

**South Lakeland District Council**  
**Licensing Regulatory Sub-Committee**  
13:00 hours Friday 30 October 2020  
Application to licence a Hackney Carriage Vehicle  
contrary to Vehicle Age Limit Policy

(Cttee Ref: LR02-20/21)

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<b>Portfolio:</b>	Cllr Robin Ashcroft - Economy, Culture and Leisure Portfolio Holder
<b>Report from:</b>	Simon Rowley – Director of Customer and Commercial Services
<b>Report Author:</b>	Patrick Cantley – Specialist (Licensing)
<b>Wards:</b>	(All Wards);
<b>Forward Plan:</b>	Not applicable

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**1.0 Expected Outcome**

- 1.1 On 27<sup>th</sup> July 2020 hackney carriage proprietor Mr Alan Barnes submitted an application to renew the hackney carriage vehicle licence that was issued to his current vehicle, a Vauxhall Zafira, registration BK59 UFW. However, due to the age of the vehicle it was not eligible for renewal of licence without the matter being heard and determined at Licensing Regulatory Sub-Committee. As such the licence for this vehicle has since lapsed.
- 1.2 Members must consider that granting this application will require the Council to depart from the current vehicle age limit policy because the vehicle in question is more than ten years old and it 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. 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.**

**3.0 Background and Proposals**

- 3.1 Hackney carriage HCV027, is a Vauxhall Zafira motor car;
- a) Its registered number is BK59UFW;
  - b) It was first registered in September 2009;
  - c) It has covered not less than 119,102 miles since its date of first registration;
  - d) It has been licensed as a hackney carriage since July 2014;

- e) It is not a wheelchair accessible vehicle;
- f) During its life as a hackney carriage, it has been MOT tested on 16 occasions;
- g) Of those tests, it has failed on one occasion;  
03/07/19 - 112,142 miles - Nearside Front Tyre has ply or cords exposed (5.2.3 (d) (ii))

- 3.2 The vehicle was last tested on the 08/07/2020. It passed without issue.
- 3.3 The vehicle was also subjected to a hackney carriage inspection on 08/07/2020. The inspection showed that the vehicle complied with the requirements of the Council. A copy of the report can be seen in 'Appendix 1' of this report.
- 3.4 Mr Barnes submitted the completed application to re-licence his vehicle on or around 27<sup>th</sup> July 2020. However, as the vehicle is more than 10 years old it is not eligible for re-licensing without the approval of a Licensing Regulatory Sub-Committee and the licence has since lapsed.
- 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 which is replicated in 'Appendix 2'. The relevant extract is shown below:

*3.5 Maximum age of vehicle:*

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

- 3.7 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.
- 3.8 Section 4 of the registration (V5) document lists exhaust emissions for the vehicle being considered today (See 'Appendix 1'). The figures have been compared against the parameters set by existing European emissions standards ('Appendix 3'). This vehicle is compliant with the parameters set by 'Euro 4 (EC2005).

#### **4.0 Consultation**

- 4.1 The applicant has supplied a copy of an engineer's report. The report examines those parts of the vehicle that are not otherwise covered by the MOT testing regime. A copy of the report can be found in 'Appendix 1'.

#### **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 current Hackney Carriage and Private Hire Licensing Policy for South Lakeland District Council is underpinned by the following objectives –

- (i) The protection of public health and safety;
- (ii) A professional and respected hackney carriage and private hire trade;
- (iii) Access to an efficient and effective public transport service;
- (iv) The protection of the environment

These objectives tie to the current Council priorities 'responding to climate change and enhancing biodiversity', 'reducing income and health inequalities' and 'working across boundaries to deliver economic growth'.

## **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 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 In the High Court case of (R v Hyndburn Borough Council 1992) the court 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 2018 have been subjected to an equality impact analysis 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 2018 have been subjected to an equality impact analysis and no issues were found.

### **Risk**

Risk	Consequence	Controls required
Should members grant the application, the operator may use a sub-standard hackney carriage.	Members of the public may be put at risk of injury or death if a sub-standard hackney carriage is re-licensed.	Members need to be satisfied that the vehicle to be licensed is maintained in a safe and roadworthy condition, and will continue to be maintained in that manner
Should members refuse the application, or grant it with conditions, the applicant has a right of appeal to the Magistrates' Court.	If the appeal is allowed, costs may be granted against the Council	Members to be made aware of the right to appeal.

### **Contact Officers**

Patrick Cantley, Specialist – Licensing. 01539 793423 p.cantley@southlakeland.gov.uk

### **Appendices Attached to this Report**

Appendix No.	Name of Appendix
1	Supporting documents
2	Hackney carriage licensing: Vehicles – taken from the Hackney Carriage and Private Hire Licensing Policy
3	European Emission Standard (Euro Rating)

### Background Documents Available

Name of Background document	Where it is available
Hackney Carriage & Private Hire Licensing Policy 2017	<a href="https://www.southlakeland.gov.uk/media/6752/taxi-policy-2018-v7.pdf">https://www.southlakeland.gov.uk/media/6752/taxi-policy-2018-v7.pdf</a>
Local Government (Miscellaneous Provisions) Act 1976	<a href="http://www.legislation.gov.uk/ukpga/1976/57/contents">http://www.legislation.gov.uk/ukpga/1976/57/contents</a>
RAC guide to European emissions standards	<a href="https://www.rac.co.uk/drive/advice/emissions/euro-emissions-standards/">https://www.rac.co.uk/drive/advice/emissions/euro-emissions-standards/</a>

### Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	18/09/20	01/10/20
Section 151 Officer	18/09/20	09/10/20
Monitoring Officer	18/09/20	01/10/20
CMT	18/09/20	02/10/20

Circulated to	Date sent
Lead Specialist	14/09/20 to Sean Hall. Comments adopted in report before circulation.
Human Resources Lead Specialist	
Communications Team	
Leader	
Committee Chairman	
Portfolio Holder	
Ward Councillor(s)	
Committee	
Executive (Cabinet)	
Council	