



Committee report

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| Committee | LICENSING SUB COMMITTEE |
| Date | 6 DECEMBER 2016 |
| Title | TO CONSIDER AND DETERMINE A DEVIATION FROM POLICY FOR A HACKNEY CARRIAGE VEHICLE LICENCE FOR A PEUGEOT 5008 BELONGING TO MR ROY BALL |
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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. 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.
3. The conditions were again reviewed in 2015 when the main requirements relating to vehicles were incorporated into a policy for hackney carriage and private hire licensing. This came into effect in April 2015.
4. Since the policy has been reviewed, and prior to that, there has been a requirement for adequate luggage space to be available in a licensed hackney carriage. Hackney Carriages frequently ply for hire from taxi ranks and must be able to carry the required amount of luggage for the number of passengers for which the vehicle is licensed, bearing in mind the Isle of Wight has a high number of holiday makers visiting throughout the year with their luggage who may require a taxi from and to the ferry ports.
5. This requirement is contained within Paragraph 3.1.10 of the Council's current Policy which states that suitable storage for passenger luggage, ideally separated from the passenger compartment, should be provided.
6. Mr Roy Ball is the proprietor of Diamond Taxis, and has two licensed vehicles, an 8-seater minibus and a 4-seater saloon car. He has recently applied to replace one of the 4-seaters, a Skoda Octavia which is 11 years old, with a replacement vehicle, a Peugeot 5008 which is 6 years old.

7. Mr Ball indicated to officers that he had already purchased the vehicle and that his intention was for the vehicle to be licensed for 6 passengers. However, after viewing the vehicle, officers were of the opinion that, although there are enough seats for 6 passengers, if this number were carried there would not be adequate space for a reasonable amount of luggage for each person.
8. Mr Ball was reminded of the Council's current policy and informed that his proposal would not be in accordance with the policy due to the lack of luggage space, and for this reason officers would only use their delegated authority to licence the vehicle for 4 passengers. Mr Ball was not satisfied with officers' decision and was advised that he could put forward a case stating his reasons for wanting the vehicle licensed for 6 passengers, and that this would be considered on its merits by the Licensing Sub Committee.
9. A letter was received from Mr Ball on 8 November 2016 in support of his application for 6 passengers (Appendix A).
10. In order that Mr Ball could start using the vehicle prior to the committee hearing, he submitted his application for a Hackney Carriage Vehicle Licence on 16 November 2016 (Appendix B) for the replacement vehicle which, as it complies with all other requirements, was granted for 4 passengers under delegated authority.

CONSULTATION

11. This application requires no consultation with other agencies.

FINANCIAL/BUDGET IMPLICATIONS

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

LEGAL IMPLICATIONS

13. 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

14. 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

15. Members are advised that this application must be considered against the background of the implications of the Human Rights Act 1998.

16. 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 from any decision of the Licensing Authority is sufficient to make the Council's licensing system compliant with the convention rights.

EQUALITY AND DIVERSITY

17. 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 Ball a licence for the proposed vehicle to carry 6 passengers.

Option 2: To refuse to licence the vehicle for 6 passengers as there is not adequate luggage space, and require the vehicle to remain licensed for 4 passengers.

RISK MANAGEMENT

18. With regard to Option 1: To licence this vehicle for 6 passengers would not be in accordance with the current Council policy. It could set a precedent and encourage similar requests from other proprietors. It may also require the Council's policy to be reviewed.

19. With regard to Option 2: If the application is refused Mr Ball would have the right of appeal. Appeals against the refusal to grant a Hackney Carriage Vehicle Licence are to the Crown Court.

EVALUATION

20. Each application for a Hackney Carriage Vehicle licence must be considered on its own merits, having regard to the current policy.
21. The Council has not previously deviated from its policy for this type of vehicle.
22. The information on Peugeot's website relating to the 5008 model states that it is 'spacious, practical and family focused' and the ideal car for families. It should be stressed that although the car has been manufactured to provide 7 seats and may be ideal for families, it has not been purpose built as a taxi and therefore adequate luggage space has not been considered in respect of its use as a taxi.
23. Mr Ball did not approach officers prior to purchasing the vehicle to enquire as to its suitability for licensing as a Hackney Carriage Vehicle. If he had done so, he would have been advised at that stage as to the number of passengers for which it would be licensed.
24. The Committee should consider whether to licence the vehicle for 6 passengers or whether the licence for 4 passengers should remain. Mr Ball has been requested to bring the vehicle for the Committee to view, to assist Members in making a decision.

RECOMMENDATION

25. Officers recommend Option 2 so that the vehicle remains licensed for 4 passengers and ensures adequate luggage space.

APPENDICES ATTACHED

[Appendix A](#) Letter from Mr Ball dated 8 November 2016

[Appendix B](#) Application for a Hackney Carriage Vehicle Licence dated 16 November 2016

BACKGROUND PAPERS

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

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