

South Lakeland District Council
Licensing Regulatory Sub-Committee

Wednesday, 4 July 2018

**Application to Renew Hackney Carriage Licence
contrary to Vehicle Age Limit Policy
(Cttee Ref: LR02-18/19)**

Portfolio: Culture and Leisure Portfolio Holder
Report from: Assistant Director Neighbourhood Services
Report Author: Hardeep Burnley – Principal Food, Licensing and Safety Officer
Wards: N/A
Forward Plan: N/A

1.0 Expected Outcome

1.1 An application has been received from Mr Carl Atkinson, a hackney carriage proprietor, prior to his current licence expiring on the 7th August 2018, to renew the hackney carriage licence that is issued to his Audi A4 motor car. This, if granted, would require the Council to dispense with the current vehicle age limit policy, in this instance if deemed appropriate, as the vehicle in question is more than ten years old and is not a wheelchair accessible vehicle.

2.0 Recommendation

2.1 It is recommended that members:

- (1) Determine the application and if approved, allow the applicant's vehicle to be licensed as a hackney carriage vehicle. The Council may attach to the grant of a licence such conditions as it may consider reasonably necessary; and**
- (2) Subject to this application being approved, the applicant shall abide by all other approved conditions of the application relating to hackney carriage vehicles.**

3.0 Background and Proposals

- 3.1 Hackney carriage HCV629, is an Audi A4 motor car;
- a) Its registered number is PK57JYY;
 - b) It was first registered in December 2007;
 - c) It has covered not less than 150,563 miles since its date of first registration;
 - d) It has been licensed as a hackney carriage since October 2012;
 - e) It is not a wheelchair accessible vehicle;
 - f) During its life as a hackney carriage, it has been MOT tested on 14 occasions;

g) Of those tests, it has failed on three occasions;

- 25/03/15 - 102,648 miles - Headlamp aim too low (1.8)
- 28/03/15 - 112,371 miles - Nearside Front Anti-roll bar linkage insecure (2.4.G.1) and Nearside Front Track rod end loose (2.2.B.1d)
- 05/12/17 – 145,971 miles - Central Exhaust has a major leak of exhaust gases (7.1.2)

3.2 The vehicle was last tested on the 27/03/2018. It passed and had an advisory notice that the front exhaust had a minor leak of gas. A copy of the test certificate can be seen in Appendix A of this report.

3.3 The vehicle was also subjected to a hackney carriage inspection on 27/03/2018. The inspection showed that the vehicle complied with the requirements of the Council. A copy of the report can be seen in Appendix A of this report.

3.4 Mr Atkinson has submitted a request for permission to re-licence his vehicle before the current licence expires on the 7th August 2018. The vehicle will not be eligible for re-licensing on that date, as it will be more than ten years old.

3.5 The age restriction policy was adopted on 29 January 2009 and is included in the current taxi policy document at section 3.5 (the full section can be found in Appendix B):

3.5 Maximum age of vehicle:

- 1) *No Hackney Carriage or Private Hire vehicle, other than wheelchair accessible vehicles, will be re-licensed after reaching 10 years old;*

3.6 The age restriction policy was adopted to ensure that hackney carriages and private hire vehicles met modern safety requirements and provided the travelling public with reasonably up-to-date vehicles. One of the unintended consequences of the policy was that it also ensured the vehicle fleet complied with the most recent vehicle emissions requirements. This is particularly important, as it manages, as far as practicable, the emission of noxious fumes and diesel particulates in the District. The current EU emissions standards for passenger cars were updated in September 2014 (Euro 6), September 2011 (Euro 5b) and September 2009 (Euro 5a). The standard set in Euro 5b contains maximum particulate emissions for the first time. Although the limits were set on the dates outlined above, a transition period was allowed in most cases to permit manufacturers to clear their old stock. For example Euro 5b only came into force for nearly all new vehicles in January 2011.

4.0 Consultation

4.1 On 27 July 2017 the vehicle was inspected by an independent engineer employed by Town End garage of Casterton. The engineer assessed the vehicle to be in 'exceptional' condition. A copy of the engineers report can be viewed in Appendix 'A' of this report.

4.2 On 17 April 2018, the applicant submitted several e-mails to the licensing office in support of his application. The e-mails contained a number of photographs and a written explanation outlining his reasons for requesting the sub-committee to disregard the policy in this case. The photographs and written request can be viewed in Appendix 'A' of this report.

5.0 Alternative Options

5.1 The district council shall not grant such a licence unless they are satisfied—

(a) that the vehicle is—

- (i) suitable in type, size and design for use as a private hire vehicle;
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- (iii) in a suitable mechanical condition;
- (iv) safe; and
- (v) comfortable;

And may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.

- 5.2 If the Council does not grant the application, or places additional conditions on the licence, the applicant may appeal against the decision of the Council, if he is aggrieved by the refusal to grant a vehicle licence under this section, or by any conditions specified in such a licence. The appeal must be made to the magistrates' court not later than 21 days after the applicant was served with written notification of the decision of the Council.

6.0 Links to Council Priorities

- 6.1 The purpose of the Hackney Carriage and Private Hire Licensing system is to protect the safety and welfare of the travelling public and therefore links to the council priority of Health and Wellbeing.

7.0 Implications

Financial, Resources and Procurement

- 7.1 There are no financial implications

Human Resources

- 7.2 There are no human resource implications

Legal

- 7.3.1 Article 6 of the Human Rights Act 1988 provides that everyone is entitled to a fair hearing. Accordingly an applicant should be afforded the right to a hearing before any decision is taken on his application. The applicant has been invited to attend to make representations to the Licensing Regulatory Sub-Committee.
- 7.3.2 R v Hyndburn Borough Council in the High Court in 1992, ruled that it is possible in law to have a policy of strict age limits provided that it is not an immutable policy. The opportunity to depart from a policy must still be afforded if circumstances warrant it and each application must still be treated on its merits. In the event of an application for a private hire vehicle or hackney carriage being refused on the basis of the age limit policy, the applicant would have a right of appeal to the Magistrates' Court
- 7.3.3 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 states:
- (1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.*
 - (2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of*

1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

(3) Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates' court.

7.3.4 The applicant may appeal against the decision of the Council if he is aggrieved by the decision. The appeal process is explained in section 5.2 above.

Health, Social, Economic and Environmental

7.4 Have you completed an Health, Social, Economic and Environmental Impact Assessment? / No

7.5 If you have not completed an Impact Assessment, please explain your reasons: This process and the current Hackney Carriage and Private Hire Licensing Policy 2017 have been subjected to health, social, economic and environmental impact and no issues were found.

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

7.8 If you have not completed an Impact Assessment, please explain your reasons: This process and the current Hackney Carriage and Private Hire Licensing Policy 2017 have been subjected to an equality impact analysis and no issues were found.

Risk

Risk	Consequence	Controls required
Should members be minded to refuse this application, or grant it with conditions, the applicant may appeal their decision.	Costs may be awarded against the Council should the appeal be upheld.	Members to be aware of the right to appeal

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
A	Photographs and documents submitted by The applicant in support of application.
B	Hackney carriage licensing vehicles – taken from the Hackney carriage and Private Hire Licensing Policy 2017

Background Documents Available

Name of Background document	Where it is available
Hackney Carriage & Private Hire Licensing Policy 2017	https://www.southlakeland.gov.uk/media/4289/taxipolicydoc_2017v15_st.pdf
Local Government (Miscellaneous Provisions) Act 1976	http://www.legislation.gov.uk/ukpga/1976/57/contents

Tracking Information

Signed off by	Date sent
Legal Services	01/06/2018
Section 151 Officer	01/06/2018
Monitoring Officer	01/06/2018
SMT	01/06/2018

Circulated to	Date sent
Assistant Director	01/06/2018
Human Resources Manager	01/06/2018
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A