

REPORT TO: LICENSING COMMITTEE

DATE: 9 JULY 2019

TITLE: PRIVATE HIRE OPERATOR APPLICATION
PROCEDURE UPDATE

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RECOMMENDED that the Licensing Committee:

- A** Notes the content of the report.
- B** Recommends to Full Council that the revised Operator Licensing Procedures, attached as Appendix 2 to the original report, be adopted.

BACKGROUND

1. At its meeting of 12 March 2019, the Licensing Committee resolved to recommend to Full Council adoption of the revised Private Hire Operator Licensing Procedure. The relevant report can be seen as Appendix A.
2. At the Full Council meeting on 4 April 2019 a concern was raised regarding the proposed revised procedure that a restriction of no more than two Private Hire Vehicles being parked outside of a residential address had been removed when there was no legal requirement to remove it.
3. Full Council resolved to refer the matter back to the Licensing Committee so that the legal implications of the decision could be fully considered.

ISSUES/PROPOSALS

4. The current procedure does not deal with parking as such but does state under "general information" that "A residential private hire operator may operate a maximum of two vehicles."
5. The Council licenses Private Hire Operators by virtue of Part II of the Local Government (Miscellaneous Provisions) Act 1976. The law requires the Council to grant a licence on application unless it is not satisfied that the applicant is a fit

and proper person or has immigration status permitting them to work in this capacity.

6. The law does not provide make any provision that would permit the Council to decline to entertain an application from an operator who proposed to operate any specified number of vehicles.
7. The Council has the power to apply such conditions to the grant of a licence as it considers reasonably necessary. To avoid the risk of successful appeal with attendant costs being awarded against the Council the Council must be able to demonstrate that any conditions applied are indeed necessary and reasonable.
8. It is understood that parking is of concern in residential areas. Use of a home for business may not require planning permission. Where it substantially changes the nature of the use, it may. Parking may be a valid planning consideration. The Licensing team will advise the Planning team of applications for use of residential premises by Operators.
9. Parking of private hire vehicles in the vicinity of a prospective operator's premises may raise safety concerns that may not be addressed by Planning law. On the individual merits of such a case a condition intended to restrict parking by private hire vehicles in the vicinity of the operators premises might be shown to be reasonably necessary.
10. An operator's business may practically and lawfully be conducted in such a way that private hire vehicles never attend the operator's premises. A condition that in every case restricted the number of vehicles operated might be shown not to be reasonably necessary.
11. Considering the foregoing it appears appropriate not to include a reference to restriction on the numbers of vehicles that may be operated from residential premises in the proposed revised Operator Licensing Procedures.

IMPLICATIONS

Place (Includes Sustainability)

Licensing considerations are as set out in the report.

Author: Andrew Bramidge, Project Director – Enterprise Zone and Interim Head of Planning

Finance (Includes ICT)

None specific.

Author: Simon Freeman, Head of Finance and Deputy to the Managing Director

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

None specific.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

The Local Government (Miscellaneous Provisions) Act 1976 does not give the Council the power to restrict the number of private hire vehicles that may park outside a residential address. Any vehicle which is insured, taxed and has a valid MOT (if applicable) can be parked at any legitimate place on a public highway at any time, subject to any parking restrictions. If parking is considered to be a material issue when determining an application for an operator licence operating from residential premises, the Council can pursuant to s.55 (3) LGMP Act, impose conditions on a licence where it 'considers reasonably necessary' to do so.

Author: Dimple Roopchand, Principal Solicitor on behalf of Simon Hill, Head of Governance

Appendices

Appendix A – Original Report to Licensing Committee on 12 March 2019 'Private Hire Operator Application Procedure Update'

Background Papers

None.

Glossary of terms/abbreviations used

LGMP Act – The Local Government (Miscellaneous Provisions) Act 1976