

Agenda item	9.1
Report no	HLC/015/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 14 February 2023

Report title: Application for the grant of a private hire car operator's licence – Wojciech Kobialka (Ward 16 – Inverness Millburn)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1** This report relates to an application for the grant of a private hire car (PHC) operator's licence.

This item is subject to a formal hearing procedure

2. Recommendation

- 2.1** Members are asked to determine the application in accordance with the Council's hearings procedure.

3. Background

3.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 (the "Act") a licence will be required for the operation of a PHC. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

4. Application

4.1 Wojciech Kobialka applied for the grant of a PHC operator's licence on 18 March 2022.

4.2 The application was circulated to both Police Scotland and the Council's Trading Standards Service.

4.3 There have been no objections received in relation to the application.

4.4 In terms of the abovementioned Act the Licensing Authority have twelve months (due to temporary amendments to the legislation during the coronavirus period at the time) from receipt of the application to determine the same, therefore this application must be determined by 17 March 2023. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

5. Vehicle Inspection & Documents

5.1 On his application form Mr Kobialka indicated that he did not yet have a vehicle to present for a PHC inspection.

5.2 At the time of writing Mr Kobialka still does not have a vehicle to present for inspection.

5.3 As detailed in paragraph 4.4 above the Principal Solicitor is unable to issue the licence under delegated powers at this time. Before this can be done the applicant requires to provide details of a suitable vehicle which then would require to undergo, and pass, a PHC inspection, a meter test (if required) and the insurance, MOT and the registration documents would require to be submitted and checked.

6. Determining issues

6.1 Paragraph 5(3) of Schedule 1 of the Act states that a licensing authority may refuse an application to grant or renew a licence where:

(a) the applicant or anyone else detailed on the application is not a fit and proper person;

(b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;

(c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to

(i) the location, character or condition of premises or the character or condition of the vehicle or vessel,

(ii) the nature and extent of the proposed activity,

- (iii) the kind of persons likely to be in the premises, vehicle or vessel,
- (iv) the possibility of undue public nuisance, or
- (v) public order or public safety; or

(d) there is other good reason for refusing the application.

6.2 If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

6.3 A copy of this report has been sent to the applicant who has been invited to attend and will be provided with an opportunity to be heard by the Committee. He has also been advised of the procedure which will be followed at the meeting.

7. Policies

7.1 The following policies are relevant to this case:

Standard PHC operator's licence conditions. A copy of these can accessed at https://www.highland.gov.uk/directory_record/738739/taxi_and_private_hire/category/501/taxi_and_private_hire or a hard copy can be supplied where requested.

8. Implications

8.1 Not applicable.

Date: 23 January 2023

Author: Michael Elsey

Background Papers: Civic Government (Scotland) Act 1982