

Report of the Director of Economy and Place

Application for renewal of Private Hire Operator Licence by Uber Britannia Limited

Summary

1. This report seeks Members determination of an application for the renewal of a Private Hire Operators Licence which has been made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976, by Uber Britannia Ltd to operate from Tower Court, Oakdale Road, Clifton Moor, York, YO30 4WL.
2. Uber Britannia Ltd is a registered company their head office is located at Aldgate Tower, First Floor, 2 Leman Street, London, E1 8FA. The full application is a restricted document attached at Annex 1.

Background

Relevant Legislative Provisions

3. The relevant legislative provisions and legal context relating to private hire operator's licences are contained within Annex 5 to this report.
4. In summary, private hire vehicles are required to be pre-booked through an operator, and such an operator must be licensed by the same Council Licensing Authority as the driver and the vehicle.
5. The Council has a statutory duty to grant the licence unless it considers that the applicant is not a fit and proper person to hold a licence. (S. 55 1976 Act as amended).
6. The Licence should be granted for a five year period unless there are specific reasons in the particular circumstances of the case that

justify granting the licence for a shorter period. (S.55 (2) 1976 Act as amended)

7. As this is an application for renewal (the current licence still being in force and due to expire on 24 December 2016), Section 62 of the 1976 Act applies, and provides the only grounds on which an application for renewal can be refused:
 - (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
 - (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
 - (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
 - (ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
 - (d) any other reasonable cause
8. In the event that the application is refused there is a right of appeal to the Magistrates' Court if made within 21 days of the refusal. Pending the outcome of the appeal, the operator's licence will remain in force.
9. On the 25 April 2016 Gambling, Licensing and Regulatory Committee agreed standard conditions which would be placed on the operator's licence if granted. They can be found at Annex 2.
10. There is also a right of appeal to the Magistrates' Court against the imposition of conditions on a licence.
11. This report concerns an application for the renewal of an Operator's Licence. It has been brought before Members for a decision due to the level of public interest that has arisen regarding Uber vehicles operating in York, so that the application can be considered in a public meeting.

Consultation

12. There is no requirement within the 1976 Act for a consultation to take place in relation to an 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

13. Option 1 - grant the licence, with the standard licence conditions attached, for a period of 5 years in accordance with the 1976 Act.
14. Option 2 - grant the licence, with the standard licence conditions attached, and/or other conditions that are considered appropriate and for a lesser period if considered appropriate by the Committee in accordance with S55 to the 1976 Act.
15. Option 3 - refuse the application if satisfied having regard to the facts sets out in the application and this report that any of the grounds set out in Section 62 are made out.

Analysis

Relevant facts concerning the Application

16. Uber Britannia Limited was issued a private hire operator's licence on the 24 December 2015; this licence is due to expire on the 23 December 2016. This licence was issued for a period of 12 months as at that time the Council had not implemented the provisions of Section 10(3) of the 2015 Act (requirement to issue licences for 5 years). The Council began to issue 5 year operator's licences from the 1 April 2016.
17. It is a requirement of Section 55(1) of the 1976 Act that the district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence. As part of the application process the applicant must declare relevant information within the application form relating to matters such as criminal convictions and suspension/revocation of licences. They also have to provide the following information:
 - Applicants who are not already licensed as a private hire/hackney carriage driver are required to provide a basic disclosure, criminal record check, from Disclosure Scotland. On submission this disclosure must be less than one calendar month old.

- To produce appropriate public liability insurance and employer liability insurance, if they have employees, annually.

This information has been provided by the applicant and is a restricted document attached at Annex 3.

18. The applicant has also provided a copy of their fare chart and details of licensed vehicles and drivers working for them. This information is a restricted document attached at Annex 4.
19. Uber was issued a private hire operator's licence on the 24 December 2015, having satisfied the Licensing Authority that the application met the statutory requirements. Uber did not physically start operating in York until 9 September 2016. At this time Uber had 3 private hire vehicles and drivers licensed by this Council working through their York licensed operators site. There are presently 10 vehicles. The Licensing Authority therefore has only experienced four months of Uber operating within the City.
20. "Uber" operates using an App, known as the "Uber Platform". A customer downloads the "App" to their mobile phone and sets up an account with Uber. The "App" can identify the closest vehicle that is registered to the Uber Platform, and pre book that vehicle with the relevant Licensed Operator through the App. Since their launch in York on the 9 September, (when the Uber Platform began to cover the York area), a number of complaints have been received relating to Uber vehicles and drivers. However, the majority of these complaints do not relate to the vehicles and drivers licensed by this authority, but to a number of Uber vehicles licensed by other licensing authorities, such as Leeds, Bradford, Kirklees and transport for London, that appear to have chosen to work in York now that the App is operational in the City.
21. Since the Uber launch 110 complaints have been received relating to hackney carriage and private hire vehicles/drivers. 72 of these complaints relate to Uber vehicles/drivers, only one of which relates to an Uber vehicle/driver licensed by this Council, the other 71 relate to vehicles/drivers licensed by other authorities.
22. All of these complaints have been or are being investigated by officers within the Public Protection Investigation and Compliance Team. Due to the high volume of complaints out of hours enforcement work has taken place on Friday and Saturday evenings, this has also included joint enforcement work with

Licensing Enforcement Officers from Leeds City Council and North Yorkshire Police.

23. The 72 complaints received concerning Uber vehicles/drivers relate to the following issues:

No.	Complaint	Investigation ongoing/action taken	Unfounded and/or insufficient evidence was provided
31	Out of town vehicles / concerns about unlicensed vehicles	7 cases enquiries are still ongoing	24
23	Plying for hire (it is an offence for private hire vehicles to ply for hire)	1 case awaiting decision	22 1 related to the vehicle/driver licensed by this authority, this was unfounded
8	Vehicles signage missing (door signage and/or licence plates)	1 referred to Leeds City Council who made the driver replace the plate (it is not a requirement of every licensing authority that door signage must be displayed on licensed vehicles)	7
6	No insurance / MOT / tax	1 untaxed vehicle found, referred to home licensing authority and Uber	5
3	Driving standards	1 warning letter issues	3

1	Driver smoking in licensed vehicle	1 fixed penalty notice issued	
---	------------------------------------	-------------------------------	--

24. As a majority of these complaints relate to Uber vehicles/drivers licensed by other authorities, this authority is limited to the action it can take dependant on the nature of the complaint. Where the details of those authorities are known officers have notified the vehicles/drivers home authority to take appropriate action.
25. The 38 complaints received concerning York licensed vehicles / drivers (not Uber) relate to the following issues:

No.	Complaint	Investigation going/action taken	Unfounded and/or insufficient evidence was provided
12	Driving standards	6 warnings issued	6
9	Conduct towards other licensed drivers	2 warning letters issued	7
5	Out of town vehicles / concerns about unlicensed vehicles	1 warning letter issued	4
5	Driver smoking in licensed vehicle	3 fixed penalty notices issued	2
4	Driver conduct	1 warning letter issued	3
2	Plying for hire	1 formal investigation in progress	1

1	Vehicle signage missing	1 warning letter issued	
---	-------------------------	-------------------------	--

26. A number of the complaints / enquiries we received regarding Uber relate to the way they operate. Their bookings are taken via an App and they only provide a service to customers who want a vehicle as soon as possible (ASAP), they do not take advance bookings. Some believe that as they are only taking ASAP bookings they are not operating as a private hire service, their operation is more in line with hackney carriage vehicles who can ply for hire and rank and do not have to be pre booked, offering an ASAP service. There are no requirements within the 1976 Act relating to how far in advance a private hire vehicle must be pre booked. It is only a requirement that a booking for private hire vehicle must be made through their licensed operator. Your Officers are satisfied from information received with the Licence Application that the Uber Platform pre books the journeys with the relevant Operator, albeit within a very short timescale.
27. Uber have provided information on request in relation to complaints relating to licensed vehicles/drivers working for them, for example where we have received complaints relating to their vehicles plying for hire Uber have provided booking records for that vehicle. If required they have also suspended vehicles/drivers from the Uber Platform (this prevents the driver from receiving bookings through the App) until they/we have investigated the complaint.
28. Uber Britannia Limited have provided details of their company representative, who will have responsibility for day to day management of the operating centre. Uber have provided the required information to confirm that there are no criminal convictions, and your Officers have not received any evidence of conduct rendering the applicant unfit to hold an operator's licence, nor are they aware of any changes in the circumstances of the operator since the grant of the Operator's Licence by the Authority last year.
29. The application is for renewal, and S55 (2) provides a presumption that the Licence is granted for 5 years unless the Council consider it appropriate that the licence should be for a lesser period, for specific reasons relating to the particular application. Such reasons would need to meet the tests of Wednesbury reasonableness. If

Members are minded to grant the application for a lesser period clear reasons must be given.

Conclusion

30. Members are required to determine the application in accordance with the provisions of the 1976 Act, and provide reasons for the decision.

Council Plan

31. The provision of hackney carriage and private hire licensing supports the council plan of a prosperous city for all, where local businesses can thrive.

Implications

32. The direct implication arising from this report are:
- **Financial** – There are no direct financial implications.
 - **Human Resources (HR)** – There are no HR implications.
 - **Equalities** – There are no equalities impact implications.
 - **Legal** - The applicant has the right to appeal the refusal to grant an operator's licence or to the imposition of conditions, to the magistrates' court.
 - **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

33. There are no known risks associated with this report.

Recommendations

34. Members are asked to determine the application for the renewal of the licence in accordance with Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) as amended by the Deregulation Act 2015 (2015 Act).

Reason: To consider the application for renewal of a private hire operator licence as required by the legislation.

Contact Details

Author:

Lesley Cooke
Licensing Manager
Ext: 1515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning & Public Protection

Report
Approved



Date 15 Dec 16

Specialist Implications Officer(s)

Alison Hartley
Senior Solicitor
Ext: 3487

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Annexes

- Annex 1** – Application for a Private Hire Operator’s Licence - restricted
- Annex 2** – Standard Conditions
- Annex 3** – Criminal Records Check and Insurance – restricted
- Annex 4** – Fare Chart and List of Vehicles and Drivers – restricted
- Annex 5** – Extracts from relevant legislation

