

Public Document Pack

Mid Devon District Council

Regulatory Sub Committee A

**Thursday, 30 June 2016 at 2.00 pm
Phoenix Chamber 1, Phoenix House**

Those attending are advised that this meeting will be recorded

Membership

Cllr D R Coren (substituting for Cllr R J Chesterton)
Cllr J L Smith
Cllr R Wright

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

1 Apologies and Substitute Members

To receive any apologies for absence and notices of Substitution (if any).

2 Chairman - Election

To elect a Chairman for the Hearing.

3 To consider an application for a private hire vehicle (Pages 3 - 16)

To receive a report from the Head of Human Resources and Development. An application has been received by the licensing department to licence a private hire vehicle. The Hackney Carriage & Private Hire Policy states that a new licence will not normally be granted if the vehicle is over 5 years old. The vehicle in question was 5 years and 45 days old at the time of the application.

Stephen Walford
Chief Executive
22 June 2016

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or if you would like a copy of the Agenda in another format (for example in large print) please contact Sarah Lees on:

Tel: 01884 234310
E-Mail: slees@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

Agenda Item 3

REGULATORY SUB COMMITTEE
30 JUNE 2016

REPORT OF THE HEAD OF HUMAN RESOURCES AND DEVELOPMENT TO CONSIDER AN APPLICATION FOR A PRIVATE HIRE VEHICLE

REASON FOR REPORT

1. An application has been received by the licensing department to licence a private hire vehicle. The Hackney Carriage & Private Hire Policy in place states that a new licence will not normally be granted if the vehicle is over 5 years old. The vehicle in question was 5 years and 45 days old at the time of application.

RECOMMENDATION

1. That the Sub Committee decides, in the light of the application, the current policy in place and the case presented by the applicant, whether the vehicle should be licensed with this authority.

FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS

Any financial, legal and/or risk assessment implications are set out below:

Financial	The potential cost of defending an appeal in the courts
Legal	The applicant has a right of appeal if he is unhappy with the decision made
Risk Assessment	In the event of a successful appeal the Council could be liable for costs

1.0 INTRODUCTION

- 1.1 Mid Devon District Council is responsible for licensing the Hackney Carriage and Private Hire trade in Mid Devon. The Local Government (Miscellaneous Provisions) Act 1976, as amended, and the Town Police Clauses Act 1847, provides much of the regulatory framework for this licensing regime.
- 1.2 The authority has adopted a Hackney Carriage and Private Hire Policy, the most recent version of which came in to effect on 29 February 2016. The policy provides the framework for the administration of the service and sets out how the Council will consider applications. The policy can be viewed here <https://www.middevon.gov.uk/business/licensing/licensing-policies/> and a copy will be available to view at the hearing.
- 1.3 As part of this policy the authority has adopted five key aims and objectives which underpin the licensing process. Two of these are particularly relevant to this application and they are:
 - Vehicle safety, comfort and access
 - Environmental protection
- 1.4 Generally speaking, newer vehicles have fewer miles and tend to be in better, safer condition, being fitted with more recent safety features. Furthermore, the engine management systems are more efficient and environmentally friendly.
- 1.5 For these reasons this council has implemented age limits for new vehicles in the past. Since April 2010 all new vehicles had to meet Euro Standard 3 (vehicles registered after January 2000) and this increased in April 2011 to Euro Standard 4 (vehicles registered after January 2005).
- 1.6 From April 2014 it was decided, in conjunction with the trade, that all new vehicles must be no more than 5 years old. This was a rolling age limit from the date of first registration and this 5 year limit is in place at the moment. It should be noted that grandfather rights are provided to vehicles with existing licences (i.e. renewals).
- 1.7 The policy does allow exceptions to be made, and this is important as the Council must be flexible, act reasonably, consider the individual merits of each case and not fetter its discretion. Exemptions are highlighted in the policy for limousines, classic vehicles with specific use and wheelchair accessible vehicles. Furthermore, the policy states the following in terms of new vehicles over 5 years old:

Where a new application has been submitted to licence a vehicle over 5 years old, the application may be referred to a licensing regulatory sub-committee for consideration.

The presumption is that licences will not be granted for vehicles over 5 years old, but each case will be considered on its own merits. Should an application of this kind be

referred to a sub-committee the applicant would be expected to present a case as to why an exception should be made.

2.0 THE APPLICATION

- 2.1 The application was submitted by Mr Halil Gunes on 27 May 2016. A copy of it is attached as Annex 1. At the time of application the vehicle was 45 days over the 5 year age limit.
- 2.2 The vehicle is a black Mercedes-Benz E250 and is capable of carrying 4 passengers.
- 2.3 The vehicle passed an MOT on 4 January 2016 and also passed a vehicle test on 23 May 2016. The vehicle test document shows the mileage at that time as 74,171 miles. The vehicle test is attached as Annex 2.
- 2.4 Mr Gunes had previously licensed this vehicle with Mid Devon District Council as a Hackney Carriage. It was licensed from 16 January 2015 until 31 December 2015 but was not renewed on expiry.
- 2.5 Mr Gunes has been asked to ensure the vehicle is available for the Committee to inspect, should they wish, at the time of the hearing. He has also provided an outline as to why he believes the vehicle should be licensed and this is attached as Annex 3.
- 2.6 Photos of the vehicle are attached as Annexes 4 – 6.

3.0 SUMMARY OF LEGISLATION

- 3.1 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 contains the powers a local authority has in relation to the licensing of private hire vehicles. The Council are not under a duty to issue a licence but a licence shall not be granted unless the authority is satisfied that the vehicle is:
 - Suitable in type, size and design for use as a private hire vehicle;
 - not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - in a suitable mechanical condition;
 - safe;
 - comfortable; and
 - correctly insured
- 3.2 A Council may attach conditions to a licence should they consider them to be reasonably necessary. Current conditions set by this authority include the frequency of vehicle tests required (every 6 months), the requirement to report accidents and some general vehicle requirements.

- 3.3 Should the Council refuse a licence the applicant has the right of appeal to a Magistrates court. An applicant may also appeal if they are aggrieved by any condition specified in a licence.

4.0 RECOMMENDATION

- 4.1 It is recommended that after careful consideration of this report and hearing from Mr Gunes, the sub-committee decide whether to:

- a) Grant Mr Gunes a private hire vehicle licence in respect of the Mercedes-Benz, registration YR11 KVV

OR

- b) Refuse Mr Gunes a private hire vehicle licence in respect of the Mercedes-Benz, registration YR11 KVV

- 4.2 The Sub Committee must give reasons for the decision they have made, making clear that that it is based on the individual merits of the application. They may like to consider and make reference to the following points (in addition to anything else they believe to be relevant):

- The Policy in place (reasons for departing / not departing from it)
- The case made by the applicant
- The type of vehicle being considered
- The condition of the vehicle and whether it has passed relevant tests
- Any safety features the vehicle has
- The mileage of the vehicle
- The type of work that is likely to be carried out in the vehicle

ANNEXES TO THIS REPORT

Annex 1: The Application

Annex 2: Vehicle test document

Annex 3: Response from the applicant

Annexes 4 - 6: Photos of the vehicle

Contact for any more information	Tom Keating (01884 244618) Lead Licensing Officer
Background Papers	MDDC Policy and Conditions for Hackney and Private Hire
File Reference	Taxis/Hearings
Circulation of the Report	Applicant Sub-Committee



*Expired
31/12/05*

RECEIVED

27 MAY 2016

PHOENIX HOUSE RECEPTION

Licensing Authority
Mid Devon District Council
Phoenix House, Phoenix Lane
Tiverton, Devon EX16 6PP
Tel: 01884 244617/8/9

Application for a Private Hire Vehicle Licence

New Renewal Transfer Temporary Vehicle

CHECKLIST:	
I have enclosed	Please tick ✓ yes
• A completed vehicle test certificate from one of the garages authorised by this Council to provide the test (if applicable)	✓
• Current MOT (if applicable)	✓ Mot in wednesday
• Valid insurance documents showing cover for use as a private hire vehicle	✓
• Vehicle Registration Document (if applicable)	✓ -
• Made or enclosed payment of the appropriate fee for the application. Cheques made payable to Mid Devon District Council.	✓
• Expired Plate (if applicable)	✓

FOR OFFICE USE ONLY			PH-ES5507221
Licence payment - £ 824 =	Cash / Chq / Card	Receipt No. 03 S 13471	
Licence No.	Date Granted:	Date Expires:	

1. Your personal details

Title (please circle):	<input checked="" type="radio"/> Mr Mrs Miss Ms Other (please state)		
Surname	GUNES		
Forenames	HALIL OZGUR		
Address	23 CHELTENHAM CLOSE EXETER / DEVON		
Email			
Postcode	EX4 2EL		
Telephone No.		Mobile No.	
Will the owner drive the vehicle or employ drivers? (Please tick)		Owner	<input checked="" type="checkbox"/>
		Employ	<input checked="" type="checkbox"/>
		Both	<input checked="" type="checkbox"/>

2. Vehicle Details

Plate No	HV0052	Registration Letters and Numbers	YR11 KVY
Make	MERCEDES	Model	E250
Cubic Capacity of Engine	2200 cc	Year of Manufacture	2011
Seating Capacity Exclusive of Driver	4	Type of Body	SALON
Colour of Vehicle	BLACK	Means of Conveyance for Light Luggage	YES
Is the vehicle accessible for wheelchairs? (Please circle)		Yes	<input checked="" type="radio"/> No
Does the vehicle have a swivel seat for disabled passengers? (Please circle)		Yes	<input checked="" type="radio"/> No

3. Declaration

I am aware that it is an offence to knowingly or recklessly make a false statement or omit any required information in this form. I understand that a false statement may render me liable to prosecution and / or affect the consideration of this application.

I have checked the answers given in this application and to the best of my knowledge and belief they are correct.

I have read and understood the licence conditions that will be attached to the licence.

In the event of a licence being granted I undertake to observe and abide by the conditions applicable to the licence at all times.

Information disclosed on this form may be revealed to other agencies and bodies for the purpose of preventing or detecting crimes.

Signature		Date	27/05/2016
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This Authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of crime. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Mot in wednesday -

RECEIVED

27 MAY 2016

PHOENIX HOUSE RECEPTION

HACKNEY CARRIAGE / PRIVATE HIRE VEHICLE INSPECTION RECORD

Vehicle make	MERCEDES	Vehicle model:	E - CLASS	Reg No.	YR11 KVV
Specify if the vehicle is a private hire or hackney carriage: PRIVATE HIRE					
Plate No.	Engine cc:		2143	Mileage: 74171	
Colour:	BLACK	No. of passenger seats:	4	Date of test:	23/05/2016
Name of vehicle owner: FRANKIES					

If any of the following testable items fail, you must inform the Mid Devon District Council Licensing Team immediately.

Does the vehicle meet at least the pass standards set out in the VOSA publication 'The MOT Inspection Manual – Car and Light Commercial Vehicle Testing' ISBN 0-9549239-0-1?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
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Testable item & sub section reference no. for inspection standards manual	P	T	Testable item & sub section reference no. for inspection standards manual	P	F
Electrical Wiring and Equipment (1.9)	✓		Exhaust System (7.1)	✓	
Additional Lamps (1.9)	✓		Fuel System – Pipes & Tanks (7.2)	✓	
Steering Control – Steering Wheel (2.1)	✓		Mirrors and view to rear (8.1)	✓	
Steering Control – Steering Column (2.1)	✓		Windscreen – View to the Front (8.3)	✓	
Suspension Spring Units & Linkage (2.4)	✓		Window Glass or Other Transparent Material (8.5)	✓	
Tyres and Road Wheels (4.1)	✓		Transmission (10.1)	✓	
Vehicle Body and Condition – Exterior (6.1)	✓		Oil Leaks (10.2)	✓	
Vehicle Body, Security & Condition – Interior (6.1)	✓		Luggage / Load Space (10.3)	✓	
Bumper Bars (6.1)	✓		MDDC Licence Plates (10.4)	✓	
Doors and Seats (6.2)	✓		Trailers & Towbars (10.5)	N/A	
NOTE: ADDITIONAL LAMPS (1.9) – ONLY HACKNEY CARRIAGE VEHICLES WILL HAVE 'FOR HIRE' ROOF SIGNS			Wheelchair Restraint & Access Equipment (11.1)	N/A	

Additional Information (for example, reasons for any failures):

INTERNAL AND EXTERNAL
MDDC . LICENCE PLATES NOT
YET ISSUED

Declaration

I am an authorised Department of Transport Tester/Inspector and I have carried out a vehicle test on this vehicle. The vehicle has (circle the result):

PASSED / FAILED

Signed:



Name in BLOCK CAPITALS:

D.KITE

Name of Garage:

WEST EXE MOTORS

Authentication Stamp:



West Exe Motors Ltd

Tiverton, Devon

EX16 6SW

Tel: (01884) 252170

Vat Reg No. 384 9335 14

FOR ADVICE ON ANY OF THE ABOVE PLEASE CONTACT MID DEVON DISTRICT COUNCIL LICENSING TEAM

Reference Document: 'Mid Devon District Council Licensed Vehicle Testing Standard, 2013'.

Thomas Keating

From: DEVON VIP SERVICES
Sent: 09 June 2016 15:12
To: Thomas Keating
Subject: RE: New vehicle - YR11 KVV

Hi Tom,

Regarding the above vehicle and the committee meeting, here are my reasons for asking for special consideration.

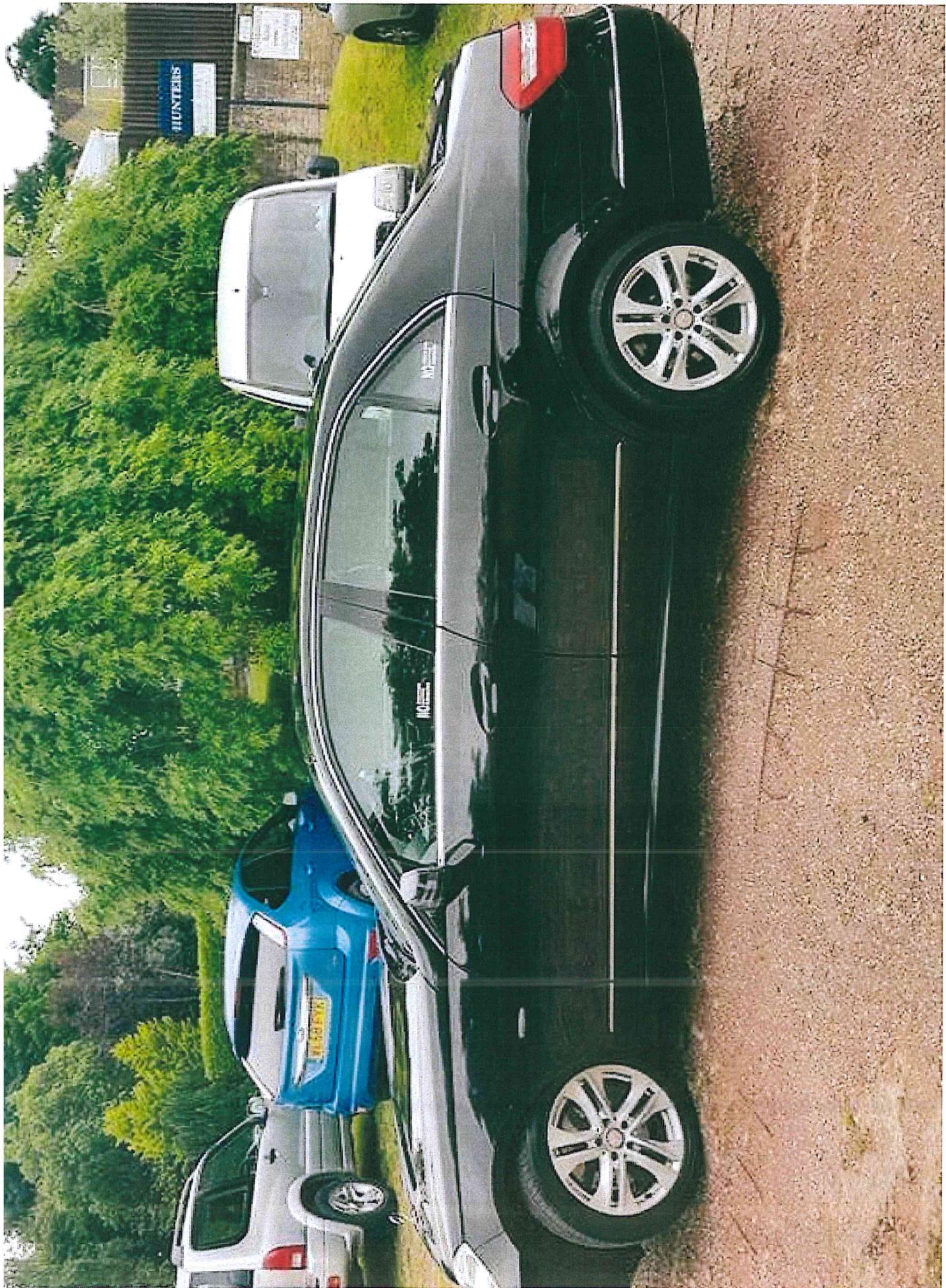
Firstly, my car is only just (2months) older than the age restriction.

Secondly, I currently have an older taxi in Tiverton and my new vehicle will bring vast improvement. The new vehicle emits 45gm/km less pollution than my current car. When you multiply this by 30000 to 40000 miles which we do annually, this is a substantial amount of emissions. Also it should be noted that my current vehicle has high mileage so the emissions may be more. My new vehicle is low mileage.

Fuel wise, the new vehicle does 15mpg more than my current vehicle.

Third, from my point of view, with this new vehicle, I have spoken to 2 companies who are willing to use my services for airport transfers weddings and long journey. This will keep me in a job for longer and I believe that this vehicle will be a welcome addition to Tiverton.

Many Thanks







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