

# Cheltenham Borough Council

## Licensing Committee – 4 September 2015

### Application for a Private Hire Vehicle Licence

#### Report of the Licensing Officer

#### 1. Executive Summary

- 1.1 An application has been received from Mr Paul Clarkson for a Private Hire vehicle licence.
- 1.2 The vehicle in question, a Mercedes 'S' Class, has three passenger seats and therefore does not comply with the Council's adopted policy in as much as it has fewer passenger seats than the minimum required under the policy, which is four.
- 1.3 In light of this Members of the Committee should be aware of the application because of:
- 1.3.1 The fact that the vehicle falls outside the requirements of the Council's policy; and
- 1.3.2 The need to ensure that the vehicle is suitable to be licensed as a Private Hire vehicle.

#### 1.4 The Committee is recommended to resolve that:

- 1.4.1 **Mr Clarkson's application for a Private Hire vehicle licence is granted because the Committee is satisfied that there are sufficient reasons to depart from the policy requirement in this instance; or**
- 1.4.2 **Mr Clarkson's application for a Private Hire vehicle licence is refused because the vehicle does not comply with the requirements of Cheltenham Borough Council's adopted policy.**

#### 1.5. Implications

1.5.1 **Financial**                      **Contact officer: Sarah Didcote**  
**E-mail: sarah.didcote@cheltenham.gov.uk**  
**Tel no: 01242 26 4125**

1.5.2 **Legal**                        There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.  
**Contact officer: Vikki Fennell**  
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#### 2. Background

- 2.1 Cheltenham Borough Council's Licensing Policy for Private Hire and Taxis was approved on 15 July 2014.
- 2.2 In setting out its policy, the Council seeks to promote the following objectives:
- The protection of the public and public safety;
  - Cheltenham Borough Council's priorities;
  - The establishment of a professional and respected licensed trade;
  - Access to an efficient and effective public transport service;
  - The protection of the environment.

The aim of the licensing process, in this context, is to regulate the Hackney Carriage and Private Hire trade in order to promote the above objectives.

### **3. Policy Considerations**

3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.

3.2 The following requirements are applicable to all applications for new and replacement Private Hire Vehicle licences. The vehicle must:

- a) Be any colour other than silver (as identified on the vehicle's registration document);
- b) Be less than 5 years from date of manufacture;
- c) Comply with vehicle specifications (see **Appendix B**);

3.3 [Extract from Appendix B]

Passenger capacity

All vehicles must be capable of carrying a minimum of 4 or a maximum of 8 adult passengers in safety and comfort.

### **4. Probity in Licensing**

4.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.

4.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.

4.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:

- Be made on the individual merits of a case.
- Have regard to all relevant national and local guidance.
- Be made impartially and in good faith.
- Be made by the body that receives all the relevant information and evidence.
- Relate to the issue or question placed before the committee.
- Be based only on consideration of relevant and material matters.
- Be rational and reasoned.
- Be made in a way that does not give rise to public suspicion or mistrust.

4.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.

4.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.

4.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.

4.7 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

## **5. Licensing Comments**

5.1 Members should refer to the enclosed background papers in which Mr Clarkson has provided a written explanation to support his request to license a vehicle with fewer than 4 passenger seats, as well as photographs of the vehicle in question and a description of the type of work, journey and passenger he intends to accommodate using the vehicle.

5.2 Whilst the Council's adopted policy stipulates four as the minimum number of seats required for licensed vehicles, Members will be aware that they may depart from the policy in individual cases where clear and defensible reasons to do so have been established.

5.3 The recommendation of Officers is that there are sufficient reasons to deviate from the policy and grant the licence given the individual circumstances of the application, but the matter has been referred to the Committee as only the Committee has the authority to deviate from the adopted policy.

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### **Background Papers**

Service records

Officer's report refers to Cheltenham Borough Council's Policy, Guidance and Conditions for Private and Taxis, approved 15 July 2014

### **Contact Officer**

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