

**LICENSING AND REGULATORY COMMITTEE**

**16th February 2023**

**ITEM FOR DECISION**

**REPORT OF THE HEAD OF  
HOUSING & PUBLIC PROTECTION**

**Local Government (Miscellaneous Provisions) Act 1976**

**1. SYNOPSIS**

An application has been received which officers are unable to deal with under delegated powers. Elected Members are asked to consider the application and all supporting written and verbal submissions and determine whether or not the vehicle is suitable to be licensed as a private hire vehicle.

**2. IMPLICATIONS (include references to budget and policy framework)**

**Policy:** None

**Financial and  
Value for money** None

**Personnel:** None

**Property:** None

**Crime and Disorder:** None

**Equalities:** None

**Customer Considerations** None

**Human Rights:** Convention Rights – Article 6: Right to a fair trial, Article 8: Right to respect for private and family life, The First Protocol - Protection of Property

The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000.

### **Article 6: Right to a fair and public hearing**

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him
  - to have adequate time and facilities for the preparation of his defence
  - to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require
  - to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him
  - to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

### **Article 8: Right to privacy**

- Everyone has the right to respect for his private and family life, his home and his correspondence.
- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### **3. DETERMINATION OF APPLICATION**

The Sub-committee having considered all relevant written and verbal submissions made by or on behalf of the licence holder may:

- Elect to grant the licence if they consider there is reasonable cause to do so.
- Elect to refuse to licence the Private Hire vehicle if they are not satisfied that the vehicle meets the policy criteria relating to private hire vehicles under the terms of the Local Government (Miscellaneous Provisions) Act 1976.

Or

- Reduce the number of passengers allowed to be licensed (ie from 4 to 3)

In reaching a decision the Sub-committee should be aware that:

- the standard of proof (i.e. the standard to which the matters in dispute have to be proved) in this case is the civil standard of proof (i.e. on balance of probability).

In all cases where the Sub-committee determine refuse a licence they must provide reasons for that decision.

#### **4. BACKGROUND**

An application for a private hire vehicle was received on 11th January 2023 from The applicant. The vehicle in question is a Red Jaguar XE R-Sport D Auto. Details of the vehicle are attached as appendix A.

Prior to submitted the vehicle application, The applicant's wife requested the vehicle be inspected for its suitability to be licensed as a Private hire vehicle. A licensing Officer had inspected the vehicle on 6th January 2023 and found that the headroom was inadequate in the rear of the vehicle and the applicant's wife was informed at the time of this inspection of the officer`s findings, at which point she requested a second opinion.

On Friday 13th January, the vehicle was presented for a second inspection at Stakeford Depot, to assess whether it was suitable to be licensed as a private hire vehicle. Both the applicant and his wife were present.

Officers found that although the back seat met the requirements of the policy there was an issue with the head room available for rear passengers. Three people, 2 males and a female sat in the rear of the vehicle and it was found that the roof slopes meant there was not enough head room height for the comfortable carriage of 3 people in the rear of the vehicle. Two passengers heads touched the roof and the other person had to bend his head forward when sitting in the vehicle.

It was concluded by Officers that this vehicle was not suitable in type, size or design for use as a private hire vehicle as the back seats were not comfortable for three rear passengers and therefore does not comply with the policy criteria.

## 5. ADDITIONAL INFORMATION

*Any vehicle used as a private hire vehicle must be licensed under section 48(1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 which requires the Council to be satisfied that any vehicle is:*

- ***suitable in type, size and design for use as a private hire vehicle;***
- *not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;*
- *in a suitable mechanical condition;*
- *safe; and*
- ***comfortable.***

*The Council has in place a hackney carriage and private hire licensing policy.*

*The policy in relation to the licensing of private hire vehicles states that the seating capacity of the vehicle will be determined by the Council. Each individual seat must be a minimum of 400mm (16") in width. Where the seating in the vehicle does not conform **or for other reasons associated with comfort and safety of the passengers**, the Council may reduce the permitted number of passengers which may be carried in the vehicle from that specified by the vehicle manufacturer.*

## 6. APPEAL

Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, if the applicant is aggrieved by any or all of the decisions reached by the Sub-committee, he has the right of appeal within twenty-one days to the magistrate's court upon receipt of written notification of the decision of the Sub-committee.

## 7. BACKGROUND PAPERS

Appendix A- Private Hire Vehicle specification (Policy)  
Appendix B - Jaguar XE specifications (headroom and legroom)  
Local Government (Miscellaneous Provisions) Act 1976

## 8. CONTACT OFFICER(S)

Mrs Helen Tait, Senior Licensing Officer

For further information please contact Mrs Helen Tait  
helen.tait01@northumberland.gov.uk

### Appendix A;

#### *Private Hire Vehicles*

*A private hire vehicle is a motor vehicle constructed or adapted to seat no more than 8 passengers which is provided for hire with the services of a driver for the purpose of carrying passengers. All hirings for a private hire vehicle must be pre-booked through a licensed private hire operator. Any vehicle used as a private hire vehicle must be licensed under section 48(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 which requires the Council to be satisfied that any vehicle is:*

- ***suitable in type, size and design for use as a private hire vehicle;***
- *not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;*
- *in a suitable mechanical condition;*
- *safe; and*
- ***comfortable.***

*In addition to the statutory requirements as set out above, the Council has exercised its discretion and private hire vehicles must:*

- *Not be fitted with a roof sign of any description. The Council wishes to provide a means by which in accordance with the law private hire vehicles are not of an appearance to lead any person to believe that the vehicle is a hackney carriage, the Council has required all hackney carriages to have a roof sign of a particular size and design and prohibits private hire vehicles from having a roof sign of any description.*
- *Clearly display a licence plate provided by the Council on the exterior of the rear of the vehicle, which must be securely attached to the vehicle by rivets, bolts or screws.*
- *Display a door decal supplied by the Council centrally on each of the front doors of the vehicle. The decals are to be securely fixed to the vehicle doors at all times.*

- *Display the vehicle licensing details internally within the vehicle in a form provided by the Council.*
- *If the vehicle is fitted with a meter, it must be properly tested and sealed and be of a type approved by the Council.*
- *Permit any passenger to communicate with the driver either directly or by means of an approved communication system.*
- *Have a boot or load carrying area with adequate space for the safe and secure storage of luggage. In the case of a saloon or estate vehicle this shall not be within the passenger compartment and in all other cases shall not interfere with the safe access and egress of passengers. The minimum space required will be such as to allow a folded wheelchair to be carried.*
- *The seating capacity of the vehicle will be determined by the Council. Each individual seat must be a minimum of 400mm (16") in width. Where the seating in the vehicle does not conform or for other reasons associated with comfort and safety of the passengers, the Council may reduce the permitted number of passengers which may be carried in the vehicle from that specified by the vehicle manufacturer.*

Appendix B;

Vehicle Specifications (data taken from Jaguar webpage)

<b>Maximum front/rear headroom with standard roof (mm)</b>	971 / 948
<b>Maximum front/rear headroom with panoramic roof (mm)</b>	941 / 940

<b>Maximum front/rear legroom (mm)</b>	1,055 / 889
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