

# General Licensing



## Panel Report

Report of Head of Legal & Democratic Services

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Wards affected: All

To: General Licensing Panel

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## **Recommendation to consider the evidence and decide whether to allow a private hire vehicle, W486YKM Ford Transit to operate as a wheelchair accessible vehicle**

### **Recommendations**

1. That the panel considers the evidence and decides whether to allow the reinstatement of the rear lift to allow the private hire vehicle, PV0101, W486YKM Ford Transit to be operated as a wheelchair accessible vehicle due to the vehicle not complying with the Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy'.

## 1. Purpose of Report

To present the facts and evidence concerning the application, the relevant legislation and the Vale of White Horse District Council's Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy to the general licensing panel, in order that they can determine whether or not a hackney carriage wheelchair accessible vehicle licence should be granted.

## 2. Strategic Objectives

The relevant policy objective is 'building the local economy' and the relevant corporate priority is that of 'support business growth in appropriate locations across the district, whilst protecting the character of our towns and villages'.

## 3. Background

- 3.1 The Council is responsible for licensing hackney carriages and private hire vehicles and the drivers of Hackney Carriages and private hire vehicles to maintain standards and public safety under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, which it has adopted.
- 3.2 Parsan Patti-Dhanjal (trading as Percys Travel) has requested that private hire vehicle, PV0101, W486YKM Ford Transit be classified as a wheelchair adapted vehicle.
- 3.3 Section 48(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall not grant 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; and
  - (v) comfortable
- 3.4 The Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy' states, 'The council will require all new hackney carriage or private hire vehicle licence applications for vehicles that have been manufactured or adapted to carry passengers in their wheelchairs, to have side-loading facilities and rear-loading shall be prohibited. Vehicles with rear-loading only facilities licensed at the commencement of this policy shall continue to be permitted so long as there is no lapse in the licence...' The vehicle was brought into service after this policy had been adopted. The vehicle has side access which is not suitable for wheelchairs as there is no ramp or lift but a built-in step instead. However, there is a lift at the rear for passengers in wheelchairs. This lift is currently disabled to allow the vehicle to continue to operate as a private hire vehicle. The operator wishes to reinstate the lift at the rear of the vehicle to allow its use by wheelchair users. The operator has provided documentary

evidence that the tracking and restraint systems fitted to the vehicle meet the required EC and UK standards (**Appendix 1**).

- 3.7 The decision to effectively phase out rear-loading was made when the policy was reviewed and consulted upon during 2009.
- 3.8 The reasons behind no longer permitting rear-loading vehicles were based upon the following safety concerns. Firstly, that to enter via the rear of the vehicle the passenger is likely to have to be on the road in their chair, rather than on the pavement. Secondly, that being seated in the centre of a vehicle rather than the rear is safer in the event of a rear impact and in many vehicles with rear-loading the wheelchair anchorages place the passenger at the rear, not centre of the vehicle. Thirdly, it was agreed to be important to treat wheelchair passengers equally to able-bodied passengers by giving passengers travelling in wheelchairs the maximum opportunities to escape should there be an accident: Appendix A of the Council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy' states, 'the vehicle shall be of manufacturers' original specification and shall be constructed and designed:-
- With access and egress to all passenger seats which will not require the lying flat, folding, removal or re-positioning of any seat or equipment in order that passengers may escape without delay in case of an emergency...'

A passenger seated at the rear of a vehicle may be unable to reach or open a rear door in an emergency however passengers seated by side doors will have access to the door. The policy also states, 'The applicant will be required to submit a persuasive and substantial case for departing from the normal policy'.

- 3.9 The vehicle has been tested by one of the council's nominated garages and is in a suitable mechanical condition.
- 4.0 The South and Vale district councils will be considering the introduction of a harmonised licensing policy for Hackney Carriage and Private Hire Vehicles during 2012/13. The licensing of rear loading private hire and hackney carriage vehicles has been raised as a policy issue. The officer's recommendation is that the new joint policy allows licences to be granted for suitably adapted wheelchair accessible vehicles with rear access and a tail lift or ramp.

#### **4. Options**

The panel is requested to consider the evidence and decide whether to:

(a) Allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit and accept it as a wheel chair accessible vehicle maintaining its existing, standard, licence conditions.

(b) Allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit and accept it as a wheel chair accessible vehicle with the standard conditions attached to the licence and any attach additional condition(s) to the licence it deems necessary

(c) Refuse to allow the reinstatement of the rear tail lift on vehicle private hire vehicle, PV0101, W486YKM Ford Transit but allow it to continue to operate as a hackney carriage vehicle.

## **5. Financial Implications**

Should the licence holder wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision is upheld.

## **6. Legal Implications**

The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with convention rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant a licence the sub-committee will be aware of human rights considerations, specifically Part 1, Article 6, right to a fair trial.

The hearing of all applications is subject to the principles of natural justice.

Any person aggrieved by a decision of the council to refuse a vehicle licence or to attach any condition to a licence may appeal to a Magistrates' Court within 21 days of the date of the decision.

## **7. Conclusion**

That the panel considers the evidence and decides whether to allow the reinstatement of the rear lift to allow the private hire vehicle, PV0101, W486YKM Ford Transit to be operated as a wheelchair accessible vehicle due to the vehicle not complying with the council's 'Hackney Carriage and Private Hire Driver, Vehicle and Operator Policy'.

## **Background Papers**

- None.