

Cheltenham Borough Council

Licensing Sub-Committee – 8 June 2022

Application for a (Late) Renewal of Private Hire Vehicle Proprietor's Licence

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 The matter before Members is a little complicated as it reflects a situation not envisaged or discussed in the legislation. The Local Government (Miscellaneous Provisions) Act 1976 refers to the grant of a vehicle licence and stays silent on other application types.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal and a replacement.
- 1.3 A new application must meet all requirements of the council for such an application when it is made to the council.
- 1.4 A renewal or replacement application will usually benefit from 'continuity rights' in respect of an existing licence.
- 1.5 Members are asked to consider whether they would grant a late renewal vehicle application, and decide whether they would treat it as a renewal application notwithstanding that the existing licence has lapsed or would treat it as new application and so it would be required to meet all requirements for such applications.
- 1.6 The details of this case are included at ANNEX 1.
- 1.7 The applicant explains the reasons that they did not renew the licence when it expired, in many ways due to the impact of Covid, and explains that in some detail at ANNEX 2.
- 1.4 The sub-committee is asked to consider the matter and determine whether to:-
 - a) It gives delegated authority to officers to grant a late renewal or
 - b) Decide not to recognise any continuity rights and refuse to provide such delegated authority for a new application where the vehicle does not comply with current policy.

1.5 Implications

1.5.1 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: One Legal

E-mail: legalservices@teWKesbury.gov.uk

Tel no: 01684 272015

2. Background

- 2.1 Permission is sought to make a renewal application for a Private Hire Vehicle Proprietor's licence (a PHV licence).
- 2.2 Where an individual holds a PHV licence it is usually incumbent on them to renew that licence before their existing licence expires, to benefit from any 'continuity rights' that they may have given to them in having that existing licence. They may 'renew' the existing vehicle or replace it with a new vehicle under the transitional arrangements.
- 2.3 The trade had been badly affected by the ongoing pandemic and representations had been to that effect.
- 2.4 The Licensing Team has recently been approached by a number of vehicle proprietors since the council changed direction and did not decide to implement the requirement for all hackney vehicles to be WAV from 1st January 2022. They have made representations that the uncertainty surrounding the implementation of the WAV policy and the detrimental impact of the pandemic placed them in an invidious situation in respect of their licence renewals when they were due in 2021 or 2020.
- 2.5 They argued that uncertainty led them to choose not to renew and in some cases they disposed of that (previously) licensed vehicle.
- 2.6 This case is not related to the implementation of the WAV policy but the impact more of the pandemic on the vehicle proprietor. It should be noted that the proprietor is a woman and she does make arguments in her representations that could suggest it had more impact on her as a mother raising children during that period.
- 2.7 For such a decision to be justifiable, if Members are minded to approve such a late renewal, they must have reasons to depart from the council's usual policy in this respect. The grant of a renewal would also have to be granted with effect from the previous expiry date. This would mean that the licence holder would then be in the same position as if they made such an application when their previous licence expired.
- 2.8 The legislation is silent on the idea of a late renewal application.

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 Each case will be decided on its own merits. The authority will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. Any vehicle application must meet the usual requirements of an application, in any event, such as meeting the council's age policy, provision of a valid MOT and council fitness test. It is felt there is no risk to public safety in connection with this matter.

3.4 The council has adopted a local policy to reflect the manner in which it will carry out its licensing responsibilities under the hackney carriage and private hire legislation. The sub - committee must have regard to this policy in making its decision, but it may depart from it where it is considered appropriate to do so. If the sub – committee do depart from it they should provide cogent reasons for doing so.

4. Licensing Comments

4.1 **The sub-committee is asked to consider the matter and determine whether to:-**

- a) **It gives delegated authority to officers to grant a late renewal or**
- b) **Decide not to recognise any continuity rights and refuse to provide such delegated authority for a new application where the vehicle does not comply with current policy.**

Report Author

Contact officer: Jason Kirkwood
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264159

ANNEX 1

Case Specifics

Name of applicant: MRS DIMKA PENEVA

Previously licence number: PHV114

Previous vehicle registration number: MJ15 VUP

Uniform case reference number (internal use only): 20/01174/PHIRVR

Date previous licence last expired: 08/09/2021

Previous vehicle: Ford Mondeo

New vehicle details: as above

The applicant is seeking an in principal decision regarding whether she will benefit from continuity rights on the application for a renewal application.

ANNEX 2

Dear Council Committee

I currently hold private hire driver license PHD083 valid till 16.12.2022.

My car license has expired on 08.09.2020

Please see pictures attached.

(Just to justify of why I haven't returned the plate to the council- I have lost it somewhere- found it a week ago at the bottom of my car boot next to my spare tyre. Obviously when the first lock down hit in and I have stopped driving I've put it there and totally forgotten about it, regardless all my efforts to find it and return it back to Cheltenham Borough Council- I have send an email previously to explain this and to apologize for the inconvenience. My apologies ones again).

I am writing this email following a phone conversation with one of your colleagues today 16.05.2022 at 14.28pm, regarding renewal of my car license. As I have been explained the rules are that if I haven't kept renewing my license on time, in order for me to get now car license- I need to have other vehicle less than 5 years old, as my current car is already 7 years old, however I would like to explain in depth to you all of why I haven't been able to do so on time an why at the moment I really need your help, support and understanding of my current situation.

To start with my car is red Ford Mondeo, Reg No MJ15VUP. I have only 4 months left to fully pay my car, as I bought it August 2019 specifically and only to start private hire taxi business.

Up to this date my car has been regularly serviced by Fishers Volvo in Gloucester - office phone 01452424611, mobile 07841459906, please feel free to contact them and ask for any further information.

My car has been kept in great working order, clean and spotless (if we dismiss the times when my kids make mess on school run), however I am absolutely confident that my car will pass the fit test without any issues!

Just to say that I've had two minor accidents- my fault- all reported to insurance company, no damage on the vehicle. Both when I wasn't a taxi driving. One or two parking tickets... that's about it...

Current mileage of the car is 134235.

When I started driving 16.12.2019 the mileage was about 80000.

Please note that I've only started driving about 3 months after I've obtained my car license, as I kept failing my knowledge exam and I only passed and got my drivers license December 2019.

So happy and excited that finally my new business is all up and running (I've been working for Andy cars Cheltenham 01242262611- please feel free to call them and ask about my work ethic and professionalism), I've had the pleasure to only drive taxi for about less than 4 months, as the first heavy lock down because of Covid happened at the end of March in 2020...

So my original plan for taxi driving was to work part time- driving only at nights as I have two little kids (Gabriella 7 years old and Ivan 3 years old). At that moment my son was only 1.5 years old and my daughter was 5 years old... so ideally I was driving night times when I put my kids to sleep or as soon as my partner comes back from work. The idea was- my kids are not missing mama, and we have some extra income to support our household (my partner at this time worked as teacher in Gloucester college with not so high salary). It was working great till lockdown.... Then all the hopes and dreams went down the drain...

I've started working at Sainsbyries in Gloucester as online shopping support, night shifts, 3 nights a week from 2am till 6am. I did that for about 4-5 months... on the mean time some taxi companies started doing some work however it was only day time and only for few hours at the time.

There was no way I could afford to continue working as taxi as I could definitely not being able to earn enough so to pay babysitting, insurance, taxi rent etc.... So it wasn't really worth it for me to renewing my car license nevertheless I could not afford it.

The situation now is that my partner left the college to start working as sole trader (currently not very busy at all , probably due to the whole global situation ... no idea... it is tough!!)

I am currently doing some cleaning jobs.....

basically we are both sole traders with no stable income... and I need to work extra so we can survive somehow.

There is no way I can afford to get new car...unfortunately....

My both kids now are attending full time school and nursery so I am having free time on my hands and I wold love to start driving my taxi if you you all consider to give my Red Ford Mondeo and me second chance...

This would be enormous help for our family and it would be greatly cherished and appreciated!!

I have already spoken with Andy cars - they said that they would absolutely love to have me back! Also at the moment it is open board offer - meaning that I would be able to drive day and night, again accordingly to my kids schedule as so they don't miss me and suffer mother's absence.

Dear all, please do get in touch with me if you need any further information. Probably and most likely I have missed some details, however I am quite emotional and excited right now to hear back from you!

Kind regards

Dimka Peneva