

**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