

LICENSING AND REGULATORY SUB-COMMITTEE

THURSDAY, 8 FEBRUARY 2024

Present:

Councillors Atkins, Bradford and Dawson (Vice-Chair)

Officers in Attendance:

Licensing Officer

Legal Assistant

44. APOLOGIES

None.

45. DECLARATIONS OF INTEREST (IF ANY)

None.

46. APPLICATION FOR STRETCHED LIMOUSINE AND THE REQUEST FOR A SMALL PLATE - RR04 LMO

The Sub-Committee noted the information provided by way of the report. In particular the Sub-Committee noted that the vehicle's MOT certificate expires in August 2024, with no advisories and that the vehicle passed its annual taxi inspection test on 19 January with no advisories. The Applicant's representative was in attendance and answered questions from the committee relating to the maintenance of the vehicle.

The Sub-Committee were satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee grants the new Private Hire Vehicle Licence for a year along with the small plate request with the additional condition of 6 monthly vehicle inspection tests due to the age of the vehicle.

47. APPLICATION FOR STRETCHED LIMOUSINE AND THE REQUEST FOR A SMALL PLATE - S11 VSK

The Sub-Committee noted the information provided by way of the report. In particular the Sub-Committee noted that the vehicle's MOT certificate expires in January 2025, with no advisories and that the vehicle passed its annual taxi inspection test on 26 January 2024 with no advisories. The Applicant's representative was in attendance and answered questions from the committee relating to the maintenance of the vehicle.

The Sub-Committee were satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee grants the new Private Hire Vehicle Licence for a year along with the small plate request with the additional condition of 6 monthly vehicle inspection tests due to the age of the vehicle.

48. REQUEST FOR HACKNEY CARRIAGE VEHICLE EXTENSION FOR FURTHER 12 MONTHS - BJ62 UYS

The Sub-Committee noted the information provided by way of the report. The Applicant was not in attendance. In particular the Sub-Committee noted that the vehicle's MOT certificate expires in February 2025, with three advisories and that the vehicle passed its annual taxi inspection test on 31 January with advisories.

The Sub-Committee were satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee grants the Hackney Carriage Vehicle Licence Extension as detailed in the report with the additional condition of 4 monthly taxi inspection tests due to the age of the vehicle and to monitor the advisories listed.

49. REQUEST FOR HACKNEY CARRIAGE VEHICLE EXTENSION FOR FURTHER 12 MONTHS - DY13 YRL

The Sub-Committee noted the information provided by way of the report. In particular the Sub-Committee noted that the vehicle's MOT certificate expires in March 2024, with one advisory and that the vehicle passed its annual taxi inspection test on 2 February with advisories. The Applicant's representative was in attendance and confirmed the oil leak was being monitored by the garage.

The Sub-Committee were satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee grants the Hackney Carriage Vehicle Licence Extension as detailed in the report with the additional condition of 6 monthly taxi inspection tests due to the age of the vehicle and the advisories listed.

50. REQUEST FOR HACKNEY CARRIAGE VEHICLE EXTENSION FOR FURTHER 12 MONTHS - RO13 HVS

The Sub-Committee noted the information provided by way of the report. In particular the Sub-Committee noted that the vehicle's MOT certificate expires in January 2025, with two advisories and that the vehicle passed its annual taxi inspection test on 1 February with advisories. The Applicant's representative was in attendance and

answered questions from the sub-committee in relation to the tyre condition and maintenance.

The Sub-Committee were satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee grants the Hackney Carriage Vehicle Licence Extension as detailed in the report with the additional condition of 4 monthly taxi inspection tests due to the age of the vehicle and to monitor the advisories listed.

51. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1,2 and 5 of Part 1 of Schedule 12A of the Act.

52. REVIEW OF A HACKNEY CARRIAGE DRIVERS LICENCE

The driver attended the meeting in person and was represented by a solicitor. The Sub-Committee sought confirmation from the Solicitor and driver that they had had enough time to review all evidence submitted with the report and were happy to continue with the hearing. Confirmation was duly provided.

Arising from consideration of the report, evidence presented and in accordance with the Council's procedure for hearings, it was moved by Councillor Dawson and seconded by Councillor Bradford, and

RESOLVED that the Hackney Carriage Drivers Licence be revoked with immediate effect under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, in order to promote public safety due to the conduct of the Driver as set out in the Report. The Sub-Committee felt there was reasonable cause to support its view that the driver is not a fit and proper person to hold such a Licence.

Reasons for the decision:

Members noted the information set out in the Report. The main complaints made against the driver related to non-use of the meter and charging a fixed fee, swearing and aggressive behaviour and being parked on a Teignbridge taxi rank with a Mid Devon plated vehicle. The Sub-Committee had previously viewed video footage of three of the incidents in question.

The Sub-Committee then heard from the solicitor. The driver has been working for a local firm for at least 2 years and they have been pressuring him to charge a fixed fee, take payment upfront and to not turn on the meter. The shifts were mainly at night which can be a challenging time and the driver has previously been assaulted but no further action was taken by the police.

These difficult work circumstances along with the added pressure from the taxi firm meant the driver felt he had to take a fixed payment upfront. The taxi firm told the driver this was

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lawful and when recently questioned by the driver they did not reply. Two text messages were shown which detailed jobs for the driver and how much he should charge. Further messages were unable to be retrieved as the driver no longer has access to the firm's app.

The solicitor explained that the driver no longer works for the taxi company as he can now see the problems with how the firm was operating, although he is confident customers were not overcharged. The driver now plans to mainly work from the train station and completing school contracts. The driver has also had CCTV professionally installed in his taxi which will hold recordings for 30 days. This can then be produced for inspections should there be any further complaints or incidents. The driver feels that these adjustments will stop further issues from happening and hopes a way forward can be found.

The allegation of aggressive behaviour whilst on a school run was addressed by the solicitor who explained that the driver believes he was wrongly identified and no further action was taken by Devon County Council. The Licensing Officer clarified for the Sub-Committee that the driver had been named by a parent.

In relation to having a wrongly plated taxi on a Teignbridge rank the driver's solicitor explained that the taxi firm had given this vehicle as a replacement for his usual one which had broken down and he moved the taxi once he was told he could not park there.

The Licensing Officer confirmed that the driver had attended two meetings to address the complaints. The driver had apologised and explained that the taxi firm had told him not to use the meter. The Licensing team have explained to the driver on more than one occasion that the meter must be used. If drivers are unsure then they must come back and check. They have also followed this up with the taxi company who deny that they ask their drivers to not use the meter.

The Committee thanked the driver for appearing before them and for answering their questions. However, all factors combined meant that the Sub-Committee did not consider that the driver was a fit and proper person.

The Sub-Committee were concerned by the number of complaints that had been received since the driver became licensed. The Sub-Committee were concerned that the driver had been told of expectations for using the meter on more than one occasion and yet still charged customers a fixed fee and did not turn on the meter. Whilst the Sub-Committee empathised that the driver said he had been under pressure from his employer, it is up to drivers to behave appropriately, and the Sub-Committee believed the driver should have spoken to the Licensing Team to report his concerns and could even have looked for alternative employment as he is now doing.

In relation to the wrongly plated vehicle on the taxi rank the Sub-Committee accepted that the driver had been given a replacement car by his company and so had not intentionally set out to mislead customers, however he should still have realised this was not acceptable and not parked on Teignbridge taxi ranks.

The Sub-Committee could not ignore the video footage that showed the driver behaving in a way that fell below that expected of a licensed driver. One video showed him refusing to show a customer his badge, swearing and seemingly trying to charge more than what is shown on the meter. A further video showed a customer repeatedly asking the driver to put on his meter and being charged a fixed rate and being asked to pay upfront. Charging a customer more than the legal fare is an offence under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. It is also an offence to not produce the Hackney Carriage Driver's licence when requested.

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Whilst the Sub-Committee appreciated the driver's assurances that these incidents would not happen again, they were concerned by what appeared to be a pattern of behaviour despite meetings with the Licensing Officers and reminders of what is expected from a driver. Though CCTV has now been fitted to the car, this still relies upon the driver ensuring it is turned on and used appropriately. The Sub-Committee were concerned that the driver did not seem to understand the expectations and responsibilities that came with being a licensed driver and working with members of the public. The sub-committee understand it can be a difficult job and that some situations are unavoidable; however, this does not excuse behaving in the manner shown in the footage and repeatedly behaving this way.

Applying the test of whether Members of the Sub-Committee would be happy for a person they cared about or a vulnerable person to travel alone in a vehicle with the driver, it was concluded after significant deliberation that they would not. The Sub-Committee noted its overriding duty to the public, and of the importance of protecting the public and of public safety and considered that, on balance, there was cause to show that the driver was not a fit and proper person to hold a Licence.

The Sub-Committee therefore considered given the circumstances of this case that it be reasonable and proportionate to revoke the driver's Hackney Carriage Driver Licence with immediate effect.

Cllr R Dawson
Chair