

REGULATORY & APPEALS COMMITTEE

4 MARCH 2020

Present:

Councillors J Petherick (Chairman), Hayes (Vice-Chairman), Evans and Kerswell

Members in Attendance:

Councillors Dewhirst

Apologies:

Councillors Austen and Russell

Officers in Attendance:

Debbie Rosenveldt, Licensing Officer

Beth Tipton, Administrative Assistant

Trish Corns, Democratic Services Officer

Paul Nicholls, Food Health & Safety Manager

Tim Slater, HR and Organisational Development Manager

Paul Woodhead, Solicitor & Deputy Monitoring Officer

7. MINUTES

The Minutes of the meeting held on the 28 January, 2020 were approved as a correct record and signed by the Chairman.

8. DECLARATIONS OF INTEREST.

None.

9. PRIVATE HIRE VEHICLE EXTENSION LF05 YMZ

Consideration was given to an application for a Private Hire Vehicle Licence renewal and extension for a Volkswagen Transporter vehicle registration LF05 YMZ. The vehicle was over 14 years old being registered in March 2005.

The committee adjourned to inspect the vehicle.

On reconvening the Licensing Officer referred to the agenda report. The Committee noted that the vehicle had a valid MOT until 25 July 2020, with one advisory, and it had passed the recent taxi inspection test.

The Applicant attended the hearing and spoke in support of the application.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may only be in force for a maximum period of one year.

The Hackney Carriage and Private Hire Policy provides that vehicles being presented for subsequent licensing are required to be under ten years old. The Council has the discretion to continue to licence vehicles which are older than ten years provided that the Council is satisfied that such a vehicle is in a good condition and good state of repair, and provided that it passes the appropriate testing standard.

The above Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use.

RESOLVED – The vehicle registration LF05 YMZ, Volkswagen Transporter, be approved for a 12 month renewable Private Hire Vehicle Licence, in accordance with legislation subject to six monthly taxi inspection tests and replacement of the perished offside rear tyre.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representation by the Applicant and the Licensing Officer, the Regulatory & Appeals Committee was satisfied with the general standard of the vehicle, the state of repair, and the condition of the vehicle. Therefore it was considered the vehicle was fit for use for the general public and paying customers.

10. PRIVATE HIRE VEHICLE EXTENSION YR58 MJX

Consideration was given to an application for a Private Hire Vehicle Licence renewal and extension for an Audi A4S TDI vehicle registration YR58 MJX and also to re-affirm the granting of the small plate. The vehicle was over 14 years old being registered in March 2005.

The committee adjourned to inspect the vehicle.

On reconvening the Licensing Officer referred to the agenda report. The Committee noted that the vehicle had a valid MOT until 1 March 2021, and it had passed the recent taxi inspection test.

The Applicant attended the hearing and spoke in support of the application.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may only be in force for a maximum period of one year.

The Hackney Carriage and Private Hire Policy provides that vehicles being presented for subsequent licensing are required to be under ten years old. The Council has the discretion to continue to licence vehicles which are older than

ten years provided that the Council is satisfied that such a vehicle is in a good condition and good state of repair, and provided that it passes the appropriate testing standard.

The above Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use.

RESOLVED – The vehicle registration Audi A4S TDI vehicle registration YR58 MJX, be approved for a 12 month renewable Private Hire Vehicle Licence, in accordance with legislation subject to six monthly taxi inspection tests and that the granting of the small plate be re-affirmed.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representation by the Applicant and the Licensing Officer, the Regulatory & Appeals Committee was satisfied with the general standard of the vehicle, the state of repair, and the condition of the vehicle. Therefore it was considered the vehicle was fit for use for the general public and paying customers.

11. HACKNEY CARRIAGE VEHICLE EXTENSION ML59 LHK

Consideration was given to an application for a Hackney Carriage Vehicle Licence renewal and extension for a Citroen Dispatch vehicle registration ML59 LHK. The vehicle is over 10 years old being registered in November 2009.

The committee adjourned to inspect the vehicle.

On reconvening the Licensing Officer referred to the agenda report. The Committee noted that the vehicle had a valid MOT until 18 February 2021 and it had passed the recent taxi inspection test.

The Applicant attended the hearing and spoke in support of the application.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may only be in force for a maximum period of one year.

The Hackney Carriage and Private Hire Policy provides that vehicles being presented for subsequent licensing are required to be under ten years old. The Council has the discretion to continue to licence vehicles which are older than ten years provided that the Council is satisfied that such a vehicle is in a good condition and good state of repair, and provided that it passes the appropriate testing standard.

The above Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use.

RESOLVED – The vehicle registration ML59 LHK, Citroen Dispatch, be approved for a 12 month renewable Hackney Carriage Vehicle Licence, in

accordance with legislation subject to six monthly taxi inspection tests and replacement of the nearside rear tyre and repair of the offside rear door.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representation by the Applicant and the Licensing Officer, the Regulatory & Appeals Committee was satisfied with the general standard of the vehicle, the state of repair, and the condition of the vehicle. Therefore it was considered the vehicle was fit for use for the general public and paying customers.

12. HACKNEY CARRIAGE VEHICLE EXTENSION WJ07 WXY

Consideration was given to an application for a Hackney Carriage Vehicle Licence renewal and extension for a Volkswagen Sharan vehicle registration WJ07 WXY. The vehicle is 13 years old being registered in March 2007

The committee adjourned to inspect the vehicle.

On reconvening the Licensing Officer referred to the agenda report. The Committee noted that the vehicle had a valid MOT until 15 March 2020 and it had passed the recent taxi inspection test.

The Applicant attended the hearing and spoke in support of the application.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may only be in force for a maximum period of one year.

The Hackney Carriage and Private Hire Policy provides that vehicles being presented for subsequent licensing are required to be under ten years old. The Council has the discretion to continue to licence vehicles which are older than ten years provided that the Council is satisfied that such a vehicle is in a good condition and good state of repair, and provided that it passes the appropriate testing standard.

The above Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use.

RESOLVED – The vehicle registration WJ07 WXY, Volkswagen Sharan, be approved for a 12 month renewable Hackney Carriage Vehicle Licence, in accordance with legislation subject to six monthly taxi inspection tests and replacement of the tyres near to the legal limit.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representation by the Applicant and the Licensing Officer, the Regulatory &

Appeals Committee was satisfied with the general standard of the vehicle, the state of repair, and the condition of the vehicle. Therefore it was considered the vehicle was fit for use for the general public and paying customers.

13. REQUEST FOR TARIFF INCREASE FOR HACKNEY CARRIAGES

Consideration was given to the outcome of an initial consultation in relation to a request from the trade for a 7.5% increase to the tariff and also to the 2nd proposal put forward during the consultation.

The Council sets the fares that can be charged to customers by Hackney Carriage drivers and in 2019 received a request from the trade for an increase in the current tariff which has not been increased since 2013. Following this request the Licensing Team put three proposals to the rank representatives of 5%, 7.5% and 10%. It was agreed with the trade to look at 7.5% and the Licensing Team undertook a full consultation with all the licensed drivers in Teignbridge.

It is an offence under Section 67 of Local Government (Miscellaneous Provisions) Act 1976 (the Act) to charge more than the metered fare in a hackney carriage.

The tariff was previously increased by 5% and commenced 15th July 2013.

The Licensing Officer referred to the report and made the Committee aware of an error in Appendix B which stated that Guide dogs and wheelchairs will be charged an extra £1.00. The proposed £1.00 charge refers to non-assistance dogs only.

The Committee noted that the Council had received responses from less than 25.4% of the trade to the consultation. The Licensing Officer confirmed that it was the trade that had put forward the recommendation to increase the tariff.

The proposed fouling charge increase from £50.00 to £80.00 was felt to be too high by members of the Committee.

It was proposed and seconded that the Committee approve fare increases as set out at proposal A, with an amendment of the fouling charge to £70.00 instead of the suggested £80.00.

RESOLVED – That the proposed charges detailed as proposal A in the agenda report be adopted with an amended fouling charge of £70.00 and a £1.00 charge for the carriage of non-assistance dogs.

14. STAFF APPEALS PROCEDURE

Consideration was given to the proposed change to the arrangements for hearing staff appeals under the Disciplinary, Capability and Redundancy and Grievance policies and delegating these to the Managing Director (Head of Paid Service).

This has previously been considered by the Committee in April 2019, when the Committee requested the matter be deferred by six months and brought back before the reconstituted Committee following the May 2019 elections.

The Human Resources and Organisational Development Manager answered the Committee's questions on how this would potentially impact individuals and confirmed that the process would not change other than Committee members would no longer have the responsibility of going to a tribunal.

RECOMMENDED –

That the following recommendation be referred to Council for consideration:

- (a) appeals on personnel issues where the Council's internal procedure gives an employee a right of appeal, be delegated to the Managing Director (Head of Paid Service) and dealt with as outlined in paragraph 4.1 of the report; and
- (b) The Council's Constitution and associated staff Discipline, Capability, Redundancy and Grievance policies / procedures be amended accordingly.

15. COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE

The Chairman welcomed all those present and introduced the Committee.

The Legal Adviser set out the procedure for the Hearing. The Licensing Officer also introduced a report which detailed an appeal against the decision to refuse an application for a combined Hackney Carriage/Private Hire Drivers' Licence. The Committee carefully considered the report and the associated appendices together with the oral evidence provided at the Hearing.

The Applicant was in attendance in support of the appeal and addressed the Committee.

After considering all written and verbal representations the Committee adjourned to consider its decision.

Upon reconvening it was

Resolved

That the appeal be upheld and the application in respect of a combined Hackney Carriage/Private Hire 12 Month Licence be approved.

Reason for the Decision

The Committee was satisfied that on the basis of the written evidence and the evidence provided at the Hearing, the Applicant had sufficiently demonstrated that he was a fit and proper person. By a unanimous decision, the Committee considered there were no reasonable grounds to dismiss the appeal.

The meeting started at 10.00 am and finished at 12.10 pm.

CLLR J PETHERICK
Chairman