

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
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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'