

Regulatory & Appeals Committee – 3 February 2020

Title of paper:	Application for renewal of Hackney Carriage Vehicle Licence		
Director(s)/ Corporate Director(s):	Andrew Errington, Director of Community Protections	Wards affected: ALL	
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Other colleagues who have provided input:	Ann Barrett, Team Leader, Legal Services 0115 8764411		
Date of consultation with Portfolio Holder(s) (if relevant)	N/A		
Relevant Council Plan Key Theme:			
Nottingham People			<input type="checkbox"/>
Living in Nottingham			<input checked="" type="checkbox"/>
Growing Nottingham			<input type="checkbox"/>
Respect for Nottingham			<input type="checkbox"/>
Serving Nottingham Better			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>In 1990 the Council first introduced its policy requiring all Hackney Carriages licensed by the City Council to be of a type approved by the London Public Carriage Office, wheelchair accessible and British Racing Green in colour. The council subsequently adopted further policies relating to the age, specification and appearance of the hackney carriages it will licence.</p> <p>The Council is entitled to depart from its policies if it has good reason to do so, and the Council has already done so in the past where deemed appropriate.</p> <p>Members are asked to determine whether the Nottingham City Council Hackney Carriage vehicle licence in this instance can be renewed taking into account the special circumstances of this matter so as to enable a departure from its policies to be justified.</p>			
Recommendation(s):			
1	To determine the application to renew Hackney Carriage Vehicle Licence Number 061534 and, if granted, determine the duration of the renewed licence.		
2	To delegate authority to the Chief Environmental Health Officer, Operations Manager – Safer Business, Regional Licensing & Policy Manager and Taxi Licensing Compliance Manager to grant renewals of licences in departure from policy, where the driver can prove they have ordered and paid the deposit for a policy compliant vehicle prior to the expiry of their existing licence, or in similar such circumstances.		

1 Reasons For Recommendations

- 1.1 The Council has adopted policies relating to the age, specifications and appearance of hackney carriages. The vehicle the subject of this renewal application does not

comply with those policies. However the Council may depart from its policies where there is 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. In the event that the Committee does feel there are good circumstances to depart from the policies then it would assist in the delivery of the Council's business if similar powers to depart from those policies could be granted to officers. This would avoid similar cases having to be brought to committee (potentially at short notice) as the Constitution currently only allows for delegated powers to be exercised where they are in compliance with Council policy. It would also mean that if delays in the supply of policy compliant vehicles occur through no fault of the licensee then the power will exist for the Council to deal with such matters flexibly, reasonably and expeditiously.

2 Background (Including Outcomes of Consultation)

- 2.1 It is the responsibility of Nottingham City Council to issue Hackney Carriage licences under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
- 2.2 Under Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 a Council may require the hackney carriages it licenses to be of such design and appearance or bear such distinguishing marks as shall clearly distinguish it as a hackney carriage.
- 2.3 In 1990 the Council first introduced its policy requiring all Hackney Carriages licensed by the City Council to be of a type approved by the London Public Carriage Office, wheelchair accessible and British Racing Green in colour. This policy withstood a challenge by way of appeal and was phased in over a number of years with all hackney carriages conforming to this requirement since 1995.
- 2.4 Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 states, 'Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefor under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:-
- a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
 - b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this part of this Act by the operator or driver; or
 - c) any other reasonable cause. For the purposes of this decision, I rely upon clause (a) that the vehicle is unfit and clause (c) – any other reasonable cause.
- 2.5 Section 47(2) of the Local Government (Miscellaneous provisions) Act 1976 states:
- 2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- 2.6 On 18 December 2017, Nottingham City Council via its Regulatory and Appeals Committee approved an Age & Specification Policy relating to Hackney Carriage & Private Hire Vehicles which came into effect on 01 January 2018. This policy states 'From 01 January 2020, all hackney carriage vehicles will be required to be a minimum

of Euro 6 diesel or ZEC ULEV'. The main purposes of this policy are:-

to address the problems of an aging hackney carriage fleet and to bring it up to date with new technologies
to assist in ensuring that the hackney carriage sector remains integrated into the sustainable transport network, moving passengers with minimal environmental impact and
to comply with the Council's obligations on air quality and as part of the Council's Air Quality Plan which has been adopted by DEFRA.

In addition Regulatory and Appeals Committee of 16 March 2018 adopted a policy requiring Hackney Carriages to be finished in one colour of the relevant manufacturer's shade of black with a white vinyl wrap roof and the displaying the Council's coat of arms in white.

- 2.7 Mr Kuldip Singh Dhillon is the proprietor of a hackney carriage licence number 061534, plate number H151, for a LTI TX4 Bronze first registered on 29 May 2007. That licence expires on 3rd February 2020 and ordinarily the renewal application would be refused unless the vehicle was replaced with a policy compliant one.
- 2.8 Mr Dhillon has however submitted evidence that he has placed an order for a Nissan Dynamo electric vehicle and paid the requisite deposit in January 2020. Unfortunately whilst the order was submitted in good time, the manufacturer will not be able to supply the vehicle for delivery until March 2020. The Council has spoken to the manufacturer who has confirmed the order and delivery restrictions.
- 2.9 Mr Dhillon has asked the Council to consider renewing his licence for his current vehicle so that he may continue to work pending delivery of his new vehicle. Whilst the vehicle for consideration today does not meet the council's policies as outlined above it will be submitted for a VOSA MOT prior to Committee to check that it is roadworthy. Assuming that it passes the VOSA MOT requirements the Committee could, if it was so minded, determine that good reason had been shown to cause it to depart from its existing policies and renew the licence for the existing vehicle. Whilst a renewed licence would ordinarily be granted for 6 months, Section 5 of the Town Police Clauses Act 1989 gives the Council a discretion to grant licences for such periods as it thinks fit. If the licence for the existing vehicle is renewed then it could be granted for a shorter period, say 2 or 3 months.
- 2.10 From an air quality prospective, such short extensions to a renewal application in exceptional circumstances as this, are reasonable and would have a very small impact on air quality, particularly given that the applicant is purchasing an electric vehicle.
- 2.11 Should the application for renewal be refused, the proprietor would be unable to use the vehicle as his chosen form of employment after 21 days without going to the time and expense of formally lodging an appeal against the Council's decision. If he did not do so then he would be unable to earn an income which would create financially difficult circumstances for him.
- 2.12 In the event that the Committee is prepared to depart from its policies and grant renewal applications for existing vehicles where a proprietor has placed an order and paid a deposit but the manufacturer cannot supply the vehicle before the expiry of the existing licence then it would be beneficial for the Committee to delegate the power to grant renewals in similar circumstances to officers. This would be both efficient and cost effective meaning that fewer Committees have to be convened (potentially at short

notice) before the relevant vehicle licence expires.

3 Other Options Considered in Making Recommendations

3.1 None

4 Finance Colleague Comments (Including Implications And Value For Money/Vat)

4.1 No financial implications to the Council

5 Legal And Procurement Colleague Comments (Including Risk Management Issues, And Legal, Crime And Disorder Act And Procurement Implications)

5.1 The law in relation to hackney carriage vehicle licensing is set out in the main body of the report. As also indicated above, the Council is entitled to have a policy as to the type of vehicles it will licence and their general appearance. Each application however still has to be determined on its individual circumstances and the Council may depart from its policies where there are good reasons to do so. This has happened previously where for example, vehicles have met the aims of the Council's current specification (ie were wheelchair accessible, safe, met the needs of the travelling public, etc) but lacked London Public Carriage Office approval and when the Council's original policy on wheelchair accessible hackney carriages was being phased in in the mid 1990s it also on occasion considered applications to depart from that policy where applicants presented evidence of financial hardship.

5.2 It is therefore within the Committees power to consider whether the specific circumstances of this case amount to a good reason to depart from its policies and to grant a short licence to enable the proprietor to continue his hackney carriage business pending delivery of his new vehicle.

5.3 If the licence is not renewed then this decision will not take effect during the 21 days from service of written notice of the decision allowed for the lodging of an appeal or, if an appeal is lodged during the currency of those appeal proceedings. The vehicle could still be used as a hackney carriage during that time as its existing licence was extant at the time the Committee considered the application. Granting a short renewal would however be more certain than allowing the proprietor to operate purely by virtue of law and avoids the potential for technical legal arguments should any questions of enforcement or insurance arise.

5.4 The Committee is also asked to consider whether it wishes to grant delegated power for officers to grant renewal applications for non- policy compliant vehicles in similar circumstances. Under the Constitution officers may only exercise delegated powers in accordance with Council policy, a specific further delegation would therefore be needed setting out the circumstances where officers may depart from such policies. As suggested in the report, limitations could be placed on such a delegation eg that evidence of an order and deposit having been paid must be produced, and as to the length of the renewed licence.

6 Strategic Assets & Property Colleague Comments (For Decision Relating To All Property Assets And Associated Infrastructure) (Area Committee Reports Only)

6.1 N/A

7 Equality Impact Assessment

7.1 An EIA is not required because the Supplementary Testing Manual and the policies relating to standards to which vehicles are tested have previously been approved by this Committee.

8 List Of Background Papers Other Than Published Works Or Those Disclosing Confidential Or Exempt Information

8.1 None

9 Published Documents Referred To In Compiling This Report

9.1 Local Government (Miscellaneous Provisions) Act 1976