

LICENSING AND REGULATORY COMMITTEE

19TH MARCH 2018

REPORT OF HEAD OF STRATEGIC PLANNING & REGULATORY SERVICES

TO CONSIDER AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY TO ALLOW PRIVATE HIRE SPECIAL VEHICLE TYPE WITH REGARDS TO ESCORTED TRIKE TOURS

1.0 PURPOSE OF REPORT

- 1.1 To consult the Committee on proposed revisions to the Hackney Carriage and Private Hire policy, regarding special vehicle types to allow a Motor tricycle for escorted tours of the region.

2.0 RECOMMENDATIONS

2.1 It is recommended that:

- (i) the Committee provide comment on the draft amendments to the policy for the Hackney Carriage and Private Hire Policy at Appendix A, for consideration by the Melton Economic and Environmental Affairs Committee.

3.0 KEY ISSUES

- 3.1 An application had been made for a new Private Hire Vehicle licence under Melton Borough Council's Hackney Carriage & Private Hire Policy, Section 11. Special Vehicles, Vintage Vehicles and Limousines. The vehicle in question is a brand new 2018 Boom Mustang 'Family' Motor Tricycle (Trike) purpose built three seat 1600cc engine with similar controls to that of a car (clutch, brake, accelerator, gear change) but the steering is by handlebars. The vehicle is classified as a motor car and can be driven by anyone with a Full UK driving licence, providing they passed their driving test prior to 19 January 2013, following which the DSA issued new driving rules for mopeds, motorcycles and tricycles. See (**Appendix A**).
- 3.2 A motor tricycle does not conform to any of the Council's pre-conditions for standard Private Hire vehicles. Nor are the conditions attached to standard Private Hire Operator, vehicle or driver licences appropriate for this vehicle.
- 3.3 The existing approved standard conditions for Private Hire vehicle, Operator and driver were intended for the use of standard saloon vehicles and the vehicle in question is so different that special safety conditions would have to be considered. In fact, unless the conditions were changed this vehicle would be precluded from licensing approval.
- 3.4 Members are advised that consideration can be given to imposing appropriate safety conditions which are proportionate to accommodating the application within a licensed but controlled operating framework.
- 3.5 To help in identifying and supplying the most relevant information to enable a considered decision the 'main issues' section deals with those thoughts and issues that might be at the forefront of Members minds in ensuring that safety is identified as the key issue. A range of general interest questions have also been asked and these are dealt with as supplementary information questions at (**Appendix F**).
- 3.6 In particular the Local Government (Miscellaneous Provisions) Act 1976 Act states:-

"A district Council shall not grant such a licence unless they are satisfied –

(a) That the vehicle is –“

- (i) *“suitable in type, size and design for use as a private hire vehicle;”*

The type of vehicle is accepted internationally as an alternative mode of transport. It may be more widely recognised as it featured in the popular TV series, Billy Connolly's World Tour. The vehicle is produced and manufactured to recognised European standards and has been issued with certification of European Whole Vehicle Type Approval, a copy of which can be found at **(Appendix C)**.

The vehicle is designed to carry more than one passenger in addition to the driver, with appropriate features to accommodate the needs of two rear seat passengers.

The safety features designed into this vehicle include leg protection built in to the shape of the framework, a safety restraint bar for passengers fitted as standard and additional seatbelts to the frame of the vehicle to provide additional support for passengers when being transported. A photograph of a similar vehicle, taken from the website, attached at **(Appendix D)**.

- (ii) *“not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;”*

It is considered to be unlikely in this case

- (iii) *“in a suitable mechanical condition;”*

The vehicle is registered in the UK and complies with Road Vehicles Construction and Use Regulations for this type of vehicle. The vehicle is required to pass a Class 4 MOT (the same as a car) at an approved MOT testing station to account for the roadworthiness of the vehicle.

- (iv) *“safe”*

Conditions might include an annual inspection by Authorised Officers of the Council to ensure roadworthiness and conformity to conditions.

The driver and passengers are exposed to external elements which you would associate with this mode of transport. The levels of protection you may normally associate with a car, such as airbags, side impact bars, crumple zones etc. are not available for this type of vehicle. However, the vehicle is able to support additional 'safety' features which the Council may consider reasonable and necessary to apply by condition to provide additional protection and safety for passengers:-

A preliminary safety risk assessment to be carried out by the Operator prior to any booking taking place and finally by the driver prior to the commencement of a journey and retained for 12 months for inspection purposes. **(Appendix E)**.

Neither the driver or the passengers of this type of vehicle are legally required to wear a crash helmet. However, Members may consider that this is an appropriate safety requirement and should be a condition for the driver and passengers of the vehicle to wear such at all times;

Suitable protective clothing to be provided by the Licensed Operator to passengers who have hired the vehicle;

Passenger safety is at risk where the passenger cannot reach the restraint bar when seated, or their feet do not touch the vehicle's foot bar and so body height is the form of measurement used to assess this safety issue. The advice from the manufacturer is that anyone below the height of 165 cms would not be allowed to travel on the vehicle;

Personal responsibility and an understanding of safety instructions are a vital part of this form of transport and there are no strict definitions of an appropriate age for children not travel on the vehicle;

The manufacturer's factory fitted restraint bar must be used by passengers at all times;

The vehicle must be fitted with footplates to prevent feet/ankles passing through the tubular frame of the vehicle when mounting or dismounting the vehicle and which also provides a firm footing in adverse weather conditions;

The vehicle will be fitted with additional approved seat/lap belts for both passengers;

Due to external wind and traffic noise interference it is proposed to impose a condition on the Operators licence which requires them to provide means of communication between the driver and passengers throughout the duration of the journey by way of hardwired, radio wave or blue tooth technology.

(v) *"comfortable;"*

The vehicle is not classed as a 'motorbike' and does not require the same level of interaction or understanding from passengers which would be normally associated with riding on a motorbike as a pillion passenger. There is no requirement for the passengers to take account of their position for road handling and cornering purposes and they can leave the driving and control of the vehicle in the hands of the driver.

The vehicle has been designed and manufactured to a high standard and tested to European standards. It comes equipped with appropriate seating, back, head and side restraints, arm rests and passenger restraint bar. Members might consider that the distinct style of vehicle and the business plan for this vehicle's usage makes it pretty clear what level of comfort is offered and is an obvious known quantity to the customer prior to undertaking a booking and 'comfort' should be assessed by Members in that context.

(b) ***"that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988,"***

This is an administrative process to be confirmed at the time of licensing.

"and shall not refuse a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council."

This application must be considered on its own merits.

(c) ***"A district Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary"***

The preceding paragraphs describe some of the safety considerations Members may want to consider. It is important and for total clarity, that the granting of such a licence is strictly in accordance with the business statement submitted by the proposed licensed Operator of the vehicle. Members may consider that to undertake bookings in any way other than as described in the applicants business statement could introduce factors which start to adversely impact upon safety. The business statement is reproduced below, and if approved this business statement would be attached to and form a part of the Operators licence conditions.

3.7 Conclusions

- 3.7.1 The main consideration is whether or not the vehicle is considered to be safe within its intended area of usage which is very clearly not standard Private Hire work. If Members determine that the vehicle can be licensed to an acceptable degree of safety under the

defined business statement of the Operator, then a clear statement to that effect within the final decision could be imposed as the main condition upon the Operator's licence.

- 3.7.2 There is no standard definition for the night-time economy. For the purposes of this report (which focuses on public safety in the context of the operation of this vehicle) the night-time economy is taken to be that area of the licensing district where there is significant activity involving the sale and consumption of alcohol. This is particularly by pubs, clubs, bars and restaurants between the hours of 6:00 pm and 6:00 am where there is an associated link to volumes of younger people and the patterns of behaviour normally associated with alcohol consumption.
- 3.7.3 Together with the proposed conditions attached to the vehicle, Operator and driver licences these would then act as strong control measures to contribute to continued safety.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The Committee's attention is drawn to Melton Borough Council's HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2018 as amended by MEEA Committee at its meeting of 7th March 2018 (**appendix A**) which states:

1. General

In line with developments in vehicle technology, vehicles will no longer be classified by Cubic capacity but by power output in Kw as defined in the vehicles V5C Registration Certificate All vehicles will be of a Maximum net power output not less than 57Kw.

11. Special vehicles, vintage vehicles and limousines

Special vehicles, vintage/prestige vehicles and limousines may be licensed and will not be subject to the age policy but must be in exceptional and pristine condition.

Exceptional/pristine condition is:

The Bodywork should be in near perfect condition with no signs of age deterioration, dents, stone chips, scratches, rust or any other abrasions that may detract from the overall appearance of the vehicle.

- The interior trim, panels, seating, carpets and upholstery should be in excellent condition, clean and free from any damage and/or discolouration.*
- The boot or luggage compartment must be in excellent condition, clean and undamaged.*
- The vehicle must be in excellent mechanical condition in all respects, and be safe and roadworthy with no signs of corrosion to the mechanical parts, chassis, underside or bodywork.*
- The vehicle must have a service record to show that it has been properly serviced and maintained in accordance with the manufacturer's specification.*

Special vehicles, vintage/prestige cars and limousines are vehicles used for specific occasions or a vehicle of a restricted nature. e.g transport to parties or prom nights. It is usually not a conventional vehicle used for standard private hire work. Examples of such vehicles are stretched limousines, vintage/prestige classic cars and other such unusual vehicles that may be requested.

These vehicles will be subject to 2 compliance tests each year at one of the Council's nominated garages or at a specified garage capable to testing such a vehicle. They can continue to be licensed until such time as they do not meet the Exceptional/Pristine Condition requirements

- 4.2 It is proposed that this Policy is amended in order to accommodate applications of this nature as follows. The proposed changes are highlighted in Appendix A for ease of identification, the most significant of which is;

13. Special vehicles - escorted trike tours

Motorcycle style 'tricycles' can be licenced for use on pre booked escorted tours. They must not be used for traditional private hire work due to the special nature of the vehicle and the helmets and special clothing which must be worn at all times.

The tricycle must adhere to the standard conditions attached to the grant of a motor tricycle special vehicle licence see appendix g

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 There are no financial or other resource implications.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 This policy has been written in accordance with the Council's responsibilities under the Local Government (Miscellaneous Provisions) Act 1976 and the Town and Police Clauses Act 1847.

7.0 COMMUNITY SAFETY

- 7.1 This policy has been written with Community Safety in mind and it endeavours, as far as is possible, to ensure that the travelling public are safe both in respect of the suitability of the driver and the mechanical soundness of the vehicle.

- 7.2 Melton Borough Council (the Council) is responsible for exercising the licensing and associated function relating to Hackney Carriage and Private Hire Activities, in undertaking this function the Council will have particular regard to:

- Town and Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equalities Act 2010
- Road Traffic Acts
- Human Rights Act 1998
- Health Act 2006
- Immigration Act 2016
- Melton Borough Council Byelaws (appendix E)
- Melton Borough Council's Constitution

8.0 EQUALITIES

- 8.1 There are no equalities issues in relation to this report.

9.0 RISKS

- 9.1 The legal issues are fully addressed within the report and it is felt that if the Act and safety considerations are demonstrated to have been fully considered by Members prior to a decision being taken that there is minimum risk to the Council.

10.0 CLIMATE CHANGE

- 10.1 There are no implications for Climate Change.

11.0 WARDS AFFECTED

11.1 All Wards

Contact Officer: Simon Greensmith

Date: 8th March 2018

Appendices :
A: Proposed amendments to Hackney carriage & Private hire Licensing Policy
B: Standard Conditions attached to the grant of a Motor Tricycle Special Vehicle Licence
C: Additional Conditions attached to a Licence to Operate a Private Hire Motor Tricycle
D: Photos
E: Risk assessment
F: Questions & Answers
G: Standard Conditions Motor Tricycle
H: Additional Conditions Operators Licence

Reference : X:\Cttee, Council & Sub Cttees\Licensing and Regulatory\2017.18 committees