

Licensing Committee - 26 November 2009

TO DETERMINE THE FOLLOWING APPLICATIONS RECEIVED UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 TO LICENCE A FIRE ENGINE AS A PRIVATE HIRE VEHICLE.

Report of the Licensing Manager

Statutory Powers Local Government (Miscellaneous Provisions) Act 1976

Financial Implications There are no direct financial implications to the council from this Report.

Purpose of this Report: To decide whether a decommissioned and converted Volvo Fire Engine Reg. No H869 XYF is a suitable vehicle to licence as a Private Hire Vehicle.

There is a link to the Council's priorities of CP2: 'Creating the conditions for the growth and maintenance of quality economic activity'

Recommendation

That Members consider all the implications of this application which prima facia does not appear to comply with the relevant criteria. If the Committee so decide to make an exception to the standard vehicle specifications and grant the application to also consider applying the conditions as set out in Appendix A.

1. Background / the issue

- 1.1 The Council has received a request from **Darren Edge of 9, Bowers Park Drive, Woolwell, Plymouth PL6 7SH to licence a redundant/ decommissioned fire engine as a Private Hire Vehicle.** The vehicle was previously owned by a Welsh Fire and Rescue Authority, sold to a plant hire company in Gwent in 2004, subsequently converted by adding banqueting style rear seating then sold to the applicant in February 2008. The vehicle is primarily used for hiring out with a driver for 'children's parties', 'hen nights' and 'school proms'. A copy of the application is in the background papers and photographs of the vehicle are attached at **Appendix B.**
- 1.2 The Council does not currently licence fire engines. Therefore for the use proposed, this vehicle would need to be licensed as a private hire vehicle with additional conditions.

2. What is a private hire vehicle?

- 2.1 A Private Hire Vehicle is defined in legislation as a “motor vehicle” constructed or adapted to seat fewer than nine passengers (other than a hackney carriage or public service vehicle or a London cab or tramcar) which is provided for hire with the service of a driver for the purpose of carrying passengers. (This vehicle presently has ten seats).

3. Why is the Council being asked to licence a fire engine?

- 3.1 There has been a change in the law. Some drivers/operators were taking advantage of a loophole in the Local Government (Miscellaneous Provisions) Act 1976 s.75 (1) (b) which previously allowed an exemptions to certain categories of Private Hire drivers and vehicles from the need to be licensed if they conducted their business by having hire contracts of not less than seven days.
- 3.2 The Road Safety Act 2006 Section 53 repealed this part of s.75 and the changes took effect from 28 January 2008. The change was in the interest of public safety, enabling local authorities to conduct suitability and safety checks on Private Hire drivers and vehicles that were offering this type of service. Local authorities may also be asked to consider licensing stretch limousines, chauffeur driven cars, airport transfer services and other novelty type vehicles such as redundant ambulances.

4. What does Section 48 (1) of the Local Government (Miscellaneous Provisions) Act 1976 state:

- 4.1 That a council shall not grant a private hire vehicle licence unless satisfied 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
- 4.2 To ensure compliance with the above legislation the Council has hackney carriage and private hire vehicle conditions / specifications. There are in place to ensure reliability, safety and protection of the fare paying public with regard to the overall standards of vehicles licensed by the Council. The fire engine does not meet this specification and therefore if the committee agree to licence this type of vehicle, Members are also asked to agree conditions and specifications to be attached to any licence granted.
- 4.3. For the Committee’s information, fire engines have been licensed as private hire vehicles by some other local authorities.

- 4.4 The Committee is reminded that if the fire engine is licensed by the Council as a private hire vehicle it may only be driven by a person also licensed by the South Hams District Council to drive a private hire vehicle. This person will also have undergone the required Criminal Record Bureau check, DVLA check, Group 2 Medical, knowledge and driving test with this Licensing Authority. In addition because of the weight of the vehicle it may only be driven by a person if he held a DVLA licence before 1st January 1997 for groups A or B on an old-style licence or category B & D1 on a new-style licence.

5. Does the vehicle comply with the South Hams District Council Licensing Standard Conditions for a Private Hire Vehicle to ensure 'safety', 'suitability' and 'comfort' of passengers and the Relevant Policy Considerations?

- 5.1 No, so if the Licensing Committee are to depart from the standard conditions then reasons must be given. The Committee may not depart from requirements which are imposed by statute (e.g. the Construction and Use Regulations for motor vehicles). It may depart from the conditions it seeks to impose as a matter of the Council's own policy if there are good and justifiable reasons for departing from policy in an exceptional case.

6. What are the Standard Licensing Conditions for Private Hire Vehicles?

- 6.1 The present conditions require the vehicle to be produced to fulfil the following requirements: -
- a) To be a saloon car, an estate car or minibus designed to carry not more than eight passengers, excluding the driver. (The vehicle has nine passenger seats excluding the driver's so the front passenger seat would have to be removed. The Council is not permitted to allow an increase in the number seats. Legislation requires a vehicle can only be licensed as a Private Hire car if it has eight or less passenger seats).
 - b) When luggage is carried in the rear compartment, a fixed and sufficient grille shall be provided which prevents such luggage from coming into contact with the passengers. (The vehicle doesn't have one but Members may depart from this condition if there are good and justifiable reasons for departing from policy and Members consider this an exceptional case).
 - c) If the vehicle is being presented for initial licensing by the applicant, be first registered not more than five years prior to the date of application, subject to the discretion of the Council. (The vehicle is nineteen years old but Members may depart from this condition if there are good and justifiable reasons for departing from policy and Members consider this an exceptional case).
 - d) Have an engine capacity of at least 1300cc. (The vehicle complies).

- e) The vehicle to be constructed so that there are at least two doors for the use of the persons conveyed in the rear passenger compartment of the vehicle and a separate means of ingress and egress for the driver. (The vehicle only has one rear door for passenger use on the nearside. The rear off-side passenger door being blocked off by seating but Members may depart from this condition if there are good and justifiable reasons for departing from policy and Members consider this an exceptional case).
- f) There be provided a minimum seating space of 16” for each person carried in addition to the driver and sufficient clear leg space for persons to sit in comfort. (The vehicle has adequate comfortable seating).
- g) The vehicle to be of manufacturers original specification, conform to the requirements of the Road Traffic Act and the regulations made there under and be constructed for right hand drive the bodywork, upholstery, fittings and trim of the vehicle to be clean and in sound condition. (The vehicle has been converted. The original rear passenger forward / rearward facing seats have all been removed and replaced with side facing banqueting style seating which, it is understood, circumvents the requirements to have seat belts fitted. Members may depart from the vehicle being of the original specification providing it still conforms to the requirements of the Road Traffic Act but Members may only depart from this condition if there are good and justifiable reasons for departing from policy and Members consider this an exceptional case. The vehicle has been issued with a MOT confirming compliance with the Road Traffic Act and Construction and Use Regulations made there under).

7. Statutory Bodies’ Response

7.1 N/A

8. Summary of Representations / Objections

8.1 N/A

9. Relevant Licensing Policy Considerations

9.1 As summarised in paragraph 6.1 (a) to (g) above.

10. Key Issues

10.1 Apart from the vehicle not complying with the above conditions the main concern is that the original seating has been replaced with banqueting style seats by the previous registered owners who were Parsons Plant Hire and Repair, Newport Gwent, who do not appear to be recognised coachbuilders. There are no seatbelts in the vehicle and only one door for use by up to eight passengers

10.2 The safety of passengers must be paramount before commercial profit.

11. Risk Assessment

11.1 The following are the significant risks and opportunities identified;

Opportunity	Issues / Obstacles	Benefits
<p>An opportunity to use this application as a test Hearing and give indication to other potential applicants whether the Council is prepared to go consider licensing novelty type vehicles as Private Hire Cars.</p> <p>There is an opportunity to promote the Councils Objective of CP2: sustaining and increasing employment, maintaining the current level of VAT businesses</p>	<p>There must be valid reasons to go outside the Councils standard licensing Conditions.</p> <ul style="list-style-type: none"> • Councils must consider passenger safety. There is only one rear door for use by passengers. The seating arrangements have been changed by an unrecognised coachbuilder and there are no seatbelts for passenger use. • The Council will need to draw a balance between the potential risk associated with this type of vehicle and the anticipated benefits • Failure to adequately consider these issues and give reasons could result in the Council facing an appeal to the Magistrates' Court. 	<p>An opportunity to promote the Council's Objectives of CP2: sustaining and increasing employment, maintaining the current level of VAT businesses.</p>
<p>To create an increased opportunity for employment in the district.</p>	<p>The above must always take precedence.</p>	<p>As detailed above.</p>

(Please note that due to the amount of paperwork contained within these appendices, full copies have only been circulated to the Members. Any interested parties who would like to receive full (or part) copies are asked to contact Member Support Services on (01803) 861273).

12. Conclusion

12.1 For the Licensing Committee to consider this report, specifically paragraph 6 concerning the Council's standard licensing conditions for design and safety of the vehicle and the key issues in paragraph 10 and to determine the application, giving reasons for the decision made.

12.2 If Members decide that the fire engine is suitable for licensing as a private hire vehicle, it is suggested that the vehicle specifications and conditions attached in **Appendix A** be applied also giving reasons.

Graham Munson
Licensing Manager

Licensing Committee
26 November 2009

Ian Bollans
Head of Environmental Health

Background Documents:

- Application for a Private Hire Vehicle Licence from Darren Edge of 9, Bowers Park Drive, Woolwell, Plymouth.
- VOSA Certificate (Class IV MOT).
- Vehicle Registration Certificate Vehicle first Registered 18/10/1990.
- SHDC Conditions of Licences for Hackney Carriage Vehicles / Drivers and Private Hire Vehicles / Drivers and Operators published March 1999.

Suggested conditions

APPENDIX A

Conditions for the Licensing of a Fire Engine as a Private Hire Vehicle

The vehicle is licensed subject to the following conditions. The licence relates to this vehicle only (Registration number **H869 XYF** chassis number **YB1E6A4A9LB454772**) and any Private Hire Plate issued to this vehicle cannot be transferred to any other vehicle.

- 1) When children are being carried on the vehicle the licensed driver and any crew must have undergone an enhanced CRB check and from July 2010 must be registered with the Independent Safeguarding Authority.
- 2) Whenever passengers are entering and leaving the vehicle physical assistance must be provided by the operator/crew to ensure passenger safety.
- 3) Additional steps must be carried and used on the vehicle to facilitate access to and egress from the passenger compartment of the vehicle.
- 4) Passengers must be advised before being allowed access to the vehicle that they must not embark or disembark the vehicle without assistance from the driver/crew and signs shall be displayed in and on the vehicle to this effect which shall be clearly visible to all passengers.
- 5) An audible and visual alarm system, which indicates that the door is open must be fitted to the rear passenger near side compartment door and must be active at all times.
- 6) Any restrictions on access to the vehicle by disabled persons must be advised to passengers at the time of booking and in any promotional literature and advertisements.
- 7) Seatbelts must be provided for all passengers.
- 8) Suitable signage advising passengers to wear seatbelts must be displayed in a clearly visible position in the passenger compartment.
- 9) All external lockers on the vehicle must be secured to prevent access by passengers or the public.
- 10) The main fire fighting water tank shall always be empty when carrying passengers.
- 11) There should be no hooks or sharp objects on, or in, the vehicle.
- 12) The floor compartment in the passenger area of the vehicle must be kept clear and unobstructed at all times.
- 13) No person involved in the operation of the vehicle may wear any clothing (with the exception of a helmet) that might lead a member of the public to believe that that person is a member of the Fire and Rescue Service.
- 14) The blue light is to be replaced with an amber light and the siren/two tone horns must be permanently disabled.
- 15) The words "Fire" and "Rescue" must not be displayed anywhere on the vehicle.
- 16) Any ladders on the vehicle which may be allowed on the vehicle, which may allow the public to climb onto the vehicle, must be removed, covered or altered to prevent unauthorised access onto the back of the vehicle.
- 17) The vehicle is to be taxed as a Private/Light Goods and not as an exempt vehicle.

- 18) The vehicle will clearly display the identification plate issued by the licensing authority at the rear of the vehicle.
- 19) The vehicle to be serviced/mechanically checked by a competent person every 8 weeks and a copy of the written inspection forwarded to the Licensing Authority within 7 days of such.
- 20) The vehicle to be MOTed at the Vehicle Operator and Service Agency (VOSA) Vehicle Testing Station, Crownhill within one calendar month prior to first plating by the Authority and have a subsequent MOT carried out by the by the same VOSA testing station at Crownhill every four calendar months. When the vehicle reaches twenty two years from first registration it must have a MOT at this testing station every eight weeks.
- 21) The maximum permitted number of passengers is 8 (9 including the driver).
- 22) Tyres fitted to the vehicle must be appropriate to the additional weight carried by this vehicle (these are normally rated as XL).
- 23) The Operator is to have adequate Public Liability Insurance of not less than £2 million.
- 24) Any loose fittings on or within the vehicle must be securely fixed (i.e. television, fire surrounds, audio equipment etc.)
- 25) The volume control of any amplified music must be directly under the control from the driver when seated in the driving seat.
- 26) Any glass drinking glasses within the vehicle are to be substituted with polycarbonate or plastic glasses.
- 27) Any alcohol sold or supplied by the operator, whether included in the hire agreement or not must only be sold or supplied in accordance with the Licensing Act 2003 legislation.
- 28) This vehicle shall not be re-licensed by this District Council other than with approval of the Licensing Committee.