



LICENSING AND ENFORCEMENT COMMITTEE

MEETING : Tuesday, 9th August 2016

PRESENT : Cllrs. H. Norman (Chair), Tracey, Lugg, Hanman, Williams, Hansdot, Pullen and J. Brown

Officers in Attendance

Darren Mountford, Senior Licensing and Markets Officer

Vikki Fennell, Solicitor - One Legal

Richard Barnett, Licensing and Enforcement Officer

Tony Wisdom, Democratic Services Officer

APOLOGIES : Cllrs. Patel, Gravells, D. Brown, Pearsall and Brazil

9. DECLARATIONS OF INTEREST

No declarations were made on this occasion.

10. INSPECTION OF VEHICLE

The Committee adjourned for a short time to inspect the vehicle which was the subject of the next item.

11. APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MS RUBINA PATEL UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing and Enforcement Officer presented his report which detailed an application for a Private Hire Vehicle Licence for a Peugeot 3008 vehicle which falls outside the age specification required by the Council's policy on the age of vehicles.

He advised that the policy was intended to maintain the standard of the private hire fleet.

He reported that Rubina Patel was a Private Hire driver currently licensed with Gloucester City Council and had held a licence since September 2014. She had part-exchanged her previous vehicle for the above mentioned vehicle and applied for a Private Hire Vehicle Licence for that vehicle on 19 July 2016.

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On the date of receipt of the application the vehicle failed to meet the Council's age policy by four months and fifteen days.

Officers had refused the application and Ms Patel subsequently appealed the decision resulting in the application appearing before the Sub-Committee.

Councillor Hansdot expressed concern that allowing the appeal would set a precedent.

Councillor J.Brown noted the number of points upon which the vehicle had been failed during the inspection. She was advised that each of the failures related to items that could not be addressed before the grant of a vehicle licence such as door plates.

Councillor Pullen noted that the policy stated that vehicles over five years of age would not normally be accepted for licensing on the first occasion. He was advised that an older vehicle had been licensed on a previous occasion.

The Senior Licensing and Markets Officer explained that Officers were not empowered to grant licences to vehicles over five years of age on the first occasion of licensing. He advised that vehicles for weddings and funerals were exempt from private hire legislation.

He confirmed that should the application be granted, the vehicle could, subject to passing annual inspections up to eight years, and twice yearly thereafter, continue to be licensed until the tenth anniversary of registration.

In answer to further questions, he advised that the vehicle's recorded mileage was 51,522 and the inspection had been carried out at an approved MOT test station.

The Chair drew Members' attention to paragraph 3.2(a) which listed the criteria that the vehicle must meet in order to be licensed.

Members expressed concerns regarding the setting of a precedent and the Solicitor advised that the Sub-Committee was required to consider each case on its own merits.

The Chair noted that the applicant had a right of appeal to the Magistrates' Court within twenty-one days of formal notification of the Sub-Committee decision.

She noted the case in law detailed at paragraph 5.2 of the report which stated that whilst the Council could have a policy relating to the age of vehicles, that policy could not be applied as an immutable rule, and as such the Council could fetter its discretion by rigidly following the policy without treating each case on its merits.

RESOLVED that the application be granted on the grounds that the vehicle is of a high standard for its age and in this particular case there should be a departure from the Council's Private Hire Vehicle policy.

12. DATE OF NEXT MEETING

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Tuesday, 13 September 2016 at 6.30 pm.

Time of commencement: 6.00 pm.
Time of conclusion: 6.40 pm.

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