

Item

TO CONSIDER CAB23'S APPLICATION FOR A FIRST RENEWAL OF AN OPERATOR'S LICENCE WITH CAMBRIDGE CITY COUNCIL

To: Licensing-Sub Committee: Taxi Regulatory Hearing

Report by: Gemma Tilley - Team Manager (Commercial & Licensing)

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Wards affected: All

NOT FOR PUBLICATION: The Appendices 1-4 relates to an item during which the public is likely to be excluded from the meeting by virtue of paragraphs 1 & 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

1. INTRODUCTION

- 1.1 The purpose of this report is to consider CAB23's first renewal application for a Private Hire Operator's Licence to operate Private Hire Vehicles licensed by Cambridge City Council.
- 1.2 The application is classed as a first renewal application which is for any Private Hire Operator wishing to renew the licence at the expiry of the first year of holding the licence. The current application procedure for first renewals requires an operator to demonstrate that they have been operating a private hire business for the full duration of the licence; the matter is then referred to the Licensing Sub-Committee for determination.

2. RECOMMENDATIONS

- 2.1 It is recommended that Members consider the information contained in this report, any representations made to them and the legislative provisions and policy considerations detailed in paragraphs 4 and 5 below, and determine whether Mr Tsakanikas, operating as CAB23, is a "fit and proper person" to continue to be licensed by Cambridge City Council as a holder of a Private Hire Operator's Licence.

3. BACKGROUND

- 3.1 CAB23 was first granted a Private Hire Operator's Licence (Licence Number: PHO091) on 4th April 2019. The licence is due to expire on 3rd April 2020. A copy of the current licence is as Appendix 1.

- 3.2 Mr Tsakanikas, the holder of the Private Hire Operator licence for CAB23, has been a licensed driver with Cambridge City Council since at least 2004 according to our records. He also currently holds a Dual Driver's Licence which is due to expire on 15th January 2023.
- 3.3 CAB23 was contacted on 19th December 2019 and were also advised that their first renewal would have to be referred to Committee to determine. They were also advised they would need to be inspected should they wish to renew their Private Hire Operators licence.
- 3.4 An operator inspection was conducted by Alexander Nix on 23rd January 2020 at the registered office address of CAB23. The business is located in a purpose built office block and, for clarification, does not offer any waiting room facilities for customers. A copy of the inspection form is at Appendix 2.
- 3.5 Applicants renewing their operator's licence are able to renew their licence for either one or five years. The renewal fee has not yet been paid and is pending the outcome of this Committee.
- 3.6 A sample of the records evidencing that CAB23 has been operating for a year since the initial grant of the licence is also attached at the end of the operator inspection at Appendix 2. All the records seen have been in accordance with the conditions attached to the licence.
- 3.7 Mr Tsakanikas uses the Private Hire Operators licence for CAB23 to conduct airport runs and other private hire work using his own vehicle (HCV325) and two private hire vehicles (PV1498 & PV1415) licensed by Cambridge City Council. He also uses some other vehicles and drivers licensed by South Cambridgeshire District Council under a Private Hire Operators licence issued by them (PO – 0135).

- 3.8 CAB23 also accepts sub-contracted work from another operator licensed by South Cambridgeshire District Council.
- 3.9 No complaints have been received concerning the operator since the grant of the licence. However Mr Tsakanikas notified us on 19th March 2019 that he had received six points on his licence for exceeding a speed limit on a motorway. A copy of the declaration is at Appendix 3.
- 3.10 Mr Tsakanikas was also sent a warning letter concerning over ranking on to Parker St in Cambridge from the rank on Drummer St on 7th June 2019. A copy of the letter he was sent is at Appendix 4.
- 3.11 In summary Mr Tsakanikas has completed all parts of the application process satisfactorily and there are no outstanding issues from the inspection. Members must therefore determine whether the licence can be renewed.

4 LEGISLATIVE PROVISIONS

- 4.1 Section 62 of The Local Government (Miscellaneous Provisions Act) 1976 provides that:

(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefor under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:—

(a) any offence under, or non-compliance with, the provisions of this Part of this Act;

(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;

(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;

(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;] or

(d) any other reasonable cause.

(1A) Subsection (1)(ca) does not apply if—

(a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the operator has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.]

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.

(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

5 POLICY

- 5.1 Section 44.4 of the Cambridge City Council Hackney Carriage and Private Hire Licensing Policy provides that an application for a Private Hire Operator's licence shall be made on the specified application form, be accompanied by the appropriate fee and in accordance with the application procedure set out in Cambridge City Council's 'Hackney Carriage and Private Hire Handbook'. The Licensing Authority will then decide whether the applicant is a "fit and proper" person to hold an operator's licence.
- 5.2 A definition of what could constitute "fit and proper" is provided by Bingham LCJ in *McCool v Rushcliffe Borough Council* [1998] 3 All 889, QBD: "...those licensed to drive private hire vehicles are suitable to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers".
- 5.3 Appendix P of the 'Hackney Carriage and Private Hire Handbook' sets out the application procedure for those operators submitting a first renewal application. An operator will need to demonstrate they have been operating a private hire business for the full duration of the licence. An application for a renewal of a Private Hire Operator's Licence will be granted for either 1 or 5 years.
- 5.4 The Licensing Sub-Committee reserve the right to limit the duration of the licence and request a further review of the licence before any future renewal is granted. This handbook is available at:

<https://www.cambridge.gov.uk/media/6738/hackney-carriage-and-private-hire-handbook.pdf>.

- 5.5 The 'Councillor Handbook: Taxi and Private Hire Licensing' published by the Local Government Association contains advice on decision making by Licensing Sub-Committees. This handbook is available online at:

https://www.local.gov.uk/sites/default/files/documents/10.9%20Council%20Handbook%20-%20Taxi%20and%20PHV%20Licensing_November_2017.pdf.

6. OPTIONS

- 6.1 The Authority has a duty to ensure that a safe and secure 'taxi and private hire' service is available to the public.
- 6.2 Every case should be dealt with on its own merits and after consideration of any representations from the applicant and his referees the following options are available to the Sub-Committee;
1. Renew the operator's licence for one year;
 2. Renew the operator's licence for one year with additional conditions;
- or
3. Refuse the renewal application.

If Members choose options 2 then they must state the conditions to be added and give reasons for this decision.

If Members choose option 3 then they must be satisfied that Mr Tsakanikas has behaved in a manner that is not appropriate for a "fit and proper person" to hold an operator's licence and give their reasons.

Members are required to give their reasons for any decision reached.

6.3 Mr Tsakanikas has the right to appeal to the Magistrates Court against any decision taken by this Sub-Committee under Section 62(3) of the Act.

6.4 Members may give their decision at the hearing and, in any event, Mr Tsakanikas will be informed of the decision in writing as soon as possible. Any appeal must be lodged with the Magistrates Court within 21 days of receipt of the notification of the decision.

Should Members decide not to grant Mr Tsakanikas a licence then it should be noted that Mr Tsakanikas's details will be added to the NR3 National Anti-Fraud Network (NAFN) database. Information concerning such a refusal would then be available to other licensing authorities.

7. APPENDICES

Appendix 1 - Private Hire Operator Licence

Appendix 2 - Application Form

Appendix 3 - Copy of Mr Tsakanikas Points Declaration

Appendix 4 – Copy of warning letter sent 7th June 2019

8. INSPECTION OF PAPERS

To inspect the background papers or if you have a query on the report please contact:

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