

LICENSING COMMITTEE

Wednesday, 4 August 2021

5.30 pm

Committee Rooms 1 and 2

Membership: Councillors Loraine Woolley (Chair), Bill Bilton (Vice-Chair), Biff Bean, Alan Briggs, Liz Bushell, David Clarkson, Matthew Fido, Jane Loffhagen, Adrianna McNulty, Clare Smalley, Calum Watt and Pat Vaughan

Substitute member(s): Councillors Bob Bushell and Gary Hewson

Officers attending: Tom Charlesworth, Ian Cullen, Louise Simpson and Democratic Services

A G E N D A

SECTION A	Page(s)
1. Confirmation of Minutes - 20 January 2021	3 - 8
2. Declarations of Interest	
Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
3. Hackney Carriage and Private Hire Minutes of Previous Meetings	
(a) 5 November 2020	9 - 10
(b) 25 February 2021	11 - 12
4. Exclusion of Press and Public	13 - 14
RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.	
5. Suspension / Revocation of a Private Hire Vehicle Licence	15 - 28
	[Exempt Para(s) 1, 2]

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Present: Councillors Loraine Woolley (*in the Chair*),
Biff Bean, Bill Bilton, Alan Briggs, Liz Bushell,
Gary Hewson, Ronald Hills, Jane Loffhagen, Bill Mara
and Ralph Toofany

Apologies for Absence: Councillor Kathleen Brothwell, Councillor
Adrianna McNulty, Councillor Pat Vaughan, Cullen and
John Cunliffe

Also in Attendance: Tom Charlesworth and Becky Scott

13. Confirmation of Minutes - 5 August 2020

RESOLVED that the minutes of the meeting held on 5 August 2020 be confirmed.

14. Declarations of Interest

No declarations of interest were received.

15. Hackney Carriage and Private Hire minutes of previous meeting - 3 July 2020

RESOLVED that the minutes of the meeting of Hackney Carriage and Private Hire Sub-Committee held on 3 July 2020 be confirmed.

16. Application for a Private Hire Vehicle Licence

Tom Charlesworth, Licensing Officer:

- a) presented a report to consider an application from Christine Kimbrell (the applicant), Director of Holla Pod Taxis to licence a Zbee RS45 as a private hire vehicle
- b) explained that it was the Committee' decision whether to depart from its current policy to licence a vehicle that did not meet all of the criteria as set out in the private hire vehicle specification contained within the Hackney Carriage & Private Hire Licensing Policy
- c) stated that the onus was on the applicant to explain to the Licensing Committee why it should depart from that policy and allow these types of vehicles to be licensed as private hire vehicles in Lincoln
- d) highlighted that appropriate reasons should be given for the determination and if policy had been departed from, then reasons for such departure should be given
- e) referred to the previous Licensing Committee held in August 2020 where the Licensing Committee heard a proposal submitted by the applicant seeking permission to licence a Tuk Tuk as a private hire vehicle. The decision of that Committee was to depart from the Hackney Carriage & Private Hire Licensing Policy to enable the applicant to licence a Tuk Tuk as a private hire vehicle, once a completed application had been received by the Licensing Team

- f) explained that further to the last committee that was held, the applicant had now submitted an application for a different vehicle, a Zbee RS45. This vehicle differed significantly from the already considered Tuk Tuk and for this reason the Licensing Team had been unable to determine the application and the matter instead must be determined by the Licensing Committee
- g) compared the main differences between the Tuk Tuk and Zbee which were as follows:
- The Tuk Tuk was fitted with a retractable hood whereas the Zbee had a specially designed light-weight fibreglass body that incorporated the roof of the vehicle.
 - Unlike the Tuk Tuk, the Zbee did not come equipped with grab/hand rails or a spare wheel. There was a designated luggage box located at the rear of the Zbee with room for a small suitcase. Therefore unlike the Tuk Tuk the Zbee satisfied the vehicle specification contained in the policy regarding luggage requirements as detailed at paragraph 8.11 of the report.
 - The Zbee was classed as a fully electric three-wheel moped (vehicle category L2e). Therefore the vehicle produced little to no noise and was 100% carbon emissions free.
 - The maximum speed of the Zbee RS45 was between 26.7 to 27.9mph, which was 10mph less than the Tuk Tuk.
 - The most substantial difference between the Zbee and the Tuk Tuk was that the Zbee did not come equipped with doors and it was primarily because of this reason that the Licensing Committee was asked to consider this application.
- h) presented the committee with a video to give members a clearer understanding of how the coverings were attached to the body of the Zbee, which was played during the meeting
- i) referred to paragraphs 8.2 through to 8.6 of the report and explained that the requirements of the Zbee did not comply with the vehicle specifications, therefore, the council would need to depart from its policy and remove these requirements from the vehicle specification so that these types of vehicles could be licensed as private hire vehicles
- j) explained that before a vehicle was presented for licensing it should undergo a test at a DVSA Approved Testing Station. This was to ensure it met Motor Vehicles (Construction and Use) Regulations, including emission test standards. Further to this, the vehicle should then be tested in accordance with a standard MOT Test and be issued with a MOT Certificate.
- k) outlined the decision making process as identified at paragraph 17.1 of his report
- l) invited members' comments and questions.

Question: It was great to hear that the Zbee was an electric vehicle. If it had lower power, would it still manage a full load up Steep Hill?

Response: The electric vehicle wasn't a new venture, it had already been in use for the past 3 years. There were 130 vehicles in Stockholm that were currently in operation and were managing in various types of weathers and terrain.

Question: As the Zbee was classed as a motorcycle, would the driver need a drivers licence to operate the vehicle?

Response: In order for a driver to operate the vehicle, their driving licence must show the category codes stating that the driver must be able to drive both a car (Category B) and a moped (Category AM).

Question: What would be the range of use for the vehicle?

Response: It depended on what the City could allow. There were 3 vehicles lined up ready to operate and they would be located at a premises in uphill Lincoln.

Question: What would be the hours of operation?

Response: the operating hours would be 7am – 10.30/11pm, however the vehicle would work on demand to keep the vehicles moving regularly.

RESOLVED that the report be noted by members.

The Chair gave the applicant the opportunity to speak and present to the committee why it should deviate from the policy to licence a Zbee.

Christine Kimbrell, Director of Holla Pod Taxis:

- a) explained that after the Tuk Tuk was granted in August 2020, lockdown was announced which allowed them to focus on purchasing an electric vehicle. She went to Sweden to test drive one before transporting one back to the UK
- b) highlighted that no cash would be necessary when booking a journey for the Zbee as it would all be operated through an application
- c) stated that she would be employing drivers over the next few months with an ideal start of April 2021
- d) advised that throughout the summer it would be ideal to have no doors on the Zbee and in winter to use the magnetic doors. The vehicle's rear side panels also offered some protection to the passengers safety and from adverse weather conditions
- e) invited the committee's comments and questions.

Question: What was the minimum age limit for the vehicle, would children be allowed a ride in it unsupervised?

Response: It would be very difficult for them to squeeze through the gap and fall out of the vehicle especially if they were sat at the back, plus they would be required to wear a seatbelt at all times.

Question: Would this vehicle replace the Tuk Tuk?

Response: Yes, an electric vehicle with zero emissions was always favoured and it was easier to drive however they weren't designed to drive long distances so it would only cover up to 3 miles maximum at one time.

Members expressed a few concerns in relation to the conditions of licence. They felt that if the Committee were to deviate from the Licensing policy and grant permission for a Zbee to be licensed as a private hire vehicle then it would be needed for some of the conditions to be modified or removed. Members also felt that new conditions could be added to alleviate some of their concerns.

Conditions

The below conditions were set out as follows:

- a) *“The vehicle shall be of a suitable size, type, and design as approved by the City of Lincoln Council **on the 20th January 2021** for the use as a Private Hire vehicle, and shall be maintained in a safe and comfortable condition.”*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

- b) *“The vehicle shall have an engine capacity of not less than 1297 cc and a minimum passenger seating capacity of four seats and maximum of eight seats.”*

No amendment was made to this condition.

This condition would be omitted from the licence, if issued.

- c) *“The vehicles must be fitted with retractable rain coverings that cover both sides of the vehicle and are secured to ensure the vehicle remains watertight. The covers must be transparent to allow the drivers and passengers unrestricted views out of the vehicle.”*

Amendment: Members agreed that the retractable rain coverings would be only be required to be used in adverse weather or at the request of the customer.

This condition, with amendment, would be added to the licence, if issued.

- d) *““An emergency tyre repair kit must be kept on the vehicle at all times. Where a tyre has been repaired using an emergency tyre repair kit to complete a hiring, the vehicle shall not be driven at a speed or distance that exceeds the manufacturer of the repair kit’s instructions. The vehicle may not be used for any further hirings until the tyre is repaired or replaced and a replacement repair kit is purchased.”*

Amendment: The committee felt that the suggested condition in respect of the tyre repair kit should not be placed on the licence. It was agreed to add a condition which would state that if in the middle of the journey, and a tyre/tyres has failed, then the vehicle should be recovered by a third party.

This condition, as stated above, would be omitted from the licence, if issued.

A new condition, taking into account the members suggestions, would be substituted in its place and added to the licence, if issued.

- e) *If a spare tyre / wheel is not able to be carried in the Zbee, spare tyre(s) / wheel(s) will be kept by the proprietor in stock ready for use."*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

- f) *"The person to whom a licence is granted shall ensure that all drivers of this vehicle who will be driving this vehicle for private hire use, have undertaken a specific induction driver training programme as approved by the Licensing Authority's Licensing Team Leader."*

Amendment: This training should include the driver checking that the passengers were wearing seatbelts and ensuring that no children under 16 years of age would be traveling in the vehicle unless accompanied by an appropriate adult.

This condition, with amendment, would be added to the licence, if issued.

- g) *"The person to whom a licence is granted shall after the issue of this licence and during its currency communicate in writing to the Licensing Team of the Licensing Authority a list of the private hire drivers they intend to drive this vehicle for private hire use."*

No amendment was made to this condition.

This condition would be added to the licence, if issued.

New amendment:

1. *The members questioned whether the lack of doors could be unsafe for children and Ms Kimbrell explained that when seated, it was quite far back and the passenger would have a seat belt. It was however decided that a further condition shall be added to the licence stating that children under 16 years of age would not be permitted to travel in the vehicle unless accompanied by an appropriate adult. This was felt necessary to ensure there was sufficient protection for children. This restriction would be made clear to customers, either by a dispatcher, upon receipt of a telephone booking made to the operator, or on the operators 'app', used for the booking.*

The Chair asked the committee whether they had any further questions or comments to make and that if there weren't, the committee would proceed and move onto the decision making.

RESOLVED that:

- 1) The Licensing Committee shall depart from the Hackney Carriage and Private Hire Licensing Policy, with full reasons given, and allow the applicant permission to licence a Zbee, as a private hire vehicle.
- 2) Licensing conditions shall be modified, removed, and added to that licence, as set out in the report, and as required by the Licensing Committee, as detailed above.
- 3) The Licensing Committee shall delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 (in conjunction with Legal Services and / or Chair of Licensing Committee) the power to licence additional or replacement vehicles used by the applicant and apply the conditions as set out in the report, and as required by the Licensing Committee, as detailed above.
- 4) The Licensing Committee shall delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 (in conjunction with Legal Services and / or Chair of Licensing Committee) the power to licence similar vehicles and apply the conditions as set out in the report, and as required by the Licensing Committee, as detailed above

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor
Kathleen Brothwell, Councillor Alan Briggs and Councillor
Adrianna McNulty

Apologies for Absence: None.

10. Confirmation of Minutes from 3 September 2020

RESOLVED that the minutes of the meeting held on 3 September 2020 be confirmed.

11. Declarations of Interest

No declarations of interest were received.

12. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

13. To Interview an Existing Driver who has Failed to Disclose a New Conviction: Item Number 11/2020

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire driver's licence having failed to disclose a breach of a Community Order made by the magistrates' court requiring the licensee to undertake unpaid work
- b) stated that the licensee had held a licence since September 2019
- c) highlighted that following the Sub-Committee in September 2019 the licence holder had a condition added to his private hire driver's licence which required him to have a DBS check annually for 5 years
- d) explained that the licensee made an application for a re-licence on the 25th of August 2020 and did not declare a sentencing breach
- e) reported that following a DBS check for the licensee's application to re-licensing, licensing officers discovered that the licensee had breached his Community Order in November 2019 and had been re-sentenced by the magistrates' court as a result
- f) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to giving or making a false declaration: *'It is an offence for any person knowingly or*

recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.'

The Decision was made as follows:

That the Private Hire Driver's Licence be granted subject to the following conditions:

1. A special condition be imposed requiring a 6 monthly DBS check to be carried out at the licence holder's expense for a duration of five years starting from the date of his current DBS.
2. A strongly worded letter be issued which would emphasise the importance of declaring any criminal findings of guilt or a sentencing breach, including an expectation that if any further offences were to occur then this may result in his Private Hire Drivers Licence being revoked.

Reasons for the Decision:

1. The Sub-Committee were concerned that the licence holder was untrustworthy but the licensee said that he had now completed his community order and paid his fine.
2. The licensee explained that he had tried unsuccessfully to contact the centre that administered Community Orders to explain why he could not carry out the unpaid work.
3. The licensee said that he had received legal advice that he did not need to declare the breach of the Community Order.
4. The Sub-Committee were satisfied that the conditions imposed on the grant of his licence detailed above would alleviate concerns raised by the Sub-Committee regarding the Private Hire Driver and offered reassurance to the panel that he remained a fit and proper person to continue to hold a private hire driver's licence.

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor
Kathleen Brothwell, Councillor Alan Briggs and Councillor
Adrianna McNulty

Apologies for Absence: None.

14. Confirmation of Minutes - 5 November 2020

RESOLVED that the minutes of the meeting held on 5 November 2020 be confirmed.

15. Declarations of Interest

No declarations of interest were received.

16. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

17. To Interview an Applicant for a re-licence of a Private Hire Driver's Licence who has 9 current Penalty Points (Item No 01/2021)

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire driver's licence following 9 valid penalty points on his driving licence
- b) stated that the licensee had held a licence since February 2010
- c) explained that the licensee made an application for a re-licence on 8 February 2021 and declared that he had received 2 driving convictions and received a total of 9 penalty points in 2019
- d) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to penalty points and taking a stepped approach to driver licence enforcement: *'If a driver receives 9 or more penalty points for minor or some hybrid traffic offences, the matter will be referred to the Hackney Carriage and Private Hire Sub-Committee for a hearing. The driver will be expected to address the issues before the Sub-Committee.'*

The Decision was made as follows:

That the Private Hire Driver's Licence be granted subject to the applicant being issued with a warning letter regarding his responsibilities as a driver and the

conditions of the licence, with a particular emphasis on the dangers of driving while using a mobile phone.

Reasons for the Decision:

The Sub-Committee was satisfied that the applicant was a fit and proper person to hold the licence. In reaching the decision the Sub-Committee considered that:

1. The applicant had demonstrated that he was aware of the seriousness of the driving offences he had committed and the importance of future compliance.
2. The applicant's two offences had occurred during a period of three months in 2019 after which he had not committed any further offences.
3. Having regard to the type of offences disclosed (relating to driving without due care and attention, and the use of a mobile phone while driving), the applicant's explanation of the circumstances surrounding those offences offered some reassurance to the Sub-Committee that the offences did not indicate a pattern of behaviour which would pose a risk to the travelling public.
4. The issue of a warning letter was a proportionate reminder of the importance of safe driving.

SUBJECT:	EXCLUSION OF THE PRESS & PUBLIC
DIRECTORATE:	CHIEF EXECUTIVE & TOWN CLERK
REPORT AUTHOR:	CAROLYN WHEATER, MONITORING OFFICER

1. Purpose of Report

1.1 To advise members that any agenda items following this report are considered to contain exempt or confidential information for the reasons specified on the front page of the agenda for this meeting.

2. Recommendation

2.1 It is recommended that the press and public be excluded from the meeting at this point as it is likely that if members of the press or public were present there would be disclosure to them of exempt or confidential information.

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