

A HEARING TO CONSIDER AN APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

Cabinet Member(s): Colin Slade
Responsible Officer Jackie Taylor, Licensing Officer

REASON FOR REPORT: An application has been received by the licensing department to licence a Hackney Carriage 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 is 21 years and 271 days old at the time of application.

RECOMMENDATION: 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.

Relationship to Corporate Plan: N/A

Financial Implications: The potential cost of defending an appeal in the courts.

Legal Implications: 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. Additionally, the Council should only licence individuals considered 'Fit and proper'.

Equality Impact Assessment: The general public sector equality duty within the Equality Act 2010 has overarching application and requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity within and between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

When carrying out any of its functions, the Council must comply with this duty.

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 and emission 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 would be no more than 5 years old. This means that all new licenced vehicles would now meet a minimum of Euro 5 standard. 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 Hackney Carriage and Private Hire Licensing 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. (Paragraph 6.5.1)

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. (Paragraph 6.5.2)

Exemptions to the above 5 year limit may be provided to limousines, classic vehicles with specific use and wheelchair accessible vehicles. Grandfather rights will be provided to vehicles with existing licences. (Paragraph 6.5.3)

- 1.8 When exercising this flexible policy the sub-committee may also wish to consider that the council has a wider statutory duty to protect air quality under the Local Air Quality Management regime and air pollution from road transport is a priority Public Health issue, diesel vehicles including older taxis are proportionately higher emitters of air pollutants. The following table has been produced from RAC data and shows the testing criteria for vehicles.

Emissions standard	Applied to all new registrations from	Carbon monoxide (CO)	Hydrocarbons + Nitrogen oxides (HC+NOx)	Nitrogen oxides (NOx)	Particulate matter (PM)
Euro 1	31 December 1992	2.72g/km	0.97g/km	-	0.14g/km
Euro 2	1 January 1997	1.00g/km	0.70g/km	-	0.08g/km
Euro 3	1 January 2001	0.64g/km	0.56g/km	0.50g/km	0.05g/km
Euro 4	1 January 2006	0.50g/km	0.30g/km	0.25g/km	0.025g/km
Euro 5	1 January 2011	0.50g/km	0.23g/km	0.18g/km	0.005g/km
Euro 6	1 September 2015	0.50g/km	0.17g/km	0.08g/km	0.005g/km

2.0 THE APPLICATION

- 2.1 The application was submitted by Mr Benjamin Fajardo - Martinez on 3rd July 2017. A copy of it is attached as Annex 1. At the time of application the vehicle was 16 years and 271 days over the 5 year age limit.
- 2.2 The vehicle is a Black diesel Carbodies Fairway Taxi, probably better described as a "London Black Cab" and is capable of carrying 5 passengers.
- 2.3 The vehicle was first registered in 1995 and is therefore euro standard 1. The vehicle will be more polluting in comparison with vehicles meeting the tighter Euro 5 standard emission standard based on the measured pollutants.
- 2.4 The vehicle is accessible for wheelchairs and a front swivel seat allows access for disabled passengers.
- 2.5 The vehicle passed an MOT on 28th June 2017 and also passed a Taxi test on 28 June 2017. The vehicle test document shows the mileage at that time as 467,751 miles. The vehicle MOT test is attached as Annex 2. The Vehicle Taxi Test is attached as Annex 3.
- 2.6 Mr Fajardo-Martinez 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 4.
- 2.7 Photos of the vehicle are attached as Annexes 5 – 9.
- 2.8 For Members information, the hearing has been slightly delayed because the applicant has been away on holiday.

3.0 SUMMARY OF LEGISLATION

- 3.1 Section 37 of the Town Police Clauses Act 1847 and Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 contains the powers a local authority has in relation to the licensing of Hackney Carriage vehicles. The power to issue a Hackney Carriage licence is discretionary, not mandatory. The Mid Devon District Council Policy sets out the conditions in which it believes a Hackney Carriage vehicle could be granted with regards to a vehicles age (See Paragraph 1.4 to 1.7 above).
- 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 the Crown Court. An applicant may also appeal if they are aggrieved by any condition specified in a licence however, this appeal would be made to the Magistrates Court.

4.0 RECOMMENDATION

- 4.1 It is recommended that after careful consideration of this report and hearing from Mr Martinez, the sub-committee decide whether to:
- a) Grant Mr Fajardo-Martinez a Hackney vehicle licence in respect of the Black Carbodies Fairway Taxi
- OR
- b) Refuse Mr Fajardo-Martinez a Hackney vehicle licence in respect of the Black Carbodies Fairway Taxi
- 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 emissions standard of the vehicle
 - The type of work that is likely to be carried out in the vehicle

5.0 TIMESCALES

- 5.1 Members are asked to make their decision on the day of the hearing.

ANNEXES TO THIS REPORT

Annex 1: The Application
Annex 2: Vehicle MOT document
Annex 3: Vehicle Taxi Test document
Annex 4: Response from the applicant
Annexes 5 - 9: Photos of the vehicle
Annex 10: Order of play for the hearing

Contact for any more information	Jackie Taylor (01884 244619) Licensing Officer
Background Papers	MDDC Policy and Conditions for Hackney and Private Hire
File Reference	Taxis/Hearings
Circulation of the Report	Applicant Sub-Committee