
**DETERMINATION OF APPLICATION TO PLACE ADVERTISEMENTS ON
HACKNEY CARRIAGE VEHICLES**

Purpose of Report

1. To invite Members to consider a deferred application to place an advertisement on a hackney carriage vehicle in the light of information contained within the reports.

Information and Analysis

2. The schedule attached to this report gives details for joint proprietors relating to an application to place an advertisement on a hackney carriage vehicle licence.
3. Members are requested to consider whether to allow an advertisement to be placed on a hackney carriage vehicle and give reasons for their decision.

Legal Implications

4. There are no issues that the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Crime and Disorder Act 1998 Section 17

5. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Recommendation

6. Members are requested to consider this application in light of the information contained with the report and any further information which comes to light at Committee.

Richard Alty
Director of Place

Background Papers

The Local Government (Miscellaneous Provisions) Act 1976
The Town Police Clauses Act 1847
The Hackney Carriage Byelaws
Darlington Council's Licensing Policy in respect of the Taxi Trade

Appendices

1 Michael Dunn & Vaclav Zacek

Contact Officer: Pam Ross 388647

LICENSING COMMITTEE
28 FEBRUARY 2012

HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE LICENCES

ITEM FOR DECISION

APPLICANTS: **MICHAEL J DUNN**
 VACLAV ZACEK

ADDRESS **15 GENEVA TERRACE**
 DARLINGTON, DL1 5EN

PURPOSE OF REPORT: **APPLICATION TO PLACE**
 ADVERTISEMENT ON HACKNEY
 CARRIAGE VEHICLE LICENCE NO
 HCV087
 VEHICLE REGISTRATION X174 TJX

DATE OF LAST **17 NOVEMBER 2011**
LICENCE APPLICATION:

INFORMATION

This application was due to be considered by Members at their meeting on 31 January 2012. On that occasion Members were advised that Mr Zacek was out of the country and that Mr Dunn's legal representative had requested an adjournment to permit him to attend and represent his client. Members therefore agreed to defer consideration until the next meeting of the Licensing Committee.

These Applicants are the joint proprietors of Hackney Carriage Vehicle HCV 087. Council records show that this vehicle has been licensed as a hackney carriage since 28 May 2004 and that the vehicle was transferred to Mr Dunn on 31 July 2009. The current licence is due to expire on 22 November 2012, following its renewal on 23 November 2011 on the basis of a vehicle over 6 years of age which is in exceptional condition.

Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act) permits the Council to attach to the grant of a hackney carriage vehicle licence such conditions as they may consider reasonably necessary, including a requirement to be of such a design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage. The same section grants the right of appeal to the magistrates courts to any person aggrieved by any condition attached to such a licence

On 15 September 2005 all licence conditions and policies were reviewed by Council following a full consultation exercise with the Trade. The licence condition relating to advertisements on hackney carriage vehicles, stated:

“Any advertisement upon a Hackney Carriage requires the prior written approval of the Council. Approved advertisements may be placed on the rear doors and rear quarter panel only and be of a stick-on plastic film type material (magnetic panels will not be allowed)”

The condition went on to describe the type of advertising that will not be permitted (including the advertising of alcohol and/or tobacco) and then concluded:

“No other signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed in, on, or from the vehicle except as may be required by any statutory provision (including bylaws) or required or permitted by these conditions.”

In addition, given that a large percentage of Darlington's Hackney Carriage Trade was being operated through Private hire Firms licensed by this Council, in the section relating to display of Signs the condition required that:

Where a hackney carriage is being operated through a private hire business, the name of that operator shall be displayed on the outside of the rear doors of the vehicle.

On 22 July 2010 Full Council approved a complete overhaul of the Licensing Policy for the Taxi Trade, following extensive consultation with the Trade. All policies and conditions pertaining to the Trade were considered (with the exception of wheelchair accessibility which was to be dealt with through a separate report) and the requirements in respect of advertising and display of signage were retained as detailed above.

Throughout 2011 further periods of consultation were undertaken with the Trade and representatives of groups representing disabled people. As a result a report was prepared in October 2011 for Full Council on 26 January 2012 to define the Council's policy on accessibility. In addition some refinement of the Policy was undertaken and a number of amendments to the policy were made in respect of issues such as tyres, fire extinguishers etc and also some new requirements for Private Hire Operators, including the introduction of a legislation test.

Finally the Council's condition requiring that hackney carriages operating through private hire firms should display the name of the operator was clarified to make it obvious that such requirement related to Private Hire Operators licensed by Darlington Borough Council. The latter was as a direct result of a spate of applications from vehicle proprietors for approval to display the name of a Private Hire Operator (Royal Cars) who is not licensed with Darlington Council and also a telephone number that is not a Darlington number. Officers had already refused such applications, in accordance with their delegated powers, on the basis that the firm was unknown to this Council and also concerns about confusion that may be caused to the travelling public.

On 26 January 2012 Full Council approved the revised Policy and the clarification of the requirement to display the name of the Private Hire Operator.

One of the applicants referred to in the paragraphs above was Mr Dunn who made his application in respect of Hackney Carriage 087 on 26 July 2011. On 10 August 2011 the Principal Licensing Officer advised him in writing that his application had been refused on the following grounds:

"Royal Cars is not a Darlington Company, nor does it have an office within the town. The Company is licensed by Stockton, Middlesbrough and Hartlepool as a licensed private hire operator and this could be confusing to local residents in Darlington."

On 07 December 2011 Mr Dunn made a further application to advertise Royal Cars. This new application was identical to the one made in July 2011. When Officers advised that the position had not changed Mr Dunn indicated that he

wished the matter to be considered by Members of the Licensing Committee. A copy of the proposed advertisement has been appended for Members' reference at **Appendix 1A**. Members will note that the number displayed is not a Darlington number.

On 09 December 2011 Officers received a complaint from a Member of the Public that he had booked a taxi through a Darlington taxi company and when the vehicle arrived he was advised that his car from, "Royal Cars" had arrived. He expressed concern that he thought he was making a booking with a Darlington Company and was being sent a vehicle that was being operated from Stockton. When this was investigated it was actually a Darlington hackney carriage that was operating through Royal Cars.

Officers have also received complaints from elderly persons that they too had telephoned Ace2B and had been sent Stockton licensed vehicle instead. Passengers have complained that the drivers of these vehicles did not know their way around Darlington. One of the complainants was able to produce a business card they had been given by the driver which provides details of Royal Cars with a Stockton telephone number.

Members should be aware that Ace2B was a Darlington licensed Private Hire Operator but the licence was surrendered on 16 November 2011. Officers understand that Royal Cars have bought the telephone numbers for this firm and also for a firm formerly known as DTS which was previously owned by Mr Dunn and which was not a licensed Private Hire Operator, but operated licensed hackney carriages (as the operation of hackney carriages does not in law require an operator licence)

It is clear to Officers that there is confusion being caused to members of the public in respect of Royal Cars and that the display of advertisements on this Council's licensed hackney carriages would only serve to exacerbate the problem

Members are therefore invited to consider this application in the light of the information contained within this report and provide reasons for their decision. Members are reminded that there is no right of appeal against a decision of the Committee on this particular matter. Any proprietor aggrieved by the Council's policies may seek a judicial review. Members are also reminded that proprietors can appeal against any decision attached to a vehicle licence within 21 days of the grant of each licence.

Finally at the time of preparing this report the vehicle licence in respect of this application has been suspended in accordance with Section 60 of the 1976 Act. This section permits the Council to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds:-

- a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- b) any offence under, or non-compliance with the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; ie
- c) any other reasonable cause.

The same section gives the proprietor the right of appeal to the magistrates courts.

The reason for the suspension is that Mr Dunn advised Officers that the vehicle was not insured and requested that the licence be suspended.

**COMMITTEE RESULTS FOR
ADMIN PURPOSES ONLY**

Date of Committee 28 February 2012

GRANT/REFUSE APPLICATION

Reasons:

