

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
6th MARCH 2015

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
APPLICATION TO LICENCE A RESTRICTED PRIVATE HIRE VEHICLE,
FORD GALAXY, REGISTRATION MARK NT04 ZXR
MR DAVID JONES

1. INTRODUCTION

- 1.1 An application for a restricted private hire vehicle licence has been received from Mr David Jones. The vehicle does not comply with the current licensing criteria set by City & County of Swansea due to its age and as it is not specially adapted for School Transport purposes.
- 1.2 At the General Licensing Committee of 17th December 2014, Members agreed that any vehicle that does not comply with the current licensing criteria and/or is over 5 years continue to be considered by Committee. However, in future Members of the General Licensing Committee would not inspect the vehicle. The vehicle would be inspected by Licensing Officers prior to the Licensing Committee and Members would consider a written report.

2. RELEVANT CONSIDERATIONS

The Vehicle

- 2.1 Mr Jones wishes to apply for a restricted private hire licence for a blue Ford Galaxy type vehicle. The vehicle was first registered on 30th July 2004 and is therefore 10 years and 7 months old. The registration of the vehicle is NT04 ZXR and is capable of carrying 6 passengers.

The Purpose

- 2.2 It is proposed that the vehicle will be used for School Transport and Airport Transport purposes only.

Inspections and Documents

- 2.3 The vehicle passed the Council's inspection at CTU on 3rd February 2015 and the mileage recorded at this time was 150,407 miles.
- 2.4 Mr Jones has supplied the full service history for the vehicle with the exception of years 2009 and 2011 and an up to date vehicle history check both of which are satisfactory.

- 2.5 Licensing Officers also inspected the vehicle on 3rd February 2015 at the Civic Centre. The vehicle is considered to be of suitable standard for licensing as a restricted private hire vehicle.

3. CURRENT LICENSING CRITERIA

- 3.1 Council's current age criteria 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".

- 3.2 The conditions also state:

An application to licence a restricted private hire vehicle for school transport purposes will only be considered for a new contract that requires a vehicle of a certain type or design that would not be licensed as a hackney carriage or private hire vehicle. Schools transport officers will be consulted on all applications received.'

- 3.3 School Transport officers have been consulted regarding this application and have confirmed that Mr Jones has existing school contracts, has been offered a new contract and may be offered additional contracts in future.
- 3.4 Members are therefore being asked to consider whether the Ford Galaxy, Registration Number, NT04 ZXR is suitable for licensing as a restricted private hire vehicle for the purposes of airport travel and school contracts only.

4. RESTRICTED PRIVATE HIRE VEHICLES

- 4.1 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.
- 4.2 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.

- 4.3 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.
- 4.4 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.

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

- 5.1 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."

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

- 6.1 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

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 Part VI of the Road Traffic Act 1988, 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.

6.2 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.

7. RECOMMENDATION

- 7.1 It is recommended that after careful consideration of the detail of this report and hearing from Mr Jones, Members determine whether to:
- a. Grant Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark NT04 ZXR for the purposes of airport travel and school contracts and that this licence is renewed on merit. OR
 - b. Refuse Mr Jones a Restricted Private Hire Vehicle licence in respect of the Ford Galaxy, registration mark NT04 ZXR 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 and General Licensing Committee Report of 17th December 2014
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