

Date of Meeting: Wednesday 14th October 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release: N/A

Determination of an application to licence a hackney carriage vehicle which has been classed as a Category S write-off.

Report summary:

It is the district council's policy that that a vehicle which has been categorised as a category C or D write off by a relevant insurance company, under the Code of Practice for the Disposal of Motor Vehicle Salvage, may be considered for licensing by a Licensing and Enforcement Sub-Committee subject to higher levels of examination and vehicle reports. Where examinations provide any cause for the safety of the public such applications may be refused. Please note that in October 2017, The Association of British Insurance (ABI) changed the write-off categories but this is not yet reflected in the licensing policy for Hackney Carriages, Private Hire Vehicles, Drivers and Private Hire Operators. Category S is now the equivalent to a former Category S vehicle write-off.

Recommendation:

That the Sub Committee considers the application to licence a silver Peugeot Horizon MPV vehicle registration number SF66 FKP as a wheelchair accessible hackney carriage vehicle and determine whether to refuse the application on the basis of it being a written-off vehicle or agree to licence the vehicle. Being a category S write-off (formally category C), the Committee must consider whether the professional works carried out to the vehicle are satisfactory to allow it to be licensed.

Reason for recommendation:

To ensure that vehicles licensed with this authority meet a high standard of passenger safety and comfort and are fit to carry out the work that is required as a hackney carriage.

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Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no financial implications in this report. If the applicant appeals against the decision made there may be a possibility of court costs and minimal officer time being incurred due to the appeal

Legal implications:

The legal implications are set out within the report. The committee to make the decision based on the current licensing policy and legislation.

Equalities impact: Low Impact

Climate change: Medium Impact

Risk: Medium Risk;

Links to background information:

- Appendix A - Application for the Grant of a Hackney Carriage vehicle licence for vehicle registration SF66 FKP
- Appendix B - MOT history for Peugeot Horizon SF66 FKP
- Appendix C - Email from applicant explaining works carried out to vehicle SF66 FKP
- Appendix D - Receipts of works carried out to vehicle SF66 FKP
- Appendix E - Confirmation of vehicle write-off classification provided by Autotrader
- Appendix F - UK Registration certificate for vehicle registration SF66 FKP
- Appendix G - Vehicle Inspection report for vehicle registration no SF66 FKP
- Appendix H - Tax status for vehicle SF66 FKP
- Appendix I - AA report for vehicle SF66 FKP dated 10th July 2020
- Appendix J - Wheelchair accessible requirements and conditions detailed in the Hackney Carriages, Private Hire Vehicles, Drivers and Private Hire Operators policy.

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

- 1.1 The licensing of hackney carriages and private hire vehicles is the responsibility of the council and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 **Section 47 Local Government (Miscellaneous Provisions) Act 1976 states that:**
Licensing of hackney carriages:
 - (1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.
 - (2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such

design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

- 1.3 In March 1994 the Council's Tourism and Transportation Committee agreed to consolidate the terms and conditions of hackney carriage and private hire licensing requirements into a policy which should be made available to existing and potential hackney carriage and private hire drivers, owners and operators. In 2017, the Council introduced its Taxi and Private Hire policy outlining a more robust approach that states that 'For reasons of public safety the Licensing Authority will not normally accept any vehicle that has been subject to such damage as to be categorised as a category A or B write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage. As damage at this level cannot always be detected or fully repaired. This policy will apply regardless of whether or not the vehicle has since been repaired to an MOT pass standard. Vehicles categorised as a category C or D write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage may be considered for licensing by a Licensing and Enforcement Sub-Committee subject to higher levels of examination and vehicle reports. Where examinations provide any cause for the safety of the public such applications may be refused'.
- 1.4 In support of this application the following documentation has been produced:
- Appendix A - Application for the Grant of a Hackney Carriage vehicle licence for vehicle registration SF66 FKP
 - Appendix B - MOT history for Peugeot Horizon SF66 FKP
 - Appendix C - Email from applicant explaining works carried out to vehicle SF66 FKP
 - Appendix D - Receipts of works carried out to vehicle SF66 FKP
 - Appendix E - Confirmation of vehicle write-off classification provided by Autotrader
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 - Appendix H - Tax status for vehicle SF66 FKP
 - Appendix I - AA report for vehicle SF66 FKP dated 10th July
 - Appendix J - Wheelchair accessible requirements and conditions detailed in the Hackney Carriages, Private Hire Vehicles, Drivers and Private Hire Operators policy.
- 1.5 The applicant has also provided a video tour of the vehicle to assist this virtual hearing and in lieu of a physical inspection.
- 1.6 The vehicle is described in the registration document produced at **Appendix F** as a Silver Peugeot Horizon RS registration number SF66 FKP. The body type is described as a four door, 5 seater MPV with an engine cylinder capacity of 1560cc. The vehicle identification no is shown as VF37JBHYMGJ830216 and the date of first registration is shown in the registration document as the 23 December 2016. The vehicle is now 3 years and 10 months old.
- 1.7 The vehicle is a Category S write-off which is shown by Autotrader in **Appendix E**. This is defined on Gov.uk as 'Can be repaired following structural damage. You can use the vehicle again if it's repaired to a roadworthy condition'.
- 1.8 The MOT history of the vehicle can be found in **Appendix B**. It should be noted that the vehicle failed an MOT on 7 July 2020. The applicant confirms that works were carried out to rectify these advisories and receipts to this effect are shown in **Appendix D**. The

vehicle was tested again on 8 July 2020 where it passed with no advisories. The mileage on that date was 10,123.

- 1.9 A vehicle inspection report has been provided for the vehicle dated 8 July 2020 and showing in **Appendix G**. Note that there are no failed checks on this report but that some checks are left blank. The blank checks relate specifically to the requirements of a Hackney Carriage and should the vehicle be granted a Hackney Carriage licence, these requirements will be put into place by the applicant before the licence is given.
- 1.10 The applicant has obtained and supplied an AA comprehensive Inspection report for vehicle SF66 FKP dated 10 July 2020. This report was carried out after the initial damage was fixed and shows that the vehicle had some items that needed further attention. This report can be found at **Appendix I**.
- 1.11 The applicant has provided receipts for works to rectify the items listed in the AA report and has ticked accordingly. The receipts for works can be seen in **Appendix D**.
- 1.12 The vehicle is currently taxed and this status can be seen in **Appendix H**.
- 1.13 The vehicle's configuration is: driver's seat and one passenger seat in the front. In the rear compartment there is a further 3 seats, 2 of which can be folded up to allow a wheelchair to board the vehicle. This then creates a wheelchair anchorage area with 3 point belt and there is a rear loading wheelchair ramp in the boot space.
- 1.14 When considering the application, Members are asked to consider the additional requirements for wheelchair accessible vehicles shown in **Appendix J**.
- 1.15 If members are minded to grant the licence for the vehicle, the following conditions for wheelchair accessible vehicles should be applied to the licence;
- When the vehicle is carrying a passenger in a wheelchair, only a maximum of TWO additional passengers to the wheelchair user are permitted.
 - If wheelchairs and luggage are to be carried together then the emergency exit must be unobstructed.
 - A suitable restraint must be available for the occupants of all wheelchairs; this is in addition to any wheelchair clamps.
 - Access ramps or lifts to the vehicle from outside the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper.
 - Ramps and lifts must be securely stored in manufacturer's authorised positions before the vehicle moves off.
- 1.16 The applicant has informed the Licensing Officer that he does not intend to insure the vehicle as a hackney carriage until he knows if this application will be granted. This is standard practice as most insurance companies require sight of the vehicle licence before they will issue the full insurance. The applicant has informed the Licensing Officer that if the committee are minded to grant the application he will provide an insurance certificate covering the vehicle for use of hire and reward, prior to the licence being granted.
- 1.17 Should this application be refused the applicant has the right to appeal the decision to a Crown Court within 21 days.

2 Background Information

- 2.1 As explained at paragraph 1.3, in 2017, this Council introduced a policy whereby vehicles categorised as a category C or D write off may be considered for licensing by a Licensing and Enforcement Sub-Committee. This is a policy agreed by members following, as in all cases of policy, consultation with the trade. Policy is more than advice and should not be disregarded unless exceptional circumstances apply. In this case this means that the vehicle should be safe to become a licensed Hackney Carriage which will convey the public. It is for the applicant to provide the supporting information and for the Members to consider the virtual tour. If members have any concerns over the safety of the vehicle, then the application should be refused.
- 2.2 Licensing records show that vehicles which been previously written off as Category C or D have been approved for licensing, although exact numbers cannot be confirmed.
- 2.3 Within the East Devon area, there are currently two Hackney Carriages and five Private Hire Vehicles which are currently licensed as wheelchair accessible vehicles. The applicant is the proprietor of the two existing wheelchair accessible licensed Hackney Carriages.

3 Conclusion

- 3.1 The vehicle is a Category S write-off. Works have been carried out to the vehicle so that it is considered roadworthy and as required by the failed MOT and AA report. The applicant has provided receipts to evidence this.
- 3.2 It is the Licensing Manager's recommendation that only if members are satisfied that there are exceptional reasons for doing so should this application be granted. Issues that members should consider include the safety of the vehicle and the quality of repairs carried out as well as the information included within the documentation listed in the appendices.
- 3.3 When considering the application, members must not refuse the application purely for the purpose of limiting the number of hackney carriage licenses granted by East Devon District Council.
- 3.4 An AA 'Comprehensive' test report on the vehicle has been supplied to assist a decision and the vehicle seems in good condition with low mileage.
- 3.5 Should members be minded to grant this application it is requested that the decision should include a requirement for the applicant to provide, before the vehicle is licensed, the following;
- a) a current insurance certificate specifying that the vehicle is insured for '*use by authorised persons for the carriage of passengers or goods for hire or reward*' or similar
 - b) proof that the hackney carriage roof sign has been fitted, the fare meter has been fitted and calibrated to the East Devon tariff and a first aid kit and fire extinguisher have been placed in the vehicle.
- 3.6 If this application is refused the applicant has the right of appeal the decision to a Crown Court within 21 days.