

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver - Review of Licence Status
Committee: Taxi Licensing Committee
Date: 24 January 2013
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: Mark Small – Taxi Licensing Officer
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Ref: ERS/LIC/MTS/srd
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr Stephen Roy Doney, having due regard for the information contained within the report, any representations made by him and the Taxi Licensing Policy of the Council.

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities.
In particular : Provide value for Communities.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

That Members of the Taxi Licensing Committee consider this report.

Alternative options considered and rejected:

None.

Published work / information:

None.

Background papers:

None.

Sign off:

Fin		Leg	AZG/16511/ 4.1.13	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

Report

1. Stephen Roy Doney is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council prior to 1998. His current licence is due to expire on 7 May 2013. He is also the licence holder and sole driver of a licensed Private Hire vehicle registered number RA05SVT. The licence for this vehicle expires on 21 December 2013.
2. On 16 November 2012, during a joint agency enforcement patrol, the above vehicle, licence number 336, registration number RA05SVT, which was being driven by Mr Doney was found to be un-roadworthy. The vehicle had been observed to drop passengers in Notte Street and was stopped in Bretonside by the Police Officer accompanying the Taxi Enforcement Officer for a routine inspection.
3. During the inspection the following defects were identified.

The front offside tyre had excess wear and was showing cord to both the shoulders of the tyre and a tread depth reading of 1.03mm was recorded on the outermost tread wear indicator point, and 1.15mm on the innermost tread wear indicator point.

The front nearside tyre had excess wear and a tread depth reading of 1.14mm was recorded on the outermost tread wear indicator point, and 1.25mm on the innermost tread wear indicator point.

A minimum legal tread depth of 1.6mm is required across the central $\frac{3}{4}$ area of the entire circumference of the tyre. Tread wear indicators within the tyre tread depth are set at 1.6mm and indicate the measurable area of the tyre. Tyres that also show cord, wire or suffer from any separation of the rubber components are also unlawful.

Tyre measurements were obtained by using a calibrated digital tyre tread depth measurement device which is equipped to Taxi Enforcement Officers.

The vehicle licence was immediately suspended by virtue of section 26 of the Plymouth City Council Act 1975 by issuing Mr Doney with a notice of suspension. The private hire vehicle licence plate was also removed by virtue of section 16 of the Plymouth City Council Act 1975, and by the serving of a notice on Mr Doney being the vehicle proprietor as required by that Act.

Mr Doney was also issued with a fixed penalty notice by the Police Officer for having a defective tyre which was worn to the cord.

The licence was re-instated on the 19 November 2011 after both tyres had been replaced.

4. It should be noted that the vehicle was found to be defective at 22:35hrs. It was during the hours of darkness and street lighting was on. The road surface was wet as it had been raining during the evening and drizzle was still present.

The Taxi Enforcement Officer asked Mr Doney when he last checked his tyres he responded "I've been meaning to get them done, I've been trying to get the money together". When the officer asked him if he knew they were below the limit, Mr Doney said "Yeah, but I did not have the money. I chanced my arm." When he was told this was not the best thing to do when taking members of the public about, he acknowledged it wasn't the best thing to do.

5. Members are made aware that, as the owner and sole driver of Private Hire vehicle 336, Mr Doney is responsible for its road worthiness. The defective tyres could be plainly seen to anyone who gave the tyres even a casual inspection. Mr Doney has acknowledged that he knew

the tyres were defective by his remarks when asked about when he last inspected them, which raises concerns about Mr Doney's attitude towards the safety of his passengers and to the rules that are attached to vehicles and their maintenance.

6. Members are further made aware that this is not the first occasion that Mr Doney has been found to be using an un-roadworthy Private Hire vehicle. At 18:35hrs on 11 January 2008 he was the licence holder and driver of V820HOD licence number 1227 when it was inspected by a Taxi Enforcement Officer in Albert Rd, Plymouth. On that occasion both front tyres were found to have excessive wear taking the tread depth to below the legal minimum level. The vehicle licence was suspended by virtue of section 26 of the Plymouth City Council Act 1975. The licence was re-instated on the 14 January 2008 when both tyres had been replaced.
7. Members are asked to consider whether Mr Doney is a 'fit and proper' person and whether any action should be taken against his Private Hire driver's licence in light of the lack of maintenance of the vehicle that he drives.
8. It is a condition of the Private Hire Vehicle Licence (condition 16) that all tyres and wheels (including the spare) must meet the legal requirements as to suitability for use of the vehicle. Tyres must have a minimum tread depth as required by law. They must be kept in good order and at the correct pressures. A wheel brace and car jack to enable the effective change of tyre and wheel must be carried.
9. Mr Doney has previously appeared before Members of the Committee on 30 September 2010 where the status of his Private Hire driver's licence was reviewed following a breach of his conditions of licence and his failure to supply a medical upon request. On that occasion, Members imposed a three day suspension on his Private Hire driver licence.
10. In respect of the Private Hire driver licence, the actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Private Hire vehicle for any other reasonable cause.
11. Members are also asked to consider whether Private Hire vehicle 336 registered number RA05SVT is fit for use as a private hire vehicle and whether any action should be taken against the vehicle licence in light of the above failed inspection. This may include an increase in the vehicle testing frequency.
12. In respect of the Private Hire vehicle licence, the actions open to Members are those contained in Section 18(1) (b) of the Plymouth City Council Act 1975 which provides for the Council to suspend, revoke or refuse to renew a vehicle licence on the grounds that the Private Hire vehicle is unfit for use as a Private Hire vehicle or for any other reasonable cause.
13. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council's policy are detailed below:

General Policy

The Council's Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

- I. Safety and health of drivers and the public – e.g.
 - Consideration of history of convictions and cautions

- Driver training, qualification and performance
 - Health and Fitness to fulfil the role
 - Crime prevention measures
2. Vehicle safety, comfort and access
 3. To prevent crime and disorder and to protect consumers – e.g.
 - Commitment to work with the police and licensing authorities
 4. To encourage environmental sustainability

Chapter 2. – Conditions of Licence

Paragraph 12.3 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy states that when considering whether someone is ‘fit and proper’ the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Qualifications
- Criminal record (as to relevance of offences)
- Previous history as a licence holder

Paragraph 18.2 - requires that in considering whether a person is “fit and proper” each case is considered on its own merits.

Chapter 4 – Enforcement Policy

Paragraph 7.2 – States that licensed vehicles will be subject to periodic random inspections by authorised officers or its agents to ensure the vehicle is fit for purpose.

Paragraph 7.3 – States that where the Licensing Committee is satisfied that a vehicle fails to meet any specification or condition of licence or the relevant construction and use regulations as required by law, they may suspend, revoke or refuse to renew a vehicle licence for any specified period.

Paragraph 7.4 – States that an authorised officer may suspend the licence of a licensed vehicle where it is found to have a defect which poses a danger to either passengers or other members of the public, until such time as the defect has been remedied.

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is no longer, for example, ‘fit and proper’ or where a breach of condition of licence has been established.

Paragraph 8.2 - Requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, and any other information thought pertinent to the matter being considered.

Paragraph 10.2- Gives the Committee the discretion to direct a driver appearing before them to complete further training or retraining, should the drivers’ suitability to retain a licence be called into question.

14. Mr. Doney has been invited to attend this Licensing Committee in order that the matters contained within this report may be considered.