

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

12TH JUNE 2009

**Application to Renew a Hackney Carriage Proprietor's Licence
Beyond the Council's adopted Policy of Age Criteria (1997)**

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| OPEN | |
| RESPONSIBLE OFFICER: | Director of Planning and Regulatory Services |
| CONTACT OFFICER: | Brian Kent – Ext. 2593 Brian.Kent@wyreforestdc.gov.uk |
| APPENDICES: | Appendix 1 - Council's Resolution on Age Policy 1997 Appendix 2 - Letter to Mr Bianco dated 4 th March 2009 Appendix 3 - Application for Vehicle Licence from Mr Bianco Appendix 4 – Letter from Automotive Engineering Appendix 5 – Hackney Carriage Inspection Form |

1. PURPOSE OF REPORT

- 1.1 To consider an application for the Renewal of a Hackney Carriage Proprietor's Licence made by Mr Bianco of P and P Central Taxis which falls outside of the Age Criteria Policy set by the Council in 1997.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

- 2.1 **The application for renewal of a Hackney Carriage Proprietor's Licence for vehicle number DV51 LCO be agreed or not as it falls outside the Age Criteria Policy set by the Council in 1997.**

3. BACKGROUND

- 3.1 The Hackney Carriage / Private Hire Vehicles cease to be re-licensed after seven years from the date of first registration.

- 3.2 The Council introduced the age limit policy on its Hackney Carriages and Private Hire Vehicles a number of years ago due to the poor and unreliable state of its licensed vehicles.
- 3.3 The Wyre Forest District Council Licensing Committee meeting on the 29th July 1997 resolved that:

the Council's policy on age limits on Hackney Carriage and Private Hire vehicles be retained as:

- (a) *only vehicles under the age of four years can be licensed for the first time; and*
- (b) *seven years for the renewal of a Licence. However a vehicle would cease to be licensed after seven years from the date of first registration.*

Exceptions to the age limit were, London styled taxis (black cab type) mini buses and Volvo 940 vehicles (Appendix 1)

4. KEY ISSUES

- 4.1 The policy is flexible and grants exception to three classes of vehicle - London style Taxis, Mini-buses, and the Volvo 940 saloon. These models were considered to be special cases because of their quality build providing greater durability.
- 4.2 The Council does not specify particular makes of vehicle which can be licensed as hackney carriages. It recognises that motor manufacturers continually improve standards of their product and new cars have additional safety equipment compared with older models.
- 4.3 The age of a vehicle is considered from the date of first registration with the Driver and Vehicle Licensing Agency, according to the registration document relating to the vehicle.
- 4.4 Therefore within the Policy of 1997, a vehicle first granted a licence in 2002 cannot be re-licensed in 2009.
- 4.5 The Hackney Carriage (HC074) which is the subject of this application is a Green coloured Toyota Avensis, Vehicle Registration Number DV51 LCO. This vehicle was first registered on the 1st November 2001.
- 4.6 On the 4th March 2009 a letter was sent to the Mr Bianco of P and P Central Taxis stating that this Hackney Carriage would not comply with the age criteria set by the Council for renewal (*Appendix 2*).
- 4.7 On the 11th May 2009 an application was received by Licensing Officers from Mr Bianco (*Appendix 3*).

- 4.8 On the 5th May 2009 the vehicle was presented to Automotive Engineering situated at Hoo Farm Industrial Estate, Kidderminster and the letter is attached at *Appendix 4*.
- 4.10 The vehicle was examined on the 13th May 2009. Records show that the mileage recorded on that date was 308,866 miles. It was found to be fit for use as a Hackney Carriage. A copy of the Inspection Form is attached at (*Appendix 5*).

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from this report.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 Every case should be decided on its merits.
- 6.2 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976, gives the local authority discretionary powers in relation to Hackney Carriage Proprietors' Licences.

“Licensing of Hackney Carriages

Section 47

(1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may reasonably consider necessary.

(2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 (Town Police Clauses Act 1847) to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

(3) Any person aggrieved by any conditions attached to such a licence may appeal to the Magistrate's Court.”

6.3 In October 2006 the Department for Transport published

“Best Practice Guidance to Local Authorities in respect of Taxi and Private Hire Vehicle Licensing”.

In the Introduction it states:

“It is for individual authorities to reach their own decisions both on overall policies and on individual licensing matters in light of their own views of the relevant considerations.”

VEHICLES – AGE LIMITS

“It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles – for example, twice yearly tests for vehicles more than five years old.”

Wyre Forest Policy

6.4 Wyre Forest Council Policy is more stringent and requires all Hackney Carriages and Private Hire Vehicles to be tested three times every year.

Case Law

(Reference Book Taxi Licensing Law and Practice, written by J. T. H. Button second edition)

6.5 In the case of R v Hyndburn Borough Council, ex p Rauf and Kasim , the High Court held that it was possible under LG(MPA)1976,S47(1), to impose the condition on the grant of a licence that no licence would be granted to a vehicle that was over a specified age. Hyndburn Borough Council had introduced the following policy to improve the reliability, safety, and overall standards of the vehicles licensed by the Council:

- (1) That private hire and hackney carriage vehicles must be no more than 3 years old when first registered (i.e. licensed as a private hire and hackney carriage vehicle);
- (2) That the maximum age of a private hire and hackney carriage vehicle must be no more than 7 years;
- (3) That the maximum age of an FX4 (purpose-designed and built hackney carriage) must be no more than 11 years.

6.6 This was challenged on the grounds that it was unlawful, going beyond the powers contained in either LG(MP)A 1976,S47(1), in relation to hackney carriages or LG(MP)A 1976,S48(2) in relation to private hire vehicles; that it fettered the discretion of the authority; and was *Wednesbury* unreasonable. Dismissing the application, Kennedy J stated (at p16C).

“In the present case...this local authority did give such consideration as was appropriate to this application. It indicated in the letter which it wrote in reply that the application was refused in line with the policy, and that it did not indicate that it was shutting its ears to any application, either considered individually or an application which amounted to change the policy as a whole.

In those circumstances, it seems to me, the stance adopted by the local authority in relation to the application was a lawful one and therefore on the substantive ground ... the application fails”

7. RISK MANAGEMENT

7.1 There is no risk management issues arising from this report

8. CONCLUSION

8.1 The licensing of vehicles and drivers has the prime aim of protecting the public safety and the vehicle licence conditions ensure that the public of Wyre Forest can use Hackney Carriages and Private Hire Vehicles in the knowledge that they are as safe as the Council can make them.

8.2 Taxis generally cover a high mileage throughout their years of public service. Wear and tear is considerable and vehicles require exchanging for newer models.

8.3 The Nissan Primera registration number BF02 MRV is:

- in excess of the seven year age policy (seven years and three months)
- not considered to be of the quality which would provide grounds to be an exception to the policy.

9. CONSULTEES

9.1 Director of Legal and Corporate Services

10. BACKGROUND PAPERS

- Department for Transport Best Practice Guidance.
- Book - Button on Taxis by James T.H. Button