

MEETING:	REGULATORY COMMITTEE
DATE:	14 JULY 2009
TITLE OF REPORT:	APPLICATIONS TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR BAIRKDAR
PORTFOLIO AREA:	REPORT BY HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS ENVIRONMENT & CULTURE

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To decide whether to licence a vehicle outside the standards vehicle licence conditions.

Key Decision

This is not a Key Decision.

Recommendation(s)

THAT Committee:

- (a) **Grant the licence outside the standard conditions on this occasion; and**
- (b) **Advise Mr Bairkdar that any future application in similar circumstances may be refused.**

Key Points Summary

- Licence expired 23rd June 2009.
- Re-newel application received on 29th June 2009.
- Reminder Letters were sent regarding the expiry of licence on 27th April & 17th June 2009.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer on (01432) 383542

Alternative Options

1 The licence cannot be granted and therefore is refused:

The Committee could refuse the application.

Advantages: This would ensure that the existing licence conditions are met on this occasion.

Disadvantages: It could be subject to legal challenge if considered unreasonable or disproportionate.

Reason: The Head of Service has considered this option and believes that in the circumstances it would be proportionate to follow the recommendation.

To defer the decision in order to get more information

The Committee could defer making a decision in order to allow further information to be obtained that will either conclude or have a bearing on the case. Once the information is received the decision could then be delegated to officer level for quick resolution. If there is a deferment, then the licence would not be granted until satisfactory information has been produced.

Advantages: Gives the opportunity for the applicant to produce further information in support of the application and allows a pragmatic way forward. If the decision is delegated to officer level then it would also reduce the need for an additional Committee Hearing, thus saving time and costs.

Disadvantages: This would delay the decision process and may mean that the livelihood of the applicant could be affected.

Reason: The Head of Service has considered this option but it is felt that further information is not required to enable the Council to reach a decision.

To reach some other decision

The Committee could reach some other decision.

Advantages: This leaves other solutions open to the Committee to resolve the application.

Disadvantages: There are no clear directions from the Head of Environmental Health & Trading Standards in respect of alternatives, although this could be offered via the Council's legal representative at the hearing.

Reason: The Head of Service has considered this option, although it is difficult to envisage what other decision could be reached before the hearing.

Reasons for Recommendations

- 2 In view of the fact that this was not a deliberate oversight on the part of the applicant, on this occasion the Head of Service recommends it would be appropriate that the application should be granted.

Introduction and Background

3. Under the terms of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles, drivers and operators.

The current standard licence conditions were approved at Regulatory Committee on the 18th December 2007. (See Appendix 1)

Standard condition number 9.5 states: -

“All applications received after the date of expiry will be treated as grants and not renewals and the appropriate conditions and fees will apply”.

This Authority previously licensed a VW Passat saloon registration number ‘AK05 RWX’ on Plate No.H190, which was first registered on 20th May 2005.

On 27th April 2009 and 17th June 2009 the Licensing Team wrote to Mr Bairkdar advising him that this vehicle plate would expire on 23 June 2009. (Appendix 2). There is no mandatory requirement for the Licensing Team to do this.

No application was received from Mr Bairkdar and accordingly the plate expired on 23rd June 2009.

On 29th June 2009 (6 days after expiry) an application (Appendix 3) was brought into the Bath Street Offices by Mr Bairkdar to licence the vehicle. A licensing team member advised that as the application was late, the matter would have to be considered by Regulatory Committee.

A temporary licence was issued for the vehicle under devolved powers until the matter was decided by this committee. This plate expires at midnight tonight (14th July 2009).

The application therefore is to grant a new plate to the previously licensed vehicle.

Key Considerations

- 4 Whether or not in the given circumstances the application should be granted outside the standard conditions.

Community Impact

5. It is felt that any decision made will have very little or no impact on the community.

Financial Implications

- 6 Not applicable.

Legal Implications

- 7 Under the Local Government (Miscellaneous Provisions) Act 1976 there is a right of appeal to a Magistrates Court within 21 days of notification of the decision being served on the applicant.

Appendices

- 8 Appendix 1 – Copy of standard licence conditions
Appendix 2 – Computer print out of renewal letter from Lalpac
Appendix 3 – Copy of application forms

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.