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16 March 2018

REGULATORY & APPEALS COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Monday, 26th March, 2018** in the Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

Yours sincerely

NEIL AGGETT
Democratic Services Manager

Distribution:

- (1) The Members of the Regulatory & Appeals Committee

Councillor Charlie Dennis (Chairman)
Councillor Ted Hockin (Vice-Chairman)
Councillor Beryl Austen
Councillor Sheila Cook
Councillor Lorraine Evans
Councillor Rosalind Prowse

A link to the agenda on the Council's website is emailed FOR INFORMATION (less reports (if any) containing Exempt Information referred to in Part II of the agenda), to:

- (1) All other Members of the Council
- (2) Representatives of the Press
- (3) Requesting Town and Parish Councils

If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting

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- Reports in Parts I and III of this agenda are for public information. Any reports in Part II are exempt from publication due to the information included, under the provisions of the Local Government Act 1972.

A G E N D A

Part I

1. Apologies for absence
2. Minutes (Pages 1 - 6)
To confirm the Minutes of the previous meeting as a correct record.
3. Agreement of the Agenda between Parts I and II.
4. Matters of urgency/matters of report especially brought forward with the permission of the Chairman.
5. Declarations of Interest.
6. Application for an extension of a Hackney Carriage vehicle Licence BD57 ZHN (Pages 7 - 10)
To consider a request for a Hackney Carriage Vehicle Licence for a Ford S-Max, registration BD57 ZHN.

Part II (Private)

Items which may be taken in the absence of the Public and Press on the grounds that Exempt information may be disclosed.

Nil.

REGULATORY & APPEALS COMMITTEE

MONDAY, 26 FEBRUARY 2018

Present:

Councillors Dennis (Chairman), Hockin (Vice-Chairman), Austen, Cook and Prowse

Officers in Attendance:

Marie Downey, Solicitor

Hayley Carpenter, Licensing Officer

Trish Corns, Democratic Services Officer

346. MINUTES

The Minutes of the meeting held on 22 January, 2017 were approved as a correct record and signed by the Chairman.

347. DECLARATIONS OF INTEREST.

There were no declarations of interest.

348. APPLICATION FOR A PRIVATE HIRE VEHICLE EXTENSION WJ07 WXY

Consider was given to an application for a 12 month Private Hire Vehicle Licence extension for a VW Sharan, WJ07 WXY.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a private hire / 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 10 years old. However the Council has 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 Licensing Officer advised that the vehicle has a valid MOT and passed the recent vehicle inspection test with no advisories.

The Applicant's representative was in attendance and addressed the Committee in support of the application.

Resolved

VW Sharan, registration WJ07 WXY is approved a 12 month Private Hire Vehicle Licence subject to a 6 monthly vehicle inspection test.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representations by the Applicant's representative and the Licensing Officer, the Committee is satisfied with the general standard of the vehicle, the state of repair and the condition of the vehicle. Therefore it is considered the vehicle is fit for use for the general public and paying customers.

**349. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE EXTENSION
LB52 YNU**

Consideration was given to an application for a Hackney Carriage Vehicle Licence extension for a London Cab TX LB52 YNU.

All vehicle licences are issued annually and Section 43 of the Town Police Clauses Act 1847 provides that a private hire / 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 10 years old, with the exception of purpose built cabs. The Council has the discretion to license purpose built cabs and needs to be 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.

The Licensing Officer confirmed that the vehicle has a valid MOT. All issues raised following an inspection have been rectified, and the vehicle passed the recent vehicle inspection test. In addition, the vehicle is wheelchair accessible of which there are a limited number within Teignbridge.

The Applicant's representative was in attendance and addressed the Committee in support of the application.

Resolved

London Cab TX LB52 YNU is approved a 12 month renewable Hackney Carriage Vehicle Licence, in accordance with legislation.

Reason for Decision

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

**350. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE EXTENSION
WU07 UFA**

This application was withdrawn by the applicant.

351. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE WD12 HNM

Consideration was given to an application for a Hackney Carriage Vehicle Licence for a Mercedes Benz WD12 HNM

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

Paragraph 5.2 of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy states that 'A vehicle being presented for initial licensing is required to be under 5 years old at first registration. 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.

The vehicle has a valid MOT, and has past the vehicle inspection test.

The Applicant was in attendance at the meeting and addressed the Committee in support of his application.

Resolved

Mercedes Benz WD12 HNM is approved a 12 month renewable hackney Carriage Vehicle Licence, in accordance with legislation.

Reason for Decision

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

352. APPLICATION FOR A SMALL PLATE FOR A PRIVATE HIRE VEHICLE MK14 CYZ

The Committee considered a request to display a small Private Hire Vehicle Licence Plate for a Ford Galaxy Reg. MK14 CYZ

Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 provides that:

'Subject to the provisions of this Part of the Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such a manner as the district council shall prescribe by condition attached to the grant of licence'.

The Council's requirement for the display of licence plates on the rear of licensed vehicles is set out in the Hackney Carriage and Private Hire Licensing Policy, paragraph 9.4 on page 27.

The applicant explained the nature of his work and was able to demonstrate the need to display a small licence plate on the outside of his vehicle, given the specialist service that his business entails.

Resolved

That the request to display a small private hire vehicle licence plate for vehicle Ford Galaxy MK14 CYZ be approved.

Reason for Decision

Having heard the applicant's description of his business and the work that it entails, and the available options advised by the Licensing Officer, Members considered the resolution above would be best suited to the applicant whilst meeting the Council's licensing responsibilities.

353. APPLICATION FOR A LICENCE AND SMALL PLATE FOR A PRIVATE HIRE VEHICLE - FA54 XDV

Consideration was given to a request to display a small Private Hire Vehicle Licence Plate for a Rouch Mustang GT, FA54 XDV

Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 provides that:

'Subject to the provisions of this Part of the Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such a manner as the district council shall prescribe by condition attached to the grant of licence.'

The Council's requirement for the display of licence plates on the rear of licensed vehicles is set out in the Hackney Carriage and Private Hire Licensing Policy, paragraph 9.4 on page 27.

The applicant was in attendance and explained the nature of his work and was able to demonstrate the need to display a small licence plate on the outside of his vehicle, given the specialist service that his business entails.

Resolved

That the request to display a small private hire vehicle licence plate for vehicle Rouch Mustang GT, FA54 XDV be approved.

Reason for Decision

Having heard the applicant's description of his business and the work that it entails, and the available options advised by the Licensing Officer, Members believe the resolution above would be best suited to the applicant whilst meeting the Council's licensing responsibilities.

354. THE DISTRICT OF TEIGNBRIDGE(16 HELE ROAD) KINGSTEIGNTON TREE PRESERVATION ORDER 2017 E2/23/38

The Committee considered a request to confirm the provisional Tree Preservation Order (TPO) which was served on the 27 September 2017 and would cease on 26 March 2018.

The District of Teignbridge (16 Hele Road, Kingsteignton) Tree Preservation Order 2017 protects an area of Oak trees located between the rear gardens of 16 Hele Road and properties with Ashton Court, Kingsteignton.

The Committee considered all written representations received in relation to the trees and their amenity value. Interested parties did not attend the Hearing. The objections received included:

- The trees obscure views of Dartmoor
- The trees restrict light to the house and garden
- The trees would cause property damage and may injure children playing in the garden if the trees fell.

One letter of support was received since the publication of the agenda. This was circulated at the Hearing.

The Committee heard from Mr Waddams, the Council's Arboricultural Officer who gave his reasons why the Committee should confirm the Tree Preservation Order. He repeated his comments contained within the agenda report, namely that:

- The Council would look upon an application to crown lift the trees sympathetically. The crown lifting of the trees may assist in improving views, and increasing light levels to the rear elevation and garden.
- No information has been provided that indicates the trees or sections of the trees are liable to fail.

The Council's Arboricultural Officer added that the trees are highly visible and contribute to the visual amenity of the area. The loss or significant pruning of the trees would have a detrimental impact upon the visual amenity of the area. As the trees are protected by an "Area" designation the use of the standard visual amenity rating system is not considered appropriate.

On balance, the Committee considered that the positive benefits of protecting the trees outweigh the negative impacts on the neighbours of the site. Therefore, the Committee

Resolved

To confirm the Tree Preservation Order unmodified.

Reasons for Decision

The Committee considered the trees provided a high amenity value and were an asset to the local area and landscape. The protection of the trees in question complies fully with Government guidance. It is therefore expedient in the interests of amenity to make provision for their preservation.

CHARLIE DENNIS
Chairman

TEIGNBRIDGE DISTRICT COUNCIL

REGULATORY & APPEALS COMMITTEE

CHAIRMAN: Cllr Dennis

DATE: 26 March 2018
REPORT OF: Licensing Officer
SUBJECT: Hackney Carriage Vehicle Extension

PART I

RECOMMENDATION

The Regulatory & Appeals Committee is recommended to resolve whether to grant or refuse this request.

1. PURPOSE

The Committee is asked to consider a request to renew and extend a Hackney Carriage vehicle licence for a further 12 month.

2. BACKGROUND

Paragraph 5.2 of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy states that :

'A vehicle being presented for initial licensing is required to be under five years old at first registration.

A vehicle being presented for subsequent licensing is required to be under 10 years old with the exception of purpose built cabs. The Council has discretion to continue to licence Hackney Carriage or Private Hire vehicles which are older than ten years provided that the Council is satisfied that the vehicle is in a good condition and good state of repair and provided that it passes the appropriate testing standard. Applications for subsequent licensing for vehicles older than ten years will be considered by the Regulatory and Appeals Committee which can impose such conditions as it thinks fit including six and four monthly testing'.

All vehicle licences are issued annually.

Section 43 of the Town Police Clauses Act 1847 provides that *'Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or,*

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if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners' and

Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that '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 consider reasonably necessary'.

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 by members of the public.

The Committee has the discretion to license a vehicle if it is of the view that the vehicle is safe, fit for use and is in an acceptable condition.

Request –The vehicle, a Ford S-Max, BD57 ZHN which the applicant wishes the Committee to consider was first registered on 30 November 2007 and will be 10 years and 3 months old, if granted. The current Hackney Carriage licence expires on date. The vehicle will no longer meet the Council's licensing policy as it is now being more than 10 years old.

The vehicle has a current MOT that expires on the 4 March 2019 and had one advisory. The vehicle passed a taxi test on 8 March 2018 with no advisories.

At the time of writing this report the vehicle had not been inspected by a licensing officer.

It has been requested that the vehicle is made available at the hearing for inspection by the Committee should the members wish to do so.

3. CONSULTATION

The decision of the Committee following a complete review of the Hackney Carriage and Private Hire Policy in April 2009 after taking into account the views from the trade was as follows:

"The Committee decided that vehicles being presented for initial licensing must be under five years old."

With regard to subsequent licensing, the Committee decided that a vehicle should be under ten years old with the exception of purpose built cabs. However the Committee decided that the Council could exercise discretion to continue to licence Hackney Carriage or Private Hire vehicles which are older than ten years provided that the Council is satisfied that it is in a good condition and good state of repair and provided that it passes the appropriate testing standard. Applications for subsequent licensing for vehicles older than ten years will be considered by the Regulatory and Appeals

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Committee which can impose such conditions as it thinks fit including six monthly testing. The Committee did not consider it appropriate to introduce an upper age or mileage limit.”

Section 50(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides *‘that a district council shall not under the provisions of this subsection require a proprietor to present the same hackney carriage or private hire vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.’*

4. FINANCIAL IMPLICATIONS

The cost of defending the appeal if the application is refused and the applicant appeals to the Magistrates’ Court.

5. OPTIONS

- a. Grant the request, with or without the condition set out in c. below
- b. Refuse the request.
- c. If the Committee resolve to license the vehicle, Committee is asked to consider whether it is necessary to impose a condition requiring the vehicle to have six or four monthly vehicle inspections.

Andrea Furness
Licensing Manager
Environment, Health and Wellbeing

Wards affected	All
Contact for any more information	H Carpenter
Background Papers (For Part I reports only)	<i>Relevant legislation and Hackney Carriage and Private Hire Regulations</i> Hackney Carriage and Private Hire Licensing Policy
Key Decision	N
In Forward Plan	N
In O&S Work Programme	N
Community Impact Assessment attached:	N

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