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21 September 2018

## REGULATORY & APPEALS COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Monday, 1st October, 2018** in the Council Chamber - Forde House at **10.00 am**.

Yours sincerely

PHIL SHEARS  
Managing Director

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 - 4)
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 a Private Hire Vehicle Extension (Pages 5 - 8)
7. Application for Hackney Carriage Vehicle Extension (Pages 9 - 12)
8. Request to licence an applicant that does not meet the age policy. (Pages 13 - 16)

### **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.**

9. Exclusion of the Press and Public  
That under Section 100 (A) (4) of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 Of Schedule 12A of the Act.
10. Appeal against the decision to refuse a renewal of a hackney carriage/private hire drivers (Pages 17 - 158)

## **REGULATORY & APPEALS COMMITTEE**

**MONDAY, 3 SEPTEMBER 2018**

Present:

Councillors Dennis (Chairman), Hockin (Vice-Chairman), Austen, Evans, Winsor (Reserve) and Wrigley (Reserve)

Apologies:

Councillors Prowse

Officers in Attendance:

Marie Downey, Solicitor

Hayley Carpenter, Licensing Officer

Sharon Sissons, Democratic Services Officer (Exeter City Council)

### **123. MINUTES**

The Minutes of the meeting held on 9 July 2018 were approved as a correct record and signed by the Chairman.

### **124. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **125. APPLICATIONS FOR A HACKNEY CARRIAGE VEHICLE EXTENSION**

Consideration was given to applications to renew and extend a Hackney Carriage Vehicle Licence, as set out below. The Committee adjourned to inspect the vehicles, which, were the subject of the following applications.

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 Council's 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.

**(a) Vehicle Registration EY55 OUD**

It was noted that the vehicle had a current MOT. The vehicle was the subject of an inspection test and the vehicle met the required standard.

The Applicant was in attendance and addressed the Committee to support the application.

Resolved

Vehicle registration EY55 OUD is approved a 12 month Hackney Carriage Vehicle Licence renewal and extension, in accordance with legislation, subject to a six monthly vehicle inspection test.

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.

**(b) Vehicle Registration LN55 YNM**

It was noted that the vehicle had a current MOT and a number of advisories had been rectified. The vehicle had also had passed a vehicle inspection test, and a number of advisories raised at the test have been rectified and the vehicle now met the required standard.

The Applicant was in attendance and addressed the Committee to support the application.

Resolved

Vehicle registration LN55 YNM is approved a 12 month Hackney Carriage Vehicle Licence renewal and extension, 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.

**126. EXCLUSION OF THE PRESS AND PUBLIC**

That under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 7 of Part 1 of Schedule 12A of the Act.

**127. HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The application be deferred until the next scheduled meeting on 1 October 2018.

Chairman

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## REGULATORY & APPEALS COMMITTEE

CHAIRMAN: Cllr Dennis

**DATE:** 1<sup>st</sup> October 2018  
**REPORT OF:** Licensing Officer  
**SUBJECT:** Private Hire 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 Private Hire vehicle licence for a further 12 months (Appendix A).

#### 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 48(4)(c) of the Local Government (Miscellaneous Provisions) Act 1976 states that '(4) Every licence granted under this section shall— (c) remain in force for such period not being longer than one year as the district council may specify in the licence'.

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Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 states that *‘(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’*

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 Tourneo, registration LV56 LWE which the applicant wishes the Committee to consider was first registered on 2<sup>nd</sup> November 2006 will be 11 years and 11 months old, if granted. The current private hire licence expires on 7<sup>th</sup> August 2018.

The current MOT expires 2<sup>nd</sup> November 2018 and had one advisory. Suspension spring mounting prescribed area corroded but not considered excessive wear.

At the time of writing this report the vehicle has not undergone a taxi test at the depot but it is booked for the 25<sup>th</sup> September, details will be presented to committee at the hearing.

The vehicle has been inspected by a licensing officer and was in good condition inside and out. Front head lights cases are dull and may buff out. Small chip to nearside rear reflector.

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.

**Hayley Carpenter**  
**Licensing Officer**  
**Environment, Health and Wellbeing**

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

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TEIGNBRIDGE DISTRICT COUNCIL

## REGULATORY & APPEALS COMMITTEE

CHAIRMAN: Cllr Charlie Dennis

**DATE:** 1 October 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 licence for a further 12 months (Appendix A).

#### 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, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so*

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*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 Mondeo, registration MW56 FYE, the applicant wishes the Committee to consider, was first registered on 17<sup>th</sup> January 2007 will be 11 years old and 8 months old, if granted. The current Hackney Carriage licence expires on 21<sup>st</sup> October 2018.

The current MOT expires 7<sup>th</sup> October 18 and had no advisories

The vehicle is booked in at the depot for an inspection on 28<sup>th</sup> September, details will be presented to committee.

The vehicle has been inspected by the licensing Officer and is in excellent condition inside and out. The gear knob gator is showing slight signs of wear.

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 is required to be under ten years old with the exception of purpose built cabs.' However, the Committee decided that 'the Council had 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

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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 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.

**Hayley Carpenter**  
**Licensing Officer**  
**Environment, Health and Wellbeing**

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

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TEIGNBRIDGE DISTRICT COUNCIL

**REGULATORY & APPEALS COMMITTEE**

**CHAIRMAN:** Cllr Charlie Dennis

**DATE:** 1 October 2018

**REPORT OF:** Licensing Officer

**SUBJECT:** Request to licence an applicant that does not meet the age policy.

**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 whether it should exercise its discretion to grant a Private Hire Driver's licence to a 19 year and 11 month old applicant. The Council's Hackney Carriage and Private Hire Policy (the Policy) stipulates that drivers are required to be over 21 years of age. Giving due consideration to GDPR the application and request will be distributed to committee at the hearing.

**2. BACKGROUND**

On 10<sup>th</sup> September the applicant made an application to the Council for a Private Hire driver's licence. On the application form he stated his date of birth as 17<sup>th</sup> October 1998.

The Council's Policy provides that in considering whether an applicant is a fit and proper person, the Council will consider a number of criteria, one of which is the age of applicants and drivers must be over 21.

During the 2009 review of the Policy the Hackney Carriage Licensing Officer advised the Committee that:

*'Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states 'that a person must have been authorised to drive a motor car for at least 12 months before the date of application'.*

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The Department for Transport's Best Practice Guidance on age limits suggests that minimum age limits, beyond statutory periods for holding a full driver licence, are not appropriate. Applicants should be assessed on their merits.

*'Insurance for drivers under 25 years old is in the norm considerably more expensive. If an operator chooses to employ a driver that is under 21 they will have to take this into consideration when making their decision. In relation to age policy, it is necessary to consider if we are being discriminative with regard to a lower age limitation.'*

The recommendation of the Hackney Carriage Licensing Officer was that the Council should remove the age restriction. However the Committee upheld this requirement after hearing representations in support from members of the trade. The Committee considered that it was in the interests of public safety to keep the age limit; drivers under 21 are less experienced and have a statistically higher accident rate.

### 3. LEGAL POSITION

***'Local Government (Miscellaneous Provisions) Act 1976, s51 Licensing of drivers of private hire vehicles.'***

- (1) *Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:*

*Provided that a district council shall not grant a licence:-*

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or*
  - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised*
- (2) *A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.'*

If the applicant appealed, then the Court would consider the soundness of the Policy on the age restriction in the light of the Department for Transport's Guidance and other discrimination legislation. The Court may find that the Policy is unlawful.

### 4. OTHER MATTERS TO CONSIDER

The applicant has a clean driving licence that has been held for 2 years and 4 months.

The role of private hire driver is specific to the applicants place of work only and not for general purposes.

The Policy has not been revised since 2009.



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Drivers are now required to take a Hackney Carriage/Private hire drivers assessment to appraise their driving skills prior to being licensed.

The Council is required to regard to the Policy when carrying out its Hackney Carriage and Private Hire Licensing functions.

### 5. FINANCIAL IMPLICATIONS

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

### 6. OPTIONS

The Committee is asked to consider this matter and to determine whether to

- a) Grant the licence
- b) Refuse the licence
- c) Grant the licence with condition(s)

**Hayley Carpenter**  
**Licensing Officer**  
**Environment, Health and Wellbeing**

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

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