

Report from the Director – Environment, Transport and Planning

Local Government (Miscellaneous Provisions) Act 1976 Part 2, Section 55, Licensing of Operators of Private Hire vehicles

Application for a Private Hire Operators licence

Summary

1. This report seeks Members' determination of an application for a Private Hire Operators Licence.
2. Name of applicant: Mohammed Iqbal, trading as York Cars (Private Hire).
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows:
4. An application for the grant of a Private Hire Operator's Licence, to operate private hire vehicles from Unit 1, Heritage Park, Outgang Lane, York, North Yorkshire, YO19 5UP.
5. Annex 2 provides a map showing the location of the premises.
6. The Council must determine an application for an operator on its own merits in accordance with the legislative framework and the City of York Council's Taxi Licensing Policy (the Policy), although Policy does not have to be followed where there is a good reason to depart from it. In making the determination, the Council must consider the application form, any supporting documentation and any other relevant information.
7. Mr Mohammed Iqbal is a private hire operator (York Cars) which is currently licensed by the Council at a location at Blossom Street, York, YO24 1AJ. However, the Policy does not allow for a transfer of a private hire operator's licence from one location to another, therefore an application for the grant of an additional operator's licence is required.

Recommendations

8. Members are asked to determine Mr Iqbal's application for a new licence

Reason: To fulfil the Council's obligations in relation to the Licensing of Operators of Private Hire Vehicles in accordance with Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

Background

9. Annex 3 provides legislation extracts of the Local Government (Miscellaneous Provisions) Act 1976.
10. Private hire operators are defined in Section 55 of the 1976 Act as: 'a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles.'
11. Having adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 in March 1996, Section 55 allows for 'the grant of a Private Hire Operator's Licence'. However, a Council shall not grant a licence unless they are satisfied:-
 - (a) that the applicant is a fit and proper person to hold an operator's licence; and
 - (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.
12. Please note that Mr Iqbal is not disqualified by reason of his immigration status, this is not therefore considered further in this report.
13. There is no test specified in the legislation to establish whether an operator is fit and proper. However, the Institute of Licensing and the Department of Transport Statutory Standards provide some guidance on the test to apply. Extracts of both are included at Annex 4 and 5.
14. The 1976 Act also allows the council to attach such conditions on a private hire operator's licence as it considers reasonable to operate private hire vehicles.

15. City of York Council's current Taxi Licensing Policy (the Policy) was adopted by the Council's Executive on 26 September 2019, with an implementation date of 1 October 2019.
16. The Policy sets out standard conditions on the grant of a private hire operator's licence. A copy of City of York Council's Standard Conditions for Private Hire Operators is attached at Annex 6. On 13 May 2022, the Council and Mr Iqbal agreed additional conditions to his existing licence. These conditions can be found at Annex 7.
17. The additional conditions were put in place in response to 34 Cars Ltd (Mr Iqbal's Wolverhampton Private hire operation) use of the provisions afforded to them under The Deregulation Act of 2015. These provisions allow a person licensed as a private hire operator (under section 55) in one district, who has accepted a booking for a private hire vehicle, to arrange for another person to provide a vehicle to carry out the booking if:-
 - (a) the other person is licensed under section 55 in respect of the same district and the sub-contracted booking is accepted in that district;
or
 - (b) the other person is licensed under section 55 in respect of another district and the sub-contracted booking is accepted in that district;
18. Therefore, providing the above conditions are met, bookings may be sub-contracted to another operator out of district to carry out the journey. For the avoidance of any doubt, such a practice is lawful, and an operator should not be considered 'unfit' purely on this basis. Officers are satisfied that 34 Cars Ltd's subcontracting arrangements are legally compliant.
19. For the avoidance of any doubt, Mr Iqbal is currently considered by the Council to be fit and proper to operate a private hire vehicle at the Blossom Street address.
20. Please note, that in a similar application made to this committee on 21 December 2022 (by Drive Cars), Members applied the conditions which can be found at Annex 8a. These form the basis of the recommended conditions at Annex 8a.
21. The first purpose of the Local Authority when licensing hackney carriage and private hire, vehicles, drivers and operators is to protect the interests of the travelling public. The Council is aware that the public should have reasonable access to safe and comfortable hackney

carriage and private hire vehicles because of the role they play in the local transport system. Therefore, the recommended conditions at Annex 8a are suggested to ensure consistency is provided to the travelling public and to further the objective of the licensing policy to provide the travelling public access to a safe, efficient and effective public transport service.

22. Finally, by way of background, Section 55 of the 1976 Act states that 'the licence is to remain in force for five years or for such lesser period as the Council thinks is appropriate in the circumstances of the case'. Members of this Committee determined in February 2021, to issue licences for a maximum period of 12 months until such time that the Taxi Licensing Policy is reviewed, the Policy is currently in the process of being reviewed.

The application

23. Mr Iqbal made submitted the current application, for an additional licence at the Outgang Lane address on 26 January 2023, Section 57 of the Local Government Miscellaneous Provisions Act 1976 allows the Council to ask for further information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence. Further information in relation to that application was requested by officers on 29 March 2023 The response being received on 12 April 2023. Annex 9 contains the questions and the responses.

24. The following is a summary of the information provided in the application:

The premises

25. The premises is currently in operation as auto repair / garage trading as Gladstone Garage (Gladstone Tyres and Autocare Ltd). The applicant has stated that they are neither a director nor a shareholder of Gladstone Tyres and Autocare Ltd.
26. The hours of operation are to be 24 hours every day of the week.
27. The premises has planning permission for the use as a private hire operating company. A copy of the planning permission is attached at Annex 10 of this report.
28. Condition three of the planning permission states that:- the private hire office shall be conducted as a control room only, no facilities are to be

provided on site for drivers to waiting for fares or between shifts, nor shall the premises and car park be used to pick up or drop off customers or be used as a waiting area for customers.

Other licences held either in a personal capacity or as director of a company (in addition to the Private Hire Operator's licence at Blossom Street licence)

29. The applicant currently holds private hire operator's licences issued by:
 - City of Wolverhampton Council
 - Ashfield District Council
30. Mr Iqbal has pending private hire operator applications with Leeds City Council and Bradford Council.
31. Mr Iqbal also holds a private hire driver and 18 private hire vehicle licences with City of Wolverhampton Council.
32. Mr Iqbal holds a private hire driver's licence and 16 private hire vehicle licences with City of York Council.

Criminal record checks

33. The applicant has undertaken the relevant criminal records check and submitted the correct documentation required to determine the application. Officers are satisfied that there are no issues of concern.

Complaints

34. Annex 11 gives details of the complaints received by the Council's Public Protection team which are linked via name to York Cars over the last two years. It is observed that most of the complaints relate to the parking of York Cars vehicles at or around the garage location at Outgang Lane, presumably whilst being repaired, serviced etc at the garage. It is fair to say that officers consider parking to be problematic at the location with vehicles – including York Cars vehicles – seen parked on the pavement, on verges etc. If Members share concerns about parking, it may be that they consider an extra condition is appropriate to address any parking issues. It should be noted that Mr Iqbal is not a Director or Shareholder of Gladstone Garage and may therefore be unable to control parking by their customers. Such a condition has been added to the recommended conditions at Annex 8b.

Any other matters

35. Officers are satisfied that there are no material breaches to the conditions in respect of the current operator's licence. Checks show that there have been three instances of drivers used in contravention of the existing condition (a), however Mr Iqbal was unaware of the breaches and officers are satisfied that he had taken reasonable endeavours to prevent those breaches occurring. Officers can confirm that one of the drivers is no longer working for York Cars and the other two drivers have subsequently passed the York Knowledge and Safeguarding test (these would therefore be permitted to drive under the new, proposed conditions).
36. Members will also need to have in mind that, as mentioned above, the licences to all operators are currently being issued for one year, rather than five.

Consultation

37. There is no requirement within the 1976 Act for a consultation to take place in relation to application for the grant of private hire vehicle, driver or operator licences. Therefore, a consultation has not taken place in relation to this application.

Options.

38. By virtue of paragraphs 55, and 57 of the Local Government (Miscellaneous Provisions) Act 1976, the Committee have the following options available to them in making their decision:
39. Option 1: Grant a private hire operator's licence as requested, with the standard at Annex 6 and or the agreed additional conditions attached at Annex 7 for a period of one year.
40. Option 2: Grant the private hire operator's licence with the standard at Annex 6 and any combination of additional conditions / modified imposed by the licensing committee for a period of one year. (Conditions are Annex 7 and or Annex 8a and or Annex 8b or any other conditions which members consider to be reasonably necessary)
41. Option 3: Refuse the application providing the grounds for refusal.

Analysis.

42. Option 1 and 2 - There is a right to appeal to the Magistrates' Court against the imposition of conditions on a licence within 21 days.

43. Option 3 - In the event that the application is refused the applicant has the right of appeal to the Magistrates' Court within 21 days.

Council Plan.

44. The Council's Plan is to provide safe communities and culture for all, and a good quality of life for everyone. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications.

45. The implications arising directly from this report are:
- **Financial** – There are no direct financial implications.
 - **Human Resources (HR)** – There are no HR implications.
 - **Equalities** – The provision of a safe and efficient taxi/private hire service is of particular importance to vulnerable members of the community including young persons (some of whom rely on taxis to get to school) and people with a disability.
 - **Legal** – The Local Government (Miscellaneous Provisions) Act 1976 provides the legislative framework for the licensing of private hire operators. Section 55 of the Act deals with the licensing of operators. Whilst this Act expressly refers to 'district council' the provisions within this legislation are in force in relation to the council as a unitary authority. It provides that:
“(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:
Provided that a district council shall not grant a licence unless they are satisfied –
(a) that the applicant is a fit and proper person to hold an operator's licence; and
(b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.

(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration

status from operating a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.”

Section 55(2) provides that: “Subject to section 55ZA, every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.”

Section 55(3) provides that “A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary”.

The applicant has the right to appeal the refusal to grant an operator’s licence and any conditions imposed to the Magistrates’ Court.

In addition to the legislative framework the council has a Taxi Licensing Policy which guides the licensing authority’s decision making in relation to applications.

Members should also take into consideration the Department of Transport’s ‘Statutory Taxi & Private Hire Vehicle Standards’ when considering whether a person is ‘fit and proper’ to hold a licence.

The Licensing authority has a duty to ensure that any person to whom it grants an operator’s licence is a ‘fit and proper’ person to be a licensee.

- **Crime and Disorder** – There are no crime and disorder implications.
- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management.

46. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
47. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the

application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:	Chief Officer Responsible for the report:		
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	Report Approved	√	Date 05.06.2023

Wards Affected: Osbaldwick and Derwent Ward
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Background Papers

Taxi Licensing Policy –

<https://www.york.gov.uk/downloads/download/54/taxi-licensing-policy>

Annexes

- Annex 1** - Copy of application for Private Hire Operators Licence.
- Annex 2** - Map showing location of premises.
- Annex 3** - Legislation extracts.
- Annex 4** - IOL Suggested operator fit and proper test.
- Annex 5** - DFT extract.
- Annex 6** - A copy of City of York Council's Standard Conditions for
- Annex 7** - A copy of the agreed additional conditions Private Hire Operators.
- Annex 8a** - A copy of the modified additional conditions.
- Annex 8b** - A copy of the suggested parking condition.
- Annex 9** - Section 57 Questions and answers.
- Annex 10** - Copy of current planning permission.
- Annex 11** - Complaint logged with Public Protection.