



PAPER C

Purpose: For Decision

Committee report

Committee	LICENSING SUB COMMITTEE
Date	8 FEBRUARY 2016
Title	TO DETERMINE AN APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE FOR A FORD C-MAX BELONGING TO MR ROGER COOMBES
Report of	HEAD OF PLANNING AND HOUSING SERVICES

BACKGROUND

1. In accordance with the Town Police Clauses Act 1847 it is a requirement that in order to be used as a Hackney Carriage (taxi) a vehicle must have a licence issued by the Council.
2. The Council currently has a mixed fleet of a total of 196 Hackney Carriage (HC) and 52 Private Hire (PH) Vehicles. Approximately 72 (37%) of the total number of Hackney Carriages are wheelchair accessible vehicles (WAVs), i.e. those where the person can be carried in their wheelchair.
3. In May 2006 a full review of the council's hackney carriage and private hire licensing arrangements was carried out following a full consultation exercise, and after having regard to the latest Best Practice Guidance issued by the Department for Transport. The Committee resolved at that time to adopt revised conditions including one that required any new hackney carriage vehicle from 6 February 2007 to be a WAV.
4. The conditions were reviewed in 2015 when the main requirements relating to vehicles were incorporated into a policy document for hackney carriage and private hire licensing, and retained the requirements relating to new hackney carriage vehicles. This came into effect in April 2015.
5. The requirement for all new HC vehicles to be wheelchair accessible is contained within the current policy at Section 3.1.5.
6. Section 4.7 of the current policy also states that, in respect of replacement vehicles, a WAV can only be replaced with a WAV and must be a significant improvement on the previous vehicle.

7. A House of Commons Briefing Paper published in August 2015 states:

“3.3 Accessibility - There is no national requirement to make a proportion of taxi or PHV fleets accessible. This is a matter for individual local licensing authorities. Individual councils can – and do – require all or a proportion of vehicles licensed by that authority to be accessible. For example, since 1 January 2000 every taxi operating in London has been required to take wheelchairs and all taxis operating in Edinburgh have been required to be wheelchair accessible since 1 January 1997. An estimated 58% of all taxis in England and Wales were wheelchair accessible (either purpose built or converted) at March 2013 – around 45,000 vehicles in total. This proportion has been broadly unchanged since 2009.”

8. There has been no other guidance issued since then as to the percentage of a hackney carriage fleet which should be wheelchair accessible.
9. Mr Roger Coombes is the proprietor of Alpha Taxis, which has a large mixed fleet of hackney carriage and private hire vehicles as well as larger vehicles and coaches licensed by other authorities. Mr Coombes contacted the Licensing Department on 5 January 2016 to enquire about the possibility of licensing an additional saloon car as a Hackney Carriage in order to provide a more suitable vehicle for his older customers who have physical difficulty in getting in and out of the WAVs.
10. Mr Coombes was reminded of the Council's current policy for new and replacement vehicles and informed that his proposal would not be in accordance with the policy, but that if Mr Coombes were to put forward a case for replacing one of his older WAVs which is already licensed, with a saloon-type car, this would be considered on its merits.
11. It was also suggested to Mr Coombes that he could consider licensing a saloon car as Private Hire vehicle (provided it was not silver). However, he indicated that he required it to be licensed as a hackney carriage.
12. An email was received from Mr Coombes on 6 January 2016 submitting his reasons for wanting to licence a saloon type car (Appendix A).
13. Further discussions took place with Mr Coombes over the possibility of installing a swivel seat in the front of the vehicle as an alternative facility for people with a disability to assist them getting in and out of the vehicle. Mr Coombes indicated that he would be willing to do this if it would help his case in being granted a licence. This was prior to Mr Coombes notifying officers of the make and model of vehicle he was considering.
14. Officers considered whether a deviation from policy could be granted, however it was felt that the application should be determined by the Licensing Sub Committee. Mr Coombes was informed of this by email on 15 January 2016 and advised to make an application in order for it to be considered by the Committee.

15. Mr Coombes submitted his application for a Hackney Carriage Licence on 19 January 2016, for a new licence for a silver Ford C-Max registration number GC15 WFX (Appendix B).

CONSULTATION

16. This application requires no consultation with other agencies.

FINANCIAL/BUDGET IMPLICATIONS

17. Broadly, Council expenditure on licensing matters, and specifically those administered and enforced through Regulatory Services, balances income generated from fees.

LEGAL IMPLICATIONS

18. Section 3.1.5 of the Council's current Hackney Carriage and Private Hire Licensing Policy states that to be considered for a new HC vehicle licence, a vehicle must be silver, less than 3 years old and wheelchair accessible.
19. Section 4.7 states that where an existing vehicle is wheelchair accessible, any replacement vehicle must also be wheelchair accessible.
20. Section 5.4 of the current Policy states that in some circumstances officers may refer an application to the Licensing Committee for a decision.

Implications under the Crime and Disorder Act 1998

21. Members are advised that without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights

22. Members are advised that this application must be considered against the background of the implications of the Human Rights Act 1998.
23. There are two convention rights, which need to be considered in this context:
 - Article 6 - Right to a Fair Trial

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

It has been held that the fact that there is a right of appeal to the Magistrates' Court from any decision of the Licensing Authority is sufficient to make the Council's licensing system compliant with the convention rights.

EQUALITY AND DIVERSITY

24. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to go beyond prohibition and publish and promote service improvements by engaging with the local community to assess the impact of any decision on the local community. As a requirement under the Equality Act 2010 and further improvements to diversity legislation all local authorities are required to impact assess their services, policies/strategies and decisions with regard to diversity legislation – race, disability, gender, age, sexual orientation and religion/belief. (NB: this list is not exhaustive, it does cover current legislation but future development could also include poverty and social inclusion as an example).

There is no requirement for an equality impact assessment to be carried out on this application however, should there be a deviation in policy/precedent set then it may be necessary to review the Equality Impact Assessment for potential positive or negative effects on the protected characteristics.

OPTIONS

- Option 1: To grant Mr Coombes a NEW Hackney Carriage Vehicle Licence for the proposed vehicle.
- Option 2: To allow Mr Coombes to replace an existing wheelchair accessible Hackney Carriage Vehicle with the proposed saloon type vehicle.
- Option 3: To refuse to grant Mr Coombes a licence for the proposed vehicle.

RISK MANAGEMENT

25. With regard to Option 1: To grant a new licence for this vehicle would not be in accordance with the current Council policy. It could set a precedent and encourage similar requests from other proprietors. It may require the Council's policy to be reviewed.
26. With regard to Option 2: If the Committee are minded to grant a HC licence by way of a replacement vehicle this would be a deviation from the Council's policy, however, it would not result in an increase in the total number of licensed vehicles, but would allow Mr Coombes to provide a different type of vehicle for his customers.
27. With both Options 1 and 2, if minded to licence the vehicle, either as a new vehicle or as a replacement, the Committee should note that Mr Coombes has installed the swivel seat and should decide whether to attach a condition to the licence that any subsequent replacement vehicle should also have a swivel seat installed.
28. With regard to Option 3: If the application is refused Mr Coombes would have the right of appeal. Appeals against the refusal to grant a Hackney Carriage are to the Crown Court.

EVALUATION

29. Each application for a Hackney Carriage/Private Hire Driver's licence must be considered on its own merits, having regard to the current policy.
30. The Council has not previously deviated from its policy when granting new licences for HC vehicles.
31. To grant a new licence for this vehicle may cause issues with other taxi proprietors who have had to provide a more expensive wheelchair accessible vehicle in order to obtain a new licence.
32. To grant a new licence would also set a precedent and may encourage similar applications from other proprietors to avoid the expense of providing a wheelchair accessible vehicle of less than 3 years old.
33. The licensing department has not received any requests for a new vehicle licence for a vehicle with a swivel seat since the revised policy has been in place.
34. This type of vehicle will no doubt be of benefit to people who may have mobility issues but not to the extent where they need to travel in a wheelchair.
35. The Committee should consider whether to grant a new hackney vehicle licence for the proposed vehicle.
36. Should a new licence be granted, the Committee may wish to instruct officers to review and revise the current policy to allow for vehicles other than WAVs to be licensed as new vehicles.
37. If the committee decide not to issue a new licence they should consider whether a licence could be granted as a replacement vehicle if Mr Coombes decided to replace one of his existing wheelchair accessible vehicles with the proposed vehicle.

RECOMMENDATION

38. The Committee are requested to determine whether to grant a new Hackney Carriage vehicle licence to Mr Coombes. Officers recommend that the vehicle be licensed as a replacement for one of the older WAVs and with a passenger swivel seat installed in the front of the vehicle.

APPENDICES ATTACHED

- [Appendix A](#) Email request from Mr Coombes
[Appendix B](#) Application for a Vehicle Licence

BACKGROUND PAPERS

- [Hackney Carriage and Private Hire Licensing Policy dated 15 March 2015](#)

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