

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. The operating premises will be situated at 39 Layerthorpe, York YO31 7UZ.
2. Name of applicant: Christopher Hall, 57 Taxis Limited which trades as "Drive".
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows. This is an application for the grant of a Private Hire Operators Licence, the applicant wishes to operator private hire vehicles from 39 Layerthorpe, York YO31 7UZ under the trading name of Drive Ltd.
4. The council must determine an application for an operator's licence on its own merits in accordance with the legislative framework, taking the application form, any supporting documentation and relevant information into consideration.
5. By way of legislation, the Council may require any applicant for a licence to submit to them such information as they may reasonably consider necessary to enable them to determine if the licence should be granted and whether conditions should be attached to any such licence.
5. Section 55 of Local Government (Miscellaneous Provisions) Act 1976 allows for the grant of a Private Hire Operator's Licence, and 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.

6. The premises has planning permission for the use as a Private Hire operating company. A copy of the planning permission is attached at Annex 2 of this report.
7. The premises is currently operating as a licensed private hire operator (659 Taxis), the applicant is in the process of purchasing the business. Legislation in this case, does not allow for a transfer of a private hire operator's licence, therefore an application for the grant of an operator's licence is required.
8. The hours of operation are to be 24 hours every day of the week.

Recommendations

9. Members are asked to determine the application for a new licence in accordance with Section 55, (Licensing of Operators of Private Hire vehicles) of the Local Government (Miscellaneous Provisions) Act 1976 Part 2.

Reason: To consider the application for a new private hire operator's licence as required by the legislation.

Background

10. In March 1996 City of York Council (The Council) adopted Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). This legislation, together with the provisions of the Town Police Clauses Act 1847 (the 1847 Act), places on the Council the duty to carry out its licensing function in respect of hackney carriage and private hire licensing. As such the Council is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles. The Council is also responsible for the setting of Byelaws in relation to hackney carriage drivers and vehicles.
11. City of York Council's Taxi Licensing Policy (the Policy) was reviewed, and a revised policy was adopted by the Council's Executive on 26 September 2019, with an implementation date of 1st of October 2019.
12. The adoption of the legislation and the Policy allows the Council to set conditions on the grant of a Private Hire Operators Licence. A copy of City of York Council's Standard Conditions for Private Hire Operators is attached at Annex 3.

13. The Council may also attach such conditions on a Private Hire Operator's Licence as it considers reasonably necessary.
14. Private hire operators are defined in the legislation as:
'a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles.'
15. The applicant currently holds private hire operator's licences issued by:
 - Hull City Council;
 - Doncaster Council; and
 - City of Wolverhampton Council
16. The Deregulation Act of 2015 amended the Local Government (Miscellaneous Provisions) Act 1976, allowing a person licensed as a Private Hire Operator (under section 55) in one district who has accepted a booking for a private hire vehicle, may 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;
17. There is a potential that bookings may be sub-contracted to an operator out of district to carry out the journey. For the avoidance of any doubt, such a practice is considered lawful and an operator should not be considered 'unfit' purely on this basis.
18. A similar situation has arisen previously, due to this situation the Council agreed to additional conditions being applied to operator licences. A copy of the additional conditions can be found at Annex 4. Member may wish to consider all, some or modified versions of these conditions.
19. 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.

20. The applicant has undertaken the relevant criminal records check and submitted the correct documentation required to determine the application.
21. Annex 5. Provides a map showing the location of the premises.
22. Annex 6. Provides legislation extracts of the Local Government (Miscellaneous Provisions) Act 1976.

Consultation

23. 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.

24. 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:
25. Option 1: Grant a private hire operator's licence as requested, with the standard and additional conditions attached for a period of one year.
26. Option 2: Grant the private hire operator's licence with modified / additional conditions imposed by the licensing committee for a period of one year.
27. Option 3: Refuse the application providing the grounds for refusal.

Analysis.

28. In the event that the application is refused the applicant has the right of appeal to the Magistrates' Court within 21 days.
29. There is also a right to appeal to the Magistrates' Court against the imposition of conditions on a licence.

Council Plan.

30. 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.

31. The implications arising directly from this report are:

- **Financial** – There are no direct financial implications.
- **Human Resources (HR)** – There are no HR implications.
- **Equalities** – There are no equalities implications.

- **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.

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.

32. 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.
33. 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:
David Cowley
Taxi Licensing Manager
Ext 2422

Chief Officer Responsible for the report:
James Gilchrist
Director Environment, Transport & Planning

**Report
Approved**



Date 13/12/22

Wards Affected: Guildhall Ward

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** - Copy of current planning permission.
- Annex 3** - A copy of City of York Council's Standard Conditions for Private Hire Operators.
- Annex 4** - A copy of the additional conditions.
- Annex 5** - Map showing location of premises.
- Annex 6** - Legislation extracts.