



Item

TO CONSIDER AIRCAMBRIDGE'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

Appendix 2 contains exempt information during which the public is likely to be excluded from the meeting subject to determination by the Scrutiny Committee following consideration of a public interest test. This exclusion would be made under 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 the first renewal application for a Private Hire Operator's Licence issued by Cambridge City Council submitted by Mr Mert Buyukdag (operating as 'AIRCAMBRIDGE').
- 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. As per the current application procedure for first renewals, an operator is required to demonstrate that they have been operating a private hire business for the full duration of the licence; the matter is then be 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 Buyukdag 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 Mr Buyukdag was first granted a Private Hire Operator's Licence (Licence Number: PHO095) on 2nd September 2019. The licence is due to expire on 1st September 2020. A copy of the current licence is attached as Appendix 1.

- 3.2 Mr Buyukdag has been a licensed driver with Cambridge City Council since 21st July 2011. He currently holds a Dual Driver's Licence which is due to expire on 14th September 2020.
- 3.3 Mr Buyukdag submitted an application to renew his operator's licence for five years on 7th July 2020. Applicants renewing their operator's licence from the 'first renewal' onwards are able to renew their licence for either one or five years. The application form is attached as Appendix 2. Please note in sections 5 (j), (k) and (l) as well as 6 (a) that Mr Buyukdag answered the questions in relation to the policies and procedures adopted by the operators he receives jobs from.
- 3.4 An operator inspection was conducted by Mr Alex Beebe on 17th July 2020. This inspection took place remotely over the telephone, with permission of the Team Manager, due to the on-going COVID-19 pandemic. Mr Buyukdag uses a domestic premises, rather than an office, as his business address and all relevant documentation could be brought into council offices. For clarification, Mr Buyukdag does not offer any waiting room facilities for customers at the registered address. The application fee was paid in full after the inspection. A copy of the inspection form is attached as Appendix 3.
- 3.5 A sample of the records evidencing Mr Buyukdag has been operating for a year since the initial grant of the licence is attached as Appendix 4. Some minor issues were identified with the records being kept that omitted some necessary information required as set out in Appendix P ('Guidance for Private Hire Operators') of Cambridge City Council's 'Hackney Carriage and Private Hire Handbook'. This included: time/date of booking; booking method; and, the fare. Mr Buyukdag commented in the inspection that this missing information would be in the e-mails received from customers/the distributing operator. Mr

Buyukdag was therefore advised to maintain all the necessary information in one place. This will be reviewed at the next annual inspection.

- 3.6 Mr Buyukdag has been using the operator's licence to conduct airport runs and other private hire work using his own vehicle licensed as PV1513; this is the only vehicle on the fleet and is a plate exempt vehicle. Mr Buyukdag has also been accepting sub-contracted jobs from other operators licensed by Cambridge City Council and South Cambridgeshire District Council.
- 3.7 No complaints have been received regarding Mr Buyukdag's driver or operator's licences since the grant of the initial operator's licence.
- 3.8 In summary, Mr Buyukdag has completed all parts of the application process satisfactorily and there are no significant, 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. 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>.

- 5.4 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 Buyukdag 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 Buyukdag 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 Buyukdag 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 Buyukdag a licence then it should be noted that Mr Buyukdag'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 – Inspection form

Appendix 4 – Booking Records

8. INSPECTION OF PAPERS

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

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