



<u>Committee and date</u>	<u>Item</u>
Licensing Committee 30 June 2010 10:00 am	5 Public

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

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Purpose of Report

To consider an exemption to the Council's licensed Hackney Carriage policy.

Summary

Mr Croll, a licensed Hackney Carriage Driver, has made an application to licence a Red Ford Focus Estate car as a Hackney Carriage in Zone 4 (former Shrewsbury and Atcham area).

Prior to the issue of a licence, a Licensing Authority has to be satisfied that the vehicle is fit for purpose (Section 48 of the Local Government (Miscellaneous Provisions) Act 1976).

Shropshire Council's policy for Hackney Carriages in Zone 4 is that they should be black in colour and wheelchair accessible.

Recommendations

- A. That the Committee consider whether there are any exceptional circumstances to merit licensing the vehicle contrary to the existing Hackney Carriage policy.

Report

1. Background:

Mr Croll has submitted an application to licence his Red Ford Focus as a Hackney Carriage. Mr Croll has health issues that prevent him from using a wheelchair access vehicle and would like to plate a saloon type vehicle as a Hackney Carriage in Zone 4 (former Shrewsbury and Atcham area). Saloon vehicles are permitted to be licensed as Hackney Carriages in Zones 1,2,3 and 5.

2. Extract from Policy:

Extract of para 3.11 - All vehicles licensed for zone four would be black in colour and be wheelchair accessible.

3. Officer Observations: *(Licensing/Passenger Transport/Safeguarding):*

3.1 The applicant has been requested to make the vehicle available for inspection by the committee.

4.0 Options for Consideration

4.1 The options available to the Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such information are as follows:

- To grant the licence
- Not to grant the licence
- To grant the licence with specific conditions

4.2 Should the Committee not grant the licence or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

5.0 Analysis of Options

5.1 The legislation allows the Licensing Authority to attach additional conditions to Hackney Carriages.

6.0 Standard of Decision Making

6.1 Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication.

- 6.2 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 6.3 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Hackney Carriage Policy

Guidance notes

Human Rights Act Appraisal

The Committee is required to consider the consequences of refusal or approval on the applicant's human rights.

Environmental Appraisal

Not applicable.

Risk Management Appraisal

Not applicable.

Community / Consultations Appraisal

Not applicable.

Cabinet Member

Local Member

Appendices

Appendix A – Hackney Carriage Policy

Appendix B - Guidance Notes

PERSONAL:

MEMBER/OFFICER	ITEM	REASON
Councillor V. Bushell	Minute No. 16	He knew the applicant's family.

16. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

Consideration was given to a report of the Licensing Team Leader in respect of an application for a Hackney Carriage Vehicle Licence.

The Licensing Officer presented the case to the Committee, advising Members that a request had been received for an exemption from the Council's Hackney Carriage Vehicle policy. She confirmed that Mr Croll had submitted an application to licence a red Ford Focus estate car as a Hackney Carriage vehicle in Zone 4 which was contrary to the existing Hackney Carriage Policy.

The applicant, Mr Croll, was in attendance and confirmed he did not require a legal representative to be in attendance during consideration of his case. Mr Croll presented his case to the Committee stating that he had been advised that he would need to submit an application for a vehicle he currently owned. He stated that it was not his intention to use the red Ford Focus as a Hackney Carriage and intended to purchase and register a black saloon vehicle with automatic transmission. Members were advised that he already owned a black wheelchair accessible Hackney Carriage, which was driven by his wife, and that he currently carried out private contract work using a licensed private hire vehicle. Mr Croll provided an overview of his current medical condition and explained the restrictions it put on his ability to assist disabled customers.

In response to questions raised by the Council Solicitor and members of the Committee the applicant provided the following information:

- Mr Croll confirmed that his wife would drive the wheelchair accessible Hackney Carriage and that they would continue to accept wheelchair bookings as long as the vehicle was available.
- He stated that at the present time doctors had advised that his condition would remain stable. It was noted that the DVLA had been contacted in respect of his condition and had confirmed that there were no reasons to withdraw his licence at this time. It was also noted that he required a vehicle with automatic transmission.
- Mr Croll confirmed that if he was granted permission to licence an automatic non wheelchair accessible vehicle he would not transfer his plate to a third part and that he agreed to undertake to return the plate to Shropshire Council if he was no longer able to drive the vehicle himself.

Members were advised that non wheelchair accessible hackney carriage saloon vehicles currently licensed prior to 1st April 2009, of which there were currently eight in Zone 4, would continue to be licensed up until 2012.

The Licensing Officer summed up the application. The Chairman invited the applicant to make any final comments prior to the Committee making its decision.

The meeting was adjourned at 10.21 a.m. to allow the Committee to take legal advice, in private, prior to making its decision.

RESOLVED:

That in accordance with the provisions of Schedule 12A of the Local Government Act 1972 and Paragraph 10.4(1) of the Council's Access to Information Procedure Rules, the public and press be excluded from the deliberation of the item to allow for legal advice to be sought

The meeting reconvened at 10.29 a.m. for Members to announce their decision.

RESOLVED:

- (a) That the application for a Hackney Carriage Vehicle Licence in respect of a red Ford Focus be refused.
- (b) That, in principal, a Hackney Carriage Vehicle Licence may be granted to the applicant for a suitable black saloon type vehicle with automatic transmission.
- (c) That the Licensing Team Leader be given delegated authority to grant the Hackney Carriage Vehicle Licence and decide upon the vehicle's suitability.
- (d) That the applicant be required to liaise with the Licensing Team Leader prior to purchasing a vehicle to ensure its suitability.
- (e) That any licence issued shall not extend beyond 31st March 2012 in line with the Council's current policy on exemptions to wheelchair accessible vehicles regarding those currently licensed.

Reason: Members considered that there were special circumstances in respect of the application due to his medical condition, which warranted an exemption to the Hackney Carriage Vehicle Policy.

It was also noted that the applicant had undertaken that the Hackney Carriage Vehicle Licence would only be used by him personally and it would not be transferred to anybody else and he would surrender it when he had no further use of it. A suitable condition to this effect would also be added to the licence.

17. APPLICATION FOR AN EXCHANGE OF A PRIVATE HIRE VEHICLE LICENCE

Consideration was given to a report of the Licensing Team Leader in respect of an application to exchange a Private Hire Vehicle Licence.

