

Agenda Item 6

Licensing and Enforcement Sub-Committee

16 February 2010

DJ



Hackney Carriage Vehicle Suitability

Summary

It is the District Council's policy to require all vehicles to be licensed as a Hackney Carriage to be not more than four years old when initially licensed by the Council. An application has been made to licence a vehicle which is 6.5 years old. The Committee is asked to determine whether to make an exception to their policy and agree to licence the vehicle or refuse the application.

Recommendation

To consider the application to licence a hackney carriage vehicle that falls outside of the criteria as required by the East Devon District Council and determine whether to make an exception to the District Council's policy and agree to licence the vehicle or refuse the application.

a) Reasons for Recommendation

To ensure that vehicles licensed with this authority meet an acceptable level thus ensuring that the taxi fleet licensed with this authority is kept relatively new, thereby helping to ensure that passenger safety, comfort and vehicle appearance is maintained as high as possible.

b) Alternative Options

To refuse the application or to make an exception to the policy and grant the application to licence the vehicle as a Hackney Carriage vehicle.

c) Risk Considerations

If this application is refused, an applicant whose application is refused has a right to appeal within 21 days to a Crown Court.

d) Policy and Budgetary Considerations

The Policy implications are set out in the report. As far as budgetary considerations are concerned if there is an appeal and the Council loses, there may be a financial implication as to costs/compensation etc to be paid by the Council.

e) Date for Review of Decision

None.

Main Body of the Report

- 1.1 The licensing of hackney carriages is the responsibility of the local authority and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 Section 47 Local Government (Miscellaneous Provisions) Act 1976 states that

- (a) 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, and
 - (b) Without prejudice to the generality of the foregoing subsection a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear any distinguishing marks as shall clearly identify it as a hackney carriage.
- 1.3 On 12 September 1991 the Tourism and Transportation Committee agreed that as from 1 November 1991 on initial licensing as a hackney carriage, a vehicle shall not be more than 4 years old and shall not be licensed in the case of ordinary cars beyond 8 years and purpose built hackney carriage vehicles beyond 10 years. Council ratified this on the 23 January 1992.
- 1.4 This policy was subsequently amended to allow licensed hackney carriages that are over 8 years old to continue in use subject to a satisfactory test certificate being obtained every 6 months. This means that vehicles that are no older than 4 years can be licensed for the first time as hackney carriage vehicles and as long as they remain licensed they can continue in use as hackney carriages up to 8 years. Thereafter as long as the vehicle proprietor provides an MOT test certificate twice a year the vehicle can still remain licensed.
- 1.5 On the 29 January 2010 Mr Barry Saxton of 12 Rance Drive, Exmouth made an application to the District Council to licence a Vauxhall Vectra Saloon registration number KT03 FLJ. In support of his application he has also produced a vehicle inspection report dated 26 January 2010, a current MOT Test certificate dated 23 January 2010, and a current Insurance certificate operative from 27 January 2010. The MOT certificate shows the recorded mileage for this vehicle as at the 23 January 2010 when the test was conducted as 231,480 miles.
- 1.6 Mr Saxton is the owner of Swift Cars, a local Exmouth taxi company. He currently has 4 licensed hackney vehicles and four licensed drivers working for him. He has been a hackney carriage driver licence holder for 24 years, (he informs me) as our computer records only go back for 10 years.
- 1.7 The vehicle he has applied to licence registration number KT03 FLJ has a date of first registration of 28 July 2003. This means the vehicle is currently 6 years and 6 months old.
- 1.8 The vehicle has a previous licence history with the District Council. Mr Saxton first licensed the vehicle as a Hackney Carriage when it was 7 months old on the 16 February 2004. Apart for a short period when it is thought the vehicle was taken off the road for repair it was licensed continually until the 31 October 2008 when Mr Saxton allowed the licence to expire. The vehicle has not been licensed since that date and at the time of allowing the licence to expire Mr Saxton made no mention of wishing to re-licence it in the future. It should be noted that the vehicle has been unlicensed as a hackney carriage for 15 months.
- 1.9 Mr Saxton has written a letter in support of his application, which is shown as **Appendix A**. He states that there has been a period of about 6 months when the vehicle was in the garage awaiting repair. During this time the vehicle became unlicensed.
- 1.10 Mr Saxton did attend the Licensing Office some time in late September or early October 2009 when he asked to re-licence the vehicle but was advised that it was too old to re-licence, as it had become over four years old. On the 29 January 2010 he made a formal application to re-licence the vehicle.
- 1.11 The applicant has a reputation amongst members of the Licensing Team as a proprietor who keeps his vehicles "tidy". However whilst he provides all the necessary certificates/inspection reports for his licensed vehicles when renewing his licences the Licensing staff are unable to vouch for the level of maintenance his vehicles receive. In view of this Mr Saxton has been asked to provide the maintenance and service record for

the vehicle he wishes to licence dating from February 2004. It is hoped that these documents will be available for members to inspect when this application is heard.

- 1.12 The condition that vehicles should be less than four years old on initial licensing was made to ensure that the taxi fleet licensed with this authority is kept relatively new, thereby helping to ensure that passenger safety, comfort and appearance is maintained as high as possible. In the majority of cases the older a vehicle becomes the harder life they have had with increased stress on the vehicle and more damage to the bodywork which although may have been repaired could have a long-term detrimental effect. Certainly older cars tend to have a higher mileage than normal vehicles leading to more mechanical problems, which may put the fare paying public at risk from mechanical failure.
- 1.13 A side effect of the district maintaining a modern taxi fleet is that it is helping to lower the carbon footprint, as older vehicles in general are less fuel-efficient and their emissions levels are far worse. In addition taxis are ambassadors for the district as they travel far and wide and are often the first vehicle a visitor to the area sees and uses. A modern fleet provides a good impression of the district thus helping businesses and the holiday trade.
- 1.14 It is understood that the vehicle Mr Saxton wishes to licence has received a replacement engine. However members are reminded that the vehicle already has a recorded mileage of 231,480 miles and whilst the vehicle has a replacement engine the majority of the vehicle remains a 6 and a half-year-old car having done a very high mileage with all the mechanical stresses that entails.
- 1.15 It is the Licensing Manager's recommendation that only if members are satisfied that there are very exceptional reasons for doing so should this application be granted.
- 1.16 Mr Saxton will produce the vehicle he seeks to licence at the Council Offices on the day of the hearing to enable Members to inspect the vehicle if they wish to do so.

Legal Implications

The Legal implications are set out within this report.

Financial Implications

The financial implications are contained in the report.

Appendices

Appendix A - Letter from Mr Saxton in relation to his application dated 27 January 2010

Background Papers

Minutes of Tourism and Transportation Committee dated 12 September 1991

Hackney Carriage application dated 27 January 2010 for Vauxhall Vectra saloon KT03 FLJ

Registration Certificate for KT03 FLJ

Insurance Certificate for KT03 FLJ

Compliance test for KT03 FLJ

MOT Certificate for KT03 FLJ