

MEETING:	REGULATORY COMMITTEE
DATE:	9 SEPTEMBER 2009
TITLE OF REPORT:	APPLICATIONS TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 3.3b BY MR KAYE
PORTFOLIO AREA:	REPORT BY HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS ENVIRONMENT & CULTURE

CLASSIFICATION: Open – if exempt please see Schedule 12A for the description of exempt information (see * at the bottom of this guidance note). You should put as much information as possible in the open part of the report with exempt information submitted only where necessary

Wards Affected

Countywide

Purpose

To decide whether or not to licence a vehicle outside the standard vehicle licence conditions.

Key Decision

This is not a key decision.

Recommendation(s)

THAT Cabinet:

- (a) grant the licence outside the standard conditions on this occasion; and**
- (b) Advise Mr Davies that any such future application of a similar nature may be refused.**

Key Points Summary

- Licence expired 13th August 2009
- Renewal application received on 7th June 2009.
- The application requested a change of vehicle which has not got 30,000 less mileage on the clock than the outgoing vehicle.

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

- The licence was extended using the old vehicle until the date of this Committee.

Alternative Options

1 The licence cannot be granted and therefore is refused

Advantages: It ensures that the existing licence conditions are met.

Disadvantages: It could be subject to legal challenge.

Reason for rejection: Although this has been considered this option has not been recommended as it is considered to be unreasonable when it has occurred as a result of an error on the part of the applicant by not getting written consent to change the vehicle.

To defer the decision in order to get more information

The Committee could make a decision to grant the licence subject to that information meeting the criteria set by committee being produced to the Licensing Officer. Where this was not produced the licence would remain not granted until that information was produced.

Advantages: Gives the opportunity to the applicant to produce further information in support of the application and allows them a fair hearing. It would also reduce then need for an additional Committee Hearing thus saving costs.

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

Reason for rejection: It is felt that any information required to reach a decision has been provided within the application.

To 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 the application.

Reason for rejection: It is difficult to envisage what other decision could be reached.

Reasons for Recommendations

- 2 In view of the fact that this was an oversight on the part of the applicant it is felt to be appropriate that the application on this occasion 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 standard licence conditions were approved at Regulatory Committee on the 18th December 2007.

Standard condition number 3.3b states: -

- a) The replacement vehicle shall be no more than 2 years older than the outgoing vehicle, and have at least 30,000 less miles on the clock. All vehicles must be replaced at 8 years for non wheel chair and 15 years for wheel chair access vehicles.

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

This Authority previously licensed a Vauxhall Vectra saloon registration number KJ51 YDM on Plate No.H334, which was first registered on 16 September 2001.

The last recorded mileage was 100,431

On 7 August 2009 an application was made (Appendix 2). When the compliance certificate document was seen by a member of the Licensing team the Licensing Assistant explained that the proposed vehicle had 149,450 on the clock and did not therefore meet the criteria detailed by condition 3.3b.

A temporary licence was issued for the existing vehicle until the matter was decided by this committee. The plate expires at midnight tonight.

The application therefore is to grant 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 – Copy of application

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.