended resolution, which wording is attached to this report,
 - (ii) authorise the Service Manager – Governance, and such staff as he may designate, to advertise the proposed wording in the local press and undertake the necessary consultation process, and
 - (iii) agree to thereafter receive and consider a further report following conclusion of the consultation process (should any responses to the consultation be received).

3 BACKGROUND

- 3.1 Public entertainment licences under section 42 are one of a range of licences which are discretionary in terms of the Act, meaning that the licence will only be required if the Local Authority makes a resolution to that effect. In East Lothian the resolution to licence Public Entertainment activities was made in 1984.
- 3.2 The resolution has been amended on at least two occasions in recent years, principally to take account of the removal of the requirement for

the activity to require payment of money or money's worth by members of the public, and also to amend the list of activities which would be exempt from the requirement to be licensed, and to generally modernise the list of activities that would require a licence, as the list was more or less unchanged since the original introduction of the resolution in 1984.

3.3 Following consultation with all elected members, the attached updated resolution (Appendix 1) has been drafted. A summary of the amendments is as follows:

- *Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasias* – removed
- *Laser or war gaming* amended to *Drone, Laser or War gaming*
- *Internal or external children's play areas including soft play areas* amended to *Commercial Internal or external children's play areas including soft play areas*
- *Outdoor adventure or activity parks or anything similar to the foregoing Water sports activities including raft races, wake boarding, water skiing, sail boarding, canoeing and jet skiing activities (where the activity is not licensed as defined by a Boat Hire licence)* amended to:
 - *Adventure / Activity parks; and*
 - *Water-based activity schools/classes*
- *Torchlight processions* – removed
- *Skate parks* amended to *Commercial skate parks / pump tracks*
- *Major Sporting events such as Golf Opens* amended to *Major Sporting Events*
- *'Boot camp' type organised exercise and fitness activities* – removed
- *In respect of the foregoing, "small scale" is understood to mean less than 150 persons at any one time* amended to *In respect of the foregoing, "small scale" is understood to mean less than 150 persons over the course of one day.*

3.4 Discussions with elected members raised some concerns over the removal of saunas and massage parlours from this licensing regime when these premises are operated as part of the sex industry. The Sexual Entertainment Venue (SEV) licensing regime adopted by East Lothian Council in January 2022 would require these types of saunas and massage parlours to be licensed under the SEV regime instead.

3.5 It was agreed that the definition of a Major Sporting Event should be 'greater than 5000 persons on site, over the course of one day'.

3.6 It is proposed that the current resolution be replaced with the new, updated one, in terms of the Schedule annexed hereto. As the proposed amendments will have the effect of extending some of the activities which will fall within the terms of the resolution, the Council is required to advertise the proposed amendments and undertake a public consultation process regarding the proposals. Following the consultation process, the Sub-Committee shall require to consider the terms of any representations received. Once the proposed resolution is adopted following consideration of such representations, there will then be a period of nine months before the new resolution would become enforceable.

4 POLICY IMPLICATIONS

4.1 The Council has the statutory power to resolve to require a licence for public

entertainment and had made such a resolution. The Council equally has the statutory power to amend and extend the terms of such resolution.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – the potential widening of the activities qualifying as “public entertainment” and thus needing to be licensed in terms of the legislation as amended may lead to a potential increase in fee income relative to this type of licence.
- 6.2 Personnel – none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982

AUTHOR'S NAME	Ian Forrest
DESIGNATION	Senior Solicitor
CONTACT INFO	x7389
DATE	24 August 2023

RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING

East Lothian Council, as Licensing Authority for East Lothian, in terms of Section 9 of the Civic Government (Scotland) Act 1982, has decided that the present resolution regarding public entertainment licensing in East Lothian shall, from XXXX, be replaced by the following resolution wording:

- 1) Section 41 of the Act relating to Public Entertainment Licenses shall continue to have effect throughout the local government area of East Lothian
- 2) Subject to the terms of Section 41 and Schedule 1 of the said Act, a Public Entertainment Licence shall be required for the use of premises as places of public entertainment for the classes of activity specified in Clause 4 hereof as from 11 December 2021
- 3) A Public Entertainment Licence shall not be required for the classes of activity listed in Clause 5
- 4) A Public Entertainment licence shall be required in respect of any of the following types of activity:
 - Dancing establishments
 - Theatres, including any play, dramatisation, concert, hypnotism act to which the Hypnotism Act 1952 applies, or comedy act
 - Billiards, snooker or pool halls
 - Any exhibition to which the Hypnotism Act 1952 applies insofar as not covered by the definition of Theatres
 - Exhibitions of objects such as paintings, sculptures, drawings or historical artefacts
 - Exhibitions of persons, including but not limited to boxing, wrestling, cage fighting or martial arts (where not already covered by an Indoor Sports Entertainment Licence)
 - Circuses, carnivals and funfairs, including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, mechanical riding, driving or boating apparatus or anything similar to any of the foregoing
 - Any activities involving shooting, including but not limited to archery, clay pigeon shooting, or paintball
 - Drone, Laser or War gaming
 - Motor cycle and quad bike scrambling
 - Track racing and go-carting
 - Indoor or open air festivals or variety concerts, shows or performances
 - Airshows
 - Amusement arcades with automatic or other machines, including but not limited to video gaming machines, intended for entertainment or amusement which are not licensed in terms of the Gambling Act 2005
 - Escape rooms (including puzzle and breakout rooms)
 - Bouncy castles or similar structures, or trampoline venues
 - Commercial internal or external children's play areas including soft play areas
 - Indoor bowling alleys including ten pin bowling alleys
 - Bungee jumping or catapulting
 - Adventure / Activity parks
 - Water-based activity schools / classes
 - Fireworks or bonfire displays
 - Agricultural, equestrian or livestock shows
 - Commercial Skate parks / Pump tracks

- Major Sporting events (with the definition of ‘major’ being greater than 5000 persons on site over the course of one day)
 - Highland Games
- 5) The following public events/activities DO NOT require a licence under the said Section 41:
- Small scale exhibitions of art work
 - Small scale performance of live music which is incidental to the main purpose of the premises where the performance takes place
 - Small scale oral recitals including poetry reading and story telling
 - Small scale community non-profit festivals, fetes, treasure hunts, duck derbys, galas, organised exercise and fitness activities

In respect of the foregoing, “small scale” is understood to mean less than 150 persons over the course of one day.

In respect of the foregoing, “non-profit” is understood to mean a non-commercial event held solely for the purpose of raising funds for the organisation holding the function and NOT for the purposes of making a profit or deriving any other form of financial benefit by any person or organisation, and where ALL surplus funds raised by the event are utilised to further the aims and activities of the organisation holding the event.

East Lothian Council, Legal and Democratic Services, John Muir House, Brewery Park, Haddington,
EH41 3HA e: licensing@eastlothian.gov.uk

RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING

East Lothian Council, as Licensing Authority for East Lothian, in terms of Section 9 of the Civic Government (Scotland) Act 1982, has decided that the present resolution regarding public entertainment licensing in East Lothian shall, from 11 December 2021, be replaced by the following resolution wording:

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- 4) A Public Entertainment licence shall be required in respect of any of the following types of activity:
 - Dancing establishments
 - Theatres, including any play, dramatisation, concert, hypnotism act to which the Hypnotism Act 1952 applies, or comedy act
 - Billiards, snooker or pool halls
 - Any exhibition to which the Hypnotism Act 1952 applies insofar as not covered by the definition of Theatres
 - Exhibitions of objects such as paintings, sculptures, drawings or historical artefacts
 - Exhibitions of persons, including but not limited to boxing, wrestling, cage fighting or martial arts (where not already covered by an Indoor Sports Entertainment Licence)
 - Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasias
 - Circuses, carnivals and funfairs, including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, mechanical riding, driving or boating apparatus or anything similar to any of the foregoing
 - Any activities involving shooting, including but not limited to archery, clay pigeon shooting, or paintball
 - Laser or war gaming
 - Motor cycle and quad bike scrambling
 - Track racing and go-carting
 - Indoor or open air festivals or variety concerts, shows or performances
 - Airshows
 - Amusement arcades with automatic or other machines, including but not limited to video gaming machines, intended for entertainment or amusement which are not licensed in terms of the Gambling Act 2005
 - Escape rooms (including puzzle and breakout rooms)
 - Bouncy castles or similar structures, or trampoline venues
 - Internal or external children's play areas including soft play areas
 - Indoor bowling alleys including ten pin bowling alleys
 - Bungee jumping or catapulting
 - Outdoor adventure or activity parks or anything similar to the foregoing Water sports activities including raft races, wake boarding, water skiing, sail boarding, canoeing and jet skiing activities (where the activity is not licensed as defined by a Boat Hire Licence)
 - Fireworks or bonfire displays

- Torchlight processions
 - Agricultural, equestrian or livestock shows
 - Skate parks
 - Major Sporting events such as Golf Opens
 - Highland Games
 - “Boot camp” type organised exercise and fitness activities
- 5) The following public events/activities DO NOT require a licence under the said Section 41:
- Small scale exhibitions of art work
 - Small scale performance of live music which is incidental to the main purpose of the premises where the performance takes place
 - Small scale oral recitals including poetry reading and story telling
 - Small scale community non-profit festivals, fetes, treasure hunts, duck derbys, galas, organised exercise and fitness activities

In respect of the foregoing, “small scale” is understood to mean less than 150 persons at any one time.

In respect of the foregoing, “non-profit” is understood to mean a non-commercial event held solely for the purpose of raising funds for the organisation holding the function and NOT for the purposes of raising funds for the organisation holding the function and NOT for the purposes of making a profit or deriving any other form of financial benefit by any person or organisation, and where ALL surplus funds raised by the event are utilised to further the aims and activities of the organisation holding the event.

East Lothian Council, Legal and Democratic Services, John Muir House, Brewery Park, Haddington,
EH41 3HA e: licensing@eastlothian.gov.uk

From: [Wardell, Dougie](#)
To: [Grilli, Carlo](#); [Fitzpatrick, Sheila](#)
Cc: [Wood, Gail](#); [King, Alan](#); [Leathes, Benjamin](#)
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]
Date: 02 October 2023 19:09:47
Attachments: [image001.png](#)

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OFFICIAL

Carol/Sheila,

Thanks for clarifying the background.

I can confirm this is a recognised issues across the UK in terms of modern slavery/SOCG, however acknowledge the potential limitations from a licensing perspective.

From a policing perspective, it would certainly be more deserving of licensing scrutiny than other enterprises.

Regards,

Dougie

Dougie Wardell
Police Sergeant
East Lothian Community Policing
J Division – The Lothians and Scottish Borders
Police Scotland / Poileas Alba
Tranent Police Station
113 High Street
Tranent
East Lothian
EH33 1LW

Tel: 01875 616403

Int: 7127 4004

ISSI No: 6173771

Email: dougie.wardell@scotland.pnn.police.uk

Website: www.scotland.police.uk

Twitter: @policescotland

Facebook: www.facebook.com/policescotland

cid:image001.png@01D640A8.EE398A00

From: Grilli, Carlo [mailto:cgrilli@eastlothian.gov.uk]
Sent: 02 October 2023 13:42
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>; Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Cc: Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

Hi Dougie

I was not directly involved at the time but my understanding was that at the time there was concern that these establishments were promoting trafficking and other illicit activities and the request from the police was that this was put in place to assist with these concerns.

In addition to the lack of this being taken forward since the last resolution included this and your questioning the rationale that was there at the time I have concerns over the enforceability of this being within the PEL this therefore drives part of the request to remove from the resolution.

Carlo

From: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Sent: 02 October 2023 13:22
To: Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>; Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

Good afternoon Dougies,

Apologies for the delay in responding to you. Like you, I wasn't involved in the amendment to the Public Entertainment Resolution back in 2015/16 and have been unable to trace any communications around the Nail Bar inclusion (other than the committee paper which doesn't refer to the reason for it to be included). My understanding of the situation is that the Police Scotland licensing officer at this time was Heather Bowsher and the proposal/rationale originated from Heather.

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 3HA

01620 820623

sfitzpatrick1@eastlothian.gov.uk

From: Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Sent: 05 September 2023 12:23
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>; Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

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OFFICIAL

Good afternoon Sheila,

I wasn't involved in the inclusion in 2016 so can you provide me with the rationale from then so I can comment on whether this remains relevant along with any additional policing concerns?

Thanks,

Dougie

Dougie Wardell
Police Sergeant
East Lothian Community Policing
J Division – The Lothians and Scottish Borders
Police Scotland / Poileas Alba
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113 High Street
Tranent
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Email: dougie.wardell@scotland.pnn.police.uk
Website: www.scotland.police.uk
Twitter: @policescotland
Facebook: www.facebook.com/policescotland

cid:image001.png@01D9F563.DBD64380



From: Wood, Gail

Sent: 30 August 2023 10:33

To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>; Wardell, Dougie <Dougie.Wardell@scotland.police.uk>

Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>

Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

OFFICIAL

Good morning Dougie

Are you able to assist with the email below from Sheila?

Thanks

Gail

From: Fitzpatrick, Sheila [<mailto:sfitzpatrick1@eastlothian.gov.uk>]

Sent: 30 August 2023 09:37

To: Wood, Gail <Gail.Wood@scotland.police.uk>

Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>

Subject: East Lothian Council - Public Entertainment Resolution

Good morning Sgt Wood,

We are currently reviewing the above resolution and would appreciate any information/evidence you can provide concerning Nail Bars – what effect has this inclusion had on Police Scotland concerns (which prompted the inclusion in 2016)?

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 3HA

01620 820623

sfitzpatrick1@eastlothian.gov.uk

REPORT TO: Licensing Sub-Committee

MEETING DATE: 9 November 2023

BY: Head of Corporate Support

SUBJECT: Taxi Fare Review

4

1 PURPOSE

- 1.1 To allow the Licensing Sub-Committee to consider the review of the scale of the fares or other charges currently in operation in respect of the East Lothian taxi fleet.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee –
- a) complete the review of taxi fares by considering the two responses received from local taxi operators and information on neighbouring local authority tariffs.
 - b) decide a date on which the confirmed tariff will come into effect.
 - c) authorise officers to advertise and explain the effect of the proposals and invite representations from the public.

3 BACKGROUND

- 3.1 There is a statutory requirement for the Council to review taxi fares at least once every 18 months. The last review took place between January and July 2022 (Appendix 1 – existing tariff), with the fares being adopted on 27 August 2022 meaning that the next review is to be completed no later than February 2024 in order to comply with the statutory timescales.
- 3.2 To ensure compliance with this timescale, the review was initiated by way of consultation with the taxi trade in East Lothian regarding any proposals

they may have with regard to the review of taxi fares. That consultation ran from 31 July to 1 September 2023. There were two responses or proposals (Appendices 2 and 3) received, to alter the current fee structure. The Sub-Committee are entitled to complete the review of fares with the decision being to make no changes to the current levels or amend current levels.

- 3.3 The proposal (consultation response) of a 20% increase would result in the following fares (as at Appendix 4).
- 3.4 As part of the review of taxi fares, the Licensing Team has also consulted with other Licensing Authorities, namely, West Lothian, City of Edinburgh and Scottish Borders about their current scale of fares and other charges. A summary of their charges can be found at Appendix 5.
- 3.5 Before any new scale of fares and other charges can come into force the council must advertise any new proposed scale in the local press to give an opportunity for public representations. Said notice must also specify the date on which it is proposed that the tariff shall take effect, which must take account of the period for representations and for appeals to the Traffic Commissioners. It is therefore suggested that the proposed date of coming into effect should be 8 weeks after the date of advertising. Following the coming into effect of the tariff, there would be a further notice published confirming that the new tariff is now in effect.

4 POLICY IMPLICATIONS

- 4.1 None. In fixing a scale of fares and other charges, the council as licensing authority is complying with a statutory duty.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
- 6.2 Personnel – none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 None.

Appendix 1 – Existing tariff

Appendix 2 – Trade body response (Torrance)

Appendix 3 – Trade body response (Higgins)

Appendix 4 – Proposed 20% increase

Appendix 5 – Summary of neighbouring authority tariffs

AUTHOR'S NAME	Ian Forrest
DESIGNATION	Senior Solicitor
CONTACT INFO	x7389
DATE	20/10/2023

EAST LoTHIAN COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982
TAXI FARE SCALE

27 August 2022

FARE TABLE FOR TAXI CABS

For 1 to 8 Passengers	TARIFF 1 6am – 6pm	TARIFF 2 6pm- 6am	TARIFF 3
1. For the initial period of waiting and 2. For the initial hire not exceeding 713.70 yards	£3.00	£4.00	£5.00 1. 6pm on 24 th December until 6am on 27 th December 2. 6pm on 31 st December until 6am on 2 nd January
1. For each additional 40 seconds of waiting time 2. For every additional 146.5 yards 3. Or a combination of 1 and 2 above	20p	20p	40p

EXTRA PAYMENTS

- Car valeting charge for customer misuse - £100

NOTES

- The above fares are applicable only within East Lothian

Fitzpatrick, Sheila

From: Licensing
Sent: 01 September 2023 07:28
To: Fitzpatrick, Sheila
Subject: FW: Taxi Fare Review

For you

G

From: Ian Torrance [REDACTED]
Sent: 01 September 2023 07:23
To: Licensing <licensing@eastlothian.gov.uk>
Subject: Taxi Fare Review

You don't often get email from torrancetaxis@hotmail.com. [Learn why this is important](#)

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To Whom It May Concern

In answer to your recent correspondence about East Lothian Taxi Fares which have not increased since July 2019

As with many businesses we needed to recover from covid, and a price rise sooner would possibly damage our recovery, however the time has come now for survival

An increase is now desperately required. I have spoken with Robert Campbell at AC taxis, and we agree that a fare increase similar to Edinburgh Council and Midlothian Council of 20% is what is required.

Regards

Ian Torrance

For and on behalf of

Torrance Taxis
1a Spott Road, Dunbar
East Lothian
EH42 1LE

Tel: 01368 862612

Web: <http://www.torrancetaxisandtravel.co.uk>.

The information contained in this e-mail and any accompanying documents may contain information

From: [REDACTED]
To: [Licensing](#)
Subject: RE: Fare Review
Date: 15 August 2023 15:08:56

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Hi Christine , I am in favour of a fare review because of increase in licences, fuel insurance , and general cost of living.
There has been no increase in taxi fares in 4 years yet everything else has been increased.
Regards
Lorna

[Sent from AOL on Android](#)

On Tue, 15 Aug 2023 at 14:32, Licensing
<licensing@eastlothian.gov.uk> wrote:

Good afternoon Lorna

Thank you for your email re: Taxi Fare Review. At this stage we are only looking for operators to make a representation/comments in writing i.e. email or letter.

Your representation/comments will be taken to the Licensing Sub Committee at a later date.

Kind regards

Christine

From: Lorna [REDACTED]
Sent: 15 August 2023 14:13
To: Licensing <licensing@eastlothian.gov.uk>
Subject: Fare Review

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi, Elvis Taxi would like to register Lorna Higgins as a representative to the Sub committee meeting regarding the Taxi Fare Review.

Regards

Lorna Higgins

[Sent from AOL on Android](#)

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EAST LOTHIAN COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982
TAXI FARE SCALE

PROPOSED FARE TABLE FOR TAXI CABS (20% increase)

For 1 to 8 Passengers	TARIFF 1 6am – 6pm	TARIFF 2 6pm- 6am	TARIFF 3
1. For the initial period of waiting and 2. For the initial hire not exceeding 713.70 yards	£3.60	£4.80	£6.00 1. 6pm on 24 th December until 6am on 27 th December 2. 6pm on 31 st December until 6am on 2 nd January
1. For each additional 40 seconds of waiting time 2. For every additional 146.5 yards 3. Or a combination of 1 and 2 above	24p	24p	48p

EXTRA PAYMENTS

- Car valeting charge for customer misuse - £120

NOTES

- The above fares are applicable only within East Lothian

Appendix 5

		Tariff 1 0600 – 1800	Tariff 2 1800 – 0600	Tariff 3 1800, 24 Dec to 0600, 27 Dec and 1800, 31 Dec to 0600, 2 January		Additional charges	ELC
Initial period of waiting and initial hire < 713.70 yards	1 – 8 passengers	£3.00	£4.00	£5.00		Car valeting charge for customer misuse - £100.00	
1. Each additional 40 seconds of waiting time 2. Every additional 146.5 yards 3. Combination of 1 and 2		£0.20	£0.20	£0.40			
		Tariff 1 Mon – Fri, 0600 - 1800	Tariff 2 Mon – Thur and Fri – Mon, 1800 - 0600	Tariff 3 2200, 24 Dec to 0500, 27 Dec and 2200, 31 Dec to 0600, 2 January			WLC
Initial period of waiting (40 secs) and initial hire < 176 yards	Up to 2 passengers	£3.00	£3.40	£5.10		Soiling - £40.00 Each additional adult (>12yrs) - £0.60 Each additional child (5 – 12 yrs) - £0.20 Each piece of luggage - £0.20	

						(max £0.40 per hire) Item or luggage requiring assistance of driver - £6.00 Cancellation - £3.00 Engagement - £1.00	
1. Each additional 40 seconds of waiting time 2. Every additional 176 yards 3. Combination of 1 and 2		£0.20	£0.20	£0.30			
		Tariff 1 Social hours	Tariff 2 Unsocial hours (2200 – 0600)	Tariff 3 1800, 24 Dec to 0600, 27 Dec and 1800, 31 Dec to 0600, 3 January			Scot Borders
Initial period of waiting (60 secs) and each < 96.78 yards	1 – 4 passengers	£2.45 £0.10	£3.10 £0.10	£3.60 £0.15 (<77.43 yards)		Car valeting charge for customer misuse - £73.00 Waiting time – every 35 secs after initial period - £0.10. (Tariff 3 - £0.15)	

Initial period of waiting (60 secs) and each < 77.43 yards	5 – 8 passengers	£3.65 £0.15	£4.60 £0.15	£5.35 £0.25 (<77.43 yards)		Waiting time – every 35 secs after initial period - £0.15. (Tariff 3 - £0.25)	
		Tariff 1 Mon – Fri, 0600 – 1800	Tariff 2 Mon – Fri, 1800 – 0600 and Sat – Mon, 0600 - 0600	Tariff 3 Mon – Fri, 0600 – 1800 During Xmas & NY period (1800, 24/12 to 0600, 27/12 and 1800, 31/12 to 0000, 02/01)	Tariff 4 Mon – Fri 1800 – 0600 All day if Xmas & NY are a Sat or Sun		CEC
Initial period of waiting (105 secs) and Initial hire < 501m	Up to 3 passengers	£3.60	£4.80	£4.60	£5.75	Soiling - £50.00 >3 passengers - £0.40 Engagement - £0.80 Cancellation - £2.20	
1. Each additional 163m up to 1805m, thereafter each additional 190m. 2. Each additional 35 secs of waiting time. 3. Combination of 1 & 2		£0.30	£0.30				
1. Each additional 179m up to				£0.40	£0.52		

<p>1933m, thereafter each additional 207m.</p> <p>2. Each additional 35 secs of waiting time.</p> <p>3. Combination of 1 & 2</p>							
--	--	--	--	--	--	--	--

WLC, Scot Borders and CEC all charge different rates depending on the number of passengers.

ELC – What is the initial period of waiting / when does additional payments for waiting time kick in?

Check with Alan Kelley/Bruce Moffat/Colin Squance re logistics of introducing more criteria to fares e.g. additional passengers etc. What is the initial waiting time set at currently?

REPORT TO: Licensing Sub-Committee
MEETING DATE: 9 November 2023
BY: Head of Corporate Support
SUBJECT: Taxi and Private Hire Car Licensing

5

1 PURPOSE

- 1.1 The purpose of this report is to allow the Licensing Sub-Committee to note:
- The updated conditions (Appendix 1) attached to Taxi and Private Hire Car (PHC) Drivers and Operators licences.
 - The Driver Application Guidance (Appendix 2) which has been updated with statutory requirements involving HMRC checks.
- 1.2 To make a decision on amending the age of Taxi and Private Hire Cars which can be licensed.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Licensing Sub-Committee approves the proposals outlined at para 3.5.

3 BACKGROUND

- 3.1 Taxi and PHC Driver and Operator conditions have been updated in consultation with Legal Services, Transportation, Licensing, and Information Governance. The conditions have been separated in order that Electronic Security Systems, Dress Code and Advertising Policy, and Vehicle Conditions are stand-alone documents and the layout reduced in size.
- 3.2 Application form guidance has been updated to include the requirement that a renewal licence applicants have to provide licensing authorities with confirmation from HMRC that they have completed a 'tax check'.

- 3.3 Further updates to the application guidance include amendments to existing conditions which reflect operational changes but do not amend the condition.
- 3.4 Current policy on the age of licensable vehicles is as follows:
- Vehicles presented for grant of a new licence shall be no more than three years old (since date of first registration) on the date when the licence is granted.
 - Vehicles presented for substitution, including temporary substitution, on an existing licence:
 - (1) shall be no more than six years old (since date of first registration) on the date when the substitution on the licence is to take effect and
 - (2) shall not be older than the vehicle to be replaced as at the date or proposed date of substitution on the licence.
- 3.5 Following consultation with Transportation, the following proposal has been recommended:
- Zero Emission vehicles presented for grant of a new licence shall be no more than four years old (since date of first registration) on the date when the licence is granted.
 - Internal Combustion Engine (ICE) vehicles presented for grant of a new licence shall be no more than three years old (since date of first registration) on the date when the licence is granted.
 - Any vehicle presented for substitution, including temporary substitution, on an existing licence:
 - (1) shall be no more than seven years old (since date of first registration) on the date when the substitution on the licence is to take effect and
 - (2) shall not be older than the vehicle to be replaced as at the date or proposed date of substitution on the licence.
- 3.6 The proposal to increase the age of substitution vehicles is in response to the current challenges faced by operators procuring vehicles.
- 3.7 This paper was presented to the Licensing Sub-committee on 14 September 2023. It was agreed to defer making a decision in order that a consultation exercise with the taxi/PHC trade was undertaken.
- 3.8 Licence holders were emailed on 5 October 2023 and directed to the LSC paper of 14 September 2023. The trade was invited to make comment on the amended conditions. No responses were received.

4 POLICY IMPLICATIONS

- 4.1 This report has been assessed against the Policy Development Checklist and Purpose 1.1 has been classified as being an operational report. Purpose 1.2 will be a change to the existing policy on the age of vehicles which can be licensed.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
6.2 Personnel – none.
6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 None.

AUTHOR'S NAME	Sheila Fitzpatrick
DESIGNATION	Team Leader – Licensing and Landlord Registration
CONTACT INFO	sfitzpatrick1@eastlothian.gov.uk / 01620 820623
DATE	18 October 2023



EAST LOTHIAN COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

**LICENSING CONDITIONS FOR TAXI AND
PRIVATE HIRE CAR DRIVERS**

Part 1	Interpretation of words and expressions
Part 2	Taxi and Private Hire Car Driver conditions
Schedule A	Vehicle Conditions
Schedule B	Dress code and Advertising policy
Schedule C	Electronic Security Systems

Part 1

NOTE: These conditions are in addition to the provisions of the Civic Government (Scotland) Act 1982 and any amendment thereto.

INTERPRETATION

Unless there is something in the subject or context inconsistent with, or repugnant to such construction, the following words and expressions in these conditions and their respective schedules have the following meanings respectively given to them

For the purposes of interpretation any reference to the singular shall include the plural and vice versa.

Any words used in these conditions or their respective Appendices should be given the meanings assigned to them in the Act, so far as applicable to Part II and Schedule 1 of the Act. In particular, where, in these conditions, any word is used which is defined in the Act and such definition is applicable in relation to “taxi” or “private hire car” as defined in the Act, the meaning of such word in these conditions shall be interpreted in accordance with the definition of the Act.

Subject to the foregoing the following words or phrases shall have the meanings set out below:-

Act – means the Civic Government (Scotland) Act 1982 as amended or any amending or replacement legislation governing the licensing of hire cars.

Approved - means unless explicitly stated to the contrary, approved by the Transport Compliance Officer or the Solicitor.

Assistance Dog - has the meaning set out in Section 173 of the Equality Act 2010 or any amending or replacement legislation.

Authorisation - includes any Licence, certificate, permit or registration.

Authorised Metered Fare - means any charge (whether described as fare, engagement fee, extras or otherwise) authorised and approved by the Council for publication in the Fare Table issued and amended from time to time, being the Fare Table or tariff which indicates and authorises the maximum charge payable for the use of a taxi (or private hire car which is fitted with a Taximeter) within the East Lothian local government area.

Authorised Officer - means a person, including the Transport Compliance Officer, Authorised Taxi Examiner and any Licensing Standards Officers (LSOs), authorised by the Council or the Police either generally or specifically to act in matters of any specified kind or in any specified matter relative to these conditions and the Act relative to taxis and private hire cars.

Transport Compliance Officer - means any person appointed by the Council to exercise the powers and carry out the duties of Transport Compliance Officer in terms of or by reference to these conditions, or any other person acting under the direct instructions or with the authority of the Transport Compliance Officer to ensure that these conditions and their Schedules and the terms of Part II of the Act are properly observed and implemented. Where there is a difference of opinion between the Transport Compliance Officer and any of the Transport Compliance

Officer's deputies or assistants the decision of the Transport Compliance Officer shall apply, and the term "Transport Compliance Officer" shall be interpreted accordingly.

Authorised Taxi Examiner – means a person appointed by the Council to exercise the powers and carry out the duties of Authorised Taxi Examiner in relation to the taxi testing criteria and standards set out within the schedules and Act.

Solicitor, Licensing - means the Council officer responsible for the management of Taxi/PHC compliance within the Council, and any officers delegated by said Council officer.

Commencement of Hire - a hire shall commence at the time the Hirer or passenger steps into the taxi or private hire car, and the hire shall end when the passenger either indicates that the hire has been terminated or offers payment of the fare. Where the passenger requires to exit the taxi or private hire car to source the fare from a remote location, the hire shall continue until the passenger is able to offer payment of the fare. However, where a taxi or private hire car has been called by telephone or other advance arrangement, the hire shall commence after the Driver has announced the arrival of the taxi or private hire car to the prospective Hirer or passenger at the place to which it has been summoned.

Complaints Notice - means a notice displayed which details how to make a complaint against the Driver or Operator of a Licensed Vehicle to the Council.

Constable - means any constable as defined in the Police (Scotland) Act 1967 (or any amending or replacement legislation) being a member of Police Scotland.

Contravention - in relation to any requirement includes a failure to comply with that requirement, and similar expressions shall be construed accordingly.

Council - means the East Lothian Council, incorporated under the Local Government Etc. (Scotland) Act 1994 and having its headquarters at John Muir House, Haddington, EH41 3HA its statutory successors.

Driver – means in relation to a taxi the holder of a current East Lothian Taxi Driver's licence and in the case of a Private Hire Car a Driver holding a current East Lothian Taxi Driver's licence or Private Hire Car Driver's Licence which without prejudice to the foregoing generality shall include a Licence Holder.

DVLA standards in relation to Group 2 licence holders – means the medical standards published by DVLA for group 2 licence holders or any equivalent replacement standard. These standards have been adopted by the Council and apply to the medical examination of all hire car drivers.

Enactment - includes any enactment (and any amendments thereof) contained in any Act of Parliament, Order, Regulation or other instrument issued by the UK Parliament or the Scottish Parliament affecting Scotland.

Engagement - means an agreement between any person and the holder of a taxi or private hire car licence or Driver (or their respective representatives) for the hire of a taxi or private hire car at a specified time and location and is also known as a booking.

Engagement Fee - is that sum so described in the Council's Fare Table which is payable in addition to the fare where, by telephone or other advance arrangement, there is an engagement for the hire of a taxi (or private hire car in which there is fitted a Taximeter).

Fare table - means the table of fares fixed by the Council to regulate the maximum metered charges for hires within East Lothian.

Hire - means the use of a taxi or private hire car for the purpose of uplifting a passenger from a stated location and conveying such passenger and their luggage to a specific destination and where the use of a taximeter is appropriate there is a requirement to pay for its hire (including an engagement fee where applicable) not exceeding the rate of such fares or fees authorised from time to time by the Council insofar as the journey is not illegal in terms of Section 21 of the Civic Government (Scotland) Act 1982.

Hirer - means the person who has instructed the Hire within the vehicle by advising the Driver of the intended destination or alternatively the person who has requested the Hire when the Hire involves the transportation of third parties.

Holder of a Licence - has the same meaning as Licence Holder.

Hours of Darkness - means the time between half an hour after sunset and half an hour before sunrise.

Information Commissioner's Office – means the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals or such replacement body.

Licence - means a licence granted by the Council to any person for the purpose of operating a vehicle as a taxi or private hire car or for the purpose of driving the same as appropriate during the currency or validity of such licence.

Licence Holder - means a person who has been granted and holds a current and valid licence from the Council in terms of Part II of the Act to operate either a taxi or a private hire car unless otherwise stated.

Licence Plates – means the licence plates issued by the Transport Compliance Officer identifying licensed vehicles as hire cars which are required to be displayed in accordance with these conditions.

Licensed Area - means the East Lothian local government area.

Licensed - in relation to any taxi or private hire car, its owner or Driver, means having been granted an appropriate licence by the Council in terms of the Act and these conditions during the currency of such licence.

Licensed Vehicle - means generally the taxi or private hire vehicle licensed under a taxi or private hire car licence or any approved replacement vehicle which has been inspected and issued with a Certificate of Compliance by the Transport Compliance Officer unless otherwise stated.

Luggage - includes all items which the hirer or passenger wishes to be carried in the hire vehicle, whether this is their own personal baggage for the journey, or being carried for business or otherwise, and shall also include Assistance dogs or animals or pets carried in an enclosed carrier, which reasonably may safely be accommodated within the vehicle.

Maintenance - includes repair, and “maintain” shall be construed accordingly.

Motor Vehicle - has the meaning assigned to it by the Road Traffic Act 1988 or any amending or replacement legislation

Notice - means a notice in writing.

Passengers – means any person travelling in a hired Licensed Vehicle other than the Hirer or the Licence Holder.

Permanent Address - means the address provided by the Licence Holder in an application for a Licence as amended from time to time by notice given to the Council by the Licence Holder

PHC – means Private Hire Car.

Private Hire Car Door Signs - means a set of two identical door signs issued by the Council identifying the vehicle as an East Lothian licensed private hire car and which are fitted to the front doors of private hire cars in a position approved by the Transport Compliance Officer.

Public Place - has the meaning assigned by Section 133 of the Act i.e. any place (whether a thoroughfare or not) to which the public have unrestricted access and includes — (a) the doorways or entrances of premises abutting on any such place; and (b) any common passage, close, court, stair, garden or yard pertinent to any tenement or group of separately owned houses

Compliance Notice - means a notice in writing issued by an Authorised Officer following inspection of a Licensed Vehicle, to the Driver of a Licensed Vehicle, giving notice of defects requiring to be repaired or breaches of conditions requiring to be remedied and the Licensed Vehicle submitted for re-testing within a maximum period as specified in that notice.

Representative - when used in relation to the holder of a taxi or private hire car licence or in relation to a driver of a taxi or private hire car, means any person, company, firm or association whose services as principal are engaged or used by such a licence holder (and that by any means whatsoever including internet, telephone and radio communications) for the purpose of obtaining or assisting in obtaining engagements for the hire of a taxi or private hire car.

Suitable for transporting passengers travelling within wheelchairs - means a taxi or private hire car which is equipped with either ramps or a passenger lift for use by passengers travelling within wheelchairs

Taxi Bus - means a taxi which is being used under a special licence granted under Section 12 of the Transport Act 1985 to provide a local service which is required to be registered under Part I of that Act, has been previously advertised and which has a destination and route which are not entirely at the discretion of the passengers.

Taxi Driver - means the holder of a current East Lothian Taxi Driver's Licence

Vehicle Plant Maintenance Unit (VPMU) - means the normal place of work for the authorised Taxi Examiner.

Taximeter – means a device approved by Council and inspected by the authorised Taxi Examiner for the calculation of fares.

Taxi Stance - means a stance signed or marked for use by taxis within the East Lothian local government area.

Working Day - means a day when either the Council or the VPMU (whichever is referred to) are open for business.

Part 2

TAXI AND PRIVATE HIRE CAR (PHC) DRIVER'S LICENCE CONDITIONS

This Part 2 in conjunction with any relevant Schedules shall be referred to as the "Taxi and PHC Driver's Licence Conditions". For the purposes of the Taxi and PHC Driver's Licence Conditions the term Licence holder will refer only to those who hold a licence to drive a taxi and the term Licensed Vehicle will only refer to a taxi.

1. Identity Card

The Driver shall at all times when in charge of a Licensed Vehicle be in possession of a current identity card provided by the Licensing Authority. This badge must be worn by the Driver and displayed within the Licensed Vehicle and when requested, the Driver must allow the examination of the card by any passenger, Authorised Officer or Constable. The card shall include the Driver's name, photograph, licence number and expiry date.

2. Driver checks

The Driver, on each occasion prior to commencing their shift with a Licensed Vehicle shall ensure that:

- a) a valid certificate of insurance or cover note confirming that he is insured to drive the Licensed Vehicle is contained within the Licensed Vehicle as detailed in condition 2 of the Taxi and PHC Licence Conditions;
- b) the Licensed Vehicle, including all bodywork, upholstery and fittings (including ramps and accessories) is roadworthy, safe and serviceable, complies with the provisions of Schedule A to these conditions and is in a clean condition subject to prevailing road and weather conditions;
- c) the Licensed Vehicle is displaying current Licence Plates in accordance with the provisions of condition 4 of the Taxi and PHC Licence conditions; and
- d) a copy of the current Fare Table is being carried within the Licensed Vehicle.

3. Condition of Vehicle

The Driver shall not stand or ply for hire with any Licensed Vehicle during any period in which it does not comply with the provisions of Schedule A to these conditions.

4. Fulfilment of Hire

- a) The Driver shall be bound to fulfil, or cause to be fulfilled, at the time and location specified, an engagement to hire the Licensed Vehicle which the Driver of a Licensed Vehicle has accepted, or which has been accepted on the Driver's behalf by any representative, unless prevented by reasonable and sufficient cause.
- b) Where an engagement of a Licensed Vehicle for hire has been accepted by a Driver, the said Driver shall fulfil such engagement punctually and shall announce the arrival of such immediately to the person on whose behalf the engagement was made at the place to which it has been summoned. If that person does not commence their journey within five minutes of arrival of the Licensed Vehicle, or such additional period as may be agreed between the Driver and that person, the Driver may refuse to fulfil further the engagement to hire the

Licensed Vehicle, but where the Licensed Vehicle has been called by telephone or other advance arrangement the Driver of a Licensed Vehicle shall be entitled to receive payment of any engagement fee and any fare which may be payable in terms of the Council's approved Fare Table.

- c) The Driver shall not refuse to convey a Hirer or passenger to any place within the Licensed Area unless any Hirer or passenger:
- is not prepared to give a precise destination;
 - is drunk or otherwise not in a fit and proper state to be carried;
 - is in a condition whereby their clothing is offensive or likely to cause damage to the interior of the Licensed Vehicle;
 - is smoking in the Licensed Vehicle and refuses to cease when requested to do so by the Driver;
 - is accompanied by any animal which is likely to damage or soil the interior of the Licensed Vehicle with the exception of an assistance dog; or
 - cannot be conveyed for any other reasonable cause.
- d) The Driver shall not:
- permit any animal to be on or in the Licensed Vehicle except an animal which is an assistance dog or animal or pet carried in an enclosed carrier;
 - carry, or cause or permit to be carried in any Licensed Vehicle, any articles of a dirty, filthy or obnoxious nature or of an explosive or dangerous nature;
 - knowingly carry, or cause or permit to be carried in such Licensed Vehicle, any passenger who has vermin on their person or whose clothing is in a foul or filthy condition;
 - knowingly cause or permit such Licensed Vehicle to be utilised for any illegal or immoral purpose
- e) Where a Licensed Vehicle has been hired:
- by or for a disabled person who is accompanied an assistance dog; or
 - by a person who wishes such a disabled person to accompany that person in a Licensed Vehicle, the holder of a Licensed Vehicle shall carry the disabled person's dog and allow it to remain with the disabled person and shall not make any additional charge for doing so.
- f) This condition shall not apply where an Exemption Certificate in terms of Section 169 of the Equality Act 2010 has been issued to the Driver of the Licensed Vehicle and that notice is in force and is exhibited by being displayed in an approved holder on the dashboard of the taxi.
- g) The Driver shall –
- prior to driving a Licensed Vehicle suitable for transporting passengers travelling within wheelchairs undertake training in the use of approved restraint systems for the carrying of wheelchairs within the Licensed Vehicle he is in charge of and follow the manufacturer's instructions for using all access and restraint equipment on every occasion that the systems are used;
 - Ensure all access and restraint equipment is safe and serviceable and carried on the Licensed Vehicle at all times;
 - Ensure that all ramps carried within the Licensed Vehicle are stamped with the registration number of that Licensed Vehicle and have a certificate of safe working load affixed to them;
 - Use an approved restraint system for wheelchairs and a seat belt for the passenger on every occasion. It is a legal requirement that passengers wear the seatbelt provided unless they hold a medical exemption certificate;
 - Follow the manufacturer's instructions for using all access and safety equipment on every occasion;
 - Where wheelchair tie-down and occupant restraint systems have not been provided at the

time of manufacture by the vehicle manufacturer, ensure that all such equipment used in the vehicle complies with ISO 10542 or any replacement standard.

The Driver may not in any circumstances pick up or convey another passenger without the consent of the original Hirer. The Licence Holder shall drive to the destination by the shortest practicable route unless otherwise instructed by the Hirer.

5. Number of Passengers

The Driver shall not at any time convey more than the number of passengers for which the Licensed Vehicle has been licensed and shall ensure that before commencing any hire passengers are properly seated in approved passenger seats and remain so seated all at times during the journey.

6. Fares

- a) Where the passenger requires to exit the Licensed Vehicle to source the fare from a remote location, the hire shall continue until the passenger is able to offer payment of the fare.
- b) Where a Licensed Vehicle has been called by telephone or other advance arrangement, the hire shall commence after the Driver of the Licensed Vehicle has announced the arrival of Licensed Vehicle to the prospective Hirer or passenger at the place to which it has been summoned.
- c) No fare shall be payable by the Hirer in respect of any journey by the Licensed Vehicle from the place at which it is discharged by the Hirer.
- d) The Driver shall not demand any fare from any person who has engaged a Licensed Vehicle (and no fare shall be payable by such person):
 - if the external Licence Plates with the appropriate taxi licence number are not displayed in accordance with condition 7 of the taxi licence conditions; or
 - if the Driver does not, on demand, exhibit the means of identification issued by the Council; or
 - if the Driver demands more than the metered fare, or where appropriate in terms of condition 15 below, the fare agreed upon before the start of the hire; or
 - if the Driver fails or refuses to complete an engagement except for any reasonable cause; or
 - if the Licensed Vehicle breaks down or if the Licensed Vehicle becomes in any way unfit to convey the Hirer to the destination for which the hirer engaged such a Licensed Vehicle;
 - if the Fare Table programmed in the Taximeter is different from any Fare Table displayed in the vehicle;
 - if the Driver of a Licensed Vehicle removes the record of any fare from the Taximeter before the appropriate Hirer has examined it or has had a reasonable opportunity of examining it, or if, during the Hours of Darkness, the Licensed Vehicle Driver fails to keep any fare dial displayed illuminated for the whole of the period that such Licensed Vehicle is occupied by the Hirer and until the Hirer has examined the Taximeter or has had a reasonable opportunity of examining it.
- e) The Driver shall, if the cost of the journey is not regulated by an Authorised Metered Fare, inform the Hirer before the journey commences (a) that the Taximeter is not required to be used and (b) of the cost or the method of calculating the cost of the proposed journey.
- f) The Driver shall carry a copy of the up to date Fare Table issued by the Council within the Licensed Vehicle at all times and shall produce it for immediate inspection by any member of the public on request.
- g) The Driver shall participate in the Council's assisted fares scheme, currently entitled "Taxi

Card” or such other discounted fares scheme which may be adopted by the Council in the future. The Driver shall ensure that discounted fares are charged in line with the scheme on production to him of a current taxi card or other replacement document. For the avoidance of doubt there is no requirement to mention the taxi card at the commencement of the hire, only at the time of booking, if applicable.

7. Taximeter

- a) The Driver shall ensure that the Taximeter fitted in the Licensed Vehicle in their charge shall be operated:-
 - at all times for hires starting and finishing within the Licensed Area; and
 - with the agreement of the Hirer in relation to hires either starting or finishing outwith the Licensed Area.
- b) The Driver shall, as soon as hired, but no sooner, set the Taximeter in motion and whilst engaged shall have the words “Hire” illuminated on the face of the Taximeter so that it is readily visible at all times.
- c) Immediately on the termination of a hire the Driver shall stop the time mechanism within the Taximeter but shall not remove the fare record from the Taximeter until the hirer has examined it or has had a reasonable opportunity of examining it.
- d) During the Hours of Darkness the Driver shall keep the fare dial display illuminated, for the whole of the period that the Licensed Vehicle in their charge is occupied by a Hirer and until the Hirer has examined the Taximeter or has had a reasonable opportunity of examining it.

8. Passenger Assistance

- a) The Driver shall give such reasonable assistance to passengers or potential passengers to access the Licensed Vehicle as is required. In particular:
 - in relation to persons with obvious mobility difficulties the Driver shall make appropriate enquiries of that person to identify their preferred method of accessing the Licensed Vehicle and seating requirements;
 - in relation to passengers who use wheelchairs the Driver must ascertain whether the passenger wishes to remain within their wheelchair and if so must help the passenger to get into and out of the Licensed Vehicle; if the passenger wants to transfer to a seat, the Driver must assist the passenger to get out of the wheelchair and into a seat and back into the wheelchair, if that assistance is required. The Driver must also load the wheelchair into the Licensed Vehicle; the Driver must also offer to load the passenger's luggage into and out of the Licensed Vehicle;
 - the Driver shall make use of the Licensed Vehicle’s step as and when required and make reasonable enquiries of passengers, where appropriate, to ascertain this.
 - The Driver shall give such reasonable assistance to their passengers as he is able to give with loading and unloading their luggage when required to do so but the Driver of the Licensed Vehicle will not be required to leave the immediate proximity of the Licensed Vehicle in doing so.
- b) The Driver shall either:-
 - assist passengers travelling within wheelchairs to access the Licensed Vehicle using the ramp and shall ensure that they are properly secured by means of the fixed seatbelts before starting the journey, or
 - if the Driver has an Exemption Certificate issued in terms of Section 166 of the Equality Act 2010 from complying with Conditions 23(a) and 20(b) above he shall explain that to the potential passengers, show them the Certificate of Exemption and enquire as to whether they are able to load the wheelchair themselves or

alternatively ask them to wait for the next suitable taxi.

- c) The Driver holding a Certificate of Exemption from compliance with condition 23(a) shall display a copy of the Certificate in an approved holder on the dashboard of the Licensed Vehicle.
- d) Conditions 22 (b) and (c) and 24 (a) above will not apply if the Licence Holder is not driving a Licensed Vehicle suitable for transporting passengers travelling within wheelchairs.

9. Driver Behaviour

- a) The Driver, while in charge of the Licensed Vehicle, shall behave in a professional, considerate and orderly manner and shall not do anything while in charge of the Licensed Vehicle which is a breach of any road traffic or other legislation.
- b) In terms of the smoking legislation it is a criminal offence for anyone to smoke in a Licensed Vehicle at any time even when the Licensed Vehicle is not being used for hire. The Licence Holder shall not smoke within the Licensed Vehicle at any time and shall ensure that no one else does.
- c) The Driver shall not permit any person to drive the Licensed Vehicle he is in charge of while such Licensed Vehicle is on hire or is available for hire unless that person is the holder of a current Taxi Driver's licence issued by the Council.
- d) The Driver shall not permit any person to ride on any loading platform or in any luggage compartment or other part of the taxi not set aside for the accommodation of passengers.
- e) When a Licensed Vehicle is hired or standing for hire, the Driver shall either sit in the driving seat of the Licensed Vehicle or stand in the immediate proximity thereto except during any period the Driver may be absent to announce the arrival of the Licensed Vehicle or for any other necessary purpose.
- f) The Driver shall not stand or loiter with the Licensed Vehicle in any street in the near vicinity to a taxi stance while such taxi stance is fully occupied nor shall the Licence Holder cause the Licensed Vehicle to stand in such vicinity.
- g) The Driver shall not:-
 - use a mobile phone (even by means of a "hands free" kit), or
 - any other communication device, or
 - conduct himself in any manner which prevents him from exercising full control over the speed and direction of the Licensed Vehicle while it is in motion.
- h) The Driver shall not knowingly use the Licensed Vehicle as a Licensed Vehicle while the Licence is suspended or while the Licensed Vehicle is not displaying current Licence plates.

10. Idling

- a) The Driver must switch off the engine when the vehicle is stationary to avoid unnecessary vehicle idling, (especially in sensitive areas such as schools, hospitals and built up areas) except in the following circumstances -
 - where the Licensed Vehicle is stationary owing to the necessities of traffic – e.g. when vehicles are queuing at traffic lights;
 - where an engine is being run so that a defect can be traced and rectified – e.g. when a defective vehicle is being attended to by a breakdown / recovery agent;
 - for short periods on occasions where the weather conditions are extreme either to operate the vehicle's heating or air conditioning system.
- b) The Driver is required to switch off the Licensed Vehicle's engine immediately when requested to do so by an Authorised Officer.

11. Dress Code

The Driver, while in charge of the Licensed Vehicle, shall be clean and tidy in their person and shall wear clothing of a type specified as appropriate in the Dress Code contained in Schedule B to these conditions.

12. Advertising Material

The Driver shall not distribute advertising material of any kind to members of the public, other than business cards providing contact details handed out to passengers within the Licensed Vehicle, or allow any such material to be kept within the Licensed Vehicle.

13. Passenger Luggage

- a) All passenger luggage other than light hand luggage must be stored in the luggage compartment of the Licensed Vehicle. Additional charges for the carrying of luggage may not be made other than in accordance with the current Fare Table.
- b) The Driver shall not refuse to carry luggage in the Licensed Vehicle providing that the said luggage can be accommodated safely within the luggage compartment of the Licensed Vehicle.

14. Lost Property

- a) Immediately after the completion of their shift, the Driver shall search the Licensed Vehicle of which he is in charge for any property which may have been left therein.
- b) Any property found in such Licensed Vehicle by the Driver shall forthwith be returned by the Driver of the Licensed Vehicle to the owner of the property or such property shall be handed in by the Driver to any police station within 24 hours along with:
 - a note of the taxi Driver's name and address;
 - the name of the Licence Holder of the licence for such Licensed Vehicle;
 - the number of the Licensed Vehicle; and
- c) the names and addresses of all Hirers of the Licensed Vehicle during that day so far as known to the Driver which may assist in determining ownership of the property.

15. Stances

- a) All Drivers arriving at a Taxi Stance shall take their stations on Taxi Stance from front to rear in order of their arrival, and hires will be accepted in that order, except, when an intending Hirer wishes to engage a specific Licensed Vehicle or its Driver, in which case the engagement may be accepted in the order indicated by the intending Hirer, but the onus of proving the Hirer's wishes shall be on the Driver of the Licensed Vehicle apparently chosen out of order.
- b) When the Driver of a Licensed Vehicle drives off a Taxi Stance (except on any stance where contrary conditions or restrictions are specified), the Driver immediately behind shall draw up their vehicle to take the place vacated, and the Drivers of other Licensed Vehicles on the stance behind shall draw up their vehicles in a like manner.
- c) When a signal for a taxi is made to a Taxi Stance from a distance, only the Driver of the

Licensed Vehicle first on such a Taxi Stance to which the signal is made shall drive off in answer to such a signal.

- d) The Driver of a Licensed Vehicle on or within 50 metres of any stance to which a signal is made for a taxi shall not be permitted to accept a hire and shall not answer the signal if there is any disengaged Licensed Vehicle on such stance capable of accepting the hire, unless all Drivers of such Licensed Vehicles clearly indicate that they have no objection.
- e) The Driver shall not stand or loiter with the Licensed Vehicle in any street in the near vicinity to a stance while such Taxi Stance is fully occupied by the authorised number of taxis nor shall the Driver of the Licensed Vehicle to stand in such vicinity.
- f) Whilst outwith the Licensed Vehicle at a Taxi Stance the Driver shall not loiter in the roadway at or near the Taxi Stance nor cause their Licensed Vehicle to encroach in any way onto the road.

16. Electronic Security System

When the Driver's is driving a Licensed Vehicle with CCTV installed in the vehicle the additional conditions contained in Schedule C to these conditions will apply.

17. Change of Address / Address for Correspondence

- a) When the Driver changes their permanent address he must:
 - advise the Council of the change to their address within five working days of that change. This may be done by notice to the Council's Licensing Team, John Muir House, Haddington, EH41 3HA or by e-mail to: licensing@eastlothian.gov.uk
 - immediately update their DVLA driving licence with their new address
- b) Drivers must make arrangements for the receipt of correspondence when they are absent from their permanent address for periods in excess of fifteen Working Days. All notices sent to Drivers in relation to these conditions will be sent to the Driver's permanent address as intimated to the Council in terms of Condition 51 above.

18. Suspension of Licence

When a Licensed Vehicle is withdrawn from service by an Authorised Officer in accordance with Section 11 of the Act, there shall be affixed a label bearing the words

- (i) "this hire car is meantime certified unfit for public use" and
- (ii) (ii) the date of withdrawal

in a position within the passenger compartment of the Licensed Vehicle so that it is readily visible to intending passengers. Such a label has the effect of suspending the Licence pertaining to the Licensed Vehicle so labelled and only an Authorised Officer is authorised to remove such label.

19. Return of Licence and Identity Card

If the Driver ceases for any reason to be authorised by law to drive a car on a road, the Licence shall also cease to have effect and he shall immediately give notice to the Council of the change in their circumstances and return their Licence and identity card to the Council's Licensing Team, John Muir House, Haddington, EH41 3HA within two working days of receiving notice of that he is no longer authorised to drive a car.

20. Medicals

- a) All Drivers aged 65 years and over, must be certified as medically fit by the Council's appointed medical examiners, annually. Drivers aged between 45 and 64 years of age are required to be certified as medically fit by the Council's appointed medical examiners, every 5 years. Any Driver with a declared medical condition will be required to be certified as medically fit by the Council's appointed medical examiner.
- b) The Driver must have a current certificate of medical fitness to drive a taxi, if required by the DVLA standards in relation to Group 2 licence holders or otherwise requested by the Council, and shall attend such medical examinations as are necessary to obtain such a certificate.
- c) A Driver who fails to attend for a medical examination after receiving written confirmation of the date of the examination shall be required to pay the appropriate fee for the missed medical before a further medical examination will be arranged.
- d) In relation to the cost of all medical examinations, follow up reports and additional tests which may be required in order to assess a Driver's fitness to drive shall be met by the Driver. For the avoidance of doubt, all new applicants for Licences must be certified fit to drive a Licensed Vehicle for a minimum period of twelve months by the Council's appointed medical examiners following a single medical examination.
- e) If a Driver suffers from, or is diagnosed with any medical condition which may affect their fitness to drive a Licensed Vehicle he shall immediately report that information to the Council's Licensing Team, John Muir House, Haddington, EH41 3HA within two working days of that information coming to their attention and shall thereafter attend a medical examination within the next 14 days for the purpose of confirming their fitness to drive a Licensed Vehicle.

21. Compliance with Authorised Officer

- a) The Driver of a Licensed Vehicle shall not obstruct any Authorised Officer in the performance of any of the Authorised Officer's duties under these conditions.
- b) The Driver of a Licensed Vehicle shall comply with all the instructions or directions of any Authorised Officer in relation to these conditions and shall give all information reasonably required in the discharge of the duties of the Authorised Officer.

22. Notification of Convictions etc

Where a Driver:

- Is charged with any crime or offence of any nature;
- Is convicted of any crime or offence by any court;
- is given any form of official warning, caution or accepts or is ordered to pay a fixed fine or compensation in relation to any offence (including fines/compensation issued by the Procurator Fiscal or any local authority); and/or
- has their DVLA driving licence endorsed with any offence or penalty;

they must report that to the Council within 10 working days of the date of any of the above being intimated to them.

Miscellaneous

- a) The fee for the grant or renewal of a Taxi Driver's Licence will be payable in terms of the Council's published table of fees in full on the lodging of the application;
- b) The Licence Holder must make payment of all fees due in terms of the Council's published table of fees in relation to their Licence within 5 working days of the payment falling due. Where any payment is not made within the above timescale or any cheque or other form of payment in relation to any fee is subsequently dishonoured, the Licence shall cease to exist and must be returned to the Senior Solicitor within one working day of any dishonoured or missed payment being brought to the attention of the Licence Holder by the Council. Such licence shall be returned to the Licence Holder once full payment of the outstanding fee and any related charges is made.
- c) When the Driver is in charge of a PHC whilst it is undertaking a hire or available for hire the Private Hire Car Driver's Licence conditions in Part 5 shall apply in place of the Taxi Driver's Licence conditions under this part.
- d) If the Driver loses their Licence or identity card or any other document issued to him by the Council, he shall notify such loss immediately to the Licensing Authority and shall obtain a duplicate of each lost document from the Licensing Authority on payment of the appropriate fee.
- e) When the Driver has given up the activity of driving a Licensed Vehicle, they shall surrender their Licence to the Licensing Authority as required by Paragraph 13(2)(b) of Schedule 1 to the Civic Government (Scotland) Act 1982.

23. Training

The Driver is required to comply with the requirements of any scheme of training introduced by the Council which are intimated to them by notice sent to their address as last notified to the Council.



EAST LOTHIAN COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

**LICENSING CONDITIONS FOR TAXIS AND
PRIVATE HIRE CARS**

Part 1	Interpretation of words and expressions
Part 2	Taxi and Private Hire Car Licence conditions
Schedule A	Vehicle Conditions
Schedule B	Dress Code and Advertising
Schedule C	Electronic Security System

Part 1

NOTE: These conditions are in addition to the provisions of the Civic Government (Scotland) Act 1982 and any amendment thereto.

INTERPRETATION

Unless there is something in the subject or context inconsistent with, or repugnant to such construction, the following words and expressions in these conditions and their respective schedules have the following meanings respectively given to them

For the purposes of interpretation any reference to the singular shall include the plural and vice versa.

Any words used in these conditions or their respective Appendices should be given the meanings assigned to them in the Act, so far as applicable to Part II and Schedule 1 of the Act. In particular, where, in these conditions, any word is used which is defined in the Act and such definition is applicable in relation to “taxi” or “private hire car” as defined in the Act, the meaning of such word in these conditions shall be interpreted in accordance with the definition of the Act.

Subject to the foregoing the following words or phrases shall have the meanings set out below:-

Act – means the Civic Government (Scotland) Act 1982 as amended or any amending or replacement legislation governing the licensing of hire cars.

Approved - means unless explicitly stated to the contrary, approved by the Transport Compliance Officer or the Solicitor.

Assistance Dog - has the meaning set out in Section 173 of the Equality Act 2010 or any amending or replacement legislation.

Authorisation - includes any Licence, certificate, permit or registration.

Authorised Metered Fare - means any charge (whether described as fare, engagement fee, extras or otherwise) authorised and approved by the Council for publication in the Fare Table issued and amended from time to time, being the Fare Table or tariff which indicates and authorises the maximum charge payable for the use of a taxi (or private hire car which is fitted with a Taximeter) within the East Lothian local government area.

Authorised Officer - means a person, including the Transport Compliance Officer, Authorised Taxi Examiner and any Licensing Standards Officers (LSOs), authorised by the Council or the Police either generally or specifically to act in matters of any specified kind or in any specified matter relative to these conditions and the Act relative to taxis and private hire cars.

Transport Compliance Officer - means any person appointed by the Council to exercise the powers and carry out the duties of Transport Compliance Officer in terms of or by reference to these conditions, or any other person acting under the direct instructions or with the authority of the Transport Compliance Officer to ensure that these conditions and their Schedules and the terms of Part II of the Act are properly observed and implemented. Where there is a difference of opinion between the Transport Compliance Officer and any of the Transport Compliance Officer’s deputies or assistants the decision of the Transport Compliance Officer shall apply, and the term “Transport Compliance Officer” shall be interpreted accordingly.

Authorised Taxi Examiner – means a person appointed by the Council to exercise the powers and carry out the duties of Authorised Taxi Examiner in relation to the taxi testing criteria and standards set out within the schedules and Act.

Solicitor, Licensing - means the Council officer responsible for the management of Taxi/PHC compliance within the Council, and any officers delegated by said Council officer.

Commencement of Hire - a hire shall commence at the time the Hirer or passenger steps into the taxi or private hire car, and the hire shall end when the passenger either indicates that the hire has been terminated or offers payment of the fare. Where the passenger requires to exit the taxi or private hire car to source the fare from a remote location, the hire shall continue until the passenger is able to offer payment of the fare. However, where a taxi or private hire car has been called by telephone or other advance arrangement, the hire shall commence after the Driver has announced the arrival of the taxi or private hire car to the prospective Hirer or passenger at the place to which it has been summoned.

Complaints Notice - means a notice displayed which details how to make a complaint against the Driver or Operator of a Licensed Vehicle to the Council.

Constable - means any constable as defined in the Police (Scotland) Act 1967 (or any amending or replacement legislation) being a member of Police Scotland.

Contravention - in relation to any requirement includes a failure to comply with that requirement, and similar expressions shall be construed accordingly.

Council - means the East Lothian Council, incorporated under the Local Government Etc. (Scotland) Act 1994 and having its headquarters at John Muir House, Haddington, EH41 3HA its statutory successors.

Driver – means in relation to a taxi the holder of a current East Lothian Taxi Driver’s licence and in the case of a Private Hire Car a Driver holding a current East Lothian Taxi Driver’s licence or Private Hire Car Driver’s Licence which without prejudice to the foregoing generality shall include a Licence Holder.

DVLA standards in relation to Group 2 licence holders – means the medical standards published by DVLA for group 2 licence holders or any equivalent replacement standard. These standards have been adopted by the Council and apply to the medical examination of all hire car drivers.

Enactment - includes any enactment (and any amendments thereof) contained in any Act of Parliament, Order, Regulation or other instrument issued by the UK Parliament or the Scottish Parliament affecting Scotland.

Engagement - means an agreement between any person and the holder of a taxi or private hire car licence or Driver (or their respective representatives) for the hire of a taxi or private hire car at a specified time and location and is also known as a booking.

Engagement Fee - is that sum so described in the Council's Fare Table which is payable in addition to the fare where, by telephone or other advance arrangement, there is an engagement for the hire of a taxi (or private hire car in which there is fitted a Taximeter).

Fare table - means the table of fares fixed by the Council to regulate the maximum metered charges for hires within East Lothian.

Hire - means the use of a taxi or private hire car for the purpose of uplifting a passenger from a stated location and conveying such passenger and their luggage to a specific destination and where the use of a taximeter is appropriate there is a requirement to pay for its hire (including an engagement fee where applicable) not exceeding the rate of such fares or fees authorised from time to time by the Council insofar as the journey is not illegal in terms of Section 21 of the Civic Government (Scotland) Act 1982.

Hirer - means the person who has instructed the Hire within the vehicle by advising the Driver of the intended destination or alternatively the person who has requested the Hire when the Hire involves the transportation of third parties.

Holder of a Licence - has the same meaning as Licence Holder.

Hours of Darkness - means the time between half an hour after sunset and half an hour before sunrise.

Information Commissioner's Office – means the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals or such replacement body.

Licence - means a licence granted by the Council to any person for the purpose of operating a vehicle as a taxi or private hire car or for the purpose of driving the same as appropriate during the currency or validity of such licence.

Licence Holder - means a person who has been granted and holds a current and valid licence from the Council in terms of Part II of the Act to operate either a taxi or a private hire car unless otherwise stated.

Licence Plates – means the licence plates issued by the Transport Compliance Officer identifying licensed vehicles as hire cars which are required to be displayed in accordance with these conditions.

Licensed Area - means the East Lothian local government area.

Licensed - in relation to any taxi or private hire car, its owner or Driver, means having been granted an appropriate licence by the Council in terms of the Act and these conditions during the currency of such licence.

Licensed Vehicle - means generally the taxi or private hire vehicle licensed under a taxi or private hire car licence or any approved replacement vehicle which has been inspected and issued with a Certificate of Compliance by the Transport Compliance Officer unless otherwise stated.

Luggage - includes all items which the hirer or passenger wishes to be carried in the hire vehicle, whether this is their own personal baggage for the journey, or being carried for business or otherwise, and shall also include Assistance dogs or animals or pets carried in an enclosed carrier, which reasonably may safely be accommodated within the vehicle.

Maintenance - includes repair, and “maintain” shall be construed accordingly.

Motor Vehicle - has the meaning assigned to it by the Road Traffic Act 1988 or any amending or replacement legislation

Notice - means a notice in writing.

Passengers – means any person travelling in a hired Licensed Vehicle other than the Hirer or the Licence Holder.

Permanent Address - means the address provided by the Licence Holder in an application for a Licence as amended from time to time by notice given to the Council by the Licence Holder

PHC – means Private Hire Car.

Private Hire Car Door Signs - means a set of two identical door signs issued by the Council identifying the vehicle as an East Lothian licensed private hire car and which are fitted to the front doors of private hire cars in a position approved by the Transport Compliance Officer.

Public Place - has the meaning assigned by Section 133 of the Act i.e. any place (whether a thoroughfare or not) to which the public have unrestricted access and includes — (a) the doorways or entrances of premises abutting on any such place; and (b) any common passage, close, court, stair, garden or yard pertinent to any tenement or group of separately owned houses

Compliance Notice - means a notice in writing issued by an Authorised Officer following inspection of a Licensed Vehicle, to the Driver of a Licensed Vehicle, giving notice of defects requiring to be repaired or breaches of conditions requiring to be remedied and the Licensed Vehicle submitted for re-testing within a maximum period as specified in that notice.

Representative - when used in relation to the holder of a taxi or private hire car licence or in relation to a driver of a taxi or private hire car, means any person, company, firm or association whose services as principal are engaged or used by such a licence holder (and that by any means whatsoever including internet, telephone and radio communications) for the purpose of obtaining or assisting in obtaining engagements for the hire of a taxi or private hire car.

Suitable for transporting passengers travelling within wheelchairs - means a taxi or private hire car which is equipped with either ramps or a passenger lift for use by passengers travelling within wheelchairs

Taxi Bus - means a taxi which is being used under a special licence granted under Section 12 of the Transport Act 1985 to provide a local service which is required to be registered under Part I of that Act, has been previously advertised and which has a destination and route which are not entirely at the discretion of the passengers.

Taxi Driver - means the holder of a current East Lothian Taxi Driver’s Licence

Vehicle Plant Maintenance Unit (VPMU) - means the normal place of work for the authorised Taxi Examiner.

Taximeter – means a device approved by Council and inspected by the authorised Taxi Examiner for the calculation of fares.

Taxi Stance - means a stance signed or marked for use by taxis within the East Lothian local government area.

Working Day - means a day when either the Council or the VPMU (whichever is referred to) are open for business.

Part 2

TAXI AND PRIVATE HIRE CAR (PHC) LICENCE CONDITIONS

This Part 2 in conjunction with any relevant Schedules shall be referred to as the “Taxi and Private Hire Car Licence Conditions”. For the purposes of the Taxi and PHC Licence Conditions the term Licence Holder will refer only to those who hold a Licence to operate a Taxi or PHC and the term Licensed Vehicle will refer to a Taxi or PHC.

1. General

The Licence Holder shall ensure that, all times when the Licensed Vehicle is available for hire or being used for hire:

- the Licensed Vehicle is covered by a valid Licence issued by East Lothian Council and complies with the conditions of fitness contained in Schedule A to these conditions;
- the Licensed Vehicle is displaying current Licence Plates as issued by the Authorised Officer for the Licensed Vehicle in the approved positions on the front and rear (and for PHC’s, the interior) of the Licensed Vehicle;
- all Drivers of the Licensed Vehicle are holders of a current driver’s licence issued by the DVLA at all times whilst they are in charge of the Licensed Vehicle;
- the Licensed Vehicle, including all bodywork, upholstery and fittings, is roadworthy, safe and serviceable, and is in a clean condition subject to prevailing road conditions;
- any defects identified in the Licensed Vehicle, or any breaches of these conditions identified by an Authorised Officer must be rectified to the satisfaction of the Authorised Officer within the time frame specified at the point of notification;
- they do not do anything in the course of the operation of the Licensed Vehicle which is unlawful.
- he does not ask a Driver of a Licensed Vehicle to do anything which would result in the Driver committing a breach of the conditions attached to the grant of the Driver’s Licence;

2. Registration and Insurance

The Licence Holder shall:

- a) hold in their own name the requisite vehicle registration document and a valid certificate of insurance in relation to the taxi or PHC required by Part VI of the Road Traffic Act 1988 or any other amending legislation and the holder of the Licence shall be required to produce these documents to any Authorised Officer at any reasonable time on request. Where the Licence Holder is a partnership or company the vehicle registration document and the certificate of insurance shall be in the name of either the partnership or the company. The vehicle registration document and certificate of insurance must also state the permanent address of the Licence Holder named in those documents.
- b) ensure that either (i) a valid certificate of insurance which shows that insurance cover is in place for all Drivers of the Licensed Vehicle or (ii) a valid cover note on the same basis is carried within the Licensed Vehicle to which it relates at all times and is available for immediate inspection by any passenger being carried within the vehicle, Authorised Officer, Transport Compliance Officer or Constable.
- c) not cause or permit the Licensed Vehicle to stand or ply for hire during any period it does not comply with the provisions of these conditions.

3. Vehicle Inspections

The Licence Holder shall:

- a) require the Licensed Vehicle to undergo and pass an annual inspection by the authorised Taxi Examiner;
- b) ensure that when the Licensed Vehicle is presented for examination the bodywork and passenger accommodation of the Licensed Vehicle are clean and that the underside of the Licensed Vehicle is free from road dirt, excess oil and grease, otherwise the inspection cannot be undertaken;
- c) if the Licensed Vehicle is fitted with a passenger lift, ensure that the lift is serviced and maintained on a six monthly basis by a qualified lift repairer approved of in advance by the Transport Compliance Officer, and at the time of the Licensed Vehicle's annual test, shall submit a report to the Transport Compliance Officer from such repairer to the effect that the lift is in good working order and condition
- d) in addition to any annual examination and upon receiving two working days notice from the Transport Compliance Officer, produce the Licensed Vehicle for examination at the time and place specified;
- e) in the event that he fails to keep any appointment for examination of the Licensed Vehicle, or the inspection cannot be undertaken due to the state of the Licensed Vehicle, pay a cancellation charge to the Council before a further examination of the Licensed Vehicle is arranged;
- f) in the event that the Licensed Vehicle fails the annual test, a retest fee must be paid to the Council before a further examination of the vehicle is arranged;
- g) In the event that the vehicle's taxi license has expired, the licence holder shall, within 28 days, return the vehicle taxi plates to the VPMU or Licensing Section at council headquarters;
- h) The Licence Holder, when the Licensed Vehicle is damaged in a vehicular accident or by any other means, shall report the damage to the Licensing Authority as soon as practicable and, if the Licensed Vehicle is roadworthy, shall present it for examination within two working days of the occurrence. As soon as repairs to the Licensed Vehicle have been completed, the Licensed Vehicle shall be presented to the Transport Compliance Officer for re-examination. Unless the Transport Compliance Officer confirms otherwise, the Licensed Vehicle shall not be used as a taxi from the date of the damage until the repairs have been completed, and the Licensed Vehicle is passed by the Transport Compliance Officer as being fit for use again.
- i) If the Transport Compliance Officer issues the Licence Holder with a Compliance Notice relating to advertising or signage on the Licensed Vehicle, the Licence Holder must comply with the Compliance Notice and present the Licensed Vehicle to the Transport Compliance Officer for re-examination within either 14 days or the period specified in the Compliance Notice.

4. Display of Plates

- a) On a Licensed Vehicle, a number shall be allotted to it by the Licensing Authority and the approved external Licence Plates bearing such number shall be supplied to the Licence Holder by the Licensing Authority. The Licensed Vehicle shall not be used for hire until the Licence Plates are properly affixed by the authorised Taxi Examiner at VPMU. The Licence Plates remain the property of the Council at all times and must be returned to the Council as and when required by these conditions.
- b) If the letters or figures on any Licence Plate affixed to a Licensed Vehicle become obliterated or defaced so as not to be distinctly visible or legible, or any of the plates are lost or stolen, the Licence Holder shall immediately request from the Licensing Authority (on payment of the appropriate fee), a replacement Licence Plate or Car Door Sign. These can only be fitted by an authorised Taxi Examiner located at VPMU. In the event that any of the Licence Plates are stolen the Licence Holder must immediately report this to the Police and obtain a crime reference number.

5. Other Signage

- a) The Licence Holder shall not remove or obscure any warning signs, safety messages or any other information or signage displayed on the Licensed Vehicle that are present when it is supplied by the manufacturer and which are aimed at assisting passengers to identify the type or features of the vehicle.
- b) Taxi - The Licence Holder shall display upon the roof of the Licensed Vehicle an illuminated sign of a type approved by the Council for the purpose of identifying the vehicle as a licensed taxi.
- c) PHC - The Licence Holder shall not display a sign of any kind on the roof of the Licensed Vehicle, display or cause or permit to be displayed on or in the Licensed Vehicle (other than any Taximeter fare dial) or on their person (including their clothing) the word "cab", "taxi" or "for hire" or any other word or words which might give the impression that the vehicle is plying for Hire.
- d) Two notices detailing the Council's complaints procedures must be displayed in the Licensed Vehicle. The complaints notices must be attached to both rear quarter-lights, or, in the absence of quarter-lights, in a similar position approved by the Transport Compliance Officer, so that they may be read by passengers travelling in the Licensed Vehicle. An additional notice capable of being read by a front seat passenger may be required at the discretion of the Transport Compliance Officer.

6. Transportation of wheelchairs

The Licence Holder of a Licensed Vehicle which is suitable for the transportation of passengers travelling with wheelchairs shall ensure that:

- appropriate access and restraint equipment for the carrying of wheelchairs is serviceable, in a safe condition and is carried on the Licensed Vehicle at all times;
- all ramps carried within the Licensed Vehicle are stamped with the registration number of that Licensed Vehicle and have a certificate of safe working load affixed to them;
- where a vehicle has a lift system installed, this must be inspected every six months in line with LOLER (Lift Operating and Lifting Equipment Regulations 1998) and the certificate presented to the Licensing Authority;
- all Drivers of the Licensed Vehicle must be able to demonstrate to an authorised officer on request, that they are trained in the use of approved restraint systems for the carrying of wheelchairs and are aware of the manufacturer's instructions for using all access and safety equipment on every occasion;
- That any passenger lift and ramp used with the licensed Vehicle has a plate attached to it, readily visible to passengers, showing the safe working limit of the lift or ramp;
- where lifts and ramps used with the Licensed Vehicle were not provided at the time of manufacture of the Licensed Vehicle these comply with British Standard BS 6109 and BS1756-2:2004 or any replacement standards; and
- where wheelchair tie down and occupant restraint systems were not provided at the time of manufacture of the vehicle, ensure that all such equipment used within the vehicle complies with ISO 10542 or any replacement standards.

7. Fares

- a) The Licence Holder of a Licensed Vehicle equipped with a Taximeter shall obtain from the Council a notice detailing the approved Fare Table and will arrange for a copy of the up to date Fare Table to be carried within the Licensed Vehicle at all times to allow it to be produced for immediate inspection by any member of the public, on request.
- b) Unless the cost of the journey is regulated by the Fare Table and calculated by the taximeter the Licence Holder shall ensure that, prior to acceptance of the hire, any potential Hirer of the Licensed Vehicle is informed whether by the Driver or otherwise that (a) the fare is not to be calculated using the meter and (b) the cost, or method of calculating the cost, of the proposed journey.

8. Taximeter

- a) Taxi's - The Licence Holder shall have affixed to, and used in the Licensed Vehicle in line with the requirements of these conditions, in a position approved by the Authorised Taxi Examiner, a Taximeter which has been stamped or sealed by the Authorised Taxi Examiner after testing and approval.
- b) PHC's - Any Licence Holder, who wishes their Licensed Vehicle to use a taximeter, shall have affixed to and used on their Licensed Vehicle, a taximeter which has been stamped or sealed by the Council, after testing and approval to the satisfaction of the Transport Compliance Officer as to distance and time in accordance with the approved taxi fares and charges, and no other taximeter shall be affixed or used. Such taximeter must be electronic and capable of multi tariff operation.
- c) The Taximeter shall be used to record distance and time and calculate the exact fare for

each required journey in accordance with the approved taxi fares and charges, and no other Taximeter shall be affixed or used. Such Taximeter must be electronic and capable of multi tariff operation. This condition insofar as it relates to the use of the Taximeter shall not apply to any Licensed Vehicle while it is in use as a Taxi Bus.

- d) The Licence Holder shall not use, or cause or permit to be used on the Licensed Vehicle, a road wheel or tyre of a different circumference from that for which the Taximeter affixed to the taxi was designed and geared for that Licensed Vehicle and has been tested by the Authorised Taxi Examiner.
- e) Once such a Taximeter is fitted to the Licensed Vehicle the Licence Holder shall not tamper with the Taximeter or break or tamper with any seal or stamp on such Taximeter or any attachment or connection affixed thereto except to remove the Taximeter for repair or replacement. Should the Taximeter be removed or should the seal be broken or faulty, the Taximeter shall be re-tested, stamped and sealed by the Authorised Taxi Examiner before being used again. The Council may charge a fee for testing and sealing of meters.
- f) The Licence Holder shall not knowingly operate the Taximeter or cause or permit it to be operated other than as a Taxi Bus while the seals affixed to any Taximeter or (where so affixed) to the taxi are broken or detached. The Licence Holder shall ensure that the seals on the Taximeter are checked on a daily basis whilst the Licensed Vehicle is in use as a Licensed Vehicle.
- g) The Licence Holder shall not knowingly use, or cause or permit to be used on their Licensed Vehicle, a Taximeter which is in any way defective.

9. Advertising

a) The Licence Holder shall not display in or on the Licensed Vehicle any signs other than those approved by the Council. Approval shall not be required for advertising which is only displayed on the front doors of the taxi, although the Council reserves the right to require the immediate removal of

- i. any advertising on the front doors which would not be permitted in terms of condition 9(b) below or the Advertising Policy contained in Schedule B to these conditions or any advertising which mentions private hire cars or which is in a similar format and layout to the Private Hire Car Door Signs referred to in Schedule A hereof.
- ii) Applications for approval of other advertisements must be made in writing to the Solicitor, Licensing and should be accompanied by the appropriate fee. The request must include a colour specification for all proposed advertisements. Applications for full livery advertising must be accompanied by full colour five view art work and the Solicitor shall be entitled to retain all materials submitted with the application. All applications for approval of advertisements will be considered by the Solicitor who, if satisfied (after consultation with the Transport Compliance Officer where appropriate) as to the non-contentious nature or placement of any advertisement, shall grant the application and issue a letter of approval. Magnetic signage will not be approved.

b) All advertisements must comply with The UK Code of Non - broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code) published by the Advertising Standards Authority and must be legal, decent, honest and truthful. Each application will be considered on its own merits but advertisements will not be approved if they contain political, ethnic, religious, sexual or controversial texts; advertise tobacco products; display nude or semi-nude figures; are likely to offend public taste; depict men, women or children as sex objects; depict direct and immediate violence to anyone shown in the advertisement or anyone looking at it; advertise any racist group or organisation which intends to promote the group/organisation and/or any of its activities.

c) If the Solicitor is not satisfied as to the non-contentious nature or placement of an advertisement then any such application will be submitted to the Council for consideration, it being understood that in no case will the Solicitor refuse any application.

d) The Licence Holder whose Licensed Vehicle is displaying any advertisement(s) requiring approval shall ensure that the letter of approval from the Council to display an advertisement on the vehicle shall be held at all times within the particular vehicle and shall be available for inspection by an Authorised Officer or any Constable or the Transport Compliance Officer on request.

10. Fulfilment of Hire

The Licence Holder shall be bound to fulfil, or cause to be fulfilled, at the time and location specified, an engagement to hire the Licensed Vehicle which the Licence Holder has accepted, or which has been accepted on the Licence Holder's behalf by any representative, unless prevented by reasonable and sufficient cause.

11. Exceptions to Hire

- a) The Licence Holder shall not carry, or cause or permit to be carried in the Licensed Vehicle, any articles of a dirty, filthy or obnoxious nature or of an explosive or dangerous nature.
- b) The Licence Holder shall not knowingly carry, or cause or permit to be carried in the Licensed Vehicle, any passenger who has vermin on their person or whose clothing is in a foul or filthy condition.
- c) The Licence Holder shall not permit the Licensed Vehicle to be utilised for any illegal or immoral purpose.
- d) If any person suffering from any infectious or contagious disease is carried in a Licensed Vehicle, the Licence Holder shall, as soon as it comes to their knowledge, ensure that the vehicle is thoroughly cleaned and disinfected before permitting or carrying passengers for hire.

12. Receipts

The Licence Holder shall ensure that, at the termination of the hire, a signed receipt for the fare shall be provided by the Driver of the taxi to the passenger if requested, stating:

- the time and date of the journey
- the licence number of the vehicle
- the amount of the fare charged
- the name of the driver

13. Electronic Security System

Where an Operator chooses to install an electronic security system, they will comply with the guidance in Schedule C in these conditions.

14. Record of Drivers

- a) The Licence Holder shall keep an up-to-date record of the names, addresses and telephone numbers of all Drivers used by him to drive the Licensed Vehicle concerned, together with the dates and times that each Driver was in charge of the Licensed Vehicle.
- b) The record referred to in condition 14(a) shall be kept for a minimum of six months and must be produced immediately on request to an Authorised Officer or a Constable for inspection together with any other such information as may be required by an Authorised Officer for the purpose of ascertaining the identity of any taxi Driver used by the said Licence Holder or for any other purpose relating to these conditions.

15. Change of Address

- a) The Licence Holder must advise the Council in writing of a change to their permanent address within five working days of that change. This may be done by notice to the Council's Licensing Team, John Muir House, Haddington, EH41 3HA or by e-mail to: licensing@eastlothian.gov.uk.
- b) Licence Holders must make arrangements for the receipt of correspondence when they are absent from their permanent address for periods in excess of fifteen Working Days. All notices sent to the Licence Holder in relation to these conditions will be sent to the Licence Holder's permanent address as intimated to the Council in terms of Condition 15(a) above.

16. Suspension of Licence

- a) When a Licensed Vehicle is withdrawn from service by an Authorised Officer in accordance with Section 11 of the Act, the Authorised Officer shall affix a label bearing
 - i) the words "this hire car is meantime certified unfit for public use" and
 - ii) the date of withdrawal, in a position within the passenger compartment of the Licensed Vehicle so that it is readily visible to intending passengers. Such a label has the effect of suspending the Licence pertaining to the Licensed Vehicle so labelled and therefore the Licensed Vehicle cannot be used as a Licensed Vehicle until the label is removed by the Authorised Officer.
- b) When a Licence has been suspended by the Council the Licence Holder shall present the vehicle to the VPMU and the plates will be removed by the Authorised Taxi Examiner within one working day of having received notice that the Licence has been suspended.

17. Return of Licence and Licence Plates

- a) When a Licensed Vehicle ceases permanently to be used as such, the Licence Holder shall give immediate notice to the Licensing Authority and return to the Licensing Authority the licence in respect of the taxi or PHC, along with the licence plates, within ten working days.
- b) When the date of expiry of the Licence Plates of a Licensed Vehicle has passed without replacement Licence Plates having been issued, the Licence Holder shall return the expired Licence Plates to the Licensing Authority within one working day of the date of expiry.

18. Miscellaneous

- a) The Licence Holder shall:
 - not obstruct any Authorised Officer, in the performance of any of their duties under these conditions;
 - comply with all instructions or directions of any Authorised Officer in relation to these conditions;
 - provide these officers with accurate information reasonably required in the discharge of their duties, and;
 - ensure that no advertising material of any kind, other than business cards providing contact details handed out to passengers within the Licensed Vehicle, is distributed by Drivers of the Licensed Vehicle or left within the Licensed Vehicle.
- b) If the Licence Holder loses their Licence or any other document issued to him by the Council or the Transport Compliance Officer, he shall notify such loss immediately to the Council and shall obtain a duplicate of each lost document from the Council on payment of the appropriate fee.
- c) The fee for the grant or renewal of a Licence will be payable in terms of the Council's published table of fees, in full on the lodging of the application.
- d) The Licence Holder must make payment of all fees due in terms of the Council's published table of fees in relation to their Licence within 5 working days of the payment falling due. Where any payment is not made within the above timescale or any cheque or other form of payment in relation to any fee is subsequently dishonoured, the Licence shall cease to exist and must be returned to the Licensing Authority within one working day of any dishonoured or missed payment being brought to the attention of the Licence Holder by the Council. Such licence shall be returned to the Licence Holder once full payment of the outstanding fee and any related charges is made.

19. Notification of convictions etc

Where a holder of a Licence:

- is charged with any crime or offence of any nature;
- is convicted of any crime or offence by any court;
- is given any form of official warning, caution or accepts or is ordered to pay a fixed fine or compensation in relation to any offence (including fines/compensation issued by the Procurator Fiscal or any local authority); or
- has their DVLA driving licence endorsed with any offence or penalty

He must report that information to the Council within 10 working days of the date of any of the above being intimated to him.

20. Notification of information in relation to Drivers

The Licence Holder is required to report the following information regarding any Driver of their Licensed Vehicle to the Licensing Authority within 24 hours (or the following Working Day) of that information coming to their attention in relation to Drivers of the Licensed Vehicle:

- information that any Driver has been disqualified from driving;
- information that any Driver is suffering from any medical condition which may affect their fitness to drive a vehicle;
- information that any Driver is using illegal drugs;
- information that any Driver may have committed any offence involving dishonesty or sexual impropriety.

21. Training

The Licence Holder is required to comply with the requirements of any scheme of training introduced by the Council which are intimated to him by notice sent to their address as last notified to the Council.

SCHEDULE A

VEHICLE CONDITIONS OF FITNESS

Taxis in East Lothian must be a side-loading motor vehicle which is Disability and Discrimination Compliant (DDA). Vehicles must have a minimum power output of 70kW/94hp.

The vehicle must hold low volume type approval or such equivalent amended certification as issued by the Vehicle Certification Agency or its successors and must comply in all respects with the requirements of all Acts and Regulations relating to motor vehicles.

Taxis must be capable of being licensed to carry between 5 and 8 passengers. The decision of the Transport Compliance Officer as to the appropriate number of passengers for the vehicle to be licensed to carry shall be final following inspection of the vehicle and consideration of safety and luggage requirements.

A fee will be payable to the Licensing Office, East Lothian Council, John Muir House, Haddington, for non-attendance at the time/test date provided and if test dates are cancelled 48 hours from the date of the test date.

All vehicles must have a valid M.O.T. Certificate obtained within the previous 30 days.

Vehicle inspections, outwith the standard M.O.T. inspection, will take place annually and will ensure that every vehicle meets the Licensing Authority's criteria of fitness to carry fare-paying passengers.

The inspection and examination will extend beyond mechanical aspects and will also cover bodywork condition, structure, cleanliness etc.

The fee for inspections is contained within the annual licence fee however a vehicle failing inspection will require to be retested with a further fee payable, for each occasion, prior to the retest. This must be paid online at <http://www.eastlothian.gov.uk> or at any of the Council Area Offices, with cash or by debit/credit card and the receipt produced at the VPMU. If the vehicle is returned to the VPMU and retested within 10 working days on one or more of the following items only then no retest fee will apply.

- Access panels
- Battery
- Bonnet
- Boot lid
- Brake pedal anti-slip
- Break glass hammer
- Doors (including hinges, catches and pillars)
- Door open warning device
- Dropsides
- Electrical wiring
- Emergency exits and signs
- Entrance door remote control
- Entrance/exit steps
- Fire Extinguisher
- First aid kit
- Fuel filler cap
- Headlamp cleaning or levelling devices (not requiring a headlamp aim check)

Horn
Lamps (excluding headlamp aim)
Lifting Jack
Loading door
Main beam 'tell-tale'
Mirrors
Paintwork
Rear reflectors
Registration plates
Seat belts (but not anchorages)
Seat belt load limiter
Seat belt pre-tensioner
Seats
Sharp edges or projections
Spare wheel
Spare wheel method statement
Stairs
Steering wheel
Tailboard
Tailgate
Tyre pressure monitoring system
Vehicle identification number (VIN)
Windscreen and glass
Windscreen wipers/ washers
Wheel brace
Wheels and tyres

All vehicles presented must be in appropriate condition with the bodywork and passenger accommodation being clean and the underside of the vehicle free from road dirt, excess grease and oil etc.

Where the inspection shows the vehicle has not been presented in a suitable condition, it is the responsibility of the licence holder to arrange any required remedial work prior to re-presentation. A supplementary inspection charge will be levied against vehicles presented in an unsuitable condition. Payment to be made in accordance with retest fees.

In addition to the annual inspection, spot checks on vehicle condition will be conducted, from time to time, by an authorised Officer of the Licensing Authority, an authorised Officer of the Vehicle Inspectorate or the Police, any of whom may require identified remedial work to be carried out. In such circumstances, the vehicle must be re-presented to VPMU after the remedial work has taken place before approval is granted for the vehicle to be used in service.

All vehicles, of an approved type and model, must carry:

- A spare wheel fitted with a pneumatic tyre of the same type and size as the other tyres and wheels on the vehicle, or where a spacesaver wheel and tyre (as provided by the manufacturer) is used, a method statement indicating limits of use must be present with the vehicle. Any spare wheel must be in such condition as to instantly replace any damaged wheel or a wheel on which the tyre has become damaged;
- A suitable lifting jack;
- A suitable wheel brace;
- Any vehicle manufactured without space for a spare wheel must provide a copy of a contract for vehicle recovery and onward travel of the passengers. Evidence that such cover is in place must be produced annually at the time of the vehicle inspection;

- A fire extinguisher (BSI approved) suitable for use on petrol, diesel or electrical fires carried in a suitable fastener fixed to the vehicle or held within a suitable compartment of the vehicle in a position approved by the licensing authority;
- A first aid kit that is adequate for treating the maximum number of passengers carried in the vehicle, fixed to or held within a compartment within the vehicle in a position approved by the licensing authority.

Appeal Process

If you wish to appeal against a decision to fail your vehicle, you should do so on the Appeal Request form available at the VPMU. This form together with a further full test fee should be sent to Licensing, East Lothian Council, John Muir House, Haddington, EH41 3HA within 14 days of the initial vehicle inspection. Your appeal will be heard at the next appropriate Licensing Sub-Committee after which, if your appeal is successful your test fee, or if appropriate part of it will be returned to you. Prior to submitting your appeal you should contact the VPMU and ensure that an agreed photographic record of the item in dispute is available for the Sub-Committee's information and consideration, this may entail securing this evidence prior to any repair work being carried out or the vehicle being put back into service.

INSPECTION AND FAILURE CRITERIA

CLEANLINESS/APPEARANCE

The purpose of the inspections is to ensure that vehicles are safe, aesthetically pleasing and present both the operator and East Lothian Council in a favourable manner.

Inspection	Failure	Note
Check bodywork is not damaged or extensively corroded	Body work damaged Bodywork extensively corroded Dent in excess of 600mm ²	
Check paint in good condition	Different colour/shade Not to a uniform finish Has surface deficiencies e.g. paint runs or peeling Scratched or stained Broken paint surface	
Check External Cleanliness	Dirty/Contaminated exterior	
Check Vehicle Underside	Not free from road dirt Excess grease Excess oil	
Check passenger compartment is clean and free from rubbish Check interior upholstery for security, cleanliness and condition	Dirty Contains any rubbish Upholstery, trim or headlining is dirty, missing, insecure, torn or in such condition as to soil clothing or adversely affect passenger comfort	
Check Tariff Sheet if vehicle fitted with a meter	Absent Out of Date	

Check front and rear Licence Plate	Not displayed Different Not secured with approved fixing kit	
Check roof mounted "Taxi" sign (not applied to Private Hire Vehicles)	Absent Insecure Fails to illuminate	
Check front and rear Private Hire Plate (not applied to Taxis)	Not displayed Different Not secured with approved fixing kit	
Check door mounted Private Hire sign	Absent Insecure	
Check Road Fund Licence Proof to be supplied at test	Out of Date	

ADVERTISING

- All advertising carried either externally or internally by Taxis must not be of a nature to cause offence and every request to display advertisements must therefore be submitted to the Licensing Authority for a prior decision on suitability. Requests to display 3rd party advertising should include scale drawings of the adverts. The Civic Government (Scotland) Act 1982 prohibits any form of advertising on a Private Hire Car that could imply the vehicle is a Taxi. Where permission is granted for an advertisement to be carried this permission will be granted for one year or to the next annual test of the vehicle.
- Fees will not be payable for adverts on a Taxi which are solely for the purpose of identifying the Taxi as that of the Operator.

Taxis

Exterior advertising on Taxis must meet the following conditions:

- Where the complete vehicle body forms an advertisement this must be approved by the Licensing Authority and the relevant fee paid prior to the advert being fitted to the body or the vehicle painted;
- Adverts for 3rd party companies, on the bonnet or panels of the vehicle, must be in no more than two colours and measure no more than 800mm by 400mm and must not be fitted prior to the relevant fees being paid and Licensing Authority approval given;
- No advert may be placed on any window of a Taxi. (Excluding Health & Safety signs)

Interior advertising on Taxis must meet the following conditions:

- Adverts inside a Taxi can be placed on seat fronts or backs and seat headrests subject to the relevant fees being paid and Licensing Authority approval given.

Private Hire Cars

- Private Hire Cars may display the name of the operator and a telephone number on two rear side panels of the vehicle or on the bonnet only, but not on all three locations or the rear of the vehicle. The display must be single colour and cover an area of no more than 800mm by 400mm. The display must not in any way or form imply that the vehicle is other than a Private Hire Vehicle. It must not include the words Taxi(s), Cab(s) or Car(s).

Inspection	Failure	Note
Check Advertising (if applicable – see note)	Offensive Placed on any window Size Colour	The Local Government (Scotland) Act prohibits any form of advertising on a Private Hire Car that could imply the vehicle is a taxi

DRIVER'S COMPARTMENT AND CONTROLS

The purpose of these inspections is to ensure the safety and comfort of passengers and driver.

Inspection	Failure	Note
Check for cleanliness and presentation	Dirty Contains rubbish Contains items liable to interfere with the proper control of the vehicle	
Check the condition and security of the driver's seat	Seat insecure or structurally weakened Padding or covering is seriously deteriorated	
Check seat adjusting mechanism noting movement relative to vehicle structure	Insecure Ineffective	
Check driver's controls can be operated from the driver's seat	Control cannot be operated from the driver's seat without maintaining proper control of the vehicle	
Check view to front and rear	Any object on the vehicle which is located or is of such a size that the driver has a restricted view of the road ahead or view to the rear having regard to the original design of the vehicle.	

Check the operation of all ventilation equipment and heaters	A heater that does not emit heat Ventilation equipment not supplying adequate air to screen or car interior A leaking unit An insecure unit A control mechanism is inoperative or ineffective	
Check Fire Extinguisher (may be secured within an exposed area of the luggage compartment)	Absent Not easily accessible Clearly discharged Damaged Not conforming to current British Standards Last maintenance check in excess of expiry date Not secured or in an inappropriate compartment	
Check First Aid Kit (of a size suitable for the number of passengers carried in the vehicle)	Absent Insufficient for maximum number of passengers Not secured or in an inappropriate compartment	

WHEELS AND TYRES

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- No road wheel or tyre, including spare wheel, shall be of a different circumference from that for which the taximeter affixed to the vehicle was designed, geared and tested by East Lothian Council's VPMU.

Inspection	Failure	Note
Check circumference of all wheels/tyres	Different from that specified by taximeter	
Check inflation of tyres	Beyond tolerance specified by vehicle manufacturer	
Check tyre condition	Tyre is worn Tyre has a lump or bulge Incorrectly seated on the wheel rim Tyre is cut Any part of the cord is exposed Tread depth is less than 1.6mm over the centre $\frac{3}{4}$ of the tyre	
Check wheel rim condition	Damaged, distorted or cracked	
Check wheel security	Insecure	
Check spare wheel security	Not secured If secured in the passenger cabin and not covered	

BRAKES

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- Where brake connections are secured with bolts or pins, the bolts or pins must be fitted with approved locking devices and they must be so placed that, when in any position other than horizontal, the head of the bolt or pin is uppermost.

Inspection	Failure	Note
Check foot brake pedal	Any side play Not anti-slip Worn or corroded Fading on holding down pedal for approximately 1 minute	
Check hand brake lever	Any side play	
Check pawl holding	Insecure	
Foot Brake Efficiency	Not met	
Hand Brake Efficiency	Not met	

STEERING

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- The steering wheel must be on the offside of the vehicle.
- The steering mechanism must be so constructed and arranged that no over lock is possible and that the road wheels do not, in any circumstance, foul any part of the vehicle.
- Where steering connections are secured with bolts or pins, the bolts or pins must be fitted with approved locking devices and they must be so placed that, when in any position other than horizontal, the head of the bolt or pin is uppermost.

Inspection	Failure	Note
Check steering column security	Insecure	
Check steering box or steering rack for security to chassis	Insecure	
Check steering box or steering rack	Leaking Fractured Roughness	
Check sector shaft, or rack, bushes	Excessively worn	

LIGHTING

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- Adequate lighting of the passenger and driver must be provided.
- All step entry areas must have adequate lighting when in use.

Inspection	Failure	Note
Check operation of all lights	Not fitted Insecure Not working Flickers when tapped lightly by hand	
Check reflectors	Not fitted Cracked or broken	

ELECTRICAL EQUIPMENT

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- All electrical leads and cables must be adequately insulated. Suitable fuses must protect all electrical circuits.

Inspection	Failure	Note
Check battery	Insecure Leaking	
Check battery terminals	Insecure Corroded	
Check wire/cable insulation	Not insulated Not secured Heavily contaminated with oil Signs of chaffing Heat damage	

COMMUNICATION APPARATUS

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- Communication equipment must be fitted so as not to obstruct the operation of the vehicle controls or access for passengers.

Inspection	Failure	Note
Check all radio equipment	Insecure Inappropriate position	
Aerial	Inappropriate type	Only aerials of a type and in a position approved by the Licensing Authority

DOORS

- The vehicle must have a minimum of 4 doors usable for entry to the vehicle.
- All doors and door locks must be capable of being readily opened. On all vehicles only approved original central locking systems will be permitted.

Inspection	Failure	Note
Check operation of door opening mechanism, internally and externally	Inoperative Incomplete	
Check door hinges	Worn Insecure	
Check door pillars	Insecure Weakened by damage Corroded	
Check door locks in the closed position	Insecure locking	
Check Side door open to maximum extent (wheelchair accessible vehicles)	Open door over-extends to be in contact with vehicle bodywork Door does not stay in open position Access dimension is less than 1220mm (height) by 680mm (width)	
Check Rear door open to maximum extent (wheelchair accessible vehicles)	Access dimension is less than 1220mm (height) by 780mm (width)	

WINDOWS AND VISIBILITY

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- An interior mirror must be fitted in the driver's compartment. External mirrors must be fitted to the near side and off side of the vehicle.
- The vehicle must have windows at the sides and rear.
- For vehicles used on or after 01 April 1985, legal requirements must be met, in that, the light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them. In East Lothian, agreed requirements are that the rear side windows must allow at least 40% of light to be transmitted through them and should be of such transparency as to enable the driver and passengers to be seen from outside the vehicle.
- No advertising sign or sticker should be positioned on glazed areas, unless it displays a legal requirement. E.g. No smoking. It is acceptable for the warning/legislative sticker to display a suppliers name.

Inspection	Failure	Note
Check windows	Missing Insecure Not made of safety glass Excessively scored or marked Tinted so as to obscure visibility Obscured by signs/stickers	
Check window opening	Does not open Insecure Open beyond design limits	Applies only to windows designed to open

EXHAUST

The exhaust pipe must be fitted or shielded so that no flammable material can fall or be thrown upon it from any other part of the vehicle and that it is not likely to cause a fire through proximity to any flammable material on the vehicle. The outlet must be placed at the rear of the vehicle in such a position as to prevent exhaust fumes entering the vehicle.

Inspection	Failure	Note
Check exhaust system	Insecure Leaking Corroded	

LUGGAGE COMPARTMENT

The vehicle must have adequate provision for the carriage of luggage with an effective method of securing luggage being provided. No luggage fittings may be attached to or carried upon the outside of the vehicle.

Inspection	Failure	Note
Check for cleanliness/tidiness	Dirty Untidy	
Check boot latch	Insecure Defective	
Check luggage carrying capacity	Insufficient space to carry two suitcases	
Check mechanism to secure luggage	Missing Insecure	

ACCESSIBILITY

The purpose of these inspections is to ensure compliance with legal requirements and to ensure safety for passengers and driver.

- All Taxis must be wheelchair accessible. Wheelchair accessible Private Hire Vehicles must comply with accessibility requirements of this section
- Wheelchair accessibility must be available without the requirement to remove any seating from the vehicle. Seating may be moved within the vehicle on approved tracking in the vehicle floor to provide sufficient space for wheelchair compliance. Anchorage for a wheelchair should be available in a forward/reverse and side to side direction.
- If the vehicle is fitted with a powered lifting ramp it must be presented for inspection with current certification.
- Steps.
- The top of the tread on the lowest step for any entrance, or where there is no step on the floor itself at the lowest entrance, must not be more than 38 centimetres above the ground when the vehicle is unladen.
- Where any step in the vehicle is electronically operated, it must be fully retractable, tamper and weather-proof. Any such step must be equipped with sensors and a warning system to alert the driver when the step is extended. This step should be under the automatic control of the driver in such a way that it cannot be left extended when the vehicle is moving.
- Any fixed step must not protrude from the vehicle line further than the folded in rear view wing mirror

Inspection	Failure	Note
Check passenger side door entrance	Any height dimension less than 1220mm Any width dimension less than 680mm No locking device in open position	
Check passenger rear door entrance	Any height dimension less than 1220mm Any width dimension less than 780mm No locking device in open position	
Check access ramps for side or rear door as applicable	Missing Max gradient greater than 25% (1:4) Safe working load less than 250kg	
Check Passenger Lift	Hydraulic oil leak	
Check LOLER Record	If certificate in excess of 6 months	
Check minimum space requirement for wheelchair.	An area of less than 1200mm by 700mm wide. (1200mm to be measured from rear wheel of wheelchair location to footstep location in vehicle)	

SEATING

The purpose of these inspections is to ensure the safety of passengers.

Inspection	Failure	Note
Check seating	Not securely fixed Not facing either front or rear Not provided with 3 point lap and diagonal seat belt or where not possible a 2 point lap seat belt.	
Check upholstery	Dirty Worn Torn	

FLOOR COVERING

The purpose of these inspections is to ensure the safety of passengers.

- Floor coverings should be of a quality and standard to minimise the possibility of any slip or trip hazard.

Inspection	Failure	Note
Check floor covering	Dirty/Oily Excessively worn Torn Uneven	

HAND GRABS

The purpose of these inspections is to ensure the safety of passengers.

Inspection	Failure	Note
Check hand grabs	Missing Insecure	

METER & FARE TABLE FRAMES

- All taximeters must be calendar type.
- Where a taximeter is fitted, it must be operational, calibrated to the correct Fare Table and be sealed by the Licensing Authority in a manner that meets the satisfaction of the Licensing Authority. Every taximeter must be fitted in a position where the passenger can easily view it. All vehicles fitted with a taximeter must display the Licensing Authority approved Fare Table in a position enabling the passenger to view it.
- **It is an offence to operate with a taximeter that is not sealed and vehicles must not operate if the seal has been broken, damaged or tampered with in any way. The Licensing Authority shall retest meters before being used again.**
- Taxi Plates issued by the Licensing Authority will be displayed at all times when the vehicle is on or available for hire. Plates require to be kept clean and if broken should be replaced by the Licensing Authority on payment of the appropriate fee.

- Meter calibration and sealing will take place annually.
- Private Hire Cars do not require a taximeter to be fitted, but where a taximeter is fitted it must be used unless the hirer has given prior permission.
- Private Hire pre-booked signs issued by the Licensing Authority will be displayed at all times when the vehicle is on or available for hire.
- Private Hire identification plates must be displayed on the front and rear of the vehicle.
- After a Fare Table review and approval by the Licensing Authority, operators must present all vehicles for checking of taximeter calibration and sealing within fourteen days of the commencement of the new Fare Table

Inspection	Failure	Note
Check fare table frame	Missing Insecure Incorrectly positioned to be easily viewed by the passenger	
Check fare table	Missing Incorrect fare table Incorrectly positioned to be easily viewed by the passenger	
Check taximeter seal	Missing Damaged Not approved by Council	
Check taximeter	Not operational Incorrectly positioned to be easily viewed by the passenger	

Inspection	Failure	Note
Check taximeter calibration for distance over a pre-determined measured distance	Calibration is shown to be incorrect	
Check taximeter calibration for standing time	Calibration is shown to be incorrect	

ENGINE & ANCILLARIES

These checks are primarily a visual examination of readily observable items.

Inspection	Failure	Note
Check engine/ancillaries	Dirty Insecure Defective engine mounting Fractured Oil leak Water leak Brake fluid leak Fuel leak Air leak Any warning light illuminated	

FUEL

- Fuel tanks must be adequately protected from possible damage by collision. All fuel tanks and apparatus supplying fuel to the engine must be placed or shielded in such a manner that no fuel overflowing or leaking therefrom can fall or accumulate on any part or fitting where it is capable of being ignited or can fall into any receptacle where it may accumulate.
- The filling point for all fuel tanks must be accessible only from the outside of the vehicle and filler caps must be so designed and constructed that they cannot be dislodged by accident.
- In the case of a gas-powered engine, a device must be provided to enable the supply of fuel to the engine to be cut off immediately. The device must be visible and readily accessible from the outside of the vehicle and the "OFF" position must be clearly marked.

Inspection	Failure	Note
Check fuel tanks	Positioned under bonnet Not protected from collision damage Leaking	
Check fuel supply systems	Not shielded Overflowing Leaking Fuel accumulating on/in any fitting or receptacle	
Check fuel cut off device	Missing Not operating effectively Not visible Not readily accessible Not on outside of vehicle "Off" position not clearly marked	Applies to gas-powered engine only
Alternative fuel range	Fuel range below 60% on presentation for test	Electric, hydrogen or other alternative fuel

ROAD TEST

During a short road test with the vehicle in motion, the following tests will be conducted.

Inspection	Failure	Note
Check engine performance	Not able to maintain a reasonable pace Excessively noisy Excessive vibration	
Check transmission	Excessively noisy Excessive vibration	
Check speedometer/odometer	Inoperative Malfunctioning	
Check clutch operation	Clutch slipping	
Check ride of vehicle	Causes discomfort or distress to a passenger	

SCHEDULE B

DRESS CODE AND ADVERTISING POLICY

1. DRESS CODE

All Drivers must comply with the following dress code while in charge of a taxi or private hire car -

Appropriate dress

- Shirt or polo shirt with collar
- Blouse/skirt/dress with either short or long sleeves
- Full length trousers/jeans or tailored shorts
- Shoes or boots

Inappropriate dress

- Tracksuits
- Shorts/jogging trousers
- Vests /sportswear with club colours
- Baseball caps or other hats
- Flip-flops

2 ADVERTISING POLICY

Taxis

- a) no approval is required for advertising on the two front doors of a taxi (although the Council reserves the right to require the immediate removal of
- b) any advertising on the front doors which would not be permitted in terms of condition 9 of the Taxi Licence Conditions, (i) any advertising which mentions private hire cars or (ii) any advertising which does not comply with this policy).
- c) there is a fee charged (which may be varied from time to time by the Solicitor) for approval of full livery advertising on a taxi which would include adverts on the tip up seats (unless the vehicle is an identical replacement vehicle and identical advertising has already been approved; for the avoidance of doubt approval will still be required but no fee will be charged)
- d) there is a fee charged (which may be varied from time to time by the Solicitor) for approval of advertising on the sides of a taxi vehicle only (unless the vehicle is an identical replacement vehicle and identical advertising has already been approved; for the avoidance of doubt approval will still be required but no fee will be charged in these circumstances)
- e) taxi advertising is restricted to the bodywork and tip up seats only and no advertising is permitted on the windows or interior glass
- f) only one business or product can be advertised on any taxi vehicle

PHCs

Type 1 PHCs – no advertising is permitted, only approved signage, see condition 5 of the Private Hire Car Licence conditions

SCHEDULE C

CCTV SYSTEMS WITHIN TAXIS / PRIVATE HIRE CARS

For the purposes of these guidelines the term "CCTV system" will include any electronic recording device attached to the inside of a vehicle having the technical capability of capturing and retaining visual images and audio recording from inside or external to the vehicle.

Licence operators may choose to install a CCTV system in taxis and private hire vehicles, please note that such installation is optional.

Personal data

If the licence operator decides to proceed with the installation of a CCTV system in a taxi or private hire vehicle, it should ensure that it understands the responsibilities this brings. By installing a camera which covers public areas, the licence operator may become the 'data controller' as the CCTV system will hold 'data' on anyone who is filmed on it. Please note that the Council is not a data controller or data processor for these purposes.

The Information Commissioners Office (ICO) is the organisation that provides guidance on information rights, which includes video and audio recordings. There are useful links on their website including <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/cctv-and-video-surveillance/>

The ICO website explains additional steps which could include signs warning people there is a camera and giving contact details. There are many legal responsibilities the data controller may have in relation to the storage of footage and it is important for the data controller/ licence operator to understand what the installation of a CCTV system may mean in relation to these.

Installation

Generally, the licence operator should ensure that the CCTV system:-

- is installed as prescribed by the equipment and/or vehicle manufacturer installation instructions;
- complies with current British Standards and any other legislative requirements;
- is installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers;
- does not obscure the driver's view; and
- does not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, e.g. not mounted on or adjacent to air bags or air curtains or within proximity of other supplementary safety systems that may cause degradation in performance or functionality of such safety systems.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**GUIDANCE NOTES****LICENSING OF
TAXI DRIVER'S LICENCE**

1. Ensure all questions are answered
2. The application fee (non-refundable) will be lodged along with the completed application form
3. The following documentation is to be submitted along with the completed application form:
 - One recent passport size photograph showing a true likeness
 - A valid driving licence (You must have held a full driving licence for a continuous period of one year before you can apply)
 - If you are aged 45 and over or if you have stated a medical condition, you must complete the medical consent form. If you are applying for any exemption certificates, supporting medical evidence will be required
 - From 2 October 2023, a 9-character 'tax check' code from HMRC
4. In terms of paragraph 6, Schedule 1 of the Act, where a licensing authority has refused an application, the licensing authority shall not consider within one year from the date of refusal, an application for a taxi/private hire driver's licence unless there has been a material change in their circumstances
5. No licence will be granted or renewed for taxis except in respect of vehicles which are wheelchair accessible
6. From 1 December 2016 it is a requirement for the Licensing Authority to undertake immigration checks. Please see Annex A of the Application Form for a list of evidence that is required to be produced with the application form.

7. In the case of a married woman, provide your maiden name
8. All taxi drivers must attend a Wheelchair Training Course in the carriage of wheelchair passengers, where applicable
9. A holder of an East Lothian taxi driver's licence is permitted to drive both taxis and private hire cars
10. Part D of the application form refers to any convictions / offences. This must be completed accurately. All convictions / offences are to be declared, including those which may be spent or admonished. Failure to do so will be taken into account in determining your application. If there are no convictions / offences of any kind, enter 'None'
11. Any person who, or in connection with the making of this application, makes any statement which they know to be false, or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction
12. Information supplied on this form will be held electronically and applicants are advised that in processing this application, background enquiries will be made which may include reference to personal data held electronically
13. East Lothian Council is required by law to protect the public funds it administers. Thus, the Council may share the information you provide with other bodies responsible for auditing or administering public funds, in order to prevent and detect fraud

Please return the application form with appropriate fee and enclosures to:

Licensing Team
East Lothian Council
John Muir House, Haddington
EH41 3HA