

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
12th JUNE 2015

TOWN POLICE CLAUSES ACT 1847
APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE
LICENCE – VOLKSWAGEN TRANSPORTER, REGISTRATION MARK
CU05 FTF
MR TABARAK ALI

1. INTRODUCTION

- 1.1 An application for the grant of a hackney carriage vehicle licence has been received from Mr Ali. The vehicle is a black Volkswagen Transporter Registration Mark CU05 FTF and is capable of carrying 8 passengers.
- 1.2 Members of the Committee will recall that Mr Ali attended the General Licensing Committee on 14th May 2015 in respect of the same vehicle. Members following inspection of the vehicle and speaking with Mr Ali decided to refuse the application.
- 1.3 The reasons for the refusal were that Members were not satisfied that Mr Ali could operate the vehicle to adequately secure the ramp for wheelchair passengers as he had failed to carry the bolts to fix the step plate onto the vehicle safely. It was noted that this was the second occasion on which Mr Ali had presented the vehicle for official inspection with the bolts missing. Members also noted that this action could not permit Mr Ali or any other driver to drive the vehicle in accordance with Section 165 4(d) and 5(b) of the Equality Act 2010.
- 1.4 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. BACKGROUND

- 2.1 The vehicle was first registered on 10th March 2005 and is therefore 10 years and 3 months old.
- 2.2 This vehicle has been licensed as a hackney carriage from new with City and County of Swansea therefore no service history or vehicle history check has been sought.

- 2.3 The licence for this vehicle expired on 28th February 2015 but was not renewed. It is now presented to the General Licensing Committee to consider the grant of a new licence.
- 2.4 On 25th February 2015 Mr Ali informed the Licensing Division that the vehicle had been in a garage in London for approximately 2 to 3 months due to problems with the Engine Control Unit (ECU). The licence was not renewed due to the problems with the vehicle and the licence expired on 28th February 2015.
- 2.5 On 27th April 2015 Mr Ali contacted the Licensing Division to inform them that the vehicle was now repaired. Mr Ali then submitted an application for the grant of a hackney carriage vehicle licence together with a letter explaining the reason for not renewing the vehicle licence and a copy of an Invoice from XMB Motors Ltd for the work carried out on the hackney carriage vehicle CU05 FTF.
A copy of the letter and Invoice is attached as Appendix A.
- 2.6 On 29th April 2015 the vehicle CU05 FTF passed the Council's inspection and the mileage recorded at this time was 262,886 miles.
- 2.7 On 29th April 2015 the vehicle CU05 FTF attended at the Civic Centre and was inspected by a Licensing Officer, and the following faults were recorded:
- * Front off side window not working;
 - * Near side parking mirror broken;
 - * Interior of vehicle requires valeting;
 - * Rear door lining needs to be replaced;
 - * Straps and clamps for the securing of wheelchairs were not in the vehicle.
- 2.8 On 30th April 2015 the vehicle again attended at the Civic Centre and the driver produced and demonstrated the use of straps and clamps for the securing of wheelchairs. During the demonstration it was noted that the step plate could not be safely secured before the ramps are positioned.

3. **CURRENT CONSIDERATIONS**

- 3.1 Mr Ali made an application for the grant of a hackney carriage vehicle licence on 27th May 2015.
- 3.2 The vehicle was re-inspected by Licensing Officers at the time that the application was made and all faults noted on the previous inspection in April had been rectified. The step plate and fixings were present upon inspection and Mr Ali was able to demonstrate this in use.
- 3.3 Should the licence be granted, Members are asked to consider imposing the following additional condition to the vehicle licence:
- “The step plate and fixings used to facilitate wheelchair access must be securely stored and kept in the vehicle at all times and be safely secured before the ramps are positioned for the loading of the wheelchair.”*
- 3.4 With reference to the step plate within the vehicle, Members enquired during the Committee on the 14th May 2015 as to whether the step plate could be permanently fixed to avoid the need for the additional condition. This was considered during the vehicle inspection on the 27th May 2015 where it was decided that it would not be suitable as the step plate when fixed is not in line with the original flooring and may present a trip hazard.
- 3.5 In order to assist Members in reaching their decision the vehicle will be available for inspection at the Guildhall on Friday, 12th June 2015.
- 3.6 Members are therefore asked to determine the suitability of the black Volkswagen Transporter vehicle registration mark CU05 FTF for licensing as a hackney carriage vehicle in Swansea.

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

- 4.1 The Department for 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 licence 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. **CURRENT HACKNEY CARRIAGE VEHICLE POLICY**

5.1 The Council's current policy in relation to hackney carriage vehicles requires that vehicles will not be accepted for licensing on the first occasion unless brand new. All vehicles will be re-licensed on merit.

5.2 The policy was adopted by Swansea City Council in March 1985 and by the City and County of Swansea in 1996.

5.3 The reasons for the adoption of the policy were:

- i. So that the local authority could be confident as to the accident history of the relevant vehicles;
- ii. it was envisaged that if the vehicle were a new vehicle its proprietor would be more committed to maintaining higher standards of the vehicle as a result of the higher investment made.
- iii. The policy was intended to ensure that the vehicle was not already 'tired' before it was licensed, so it was more likely to be able to withstand the rigors demanded of a hackney carriage;

5.4 Since the adoption of the policy the mechanical standards, interior of the vehicles and their external appearance have improved. The improvements have been of general benefit to the public and also the image of the hackney carriage trade in Swansea.

5.5 The Council's age policy has been challenged since its implementation by way of Judicial Review in 1995.

5.6 The decision of the High Court at this time was to dismiss the application on the basis that the evidence provided showed that the policy had the full support of the hackney carriage trade in Swansea and that the policy was carefully considered, and had reasonable objectives to protect the safety of hackney carriages and the comfort and convenience of those who travel in them.

6. **PREVIOUS PROPOSAL TO ALLOW THE LICENSING OF SECOND HAND HACKNEY CARRIAGE VEHICLES**

6.1 In December 2008 the Licensing Committee considered a request from a hackney carriage proprietor to allow licence holders to purchase

second hand vehicles to replace vehicles that have been damaged and can no longer be used as a licensed vehicle as a result.

- 6.2 The decision of the Licensing Committee was that any individual requests would be considered on merit should they arise.
- 6.3 Since that decision a number of requests have been considered by Committee.

7. **RECOMMENDATION**

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

- i) grant the application made by Mr Ali to licence the Volkswagen Transporter vehicle registration mark CU05 FTF as a hackney carriage with the following additional condition:

The step plate and fixings used to facilitate wheelchair access must be securely stored and kept in the vehicle at all times and be safely secured before the ramps are positioned for the loading of the wheelchair, or

- ii) refuse the application made by Mr Ali to licence the Volkswagen Transporter vehicle registration mark CU05 FTF as a hackney carriage giving full reasons for this decision.

The Licensing Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Richard Jenkins
Extension:	5600
Legal Contact:	Aled Gruffydd
