

Borough Council of King's Lynn & West Norfolk

Report to Panel of Licensing & Appeals Board

Date of Hearing: **16th January 2019**

Prepared by: **Marie Malt, Senior Licensing Officer**

Application to depart from Licensing Conditions and Procedures in respect of a Roof Storage Box – Mr Paul MITCHELL

Introduction

1. Mr Paul Mitchell has licensed an Audi A6 SE TDI ULTRA Estate as a hackney carriage vehicle. This was granted on the 27th November 2018 and was allocated licence number HV0003. The vehicle was first registered with the DVLA on the 1st September 2015 and carries the vehicle registration number FN65 OSM.

Mr Mitchell runs a company called Airport Link Taxis and wishes to place a roof top storage/luggage box on the vehicle, contrary to the Licensing Conditions & Procedures.

Roof Top Box

2. Mr Mitchell is requesting that his licensed hackney carriage vehicle be exempt the requirement of Conditions 3.28 and 4.25 on the basis that the vehicle cannot hold enough luggage in the boot space.

Conditions 3.28 and 4.25 of the Borough Council's Hackney Carriage and Private Hire Licensing Procedures & Conditions state:

'Roof / Boot Racks & Bullbars

3.28 No roof, boot racks or bullbars may be fitted to licensed vehicles during the currency of the licence.'

Roof Signs

All Hackney Carriage vehicles must be fitted with a roof-mounted sign, white in colour and securely fitted on the roof of the vehicle.

'4.25 All wording shall be black in colour and the word 'TAXI' must be readable from a distance of 20 metres.'

3. A copy of Mr Mitchell's letter of the 5th December 2018 requesting the exemption is attached to this report as Appendix 1.

Background

4. Condition 3.28 (no roof or boot racks) was introduced as a requirement and approved by Full Council initially on 22nd January 2009. This condition changed, adding in no bull bars and was approved by Full Council on 28th January 2016,

and remains in place in the current conditions, approved by Full Council on 19th January 2017.

Legislation

5. Section 47(1) of The Local Government (Miscellaneous Provisions) Act 1976 provides that a Council may attach such conditions as the Council may consider reasonably necessary. In addition, Section 47 (2) provides that:

‘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.’

6. Whilst there is no mention of roof top boxes in either The Town Police Clauses Act 1847 (hackney carriage legislation) or the Local Government (Miscellaneous Provisions Act) 1976, there is provision contained with London taxi legislation.

Part VI of The London Cab Order 1934 states that:

‘(3) No luggage shall be carried on the roof of a motor cab unless the cab is fitted for that purpose and is licensed to carry luggage on the roof.’

Determination

7. The panel are requested to consider this report, including any submissions put forward by Mr Mitchell and dispose of the matter by either allowing the request or rejecting the request.

8. There is no statutory right of appeal to the Magistrates’ Court against the decision of the Council in this matter. Should Mr Mitchell wish to challenge the Council’s decision this may only be achieved by way of judicial review.

Marie Malt

Senior Licensing Enforcement Officer
Environmental Health - Licensing
17th December 2018

Appendix

1. Letter from Mr Mitchell dated 5th December 2018.

Background Papers

1. Local Government (Miscellaneous Provisions) Act 1976.
2. Hackney Carriage and Private Hire Licensing Procedures & Conditions (January 2017).
3. The London Cab Order 1934