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**Nottingham
City Council**

Nottingham City Council Regulatory and Appeals Committee

Date: Monday, 8 August 2022

Time: 11.00 am

Place: Ground Floor Committee Room - Loxley House, Station Street, NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: Mark Leavesley

Direct Dial: 0115 876 4302

- 1 Appointment of Vice-Chair**
- 2 Apologies for absence**
- 3 Declarations of interests**
- 4 Minutes** 3 - 6
Last meeting held on 06 September 2021 (for confirmation)
- 5 Initial application to licence a Private Hire Vehicle** 7 - 14
Report of Director of Community Protection

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

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Nottingham City Council

Regulatory and Appeals Committee

Minutes of the meeting held at Loxley House, Station Street, NG2 3NG, on 6 September 2021 from 10.02 am - 11.02 am

Membership

Present

Councillor Toby Neal (Chair)
Councillor Audrey Dinnall
Councillor Samuel Gardiner
Councillor Gul Nawaz Khan (Vice Chair)
Councillor Dave Liversidge
Councillor Angela Kandola
Councillor Salma Mumtaz

Absent

Councillor Cheryl Barnard
Councillor Nick Raine
Councillor Roger Steel
Councillor Linda Woodings
Councillor Adele Williams

Colleagues, partners and others in attendance:

Ann Barrett - Team Leader, Planning, Environment and Leisure Solicitors
Paul Dales - Chief Environmental Health Officer
John Davis - Taxi Licensing Manager
Jane Garrard - Senior Governance Officer

7 Apologies for absence

Councillor Cheryl Barnard – Other Council Business
Councillor Nick Raine – personal
Councillor Roger Steel - unwell
Councillor Adele Williams – Other Council Business
Councillor Linda Woodings - personal

8 Membership

The Committee noted that Councillor Adele Williams had been appointed to replace Councillor Chantal Lee as a member of the Committee.

9 Declarations of interests

None

10 Minutes

The Committee agreed the Minutes of the meeting held on 22 July 2021 as an accurate record and they were signed by the Chair.

11 Hackney Carriage Vehicle Licence - Allocations Policy

The meeting was adjourned at 10:02am so that the Committee could receive advice and a briefing regarding a late representation. The meeting resumed at 10:28am.

John Davis, Taxi Licensing Manager, and Paul Dales, Chief Environmental Health Officer, presented the report proposing approval of a Hackney Carriage Vehicle Licence Allocations Policy. They highlighted the following information:

- a) The Council currently limits the number of Hackney Carriage Vehicle licences it will issue to 420. By 30 June 2020, all licensed vehicles should have been Euro 6 Diesel or ZEC ULEV and within the relevant age range to comply with the Age and Specification Policy. However, due to Covid-19 restrictions and a number of proprietors not wishing to move to new vehicles, a large number of licences have been surrendered, not renewed or otherwise become available. At its meeting on 14 December 2020 the Committee agreed that a policy should be devised to deal with the allocation of these licences.
- b) As of 16 August 2021, there were 177 vehicles compliant with the Council policy; 33 vehicles had been refused a licence and the proprietors had appealed against that decision to the Magistrates Court; 50 proprietors had informed the Council that they did not wish to renew their licence; and 160 licences had expired or been refused (with no outstanding appeal) without an application for a policy compliant vehicle having been made.
- c) Therefore 243 licences can be issued before the limit of 420 licences is reached.
- d) Officers consider that the proposed policy is fair, workable and reasonable.
- e) The proposed policy was consulted on between 26 July and 22 August 2021. All current proprietors were written to, consultation took place with the relevant Hackney Trade organisations and the proposed policy was available on the Council's website and publicised on social media.
- f) 5 consultation responses were received. Respondents asked the Council for financial support to purchase policy compliant vehicles or to delay the reallocation of licences due to the adverse effect of the Covid pandemic on the hackney trade.
- g) In response to the points raised by consultation respondents, it is the view that individual business responsibility lies with the business owner; proprietors will have had two years since the Age and Specification Policy came into effect to comply; and given that less than half the available licences are currently operating it is appropriate that the Council re-allocates the available licences to ensure appropriate provision of hackney carriage vehicles within the public transport network.
- h) There has been a negative financial impact on the Council as a result of lost income from those licences not renewed/ allocated. Adoption of the policy will enable licences to be brought back into operation and reduce further financial implications of lost income.

- i) As the local economy is not anticipated to return to pre-Covid levels for a significant period of time, it is proposed to allow time for the taxi trade and economy to become more stable before a survey of unmet demand is undertaken and deregulation is considered.

During subsequent discussion the following points were raised:

- j) It is important that the Policy is fair and reasonable and alternatives, such as the random allocation of licences, would be neither fair nor reasonable.
- k) If the Policy is approved, proprietors who have previously held a licence will be given until 30 September 2021 to apply and from 1 October 2021 applications will be open to everyone on a first come first served basis, and a waiting list will be maintained. There will be a three-month period for those who have registered their interest but who do not currently have a compliant vehicle to place a non-cancellable order for a compliant vehicle.
- l) The timescale is considered reasonable. Current proprietors have been aware of the Age and Specification Policy some time. Consultation has taken place, including writing directly to all current proprietors and discussion with trade organisations. Feedback has been received in response to the consultation carried out, which demonstrates that the information has reached relevant individuals.
- m) Officers have spoken to licensing authorities in other areas but none have experienced a situation similar to that currently in Nottingham and they have not had need for such a policy.
- n) Section J of the proposed Policy states that initially proprietors will only be allowed to apply for one licence. The aim of this is to enable as many individuals as possible to access a licence. If the limit of licences isn't reached then multiple applications may be entertained. Councillors suggested that any proposal to allocate multiple licences to a proprietor should require committee consideration.
- o) Hackney carriage vehicle licence holders do not have to be vehicle drivers and they can hold more than one licence. Licence holders can sell their vehicle and transfer the licence to someone else and can rent out their vehicles for others to use. This happens currently.
- p) The next Court date for those proprietors who have appealed against the decision to refuse a licence as they do not have a compliant vehicle is 20 January 2022. Appeals are dealt with on a case by case basis and do not set a precedent. If an appeal is upheld then the licensing authority will have to issue a licence for the relevant vehicle. However, the decision will not affect those who are in the same situation but have not appealed. The licensing authority can also appeal against the decision of the Magistrates Court if it feels appropriate.
- q) As the Policy has not yet been adopted, there have been no applications received yet but some provisional enquiries have been received.

- r) All licencing business is conducted by email and that is the practice that businesses are familiar with. Therefore, the requirement to express interest by email should not disadvantage anyone.

The Committee supported approval of the proposed Policy, subject to amendment to paragraph J which relates to the number of licences a proprietor may be issued.

Resolved to:

- (1) approve the Hackney Carriage Vehicle Licence Allocation Policy, as attached as Appendix 1 to the report, subject to amendment to paragraph J to remove the words 'without limitation' and add the following sentence at the end of the paragraph: 'Third and subsequent Expressions of Interest made by a proprietor will be referred to the Regulatory and Appeals Committee for consideration.'**
- (2) rescind resolution 21(3) made by the Committee on 14 December 2020 with effect from 1 October 2021; and**
- (3) defer the report on reregulation requested by the Committee by resolution 21(4) on 14 December 2020.**

Regulatory and Appeals Committee - 08 August 2022

Title of paper:	Initial application to licence a Private Hire Vehicle	
Director:	Andrew Errington Director of Community Protection	Wards affected: All
Report author and contact details:	John Davis – Taxi Licensing Compliance Manager 07572 262275 john.davis@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Ann Barrett, Team Leader, Legal Services	
Date of consultation with Portfolio Holder	N/A	
Does this report contain any information that is exempt from publication? No		
Relevant Council Plan Key Outcome:		
Clean and Connected Communities	<input type="checkbox"/>	
Keeping Nottingham Working	<input type="checkbox"/>	
Carbon Neutral by 2028	<input checked="" type="checkbox"/>	
Safer Nottingham	<input type="checkbox"/>	
Child-Friendly Nottingham	<input type="checkbox"/>	
Healthy and Inclusive	<input type="checkbox"/>	
Keeping Nottingham Moving	<input checked="" type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Financial Stability	<input type="checkbox"/>	
Serving People Well	<input type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>This report asks members to consider an initial application to licence a Private Hire Vehicle which is outside the requirements of the Council's adopted Age and Specification Policy.</p> <p>The Policy states that with effect from 1 January 2020 'Only Private Hire Vehicles 4 years of age or under from the date of first DVLA registration will be considered for first licensing or as a replacement vehicle'. The date of first registration for the applicant's vehicle is 08 May 2017, making the vehicle 5 years old.</p> <p>The Council is, however, entitled to depart from its policies if it has good reason to do so.</p> <p>Members are asked to determine whether the applicant's vehicle can be initially licensed as a Private Hire Vehicle taking into account all the circumstances of this case so as to enable a departure from its policies to be justified.</p>		
Recommendation:		
1	To determine whether a Private Hire Vehicle license may be granted for the Tesla Model S, registration number LD17 UVY, subject to the vehicle passing the Council's enhanced MOT test.	

1. **Reasons for recommendation**

- 1.1 The Council has adopted policies relating to the age and specification of Private Hire Vehicles. The vehicle subject of this initial application does not comply with those policies.
- 1.2 However, the Council may depart from its policies where there is a good reason and the Committee is asked to consider the circumstances of this case and whether a departure should be made and the licence granted

2. **Other options considered in making recommendations**

- 2.1 None – the Council is under a duty to determine the application.

3. **Consideration of Risk**

- 3.1 Should the application be refused, the applicant could appeal the decision at the Magistrates Court and if successful the Council could be ordered to pay the Appellant's costs.

4. **Background (including outcomes of consultation)**

- 4.1 It is the responsibility of Nottingham City Council to issue Private Hire Vehicle licences under the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 Under section 48 of the Local Government (Miscellaneous Provisions) Act 1976, a 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 vehicle as a private hire vehicle, grant in respect thereof a vehicle licence.

Provided that a council shall not grant such a licence unless they are satisfied 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;
- (v) comfortable.

- 4.3 On 18 December 2017, Nottingham City Council via its Regulatory & Appeals Committee approved an Age & Specification policy relating to Hackney Carriages & Private Hire Vehicles. This policy states that with effect from 1 January 2020 only a Private Hire Vehicle 4 years of age or under from the date of first DVLA registration will be considered for first licensing or as a replacement vehicle. This aspect of the policy formed part of a larger suite of requirements the main purposes of which were concerned with introducing new technological advances to the aging fleets but also to support the Council's responsibility in relation to the lowering of emissions and the reduction of pollution levels from inefficient diesel cars.
- 4.4 The applicant is the proprietor of a Tesla Model S electric car which he purchased in September 2020 and which was first registered on 08 May 2017.

- 4.5 This vehicle is currently licensed as a Private Hire Vehicle with Transport for London.
- 4.6 The applicant has submitted an initial application to licence this vehicle as a Private Hire Vehicle with Nottingham City Council. This application would ordinarily be refused as the vehicle is 5 years old from the date of first registration.
- 4.7 The Tesla Model S is a prestige all-electric vehicle and would help the Council comply with its obligations on air quality. It has been awarded a 5-star Euro Ncap safety rating and has been checked to ensure that it meets the requirements of both the Council in respect of Private Hire Vehicles and section 48 of the Local Government (Miscellaneous Provisions) Act 1976 subject to it passing the Council's enhanced MOT test.
- 4.8 The current mileage for the car is 76,460 which is not excessive for its age. Apart from not meeting the Council's age policy and, subject to the vehicle passing the Council's enhanced MOT test the vehicle is felt to comply with the Council's policy requirements and the reasons for them
- 4.9 Should the application be refused; the applicant could appeal the decision at the Magistrates Court.

5. Finance colleague comments (including implications and value for money)

- 5.1 As per the legal comments the Council is entitled to vary its policy and determine the facts and circumstances for each applicant with good reason. To allow the application of this vehicle (assuming that the other constraints are met) would enable this vehicle to become a Private Hire Vehicle and as part of that process to pay the related fees and provide a valuable service to the City.
- 5.2 Should the policy not be amended and the applicant were to appeal this decision, this could lead to financial implications should the appeal be upheld with the legal costs of the appellant then needing to be met by NCC.

6. Legal colleague comments

- 6.1 The law in relation to licensing a Private Hire Vehicle is set out in the main body of the report. The Council is entitled to have a policy as to how it will deal with a general class of application.

Each application however still has to be determined on its individual facts and circumstances and the Council may depart from its policies where there are good reasons to do so

- 6.2 It is therefore within the power of the Committee to consider whether the specific circumstances of this case amount to a good reason to depart from its policy and to grant a licence to enable the proprietor to licence his vehicle as a Private Hire Vehicle.

7. Other relevant comments

- 7.1 None.

8. Crime and Disorder Implications (If Applicable)

8.1 N/A

9. Social value considerations (If Applicable)

9.1 N/A

10. Regard to the NHS Constitution (If Applicable)

10.1 N/A

11. Equality Impact Assessment (EIA)

11.1 N/A

12. Data Protection Impact Assessment (DPIA)

12.1 N/A

13. Carbon Impact Assessment (CIA)

13.1 N/A

14. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

14.1 None.

15. Published documents referred to in this report

15.1 Local Government (Miscellaneous Provisions) Act 1976

15.2 Nottingham City Council's 'Age and Specification Policy'

CITY OF NOTTINGHAM 
**AGE AND SPECIFICATION POLICIES RELATING TO
HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

GENERAL

1. This policy will have effect from 1 January 2018
2. No Hackney Carriage or Private Hire vehicle shall be granted a licence unless it meets the City Council's approved vehicle specification. In accordance with the Council's earlier Policy it will still be the case that no licence will be granted for a Hackney Carriage Vehicle Licence unless that Vehicle is wheelchair accessible and displays the Council's Coat of Arms on the front side doors. (unless advertising is being placed on the door in line with the Council's Advertising Policy).
3. Nottingham City Council will refuse to renew a licence for a vehicle for use as a Hackney Carriage or Private Hire vehicle once the respective upper age limit has been reached.
4. From 01/01/2020 additional vehicle specifications will be required for all vehicles. Vehicle owners are encouraged to contact the Licensing Office for advice at least 2 years before the vehicle is due to reach the upper age limit or purchasing a new vehicle.
5. From 01/01/2025, any vehicle being licensed for the first time as a Hackney Carriage or Private Hire vehicle will be required to be ZEC UI-EV
6. From 01/01/2030, no vehicle shall be licensed as a Hackney Carriage or Private Hire vehicle unless it is a Zero Emissions Capable Ultra Low Emission Vehicle

PRIVATE HIRE VEHICLES

From 01/01/2020

1. Only Private Hire vehicles FOUR (4) years of age and under from the date of first DVLA registration will be considered for first licensing or as a replacement vehicle.
2. Private Hire vehicles over the age of TEN (10) years from the date of first DVLA registration will ordinarily be REFUSED a licence

3. Private Hire vehicles over the age of THREE (3) years from the date of first DVLA registration will be subject to SIX (6) monthly MOT inspections carried out by Nottingham City Council testers

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amrl 60318final

WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGE VEHICLES

From 01/01/2018

1. All applications for replacement Hackney Carriage vehicles will be ordinarily REFUSED unless the vehicle to be licenced is newer than the existing vehicle and is no more than SIX (6) years of age from the date of first DVLA registration
2. All Hackney Carriage vehicles over the age of Five (5) years from the date of first DVLA registration will be subject to SIX (6) monthly MOT inspections carried out by Nottingham City Council testers.
3. Hackney Carriage vehicles over the age of TEN (10) years from the date of first DVLA registration will ordinarily be REFUSED a licence UNLESS the vehicle is in exceptionally good road-worthy condition and approved for use following an Exceptional Condition Vehicle Check carried out by an authorised officer.

From 16/03/2018

1. All applications for replacement Hackney Carriage vehicles will be ordinarily REFUSED unless the vehicle is coloured black with a white vinyl roof. The black is to be one of the manufacturer palette colours on the appended list, as amended from time to time.

From 01/01/2020

1. All Hackney Carriage vehicles will be required to be a minimum of Euro 6 Diesel or ZEC ULEV.
2. No Euro 6 Diesel vehicle will ordinarily be licensed as a hackney carriage if it over the age of TEN (10) years.
3. No ZEC ULEV vehicle will ordinarily be licensed as a hackney carriage if it over the age of FOURTEEN (14) years

From 01/01/2025

1. No ZEC ULEV vehicle will ordinarily be licensed as a hackney carriage if it over the age of TWELVE (12) years

Euro 6 diesel relates to the engine AND vehicle both being manufactured after September 2015.

**

ZEC ULEV definition — emit up to 50g/km CO2 with a minimum of 30 mile emission range. A ZEC Hackney Carriage MUST be petrol if an internal combustion engine is used

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