

Minutes of the meeting of the LICENSING AND
APPEALS HEARINGS PANEL held at 1.00 pm
on Friday, 1st September, 2017 at Main
Committee Room, Civic Centre, Stone Cross,
Northallerton

Present

Councillor M A Barningham (in the Chair)

Councillor P Bardon

Councillor K G Hardisty

LAHP.11 **APPLICATION FOR RENEWAL OF PRIVATE HIRE VEHICLE LICENCE - CARLTON
CARS (N YORKS) LTD - PH70**

All Wards

The Panel considered a request from the applicant to adjourn the hearing on the basis that he would not be given a fair hearing as two of the Panel Members had been sat on the Panel that had refused his previous private hire vehicle application on 20th June 2017. The Panel was satisfied that there was no bias (or even appearance of bias) as none of the Panel Members had predetermined any part of the current application, that each Panel Member had attended the hearing with an open mind and that the specific circumstances of the applicant's case would be considered on its individual merits. Therefore, the Panel refused the applicant's request for an adjournment and the Panel notified the applicant of the reasons.

Following the Panel's decision to refuse to grant an adjournment the applicant informed the Panel that he intended to leave the hearing. The Panel informed the applicant that the matter may be determined in his absence. The applicant remained present for the entire hearing.

The subject of the decision:

The Director of Law and Governance asked the Panel to consider whether to grant or refuse an application for the renewal of a private hire vehicle licence.

Alternative options considered:

The Panel considered granting the application but concluded that the specific circumstances of the case were not sufficient to justify a departure from the Council's Hackney Carriage and Private Hire Licensing Policy.

The reason for the decision:

The Panel considered the officer's report, the applicant's representations, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel noted that the Council's policy generally opposes the grant of a licence in respect of vehicles over the age of ten years. The Panel noted that vehicle in question was first registered 12 years and 6 months ago. The Panel noted that the vehicle in question met the mechanical standards set out by the policy.

The applicant indicated that his private hire business relied exclusively on school contract work. The applicant informed the Panel that his business model would provide sufficient grounds to justify making an exception to the general age limit prescribed by the Council's policy.

The applicant made reference to a number of contracts awarded to the applicant by North Yorkshire County Council due to expire in 2018 and 2019. The applicant informed the Panel that the tenders for the school contracts were won prior to the implementation of the age limit and were based around a business model of using older vehicles. The applicant informed the Panel that he intended to honour his contractual obligations before investing in a new fleet of younger vehicles. The applicant informed the Panel that the refusal of a licence would be unfair as he could not afford to buy new vehicles from the proceeds of his existing school contracts. The applicant also informed the Panel that some of his contracts involved journeys to rural areas of the district.

The Panel noted that many hackney carriage and private hire vehicles licensed by the Council were frequently used to undertake school contract work. The Panel concluded that the rural nature of the applicant's journeys was commonplace within the district of Hambleton and therefore would not constitute exceptional circumstances in this regard.

The Panel noted that the school contracts were awarded prior to the Council's implementation of the general age limit for licensed vehicles which took effect from 1st January 2017. However, the Panel was satisfied that the applicant had been aware of the new policy for at least 18 months and therefore had had sufficient notice of the revised provisions.

The Panel noted that the applicant did not make his vehicle available for a visual inspection. However, the Panel did consider the documentation provided within the officer's report including the recent mechanical inspection and MOT history.

The Panel was concerned by some of the information contained within the MOT history. For example, on 8th August 2017 the nearside rear tyre was worn close to the legal limit, the offside front tyre was badly worn on both outer edges and the nearside front tyre had ply or cords exposed. The Panel noted that the nearside front tyre, along with three other significant defects, caused the vehicle to fail its MOT test. Six days later, on 14th August 2017, the vehicle passed its MOT test but the nearside rear tyre and offside front tyre remained subject to advisory notice items. The Panel also noted that the nearside rear tyre had been subject to an advisory notice item following its MOT test one year earlier.

The Panel was satisfied that the applicant was committed to ensuring that his vehicles met the requisite safety criteria when it was necessary to do so in order to pass mechanical inspections. However, the Panel was concerned about the condition of the vehicle at other times during the licence. The Panel concluded that the MOT history demonstrated a degree of neglect in relation to any mechanical defects that would not warrant a failure of a MOT test. The Panel concluded that the vehicle was maintained to the minimum regulatory standards and cannot therefore be regarded as exceptionally well-maintained.

When asked about the defective tyres, the applicant informed the Panel that he would not often see the vehicle in question and that mechanical fitness is the driver's responsibility. The applicant conceded that the evidence "doesn't look good" in that regard. The Panel was satisfied that repairs would be made following mechanical inspections but not necessarily throughout the period of the licence.

Ultimately the Panel was asked to consider whether or not to grant a licence in respect of a vehicle that exceeds the general age limit prescribed by the Council's policy.

The Panel noted that the age limit was adopted in order to promote public safety, reliability and improved high standards of hackney carriage and private hire services in the district. The Panel was not satisfied that the licence could be granted without having an adverse impact on the policy objectives.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence, the Panel decided to refuse the application on the grounds of any reasonable cause in accordance with Section 60 of Local Government (Miscellaneous Provisions) Act 1976.

The meeting closed at 2.05 pm

Chairman of the Panel