

20th January 2016

## Licensing and Appeals Sub Committee

### Application for the Grant of an Operator's Licence - Local Government (Miscellaneous Provisions) Act 1982

**Report of:** Gordon Glenday – Head of Planning, Borough Health, Safety & Localism

**Wards Affected:** All

**This report is:** Public

#### 1. Executive Summary

- 1.1 Members are requested to determine an application for the grant of an Operator's licence to take bookings for a private hire vehicle within this borough. The applicant does not currently qualify under the Council's pre licensing conditions by virtue of not having held a licence to drive private hire vehicles for a period of 2 years or more.

#### 2. Recommendation

##### 2.1 The following options are open to Members;

- a) To grant the application subject to standard conditions
- b) To grant the application subject to standard conditions and any additional conditions as determined appropriate in the individual circumstances of the application
- c) To refuse the application.

#### 3. Introduction and Background

- 3.1 The applicant, Mr. Alan Heggie runs a Company named 'The Flying B' and originally made an application for a Private Hire Operator's Licence to work in Brentwood on 2<sup>nd</sup> November 2015.
- 3.2 Private Hire Vehicle Operator's Licence Pre-Licensing Conditions state that the applicant shall have been licensed as a Private Hire or Hackney Carriage vehicle driver for at least two (2) years within Brentwood prior to his/her first application. A copy of the Pre-Licensing conditions is attached at **Appendix A**.

- 3.3 Mr. Heggie has never driven as a licensed driver within Brentwood and although he has made application to enable him to drive a licensed Hackney Carriage or Private Hire vehicle, he has not done so for the required 2 year period. This contravenes the pre-licensing condition and therefore, the application must be refused by officers.
- 3.4 Mr. Heggie has appealed the decision to refuse his application via e-mail, which was received on 9<sup>th</sup> November 2015. A copy of the email is attached at **Appendix B**.

#### **4. Issues Options and Analysis of Options**

- 4.1 The initial application was received on 2<sup>nd</sup> November 2015 from the owner of an existing Company, namely Alan Heggie, trading as 'The Flying B'. A copy of the application is attached as **Appendix C**.
- 4.2 It is the intention of Mr. Heggie that he would operate as an Operator/Driver Company based in Brentwood that would focus on a specialist clientele, e.g. large corporations, private jet rentals, Executive hire etc.
- 4.3 It is notable from the application that the vehicle being used by Mr Heggie is a Bentley. This is therefore, not a vehicle that would be used for every day private hire work as with a standard private hire operation.

#### **5. Reasons for Recommendation**

- 5.1 If granted, this applicant will be responsible for ensuring that he complies with the conditions and pre-conditions as laid out in 4.3 of this report, with the exception of any conditions that are relaxed by Members as a result of this application.
- 5.2 The nature of the business being operated by the applicant is such that it is not likely to raise any concern should the pre-licensing conditions be relaxed on this occasion. The nature of delegation however, is such that only a Sub Committee has the power to divert from pre-licensing requirements and conditions.
- 5.3 The matters for consideration are laid out in note 2 of the pre-conditions which states:
- 'All relevant information will be taken into account when consideration is given to an application for a Private Hire Vehicle Operator's Licence, and it may be that the standards and requirements are waived or amended or added to at the discretion of the Council'.*
- 5.4 There is a duty for each application to be considered on its own merits and this means that pre-licensing conditions are able to be diverted from if Members consider it appropriate to do so in the individual circumstances of the application.
- 5.5 One of the key considerations in determination of this application is whether the nature of the business that Mr Heggie wishes to operate is

such that Members do not consider there to be any relevance to applying the restriction in this case on the basis that this business is not a standard Private Hire business.

## **6. References to Corporate Plan**

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

**A prosperous Borough** – “Safeguarding public safety through a risk based regulation and licensing service.”

*Street Scene and Environment* – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

## **7. Legal Implications**

- 7.1 Members are asked to consider the individual merits of the application with regard to the pre-licensing conditions and any testimony from the applicant. Due to the hearing’s requirements and the right of the applicant to have the application determined on merit and without bias no recommendations can be made. The available options in respect of this application are highlighted in paragraph 1 of this report.
- 7.2 If granted, any future applications by Mr Heggie for renewal of his licence would be granted under delegated powers provided that there were no concerns evidenced in relation to the operation of the business.
- 7.3 There is a right of appeal in relation to determination in respect of this application to the Magistrates Court.

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