

**South Lakeland District Council**  
**Licensing Regulatory Sub-Committee**  
**Monday, 14 March 2022**

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**Portfolio:** Economy, Culture and Leisure Portfolio Holder

**Report from:** Director of Customer and Commercial Services

**Report Author:** Steven Hemsley – Specialist (Licensing)

**Wards:** (All Wards);

**Forward Plan:**

**Links to Council Plan Priorities:**

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’.

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**1.0 Expected Outcome and Measures of Success**

Private Hire Operator Heron Travel has applied for the grant of a Private Hire Vehicle Licence. The application is to licence a vehicle that has not previously been licensed within the district and is aged over 5 years old. The application, if granted, would require the Council to dispense with the current vehicle age limit Policy. A copy of this Policy is attached at Appendix 2.

**2.0 Recommendation**

**2.1** Members are requested to determine the application and if approved allow the applicant’s vehicle to be licensed as a Private Hire vehicle subject to the approved conditions of application for a Private Hire vehicle licence and any other conditions that the Council may consider reasonably necessary.

**3.0 Background and Proposals**

**3.1** Heron Travel propose that they are allowed to licence their vehicle, a Renault Kadjar as a Private Hire vehicle.

**3.2** The vehicle

- (a) bears the registration number S88 PNE.
- (b) Was first registered on 31<sup>st</sup> May 2016.
- (c) Has travelled a total of at least 50546 miles.
- (d) Has not previously been licensed in this District as a Private Hire Vehicle.
- (e) Has been tested regularly since May 2019 and in that time:
- (f) Has been tested 4 times.

In that time has failed the test on one occasion.

31.5.2019-

- Offside Headlamp not working on dipped beam
- Battery insecure and likely to fall from carrier

The vehicle subsequently passed the test later that day.

- The vehicle passed the MOT test on 26<sup>TH</sup> November 2020 with 2 minor defects.(details as per attached appendix)
- The vehicle passed the MOT test on 18<sup>th</sup> November 2021 with 4 advisory comments from the testing station (details as per attached appendix).

(f) A vehicle engineers report was carried out by MGD Limited, Kendal on 8<sup>th</sup> December 2021. A copy of this report is attached at Appendix 1.

- 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):

*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 The Policy of the Council on the age of hackney carriages and private hire vehicles also states:

*Any vehicle may be licensed or relicensed outside of these age limits, but any such an application must be referred to a Licensing Regulatory Sub-Committee for consideration.*

#### 4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Licence Application including engineers report
2	Policy on Age Limit of Vehicles Licensed as Hackney Carriage or Private Hire
3	MOT History

#### 5.0 Consultation

- 5.1 Heron travel - the applicants - have one other vehicle registered and operating under a Private Hire Vehicle Licence (This vehicle is a Black Ford Tourneo VRM BN68 CSV). They intend to use the vehicle to transport children on behalf of Cumbria County Council.
- 5.2 The vehicle was examined by MGD Ltd. Kendal on 8<sup>th</sup> December 2021. The examiner was a Mr. S. Harper and he deemed that the vehicle as in 'exceptional condition' for its age. A copy of this report can be found on Appendix 1.
- 5.3 The applicants have been invited to bring the vehicle to South Lakeland House should the members wish to inspect it.

#### 6.0 Alternative Options

- 6.1 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.

- 6.2 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.

## **7.0 Implications**

### **Financial, Resources and Procurement**

- 7.1 There are no financial or resource implications.

### **Human Resources**

- 7.2 There are no Human Resource implications.

### **Legal**

- 7.3.1 The Local Government (Miscellaneous Provisions) Act 1976 regulates the grant and renewal of private hire vehicle licences.
- 7.3.2 Article 6 of the Human Rights Act 1998 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.
- 7.3.3 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.
- 7.3.4 Section 48 of The Act refers to the licensing of private hire vehicles. This is explained in item 6.1 above.
- 7.3.5 The applicant may appeal against the decision of the Council if he is aggrieved by the decision. The appeal process is covered by 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 6.2 above.

### **Health and Sustainability Impact Assessment**

- 7.4 Have you completed a Health and Sustainability Impact Assessment? **Yes**

7.5 If you have not completed an Impact Assessment, please explain your reasons: Not required.

7.6 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
<b>Environment and Health</b>	Greenhouse gases emissions				X
	Air Quality		X		
	Biodiversity				X
	Impacts of Climate Change		X		
	Reduced or zero requirement for energy, building space, materials or travel				X
	Active Travel				X
<b>Economy and Culture</b>	Inclusive and sustainable development				X
	Jobs and levels of pay				X
	Healthier high streets				X
	Culture, creativity and heritage				X
<b>Housing and Communities</b>	Standard of housing		X		
	Access to housing		X		
	Crime		X		
	Social connectedness		X		

### Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? Yes

7.8 If you have not completed an Impact Analysis, please explain your reasons: \*\*\*

7.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
<b>Age</b>	P		0	X	N	
<b>Disability</b>	P		0	X	N	
<b>Gender reassignment (transgender)</b>	P		0	X	N	
<b>Marriage &amp; civil partnership</b>	P		0	X	N	
<b>Pregnancy &amp; maternity</b>	P		0	X	N	
<b>Race/ethnicity</b>	P		0	X	N	
<b>Religion or belief</b>	P		0	X	N	

<b>Sex/gender</b>	<b>P</b>		<b>0</b>	<b>X</b>	<b>N</b>	
<b>Sexual orientation</b>	<b>P</b>		<b>0</b>	<b>X</b>	<b>N</b>	
<b>Armed forces families</b>	<b>P</b>		<b>0</b>	<b>X</b>	<b>N</b>	
<b>Rurality</b>	<b>P</b>		<b>0</b>	<b>X</b>	<b>N</b>	
<b>Socio-economic disadvantage</b>	<b>P</b>		<b>0</b>	<b>X</b>	<b>N</b>	

<b>Risk Management</b>	<b>Consequence</b>	<b>Controls required</b>
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. An engineer's report is attached to this document to address this issue.
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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### Background Documents Available

<b>Name of Background document</b>	<b>Where it is available</b>
Taxi & Private Hire Policy	<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/section/47">http://www.legislation.gov.uk/ukpga/1976/57/section/47</a>
Public Health Act 1936.	<a href="http://www.legislation.gov.uk/ukpga/Geo5and1Edw8/26/49/contents">http://www.legislation.gov.uk/ukpga/Geo5and1Edw8/26/49/contents</a>

### Tracking Information

<b>Signed off by</b>	<b>Date sent</b>	<b>Date Signed off</b>
Section 151 Officer	18/01/2022	25/01/2022
Monitoring Officer	18/01/2022	25/01/2022
CMT	18/01/2022	25/01/2022

<b>Circulated to</b>	<b>Date sent</b>
Principal Specialist	18/01/22
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	18/01/2022
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A