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**DECISION NOTICE OF THE LICENSING COMMITTEE AT HART DISTRICT COUNCIL ON 6 DECEMBER 2023**

**APPEAL AGAINST DECISION OF THE LICENSING OFFICER TO [REDACTED]**

The Licensing Subcommittee has carefully considered all evidence and listened to representations from the Licensing Officer and the Applicant. The Licensing Subcommittee has also carried out visual inspection of the subject vehicle.

The Subcommittee has decided having regard to all the circumstances to depart from the Council’s Licensing Policy for Hackney Carriage and Private Hire without undermining the objectives of the policy and grant the application for the renewal of a Private Hire Vehicle Licence for the [REDACTED] with registration number [REDACTED]

This licence is to be granted for the full term of a normal renewal vehicle application of 1 year subject to the vehicle passing the council’s compliance test every six months and subject to the condition requiring the damaged seat belt buckles (offside front and rear outer) to be repaired by 5 January 2024. The Applicant must provide evidence of the repaired seat belt buckles to the Licensing Officer not later than 4pm on 5 January 2024. The licence commences from the renewal date of 1 November 2023.

**Subcommittee reasons in full including evidence considered.**

In reaching this decision, the Subcommittee has had regard to the Council’s Hackney Carriage and Private Hire Licensing Policy, The Institute of Licensing’s guidance, The Department for Transport Statutory Taxi and Private Hire Vehicle Standards (the Best Practice Guidance for Licensing Authorities in England) updated 17 November 2023, the Equality Act 2010 and The Regulators Code made under the Legislative and Regulatory Reform Act 2006.

The Subcommittee’s discretion to renew this licence is provided by section 48 of the Local Government (Miscellaneous Provisions) Act 1976, which states that:

*..... a District Council shall not grant such a licence unless they are satisfied:*

*(a) 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.*

The Subcommittee are satisfied that the above criteria has been met for this vehicle.



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The Subcommittee considered the report of the Licensing Officer and heard an oral submission from the Officer that: -

- The Applicant, [REDACTED], applied to renew a [REDACTED] on the 18 October 2023.
- In support of the application, the Applicant provided a recent pass MOT test certificate and a pass certificate of a vehicle inspection from an approved Hart District Council garage both dated 12 October 2023.
- The applicant also provided a certificate of motor insurance dated 27 April 2023 and a DVLA V5 document.
- The Hart District Council Licensing Policy for Hackney Carriage and Private Hire (April 2021) has an age restriction on purpose-built vehicles of 10 years from the date of first registration.
- The vehicle was first registered in the UK on 3 November 2010, the current licence expired on the 31 October 2023 and the vehicle is now 13 years and 1 month old.
- In accordance with the Hart District Council's policy (For Hackney Carriage and Private Hire) the application for [REDACTED] license renewal was refused as the vehicle falls outside of the upper age limit in the Council's Licensing Policy.
- The Applicant was notified on the 20 October 2023 that the vehicle did not meet the council's vehicle age policy and his application to renew the licence was refused.

The Applicant appealed the council's decision on 31 October 2023 advising that: -

- The vehicle is a [REDACTED], which has been specially converted for wheelchair access.
- The vehicle is now over 10 years old and in line with the council's policy should now be replaced. But the number of vehicles that could easily be converted for wheelchair access are very limited.
- There is shortage of second-hand vehicles of this type and the cheapest that he could find at 3 years old is £47,000.00, which could rise to £54,000.00 following the required modification for wheelchair use.
- He hopes as prices of vehicles are now coming down the price of minibuses will do the same by the end of next year 2024.
- There are currently only 2 wheelchair accessible vehicles (including this vehicle) available within Hart District Council.
- This vehicle has a service history from a reputable vehicle servicing and repairs garage. The Applicant provided the service history documents the vehicle.

The Subcommittee then heard from the Applicant, and he made the following representations.

- That the company is still recovering from the Coronavirus Pandemic and does not have funds available to replace this vehicle.



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- He agreed that based on the age of the vehicle it does not comply with the Council's Licensing policy and they have looked at other vehicles.
- But these other vehicles do not have the same specifications as the [REDACTED]. This include adequate space and folding forward seat that enable wheelchair passengers to be forward facing when travelling.
- He confirmed the cost of replacing the vehicle would be in the region of £48,000.00 and could rise to around £60,000.00 following modification.
- This vehicle has a full-service history and is taken to the same garage as the rest of their other vehicles. The garage is very competent and respond to any issue raised immediately.
- The vehicle is not used frequently as a normal private hire vehicle, but usually on specific request.
- He reported that they have few pending bookings for December 2023, but are yet to confirm the bookings in case the appeal is refused.
- They have also received request to bring people to the council's offices on Christmas day and confirmation of this booking is also pending because of this appeal.
- The vehicle is currently under contract 2 days a week and if the appeal is refused, they would have to cancel the contract.
- They do also receive enquiries from [REDACTED] to engage their services.
- The vehicle is 1 of only 2 wheelchair accessible vehicles available within Hart District Council and refusing the appeal would have an impact on people that require their services.
- He hopes the vehicle licence would be renewed so they could continue to serve people that requires this type of vehicle.

[REDACTED] was asked about the damaged seat belt buckles contained in the advisory section of the MOT certificate document. He replied that the red caps around the seatbelt buckles were damaged because of wear and tear, but these have been ordered and should be repaired within the next few days.

The Licensing Subcommittee also heard final submission from the Licensing Officer who confirmed that: -

- The role of the Licensing Authority is to mitigate risks to the public and undertake its licensing duties in promotion of public safety.
- The 'expected criteria' was approved by full Licensing Committee to ensure that the licensed vehicles under Hart District Council are of a high standard therefore, to assist the Environmental Impact and comply with the climate change policy set out by Hart District Council as part of the clean air agenda.
- The Subcommittee were reminded that their decision relates to this vehicle application only. Today's decision will not change the current policy or necessarily set a precedent for other applications.

The Subcommittee having considered all the evidence presented to them, gave the following reasons for the decision:



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- The vehicle has passed the Council's compliance test, MOT test and there is service history documentation. The Subcommittee were also satisfied with the appearance of the vehicle upon inspection today but noted the damage to the seat belt buckles as contained on the MOT Test Certificate.
- The Subcommittee acknowledged that the Council's Policy generally opposed the renewal of a licence in respect of vehicles over the age of 10 years from the date of registration for a purpose-built vehicle.
- That the age limit was adopted to promote public safety, to maintain the standard of hackney carriage and private hire services in the district and to protect the environment.
- The Subcommittee considered the Council's duty under the Equality Act 2010 to consider the needs of people who are disadvantaged or suffer inequality, when they make decisions about how they provide their services and implement policies.
- And also considered Paragraph 8.4 of the Taxi and Private Hire vehicle licensing best practice guidance for local authorities and the recommendation that Licensing Authorities should not impose age limits for the licensing of vehicles instead they should consider more targeted requirements to meet their policy objectives.
- The Subcommittee agreed that it was entitled to exercise its discretion to allow exceptions where the applicant had demonstrated that the policy objectives could still be met.
- The Subcommittee decided that public safety would not be compromised by granting a licence in this case in view of the maintenance history and Hart District Council vehicle inspection report.
- The Subcommittee determined that based on the Taxi and Private Hire vehicle licensing best practice guidance for local authorities and the provision of the Equality Act 2010, there is good reasons to depart from the Council's policy.

In conclusion, the Subcommittee was satisfied that the mechanical condition of the vehicle, the quality of the vehicle and its appearance would adequately promote the Council's policy objectives in relation to standards and safety of licensed vehicles.

You have 21 days from the date of receipt of the Notice letter to appeal against this decision to the Magistrates' Court.

Signed: *Councillor Spencer Farmer*

Chair... 