

# Application for a private hire vehicle licence submitted by Station Cars Limited

## Licensing Sub Committee Wednesday, 22 November 2023

Report of: Aneurin Hughes, Senior Licensing Officer

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Purpose: For decision

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Publication status: Open

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Wards affected: All

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### 1. Executive summary:

- 1.1 An application has been received from Station Cars Ltd to licence a Ford Tourneo, registration number HJ21 ZNE, as a Private Hire Vehicle with this Authority.
  - 1.2 On reviewing the documents provided, the vehicle has been salvaged because of structural damage.
  - 1.3 Following this information, this vehicle does not meet the legal standard and the licence is not able to be granted by a Licensing Officer.
  - 1.4 It is a delegated function of the Licensing Sub-Committee to determine whether to licence a vehicle as a Private Hire Vehicle where it does not comply with the current criteria for licensing Private Hire Vehicles.
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### 2. Recommendation to the Sub-Committee:

- 2.1 The Licensing Authority to consider whether this vehicle meets the standard and if not, to recommend the refusal of this Private Hire Vehicle Licence.
- 2.2 In determination of this matter, Councillors may take the following steps:

- A. To grant the Private Hire Vehicle licence; or
- B. To refuse the grant of the Private Hire Vehicle Licence giving reasons for doing so.

### **3. Introduction and background**

- 3.1 The Council has a statutory duty to determine applications for hackney carriage and private hire driver, vehicle and private hire operator licences.
- 3.2 Station Cars Ltd has made an application for a Private Hire Vehicle licence with this Authority. A copy of the application form is attached at **Appendix 'A'** to this report.
- 3.3 As part of the application procedure, the vehicle registration document has been provided for the vehicle HJ21 ZNE, attached at **Appendix 'B'** which states the following:  
*"This vehicle has been salvaged because of structural damage, but it has been declared suitable for repair following a technical evaluation."*
- 3.4 The Auction listing is attached at **Appendix 'C'**.
- 3.5 The Auctions photos are attached at **Appendix 'D'**.
- 3.6 The post repair report is attached at **Appendix 'E'**.
- 3.7 The post repair photos are attached at **Appendix 'F'**.
- 3.8 The Licensing Authority does not believe that the technical evaluation (specified in the registration document) has been carried out. The repair report that has been provided states that the '**report is based on a visual examination only and does not cover any condition that dismantling or metallurgical testing would reveal.**' This means that the standard has not been met and that Officers are not able to grant the licence.
- 3.9 The aim of the Licensing Authority in relation to Hackney Carriage and Private Hire Licensing is to **protect the public**. Public Protection must be at the forefront of the decision maker's mind.
- 3.10 The Licensing Authority is not satisfied that the vehicle, HJ21 ZNE, is safe and suitable therefore recommend the refusal of the Private Hire vehicle licence.

### **4. Legislation**

- 4.1 The relevant legislation is:

#### **Section 48 of the Local Government (Miscellaneous Provisions) Act 1976**

#### **48 Licensing of private hire vehicles.**

- (1) Subject to the provisions of this Part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied—

- (a) that the vehicle is—  
(iii) in a suitable mechanical condition;  
(iv) safe;

- (7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

## **Relevant Case Law**

5.1 The relevant case law is:

### **Chauffeur Bikes Ltd v Leeds City Council EWHC 2369 (2006)**

The issue of "safe" has been judicially defined in *Chauffeur Bikes Ltd v Leeds City Council EWHC 2369 (2006)*. The argument put forward by *Chauffeur Bikes* was that the word 'safe' in Section 48 (1) of the Local Government (Miscellaneous Provisions) Act 1976 meant safe per se rather than safe for use as a private hire vehicle and that the issue of safety could not be taken into account when considering whether the vehicle was 'suitable in type, size and design for use as a private hire vehicle'.

Keene LJ stated: -

- It was inconceivable that Parliament did not intend the safety of the vehicle in respect of its type, size and design for use as a private hire vehicle to be taken into account. Section 48(1)(a)(i) when it refers to suitability in terms of type size and design for such use brings in safety as a relevant consideration.
- Consequently, a vehicle may be in a safe condition for a vehicle of its type, size and design with the result that there was nothing wrong with its safety as motorcycles go, but it could still for safety reasons be judged to be unsuitable in type, size or design for private hire use.
- The matter of safety was one for the district council to consider. The fact that a district council, say in Kent, may come to one conclusion does not oblige one in Yorkshire to do the same

If the vehicle does not meet the above requirement and the Licensing Authority do not consider the vehicle 'safe' it should not be granted a licence.

## **Key implications**

### **Comments of the Chief Finance Officer**

The applicant has a right of appeal to the Magistrates' Court. Should the appeal be upheld, there is a risk that the Council would be liable for costs, including legal representation, loss of earnings and court costs. The Council does not have a specific budget for this, but it would need to be managed within available resources or contingency. It is not possible to estimate what these costs would be in advance.

### **Comments of the Head of Legal Services**

Section 48 (1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall not grant a licence unless it is satisfied that the vehicle is:

- Suitable in type, size and design for use as a Private Hire Vehicle
- Not of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage
- In a suitable mechanical condition
- Safe and Comfortable
- That there is in force in relation to the use of the vehicle a policy of insurance

Section 48 (2) of the Local Government (Miscellaneous Provisions) Act 1976 states that a council may attached to the grant of a licence such conditions as they may consider reasonably necessary including conditions requiring or prohibiting the display of signs on or from the vehicle from which the licence relates.

Section 48 (7) of The Local Government (Miscellaneous Provisions) Act 1976 states that any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

### **Equality**

This report does not disadvantage or discriminate against any different groups with protected characteristics.

### **Climate change**

There are no significant environmental / sustainability implications associated with this report.

### **Appendices**

Appendix 'A' - Application for a private hire vehicle licence

Appendix 'B' - Vehicle registration document

Appendix 'C' – Auction listing

Appendix 'D' – Auction photos

Appendix 'E' – Post repair report

Appendix 'F' – Post repair photo