

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
30 MAY 2014

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
HUMMER H2, REGISTRATION MARK W9 HUM
MR ANDREW SMITH

1. INTRODUCTION

- 1.1 An application for a restricted private hire vehicle licence for the purposes of executive hire has been received from Mr Andrew Smith. The vehicle is a Black Hummer H2, Registration Mark W9 HUM and is capable of carrying 5 passengers.

2. BACKGROUND

- 2.1 The vehicle was first registered on 1st January 2003 and is therefore 11 years and 4 months old. The vehicle passed the Council's inspection on the 8th April 2014 and the mileage recorded at this time was 48,309 miles.

- 2.2 The vehicle inspection has also confirmed that the vehicle is left hand drive.

- 2.3 Council's current age policy states:

“vehicles will not be accepted for licensing on the first occasion after 2 years from the date of first registration. Vehicles purchased from new will be re-licensed on merit.

If a vehicle when first licensed is any age up to 2 years from date of first registration it will be re-licensed on merit until it is 6 years old”.

- 2.4 In addition to this matter, the restricted private hire vehicle conditions also state;

“All vehicles must be right hand drive and have 2 doors each side of the vehicle. All passengers shall have access to a door capable of being opened from inside the vehicle.”

- 2.5 Members are therefore being asked to consider whether the Hummer H2, Registration Number, W9 HUM is suitable for licensing as a Restricted Private Hire vehicle for the purposes of executive hire.

- 2.6 In order to assist Members in reaching their decision the vehicle will be available for inspection at the main entrance of the Civic Centre on Friday 30th May 2014.

3. RESTRICTED PRIVATE HIRE VEHICLES

- 3.1 In 2008 the creation of the 'restricted private hire licence' came about as a result of a change in legislation that removed the 'contract exemption' contained in section 75 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The contract exemption previously permitted the use of a vehicle, under a contract for hire of more than seven days, to operate legally without the need for the operator or the driver of the vehicle to be licensed.
- 3.3 The restricted vehicle licence has since been issued for a number of vehicles for the purposes of school contract, airport travel and executive hire. Restricted vehicle licences were introduced in response to the change in legislation to allow those vehicles that were affected by the removal of the contract exemption, to carry on their existing business and not be adversely affected. These vehicles did not comply with this Council's policy for private hire vehicles in design or age and therefore could not be licensed as such.
- 3.4 The conditions attached to restricted vehicle licences issued ensured existing businesses could be licensed and continue with their normal operations without affecting their livelihood or creating undue expense. In particular restrictions were not applied in relation to the age or colour of the vehicles to be licensed.

4. THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH 2010

- 4.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

"It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."

5. **LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES**

- 5.1 The powers relating to the licensing of private hire vehicles are contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

“Licensing of private hire vehicles

48 (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicles as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

- (a) that the vehicle is –
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of the Road Traffic (Consequential Provisions) Act 1988, s 4, Sch 3, para 16

and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this sub-section, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates’.
- (3) In every vehicle licence granted under this section there shall be specified—
- (a) the name and address of—

- (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of the licence; and
- (d) Such other particulars as the district council consider reasonably necessary.
- (4) Every licence granted under this section shall -
- (a) be signed by an authorised officer of the council which granted it;
 - (b) relate to not more than one private hire vehicle; and
 - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
- (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.

- (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

5.2 It is evident from section 48 above that the Council are not under a duty to issue a licence once an application has been made, they have discretion. Section 48(1)(a) and (b) also includes specific situations where a council must not grant a licence.

6. RECOMMENDATION

It is recommended that after careful consideration of the detail of this report and hearing from Mr Smith, Members determine whether to:

- a. Grant Mr Smith a Restricted Private Hire Vehicle licence in respect of the Hummer H2, registration Mark W9 HUM for the purpose of executive hire only and that this licence is renewed on merit. OR
- b. Refuse Mr Smith a Restricted Private Hire Vehicle licence giving reasons why it is not considered suitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Committee's instructions are requested.

Background Papers: Licence Application
Contact Officer: Richard Jenkins
Extension: 5600
Legal Contact: Lyndsay Thomas