

South Lakeland District Council
Licensing Regulatory Sub-Committee
21st June 2021

**Application to licence a Hackney Carriage Vehicle
contrary to Vehicle Age Limit Policy**

Portfolio: Cllr Robin Ashcroft
Report from: Simon Rowley - Director of Customer and Commercial Services
Report Author: Rowland Wilson – Specialist (Licensing)
Wards: (All Wards);
Forward Plan: Not applicable

1.0 Expected Outcome

- 1.1 On 11th April 2021 hackney carriage proprietor Mr Alan Barnes submitted a request to renew the hackney carriage vehicle licence that was issued to his current vehicle, a Vauxhall Zafira, registration BK59 UFW.
- 1.2 The current licence is due to expire on 13th July 2021 however, due to the age of the vehicle it would not be eligible for renewal of the licence without the matter being heard and determined at Licensing Regulatory Sub-Committee.
- 1.3 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 A report was presented to this committee on 20th October 2020 for an extension of a hackney carriage vehicle licence, made by Mr Alan Barnes as his vehicle was over 10 years old, and he was requesting that the committee depart from the current vehicle age limit policy. On that day the committee:

RESOLVED – That the Council's Age Limit Policy be dispensed with on this occasion and that Mr Barnes be granted a renewal for his Hackney Carriage Vehicle Licence for a 12 month period from when it expired on 13 July 2020 providing the vehicle continue to pass the required four monthly MOT tests in accordance with the Council's Policy and the additional conditions therein.

Reasons for the decision are as follows:

The evidence presented to Members at the hearing and documents contained within the report showed that:

- a. The Applicant's vehicle already undergo a four monthly MOT tests in accordance with the Council's Policy due to the vehicle being over 8 years old;*
- b. The Applicant's vehicle was last MOT tested on 08 July 2020 which passed without any identifiable problems;*
- c. The Applicant's Hackney Carriage Inspection conducted on 08 July 2020 for the vehicle did not identify any problems;*
- d. The Engineers report and inspection was conducted 22 July 2020 did not identify any problem;*
- e. The Applicant's vehicle is said to be compliant with the parameters set by 'Euro 4 (EC2005);*
- f. Members are satisfied with the explanation and reasons provided by the Applicant for wanting to extend the Hackney Carriage Vehicle Licence for a further one year. Namely, that the Applicant is a professional driver whose sole source of income is from working as a Hackney Carriage driver. That the Applicant has been affected by the Coronavirus Pandemic which has led to less passenger footfall from Oxenholme Train Station, thus affecting the Applicant's finances;*
- g. Members are satisfied with the current state of the vehicle in light of the evidence before them; and*
- h. This application is Applicant's first extension request beyond the Council's Ten Years Age Limit for Hackney Carriage Vehicle.*

3.2 Mr Barnes submitted a further request via e mail on 11th April 2021 stating:

I would like to apply for a 12 month extension for the above Hackney Carriage. It has been a very difficult time for trade with the Lake District being subject to lockdown for 8 out of the last 12 months. I work solely out of Oxenholme Station and rely heavily on tourism and have seen an 80% drop in business this last year. The vehicle is in excellent condition for its age as evidenced by the Engineers Report attached. It has been well maintained as the previous MoTs show.

3.3 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.

3.4 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 121,686 miles shown on the MOT dated 10th March 2021, 'Appendix 3' which was an increase of 606 miles since the previous MOT dated 11th November 2020;
- 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 17 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))

3.5 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;

- 3.6 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.
- 3.7 Section 4 of the registration (V5) document lists exhaust emissions for the vehicle being considered today (See 'Appendix 5'). 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 carried out on 10th March 2021. 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.
- 4.2 The applicant has also provided photographs of the exterior and interior of the vehicle, and can be found at 'Appendix 4'
- 4.3 A copy of the last MOT can be found at 'Appendix 6'

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 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

- 7.6 Have you completed an Equality Impact Analysis? **No**
- 7.7 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	Risk Consequence Controls required	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 relicensed.	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

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Copy Engineers report
2	Copy of Age restriction policy
3	European emissions standards
4	Copy of Photos Hackney Carriage 27
5	Copy of V5 Log Book
6	Copy of MOT dated 10/03/2021

Background Documents Available

Name of Background document	Where it is available
Report & minutes of Licensing Regulatory Sub Committee 30/10/2020	https://democracy.southlakeland.gov.uk/ieListDocuments.aspx?CId=366&MId=5052&Ver=4

Name of Background document	Where it is available
Local Government (Miscellaneous Provisions) Act 197	http://www.legislation.gov.uk/ukpga/1976/57/contents
RAC guide to European emissions standards	https://www.rac.co.uk/drive/advice/emissions/euroemissions-standards/
Hackney Carriage & Private Hire Licensing Policy 2017	https://www.southlakeland.gov.uk/media/6752/taxipolicy-2018-v7.pdf

Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	11.05.2021	20.05.2021
Section 151 Officer	11.05.2021	
Monitoring Officer	01.06.2021	03.06.2021
CMT	N/A	N/A

Circulated to	Date sent
Lead Specialist	11.05.2021
Human Resources Lead Specialist	N/A
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