

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
GENERAL LICENSING COMMITTEE - 27 JUNE 2014

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO SUBSTITUTE A PRIVATE HIRE VEHICLE,
BMW, REGISTRATION MARK FD09 EXZ
MR DAVID HANCOCK

1.0 INTRODUCTION

- 1.1 An application to substitute a vehicle on to an existing private hire vehicle licence has been received from Mr David Hancock. The vehicle is a white BMW, Registration Mark FD09 EXZ and is capable of carrying 4 passengers.

2.0 BACKGROUND

- 2.1 The existing licensed vehicle, plate number PH4090, registration mark E055 VWC is a White Skoda Octavia, licensed to carry 4 passengers. This vehicle is now 8 years and 9 months old and the mileage recorded on its last inspection on the 22nd August 2013 was 292,806. The licence for this vehicle expires on 31st August 2014.
- 2.2 The vehicle Mr Hancock wishes to substitute onto this licence is 4 years and 10 months. The vehicle passed the Council's inspection on the 10th June 2014 and the mileage recorded at this time was 95,376 miles.
- 2.3 Mr Hancock has confirmed that his existing vehicle is 'breaking down' and due to the repairs it is too expensive to keep on the road.
- 2.4 The vehicle inspection has also confirmed that the vehicle does not carry a spare wheel as it was designed and fitted with run flat tyres.
- 2.5 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".
- 2.6 In addition to this matter, the restricted private hire vehicle conditions also state:
"The proprietor shall ensure that the licensed vehicle at all times carries a spare wheel which complies with current legal requirements (paying particular attention to depth of tread) and wheel changing equipment including a jack and wheel brace".

- 2.7 Run flat tyres have either a reinforced sidewall or additional internal structure to provide partial support to the tyre in a deflated condition and are being offered by more and more manufacturers on new cars. There are restrictions on use following a puncture. However in general deflated tyres should be capable of at least 50 miles, depending on load at speeds of up to 50 MPH.
- 2.8 Members are therefore being asked to consider whether the BMW vehicle, Registration Number FD09 EXZ is suitable for licensing as a private hire vehicle in Swansea.
- 2.9 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Civic Centre on Friday 27th June 2014.

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

- 3.1 The Department for Transport published its Best Practice Guidance in March 2010 to assist local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades. 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.

4.0 LEGISLATION RELATING TO THE LICENSING OF PRIVATE HIRE VEHICLES

- 4.1 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

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.

4.2 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.

5.0 RECOMMENDATION

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

- a. grant the application made by Mr Hancock to substitute the BMW vehicle registration mark ED09 EXZ onto the private hire vehicle licence 4090 and that this licence is renewed on merit .

OR

- b. refuse the application made by Mr Hancock to substitute the BMW vehicle registration mark ED09 EXZ onto the private hire vehicle licence giving reasons why it is considered unsuitable under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Committee's instructions are requested.

Background Papers: Licence Application
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