



LICENSING SUB COMMITTEE

Tuesday 29 March 2022 at 1.00 pm

Council Chamber - Ryedale House, Malton, North Yorkshire YO17 7HH

Agenda

1 Emergency Evacuation Procedure

The Chairman to inform Members of the Public of the emergency evacuation procedure.

2 WITHDRAWN - To determine an application to vary a Premises Licence from Punch Taverns Limited for The Buck Inn, Chestnut Avenue, Thornton-Le-Dale, Pickering, YO18 7RW

3 To determine an application from Mr Michael Sunley for grant of renewal for Private Hire Vehicle Licence No. PHV 010 Registration YX12 SGO (Pages 3 - 6)

a Apologies for Absence

b Declaration of Interest

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation

c Exempt Information

That under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following item as there would be a likely disclosure of exempt information relating to the financial or business affairs of any particular person (including the authority holding that information) and that under Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), exempt information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

d Licensing Sub Committee Hearing Procedure

(Pages 7 - 12)

4 Any other business that the Chairman decides is urgent.



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING SUB COMMITTEE
DATE:	29 MARCH 2022
REPORT OF THE:	ENVIRONMENTAL HEALTH SERVICES MANAGER ROBERT ROBINSON
TITLE OF REPORT:	APPLICATION FOR RENEWAL OF PRIVATE HIRE VEHICLE LICENCE - PHV 010
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 To seek the determination by the Licensing Sub Committee of an application for a private hire vehicle licence for a vehicle that does not comply with the standard criteria as stated in the Council's Taxi and Private Hire Policy ("the Policy").

2.0 RECOMMENDATION(S)

- 2.1 It is recommended that:

- (i) the application for a private hire vehicle licence in respect of a 2012 Black Kia Sorento (registration: YX12 SGO) be determined taking into account the Council's Taxi and Private Hire Policy and after hearing from the applicant.

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 The vehicle does not comply with the standard criteria as stated in the Policy, the determination of the application therefore rests with the Licensing Sub-Committee.

4.0 SIGNIFICANT RISKS

- 4.1 The Licensing Authority must determine an application for the grant of a private hire vehicle licence in accordance with relevant legislation and the Council's Policy. The Licensing Authority would leave itself open to appeal or judicial review should it not comply with all legal requirements.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 An application for the renewal of a private hire vehicle licence has been received from Mr Michael Sunley. The vehicle has been licensed as a private hire vehicle with the Council since 2016.
- 5.2 As the vehicle is now 10 years of age it does not comply with the vehicle age criteria outlined at Para 1, Appendix E of the Policy which states:

'The maximum age of a vehicle that may continue to be licensed shall be 10 years from the date of first registration. A licensed vehicle exceeding 10 years old at the date of application for renewal of its licence, may be licensed at the discretion of the licensing Sub Committee if such vehicle is found to be an "exceptional vehicle in exceptional condition ". Each application for special consideration will be judged solely on its merits, provided it continues to be mechanically sound and passes the vehicle licensing inspection'.

6.0 REPORT DETAILS

- 6.1 Details of the vehicle are as follows:

Make:	KIA
Model:	SORENTO
Colour:	BLACK
First Registration:	01/03/2012
Mileage:	118,626 (as of 16/03/2022)
Fuel Type:	DIESEL
Engine Size:	2199 cc
Co2 Emission	177 g/km
Ved Co2 Band	"J"

- 6.2 As part of the application process Officers can confirm that the vehicle failed its initial MOT test on 15 March 2022 due to the nearside and offside front position lamps (commonly referred to as sidelights) not working, the nearside and offside front suspension arm ball joints being excessively worn and a leaking brake pipe. These defects were rectified and the vehicle was re-tested the following day and passed with advisories regarding a stone chip in the windscreen and a thorn in nearside rear tyre side wall.
- 6.3 At the time of writing the report the vehicle is yet to undergo the Council's vehicle inspection, this will therefore be provided at the meeting.
- 6.3 In terms of historical testing, the vehicle initially failed its MOT tests in 2017, 2018, 2019, 2020 and 2021 for matters relating to steering, suspension, anti-roll bar linkages and lights.
- 6.4 Members are encouraged to view the vehicle prior to making their decision.

7.0 LICENSING POLICY AND NATIONAL GUIDANCE

7.1 In addition to Appendix E, the following sections of Ryedale's Taxi & Private Hire Policy are applicable:

Aims of Licensing

1.5 - The principal aim of hackney carriage and private hire licensing is to protect the public whilst ensuring that they have reasonable access to high quality hackney carriage and private hire services. It is accepted that such services play an important role in local transport provision.

Objectives

1.6 - The LA shall adopt and carry out its hackney carriage and private hire licensing functions with a view to promoting the following licensing objectives:

1. Safety, health and comfort of the public and drivers
2. Prevention of crime and disorder, safeguarding of children and the vulnerable
3. Vehicle safety, comfort and access
4. Provision of high quality vehicles and services

1.7 - In promoting these objectives, the LA shall expect applicants and existing licence holders to continually demonstrate that they meet or indeed exceed the specifications set by the LA within this Policy. These objectives shall be taken into account by the LA when making any decision.

1.13 - Notwithstanding the existence of this Policy, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the LA to depart substantially from the Policy, clear and compelling reasons shall be given.

3.2 - Vehicles must be suitable in type, size and design for use as a licensed vehicle. The LA shall licence any vehicle manufactured or adapted to carry up to 8 passengers (excluding driver) provided that it meets the criteria set out at Appendix E.

Non-standard vehicles

3.35 Applications for vehicles that do not meet the standard criteria as set out in Appendix E shall be determined by the LA's Licensing Sub-Committee. Each application shall be considered on its own merit and public safety shall be of prime importance. The requirement for future applications to be determined by the LA's Licensing Sub-Committee shall be at the discretion of the LA.

3.36 The LA considers it necessary to impose additional standard conditions to those specified in Appendix E in relation to these vehicles (set out at Appendix I). The LA may also place upon the licence further conditions to ensure the safety of the travelling public.

3.37 All other relevant driver's, vehicle's and operator's conditions shall otherwise apply to the licence.

8.0 OPTIONS

8.1 The Licensing Sub Committee has the following options:

- a) to grant the vehicle licence application (with the conditions outlined in the Policy);
- b) to grant the vehicle licence application (with the conditions outlined in the Policy) including additional conditions; or
- c) to reject the vehicle licence application.

9.0 DETERMINATION OF THE APPLICATION

9.1 Members must exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.

9.2 Members are invited to determine this application following consideration of the evidence presented to them. The procedure for this hearing is available from the Council.

ROBERT ROBINSON ENVIRONMENTAL HEALTH SERVICES MANAGER

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Background Papers:
Ryedale District Council's Taxi and Private Hire Policy

LICENSING ACT 2003 SUB COMMITTEE

Summary Procedure – Vehicles not complying with standard criteria

- 1. All parties introduce themselves**
- 2. Licensing Officer presents report**
- 3. Applicant makes opening statement**
- 4. Questions to Applicant by others present**
- 5. Committee Members consider/inspect vehicle accompanied by others present**
- 6. Licensing Officer and Applicant sum up in that order**
- 7. Members retire to make decision accompanied by Legal Adviser if required**
- 8. Members return and Chairman announces decision**
- 9. Hearing ends.**

LICENSING ACT 2003 SUB-COMMITTEE

PROCEDURE FOR HEARING LICENSING APPLICATIONS Vehicles not complying with standard criteria

1. GENERAL INFORMATION

Members of the Licensing Sub-Committee will not hear any application where they live within the proximity of the applicant or where they know the applicant.

In the interests of timely, efficient and cost-effective decision making the Licensing Authority strongly urges all parties involved in any hearing to ensure that there is full advance disclosure between the parties of information to be put before the Licensing Sub-Committee hearing. Failure to so disclose will unduly delay the proceedings due to arguments as to the admissibility of the information and may result in the information not being admitted.

A party will be entitled to supply additional information at the hearing in response to a point upon which the Licensing Authority has sought clarification, without the need for advance disclosure or permission of the Sub-Committee.

The hearing will be held in public unless the Sub-Committee feel it is necessary to hear all or part of the hearing in private. In considering this, the Sub-Committee will have regard to any unfairness to a party by holding the hearing in public and the need to protect, as far as possible, the commercial or other legitimate interests of the party.

The Sub-Committee may exclude anyone person from the hearing, or allow them to remain under conditions specified by the Sub-Committee, if their behaviour is deemed to be disruptive. If the party is refused permission to return to the hearing, the Sub-Committee will allow the party to submit written representation before the end of the hearing, summarising their intended oral representation. This information, if relevant to the licensing objectives, will be taken into consideration in the Sub-Committee's determination.

Time limit on Presentations

All parties will be allowed the same amount of time. Please take the general information outlined below as notification of the maximum time to be allowed.

On the basis that there will normally have been full disclosure of the information to be presented at the hearing the Licensing authority is of the opinion that open statements should be brief.

For guidance only the maximum time normally applicable is as set out below:

- i. opening statement (10 minutes)
- ii. clarification of points raised by Licensing Authority before hearing (5 Minutes)
- iii. calling any witness in support of their application, representation or notice (10 minutes each)
- iv. question any other party or witness. (5 minutes)
- v. summing up (10 minutes)

Failure of parties to attend

If the party has informed the Licensing Authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

Where a hearing is held in the absence of a party the Licensing Sub-Committee will consider the application/representation/ or notice made by the party.

Where the hearing is adjourned to a specified date the Licensing Authority will notify forthwith the parties of the date, time and place to which the hearing has been adjourned.

Cross Examination

There is a presumption given by the Sub-Committee to allow cross-examination of all parties by all parties within the structure of the hearing process. The Sub-Committee will only exercise its discretion to stop or not allow cross-examination if the questioning is felt unnecessary for it to consider the application or representation. The sub-Committee will not permit hostile or repetitive questioning.

2. THE HEARING

- a) **The Chairman/Chairperson** will open the proceedings in the following order.
 - (i) He will introduce the application to be heard and invite the Chair to introduce himself and the other members of the Sub-Committee. The Legal Adviser will

introduce himself and the Licensing Officer and outline all party's roles within the hearing.

- (ii) He will ask if there are apologies for absence
- (iii) He will ask if there are any declarations of interest
- (iv) He will confirm the parties in attendance including Applicants (or representative).
- (v) The following will be read out:
 - a. **As all parties will have had the opportunity to make detailed written submissions so it is expected that any opening statement by the parties to be brief.**
 - b. **The hearing will take the form of a discussion led by the Licensing Sub-Committee and cross-examination shall not be permitted unless the Sub-Committee considers the cross-examination is required for it to consider the submission.**
 - c. **Additional information produced at the hearing without prior disclosure between the parties may not be heard if following objections to its submission by any other party the Sub-**
 - d. **Committee so determine.**
- (vi) He will draw attention to the procedure for the hearing as set out in b) to h) below.
- (vii) After the Sub-Committee has considered any preliminary issues applicant is invited to make his opening statement.

b) **The Licensing Officer** will present his report

c) **Applicant** (or representative) to make an opening statement

d) **Questions** to the Applicant by Sub-Committee Members/ Legal Adviser of the Sub-Committee.

e) **The Sub Committee**, accompanied by the other parties will normally inspect the vehicle.

Summing up – The Licensing Officer and Applicant in that order will then sum up (but not introduce new evidence).

3. DECISION MAKING PROCESS

The Sub-Committee will retire to deliberate its decision in private. The Sub-Committee may invite the Legal Adviser to retire with them if legal advice is required.

The Sub-Committee will return to the hearing. The Legal Adviser will inform all parties of any legal advice given to the Sub-Committee. The Sub-Committee will normally announce its decision and the reasons for it and that the decision will be confirmed in writing to the parties at the earliest opportunity.

In some cases the Licensing Authority will inform the applicant of the Sub-Committee's decision and reasons for it within 5 days.

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