

MAIDSTONE BOROUGH COUNCIL

COMMUNITIES, HOUSING AND ENVIRONMENT COMMITTEE

19 JULY 2016

REPORT OF THE LICENSING COMMITTEE

Hackney Carriage Specifications

1. Issue for Decision

- 1.1 For Members to consider the Council's current Hackney Carriage Vehicle specification to expand the types of vehicle that can be licensed in Maidstone Borough area, and decide on any necessary amendments to the Hackney Carriage and Private Hire Licensing Policy and Hackney Carriage Vehicle conditions as a result.

2. Recommendation Made

- 2.1 That the Hackney Carriage & Private Hire Licensing Policy is amended to include the Peugeot E7 within the definition of approved vehicle; and remove Section 5 relating to the turning circle requirement of Appendix 5A of the Policy;
- 2.2 That the Hackney Carriage & Private Hire Licensing Policy is amended to give delegated authority to the Head of Housing & Community Services to add or remove vehicle types to those that are approved for licensing, on the condition that the vehicle has EC Whole Vehicle Type Approval.

3. Reason for Recommendation

- 3.1 The Council's current policy requires that Hackney Carriages licenced in the Borough meet the design criteria specified by the Metropolitan Conditions of Fitness (CoF). These are determined by Transport for London (TfL), formally, the Public Carriage Officer (PCO), which acts as the Licensing Authority in London for taxis. This means that entry on the hackney fleet in Maidstone is currently restricted to just two vehicles, the traditional London Taxi TX vehicles and the Mercedes Vito Taxi.
- 3.2 At the licensing Committee meeting on the 24 September 2015 Members were asked by the Hackney Trade to consider their request to licence the E7 Eurocab, built by Peugeot (Appendix A) and add it to the list of approved Hackney vehicles for the Borough of Maidstone. There are many other types of Eurocab which are not currently licensed, including Citroen, Discovery, Mercedes M8, Renault, Fiat, Volkswagen, Vauxhall and Ford.
- 3.3 However, it is important to note that there is no vehicle made for use as a Hackney Carriage that is truly and equally accessible to everyone. The most effective way to meet most people's needs is to allow a range of vehicles to be licensed as Hackney Carriages that are able to meet the

variety of needs for disabled passengers. The Hackney trade requested at the licensing Committee meeting on the 24 September 2015 that the Peugeot E7 by Allied Vehicles be added to the Authorities approved list. There are currently 48 Hackney vehicles licensed in Maidstone and the majority of them are of the TX type. The Peugeot E7 will be purchased by some drivers to replace some of those 48 vehicles.

- 3.4 During consideration at the Licensing Committee on 16 June 2016, Members agreed to recommend delegation to the Head of Housing and Community Services for the inclusion of new vehicles onto the Authorities approved list, but only where those vehicles have EC Whole Vehicle Type Approval.

4. Wheelchairs

- 4.1 There has been recent case-law that has challenged the type of vehicle that is licensed by local authorities on the basis that it discriminates against wheelchair users. The case is *Alma Lunt and Allied Vehicles Limited v Liverpool City Council* (2009) set out in Appendix B. In this case the Judgment found that Liverpool City Council had incorrectly considered that its Hackney Carriage fleet were 'wheelchair accessible' and that it was found the Authority had failed to consider wheelchair users who had wheelchairs larger than the 'reference' wheelchair. Their decision to refuse to licence an E7 Eurocab was quashed on appeal and returned to the Council for redetermining.
- 4.2 In light of this case, members are asked to consider the term 'wheelchair accessible'. Guidelines state that a vehicle is 'wheelchair accessible' if a wheelchair of a certain size and weight can be carried by the vehicle (referred to as a reference wheelchair). However, it does not cater for an increasing number of wheelchairs which are longer, higher, wider or heavier than the specification.
- 4.3 Section 49A of the Disability Discrimination Act 1995 requires public authorities carrying out their functions, to have "due regard" to a list of specified matters, including:
- The need to eliminate discrimination that is unlawful under the Act;
 - The need to eliminate harassment of disabled persons that is related to their disabilities;
 - The need to promote equality of opportunity between disabled persons and other persons;
 - The need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;

- The need to promote positive attitudes towards disabled persons;
- The need to encourage participation by disabled persons in public life.

Therefore, the Licensing Authority must have "due regard" to the needs of passengers who have wheelchairs that do not fit within the 'reference' wheelchair.

- 4.4 Where a policy requirement prohibits the licensing of a vehicle capable of meeting this need, the relevant Authority must show that they have paid due regard to this need and reflect this in their decision to adopt such a policy, therefore leaving the decision and policy open to challenge.
- 4.5 An Authority must also consider Article 28 of the EC Treaty when making such a policy. This Article prohibits measures of equivalent effect to quantitative restriction on imports. Where a vehicle has been purpose built as a taxi (such as an E7 Eurocab), and it cannot be sold within Maidstone as a taxi because policy prohibits this, then Article 28 is breached. The Eurocab type vehicles are not factory built hackney carriages but are modified for purpose as a hackney carriage they are M1 Vehicles designed and constructed for the carriage of passengers, comprising no more than eight seats in addition to the driver seat. The modified vehicles have EC Whole Vehicle Type Approval, this is the most stringent of vehicle certification.
- 4.6 The 'reference' wheelchair has standard dimensions, set by the Department for Transport. They are:
- Height - 1,350mm
 - Length - 1,200mm
 - Width - 700mm
 - Weight (including occupant) - less than or equal to 300kg
- 4.7 There are an increasing number of wheelchairs in service which are outside of these requirements. Nationally, there are over 2,000 different types of wheelchair in use. Currently all types of electric and power assisted wheelchair are too heavy to be considered as reference wheelchairs and so are not considered in 'wheelchair accessible' surveys. Any standard bariatric wheelchair will also be outside of the accessible terms due to weight.
- 4.8 The consideration should reflect whole vehicle types, rather than specific models. The vehicle types can either follow an approved list, decided on a case by case basis in consultation with the trade, or using the current M1 EC Whole Vehicle Type Approval system.
- 4.9 Members should also consider matters relating to restraint safety. The LTI and Reliant Metrocab Hackney Carriage vehicles licenced in Maidstone have restraints that cater for rear facing wheelchair

passengers and this is the only method of carriage available in these vehicles. There is an approved method of securing both the wheelchair and passenger when secured rear facing. However there is a current level of risk where the wheelchair does not rest against the partition bulkhead. This was considered in the Department for Transport consultation and it was proposed to introduce additional head and neck restraints. The Mercedes Vito vehicle licenced by Maidstone Council can be fitted to carry wheel chair passengers both front and rear facing. Furthermore, with a rearward facing wheelchair in a frontal impact, the restraint offers only offers protection against recoil, it does not protect against the initial impact.

4.10 A number of Eurocab vehicles differ due to the number that caters for forward facing wheelchairs. A number of vehicles also offer adjustable restraint tracks. Forward facing restraints will offer more protection against frontal impacts.

4.11 Additionally, design improvements in vehicle types are now catering for increased accessibility measures. These measures include electric ramps, electric retractable seats, adjustable floors, etc.

5. Turning Circle

5.1 Our current policy includes under the Hackney Vehicle specification a condition that refers to the "Turning Circle" Page 39, number 5:

(i) The vehicle must be capable of being turned on either lock as to proceed in the opposite direction without reversing between two vertical parallel plans not more than 8.535 metres apart. (28.19 feet)

(ii) The wheel turning circle kerb to kerb on either lock must not be less than 7.62 metres in diameter. (25 feet)

5.2 Currently there are only two vehicles that can meet the turning circle requirement and fall within the Councils policy for hackney carriage vehicles i.e. The London Taxi Cab vehicle and the Mercedes Vito Taxi. This condition would need to be removed from the policy in order to include the Peugeot E7 to the approved list.

6. Alternatives Considered

6.1 That the current Hackney Carriage specifications remain in place.

Appendices

Appendix A – Peugeot E7 Brochure

Appendix B – Alma Lunt

Appendix C – MBC Hackney Carriage and Private Hire Licensing Policy