

**South Lakeland District Council**  
**Licensing Regulatory Sub-Committee**

**Monday 21<sup>st</sup> June 2021**

- 1. Application to licence a Private Hire Vehicle contrary to Vehicle Age Limit Policy**
  
- 2. Exemption from the requirements to display private hire plates and signage because of the nature of the vehicle and the business.**

**Michael Ian Heaps (Vintage Lakeland Tours)**

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**Portfolio:** Cllr Robin Ashcroft  
**Report from:** Simon Rowley – Director of customer & commercial services  
**Report Author:** Rowland Wilson – Specialist - Licensing  
**Wards:** (All Wards);  
**Forward Plan:** Not applicable

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**1.0 Expected Outcome**

- 1.1 An application has been received from a proposed private hire operator, Vintage Lakeland Tours to licence a private hire vehicle for the first time. 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 five years old and is not a wheelchair accessible vehicle.
  
- 1.2 Exemption from the requirements to display private hire plates and signage is also being requested because of the nature of the vehicle and the proposed business.

**2.0 Recommendation**

- 2.1 **1) Members are requested to determine the application and if approved, allow the applicant's vehicle to be licensed as a private hire vehicle, and be exempt from the requirement to display private hire plates and signage. 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 application for a private hire vehicle licence.**

**3.0 Background and Proposals**

- 3.1 On 25<sup>th</sup> January 2021 Mr Michael Ian Heaps, Vintage Lakeland Tours, submitted an application to licence a Austin Heavy motor car as a private hire vehicle. The full application can be viewed in Appendix 1 of this report.

3.2 The vehicle:-

- a) Bears the registration mark YW 7340;
- b) Was first registered on 11 July 1928;
- c) Has been owned by Mr Heaps since 10 November 2020;
- d) Has travelled a total of at least 2554 miles on 28 December 2020; and
- e) passed the MOT with no advisory notices recorded.

3.3 The Policy of the Council on the age of hackney carriages and private hire vehicles states at article 3.5 (see Appendix 2):

*3.5 Maximum age of vehicle*

*All hackney carriages and private hire vehicles, excluding wheelchair accessible purpose built hackney carriages must be less than five years old when first registered as hackney carriages or private hire vehicles.*

3.4 To comply with this part of the policy, the vehicle that is subject to this report should not be first licensed after 10 July 1933.

3.5 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. Due to the age of this vehicle and being classed as a 'historic vehicle' within the V5 log book, the exhaust emissions for the vehicle being considered today are not shown within the log book.

3.6 The Hackney carriage and Private Hire Licensing Policy 2017 (See Appendix 2) Version 7 effective from November 2018 at 10.1 states

*Private hire licence plates are a statutory requirement and it is South Lakeland District Council's policy to require signage on private hire vehicles in line with the conditions approved by the Licensing Regulatory Sub-Committee. These measures identify a vehicle as a properly licensed private hire vehicle and avoid confusion with hackney carriages.*

*However, private hire businesses providing what they refer to as executive hire may wish to apply for exemption from the requirements to display private hire plates and signage because of the nature of their vehicle(s) AND their business. A Licensing Regulatory Sub Committee will determine any such application where this policy cannot be implemented through delegation arrangements.*

3.7 Paragraphs 10.3 to 10.4 inclusive of Appendix 2 set out guidance to assist the Sub-Committee in determining an application concerning the executive hire exemption.

#### **4.0 Consultation**

- 4.1 On 29<sup>th</sup> December 2020 the vehicle passed its Private Hire vehicle inspection at T.C Motors, A further vehicle inspection was carried out by T.C. Motors on 22<sup>nd</sup> January 2021 and the report shows the condition of the vehicle to be 'In exceptional condition' A copy of the two engineers reports can be viewed in Appendix '3' of this report.
- 4.2 Pictures of the external and internal of the vehicle can be viewed at Appendix 4 of this report.
- 4.3 A comprehensive business plan has been submitted by Mr Heap with his application, and can be viewed at Appendix 5..

#### **5.0 Alternative Options**

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) states that

A 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 aggrieved 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 or resource implications.

## Human Resources

7.2 There are no issues in respect of Human Resources

## 7.3 Legal

7.3.1 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) regulates the grant and renewal of private hire vehicle licences. Section 48 of the Act regulates the issue of licences and is replicated in part at item 5.1 above.

Section 77 of the Act together with sections 300 to 302 of the Public Health Act 1936 regulate the means of appealing against a decision by the Council. This is explained in item 5.2 above.

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 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 of 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.

## 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 required	Consequence Controls required	Risk Controls required	Consequence Controls required	Risk Controls required	Consequence Controls required
Should members grant the application, the operator may use a sub-standard private hire vehicle.		Members of the public may be put at risk of injury or death if a sub-standard private hire vehicle is 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		If the appeal is allowed, costs may be granted against the Council.		Members to be made aware of the right to appeal.	

Risk required	Consequence Controls	Risk Controls required	Consequence	Risk Controls required	Consequence
right of appeal to the Magistrates' Court					

### Contact Officers

Rowland W Wilson Licensing Officer 01539 793255 [Rowland.wilson@southlakeland.gov.uk](mailto:Rowland.wilson@southlakeland.gov.uk)

### Appendices Attached to this Report

(delete if no appendices attached)

Appendix No.	Name of Appendix
1	Copy of Private Hire Vehicle Application
2	Copy of excerpt from SLDC Taxi Policy
3	Copy of vehicle inspection x2
4	Photographs of Austin Heavy YW7340
5	Proposed business plan

### Background Documents Available

Name of Background document	Where it is available
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>

### Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	21/05/2021	21/05/2021
Section 151 Officer	21/05/2021	21/05/2021
Monitoring Officer	01/06/2021	03/06/2021
CMT	N/A	N/A

Circulated to	Date sent
Lead Specialist	N/A
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