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Angela Hutchings
Chief Executive

AGENDA

Committee: LICENSING SUB-COMMITTEE

Date and Time: Friday, 15th December, at 2:00pm

Venue: Council Offices, Council Chamber

Membership: Councillors Acott, Barton-Brown and Greig

Officers attending: Amaka Ozono- Legal Adviser
Melanie Harris - Head of Licensing & Safer Communities

Committee Enquiries: Loretta Hill, Ext. No. 2427

PART I **(Business to be taken in public)**

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee**
- 3. Appeal against Hackney Carriage 10-year vehicle expiry date – Applicant C**

The report of the Head of Licensing and Safer Communities is attached.

- 4. Decision**

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PROCEDURE FOR HEARING

1. Introductions

- a. Chairman introduces Panel Members to the applicant.
- b. Chairman identifies officers and their roles.
- c. Applicant identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Objector(s) to be identified.

2. Case Summary by the Head of Licensing and Safer Communities

As shown at Agenda Item 3.

3. Objector(s) presents objection(s)

4. The Applicant's Submission

The applicant or their representative will submit their case

5. Questions from Panel

Opportunity for any questions from Panel to either side.

6. Adjournment

Proceedings will be adjourned while the Panel withdraw to consider its decision. During this time the Clerk will accompany the Panel to record the decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

7. Decision

The Panel will reconvene, and the Chairman will announce the decision.

8. Conclusion

The Chairman will close the proceedings.

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AGENDA ITEM NO 3

LICENSING SUB COMMITTEE

15 December 2023

Subject: Appeal against refusal to licence a Hackney Carriage vehicle beyond 10 years old – Applicant C

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

To process the appeal made by Applicant C against the refusal by the Council to licence a Hackney Carriage vehicle beyond 10 years old.

2. Background

Applicant C contacted the Licensing Department on 15 November 2023 to request that his vehicle licenced as a Hackney Carriage be allowed to continue to be licenced beyond 10 years old under the Council's Exceptional Conditions Policy. A report from Castle Point Motors was submitted as supporting evidence. This was provided together with photographs and is attached at Appendix 1.

The Council refused to grant the request as the report acknowledged the bodywork on the vehicle was only in reasonable condition and showed signs of contact on both sides of the vehicle. Additionally there were advisories listed on the latest MOT. A copy of the refusal letter is attached at Appendix 2 which contains suggestions as to what further measures and supporting evidence he may wish to submit with any appeal.

Applicant C submitted an appeal on 24 November 2023. This is attached at Appendix 3.

A letter with additional information was received on 2 December and is attached at Appendix 4.

The Council's Hackney Carriage and Private Hire Vehicle Policy stipulates that: Non wheelchair accessible vehicles will not be renewable once they have reached ten years of age. Wheelchair accessible vehicles can be up to fifteen years old.

It also states that where a vehicle is in exceptional condition the Council's "Exceptional Condition Policy" may apply.

The term "exceptional condition" is used to describe vehicles which are over the age limit set by the council, but that can continue to be licensed because of their special condition. The following specification included is a guide to suggest the type of vehicles that the Council will consider:

A vehicle of "exceptional condition" is one where the components i.e. mechanical, body panels, paint and trim are in an exceptional condition with regard to the age of the vehicle. It is essential that the image of an exceptional older vehicle upholds the standards normally set by a much younger vehicle.

Key items that will be considered when determining whether or not a vehicle meets the standard expected of vehicles in "exceptional condition" are set out below:

- 1 The underside condition of the vehicle does not show any signs of rusting, age, or deterioration.
- 2 Mechanical condition is such that there should be no item that may show age, deterioration or cause or contribute to a less than safe, comfortable passenger ride.
- 3 Bodywork should be in near perfect condition with no signs of panel age deterioration, dents or any other abrasion that may detract from the overall appearance of the vehicle.
- 4 General paint condition should not show signs of fading, discolouration or mismatching and retain a finish generally found on much younger vehicles.
- 5 Interior trims, panels, seating and carpets etc should be of a condition that is free from frayed, discoloured, faded or torn components.
- 6 The passenger compartment should be free from damp or any other odours that may cause passenger discomfort.

Consideration would also have to be given to the type of vehicle, engine size, mileage and the fact that it is going to be used as a licensed vehicle rather than a family saloon.

The vehicle, which is non wheelchair accessible, is as detailed below:

Plate Number	HC076
Vehicle Make	Vauxhall Insignia
Colour	Silver
Vehicle Reg	DS63 TUY
Date of first registration	31/12/2013
Cylinder capacity (cc)	1796
Date licenced as Hackney Carriage	May 2018

Fuel Type	Petrol
Mileage at MOT 16 November 2023	106,027

A copy of the car's MOT history is attached at Appendix 5.

The Sub-Committee is reminded that to be renewed the vehicle must uphold the image and standards set by a younger vehicle and it is not accepted that this type and model and particular vehicle does uphold this standard.

3. Legal implications

Decisions in relation to the grant of a licence give rise to the obligations under the Human Rights Act 1998. The Council will therefore ensure that there is a review hearing before the Licensing Sub-Committee. It should be noted that Applicant C has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Sub-Committee.

4. Options

The Sub-Committee is advised that it has the following options when determining this application.

- (i) Uphold the decision to refuse to licence the vehicle beyond 10 years old as a Hackney Carriage.
- (ii) Allow the vehicle to be licenced beyond 10 years old

Recommendation

The decision of the Sub Committee is required following proper consideration of the application and any representations made to the Sub Committee.

Appendix 1 – Report from Castle Point Motors

Appendix 2 - Refusal Letter

Appendix 3 - Appeal

Appendix 4 - Additional information provided

Appendix 5 - MOT History

Background Papers:

Hackney Carriage and Private Hire Licensing Policy

Local Government (Miscellaneous Provisions) Act 1976

http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga_19760057_en.pdf

Helen Collins

From: Owen Draper <owen@castlepointmotors.co.uk>
Sent: 16 November 2023 09:12
To: Licensing; I
Cc: Leanda Carter; Alan Foster; Reception; Reception Site1; Tracey; alv184@icloud.com
Subject: DS63 TUY -

Importance: High

Hi

Please be aware this vehicle has been in to us today for a vehicle MOT and condition inspection

I can confirm that mechanically this vehicle is in good condition – no warning light etc displayed

It has passed an MOT and met the ministry standard with a couple of non major advisories which are only to be expected on a vehicle of this age

The body work is generally in reasonable condition – however there are signs of contact on the sides of the vehicle – please see images as attached

The interior of the vehicle (cabin space and passenger seats) are all immaculate

In summary Alan and Myself would be happy to get in this vehicle and be used as a Taxi within the borough – however as explained previously we feel this should be on a case by case basis – Todays case has been a positive one for justification of keeping vehicles on the fleet for an additional period of time.

Kind regards

Owen Draper

Manager

Castle Point Motors

Castle Point Borough Council
Licensing Department
Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF
Tel: 01268 882480

Ref: HC76
17 November 2023

Mr

—

Dear

Hackney Carriage Vehicle Licence

We have received an email from [redacted] acting on your behalf to request we consider your vehicle DS63 TUY to be licensed beyond 10 years.

We have also received an MOT and inspection report from Castle Point Motors.

One of the key items that will be considered when determining whether or not a vehicle meets the standard expected of vehicles in "exceptional condition" is:

"Bodywork should be in near perfect condition with no signs of panel age deterioration, dents or any other abrasion that may detract from the overall appearance of the vehicle."

The report from Castle Point Motors observed that the bodywork of the car shows signs of contact on both sides of the vehicle and enclosed photos showing the damage.

The vehicle does not meet this criteria and is therefore not considered to be in exceptional condition.

You may appeal this decision in writing within seven days and a Licensing Sub Committee will consider the appeal. The decision of the Committees is final.

You may wish to submit additional supporting evidence with the appeal such as confirmation of repairs undertaken, proof of service history etc.

With best regards



Melanie Harris MA BSc(Hons) MIOL
Head of Licensing and Safer Communities
licensing@castlepoint.gov.uk

APPENDIX 3

24-11-23
ref no: HC 76.

Dear Madam,
With reference to your letter dated
17th November.

I was disappointed to read that my car did not meet the criteria required because of a scuff each side of the body work as my car had passed the criteria to work for the last 4 years with no mention of a problem by my licensing department.

by your licensing department. If this is the only reason my car was declined, I can simply get these sprayed as there are no dents in the bodywork. This car has been serviced every 10,000ml by A & H Motors Canvey Island and can be con firmed if required.

I would like the licensing sub committee to consider my appeal, and if possible to take a look at the car as Owen & Alan of Castle Power Motors said my car was excellent and would be happy to have their families travel in it. As a Hackney Carriage Driver of 50 yrs I have always taken pride in my car

APPENDIX 4

2-12-23

ref HC 76.

Dear Ms Harris,

As requested my additional supporting information toward my appeal that I would like the SAB committee to consider.

I lost 17 months work in my taxi due to Covid. I had still paid my licensing fees and NCP car parking fees at Benfleet Station, which were lost and not used.

Please also note the low mileage of the car 106,000 miles for a taxi of under 10 yrs.

Time is running out for my taxi on 7th Jan 24.

I need to pay my license fees and NCP car park fees by the end of the year, as you know if I know that I can't work as I am not a radio car.

This time of year is busy for us all so if no decision is made in the time left, can you please suspend my license until a decision by the SAB committee is made. My insurance and MOT are already paid.

Yours Sincerely

Cookies on MOT history service

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Check MOT history

This is a new service – [Complete a quick survey](https://www.smartsurvey.co.uk/s/GIZZX?yrm=DS63TUY&make_result=VAUXHALL&model_result=INSIGNIA&mot_first_used_date=2013-12-31&vehicle_age=3608&mot_expiry_date=2024-11-15&mot_expiry_date_days_left=364&user_satisfaction_banner=0&vehicle_data_origin=MTS&vehicle_type=LGV) (https://www.smartsurvey.co.uk/s/GIZZX?yrm=DS63TUY&make_result=VAUXHALL&model_result=INSIGNIA&mot_first_used_date=2013-12-31&vehicle_age=3608&mot_expiry_date=2024-11-15&mot_expiry_date_days_left=364&user_satisfaction_banner=0&vehicle_data_origin=MTS&vehicle_type=LGV) to help us improve.

[< Back](#)

DS63 TUY

VAUXHALL INSIGNIA

[Check another vehicle \(/\)](#)

Colour

Silver

Fuel type

Petrol

Date registered

31 December 2013

MOT valid until

15 November 2024

[Get an MOT reminder](#) (<https://www.gov.uk/mot-reminder>) by email or text.

[Download test certificates](#) ([/enter-document-reference?registration=DS63TUY](https://enter-document-reference?registration=DS63TUY))

If you think the MOT expiry date or any of the vehicle details are wrong: [contact DVSA](#) (<https://www.gov.uk/getting-an-mot/correcting-mot-certificate-mistakes>).

[Show all sections](#)

MOT history

Check mileage recorded at test, expiry date, and test outcome

[Hide](#)

Date tested
16 November 2023

Mileage
106,027 miles

MOT test number
2241 8503 1936

PASS

Test location
[► View test location](#)

Expiry date
15 November 2024

Monitor and repair if necessary (advisories):

- **Front Brake pad(s) wearing thin (1.1.13 (a) (ii))**
- **Nearside Rear Inner Road wheel slightly distorted (5.2.2 (c) (i))**
- **Offside Rear Inner Road wheel slightly distorted (5.2.2 (c) (i))**
- **Nearside Rear Shock absorbers has slight external damage to the casing plastic casing loose (5.3.2 (b))**
- **Offside Rear Shock absorbers has slight external damage to the casing plastic casing loose (5.3.2 (b))**

[► What are advisories?](#)

Date tested
19 July 2023

Mileage
102,724 miles

MOT test number
2543 1464 1932

PASS

Test location
[► View test location](#)

Expiry date
18 July 2024

Monitor and repair if necessary (advisories):

- **Coolant leak**
- **Oil leak, but not excessive (8.4.1 (a) (i))**
- **Front Brake disc worn, but not excessively (1.1.14 (a) (i))**

[► What are advisories?](#)

Date tested
19 July 2023

Mileage
102,723 miles

MOT test number
4558 8798 0323

FAIL

Test location
[► View test location](#)

Do not drive until repaired (dangerous defects):

- **Offside Rear Tyre has ply or cords exposed (5.2.3 (d) (ii))**

Repair as soon as possible (minor defects):

- **Offside Front Lower Suspension arm ball joint dust cover severely deteriorated (5.3.4 (b) (i))**

Monitor and repair if necessary (advisories):

- **Coolant leak**
- **Oil leak, but not excessive (8.4.1 (a) (i))**

- Front Brake disc worn, but not excessively (1.1.14 (a) (i))

► [What are defects and advisories?](#)

Date tested
6 January 2023

Mileage
93,975 miles

MOT test number
5303 6361 2007

PASS

Test location
► [View test location](#)

Expiry date
5 January 2024

Date tested
18 July 2022

Mileage
86,103 miles

MOT test number
8005 7869 4078

PASS

Test location
► [View test location](#)

Expiry date
17 July 2023

Monitor and repair if necessary (advisories):

- Rear Brake pad(s) wearing thin (1.1.13 (a) (ii))

► [What are advisories?](#)

Date tested
5 January 2022

Mileage
76,177 miles

MOT test number
1141 2270 2622

PASS

Test location
► [View test location](#)

Expiry date
4 January 2023

Date tested
13 July 2021

Mileage
69,890 miles

MOT test number
1023 3256 4112

PASS

Test location
► [View test location](#)

Expiry date
12 July 2022

Date tested
5 January 2021

Mileage
68,545 miles

MOT test number
2437 4887 6966

PASS

Test location
► [View test location](#)

Expiry date
5 January 2022

Date tested

Mileage

MOT test number