

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 3rd November, 2016, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann (in place of Mark Shelford) and Caroline Roberts

Officers in attendance: John Dowding (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor)

52 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

53 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Cllr Horstmann substituted for Cllr Shelford.

54 DECLARATIONS OF INTEREST

There were none.

55 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

56 MINUTES OF 6TH OCTOBER 2016

These were approved as a correct record and signed by the Chair.

57 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for the next item of business.

58 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE

Applicant: Jonathan Walker (Managing Director of 15 Great Pulteney Street), represented by Nicola Smith (Squire Patton Boggs) and accompanied by Ian Taylor (proprietor of the Abbey Hotel Group and part owner of the vehicle) and Steve Webb (proprietor of tukshop).

The Senior Public Protection Officer summarised the application as set out in section 5 of the report.

The Sub-Committee **RESOLVED** to adjourn so that Members could inspect the vehicle.

After the Sub-Committee had completed the inspection and reconvened, Ms Smith stated the case for the applicant.

She said that an application to grant a private hire licence for a Tuk Tuk, a motorised tricycle, might seem unusual, but it was not unprecedented. In fact several local authorities had granted private hire licences for them. She reminded Members that the legislation gave them a wide discretion over the types of vehicle that they could license for private hire use, subject to their being satisfied that the vehicle was suitable, safe and comfortable for passengers. She would highlight the key details that would, she believed, demonstrate this. It was true that the vehicle did not meet the Council's standard conditions for private hire vehicles. It did not have four doors, its engine capacity was 200cc, not 1400cc, and it was not a right-hand-drive vehicle. The maximum speed of the vehicle was 35-37 miles per hour. It had no fixed doors, but the covering could be pulled down in inclement weather. The vehicle had been imported from India and seat belts installed in the UK to UK standards. A maximum of three passengers could be seated in the rear of the vehicle with the driver sitting in the front. There were three seat belts in the rear. The vehicle had been granted Motorcycle Single Vehicle Approval this year. A copy of the approval certificate was attached to Mr Webb's written submission. This demonstrated that the vehicle met relevant standards for use in this country, despite the lack of EC Whole Vehicle Type Approval for this type of vehicle.

She explained that the vehicle was intended to be used by the Abbey Hotel Group for carrying customers. The Group comprised the Abbey Hotel, the Villa Magdala and a hotel soon to open at 15 Great Pulteney Street. Hotel customers would be able to book the vehicle to pick guests up from the station, to visit locations in the City or to transport them to other hotels in the Group. Passengers would not be picked up at the roadside and the vehicle would only operate in the City itself. There would be standard fares advertised in advance. The use of the vehicle would have environmental benefits: its emissions were less than those of a standard car and it would cause less damage to roads. Its lower speed would give passengers more time to appreciate the sights of the City. The vehicle was manufactured by the well-known motorcycle manufacturer Piaggio specifically for public transport use. These vehicles are commonplace in many countries and had been licensed for private hire use in the UK, most recently in Chester in March this year. They were also licensed in Derby and Blackpool. They had been used for conveying passengers at a number of major events, including the Hampton Court Flower Show and film premieres. She drew attention to the 14 special conditions offered by the applicant (agenda page 43). Tyre pressure, oil, water and seat belt fittings would be checked regularly and the vehicle would be checked by an independent garage every six months.

She submitted that on the basis of the evidence presented the application should be granted.

Members and officers put questions to the applicant.

Q: where will the vehicle be kept?

A: at 15 Great Pulteney Street, where there is a car park and garage.

Q: how will passengers be protected from bad weather?

A: there are canvas doors that can be dropped down. There is also an optional weather pack made from marine-grade acrylic kept in place by zips and poppers.

Q: could you comment on the braking of the vehicle?

A: the manufacturer's testing is very stringent. The vehicle is set on rollers. The footbrake and handbrake are tested and calculations are made. All the wheels lock. The brakes were a well-respected brand of motorcycle brakes. Mr Webb had visited the factory in Mumbai and had been impressed by the advanced technology used for manufacture and testing.

Q: how does the vehicle handle corners when loaded?

A: it has a low centre of gravity and the suspension evens out loads. It is designed to be used fully loaded. The vehicle is slightly wider and the back and drivers are trained to keep clear of the kerb. Over 100 of these vehicles and been put on UK roads over the last 12 years and there have never been any issues.

Q: would the vehicle drop much if a tyre blew when it was loaded?

A: it would just drop onto the pavement. Passengers would alight while the tyre was replaced. Because of the vehicle's low speed it would be nothing like car tyre bursting at high speed on a motorway.

Q: would not passengers be exposed to the high air pollution in Bath, particularly when the vehicle was stopped behind a bus or large lorry?

A: the impact of air pollution would be no greater for passengers in the vehicle than for pedestrians, cyclists and people on an open-top bus. The vehicle itself would make only a very small contribution to air pollution.

Q: is there any form of heating for passengers?

A: not usually, usually blankets are provided for passengers. Journeys will be relatively short. There is a 12v socket in the front of the vehicle and a 12v heater was provided to a client in Scotland.

Q: are you aware of any accidents involving passengers in any of the local authority areas where these vehicles are currently licensed?

A: no.

The Senior Public Protection Officer said that he was aware of a Tuk Tuk that had had a blow out in Brighton. Mr Webb said that that vehicle had been re-engineered to carry more than three people in the back, something which he had refused to do.

The Principal Legal Adviser pointed out that as the vehicle would not be a Hackney Carriage it would not be able to stop at the station taxi rank. He also noted that during the vehicle inspection Mr Webb had asked whether it was clear behind before reversing. He asked how, when stopped in the road near the station to pick up a passenger in conditions of limited visibility, and having to reverse to avoid an obstruction, the driver would be able to know whether someone or something was behind the vehicle. Mr Webb said that the driver would get out and look before reversing. The Principal Legal Adviser suggested that by the time he had got back in the vehicle a small child might have got behind it. Ms Smith pointed out that the vehicle did have mirrors. Mr Webb said that the vehicle would reverse only rarely. A Member suggested that visibility might be better if the vehicle had a clear rear windscreen. Mr Webb said that many of these vehicles do not have rear window at all. The driver was able to see to the rear along both sides of the vehicle.

In her summing up Ms Smith said that this was an unusual application, but far from unique. She submitted that enough evidence had been given to satisfy members on the crucial issues.

Following an adjournment it was **RESOLVED** to refuse the application.

Decision and reasons

Members have had to determine an application for a Private Hire Vehicle Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, the Council's Policy and the applicant's written and oral representations. Members also had the benefit of an inspection of the vehicle.

The applicant stated the key details of the vehicle and its operation. It was accepted that it does not meet the requirements of the council's standard conditions. The vehicle can carry three passengers plus a driver and has been given the Motorcycle Single Vehicle Approval Certificate. The vehicle will represent the hotel business and provide a professional service to guests to and from the Station, between the hotels in the group and other locations within the City; it will not be used to pick up members of the public or operate outside the City. It was said that passenger safety is an absolute priority, and that it has advantages over a car and will offer a unique experience to guests. This type of vehicle has been used widely throughout the country for a number of years. Further, it will undergo daily safety checks, for example, seatbelt fittings, lights and tyre pressure checked and further safety checks undertaken by an independent garage every 6 months. The applicant also suggested a number of conditions in addition to the standard conditions relating to vehicle and passenger safety.

Members reminded themselves of the Local Government (Miscellaneous Provisions) Act 1976 and that they must be satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle and furthermore be safe and comfortable. Regard was also had to the Council's Private Hire Vehicle Licence general conditions. These state an engine shall normally be at least 1400cc, the vehicle must be right hand drive, have a minimum of four doors and comply with European Community M1 Type approval.

Having inspected the vehicle Members noted that the vehicle has three wheels and is steered with handlebars. It has no doors, a canvas covered roof and is powered by a 200cc engine. Accordingly it is clear that the vehicle does not and cannot comply with Council's standard conditions or policy.

Whilst members are aware that they may depart from their policy with good reason they reminded themselves that their duty is to protect the public.

Having noted the representations from the applicant, the Motorcycle Single Vehicle Approval and the proposed vehicle safety inspections Members considered that operationally the construction and design of the vehicle make it inherently less safe than a conventional four wheeled vehicle especially when in collision with other motor vehicles. Further, the open nature of the passenger compartment adds to the risk of injury to both driver and passengers in the event of a loss of control and or collision with other vehicles, structures or road furniture. Accordingly, and whilst it is noted that the vehicle will not be used for general public use, Members do not find

the vehicle suitable in type, size and design for use as a private hire vehicle. The application is therefore refused.

The meeting ended at 10.48 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services