

1 Purpose

- 1.1 For Members to consider a proposal to licence a motorised tricycle as a private hire vehicle and the associated operator and driver licences. To consider for approval the modified conditions to be attached to each of these licences.

2 Recommendations/for decision

- | | |
|-----|---|
| 2.1 | For Members to allow the licensing of a motorised tricycle as a private hire vehicle and the associated operator and driver licences. |
| 2.2 | Subject to approval of 2.1, to agree the conditions to be attached to each of these licences. |

3 Supporting information

- 3.1 In November 2018 the Licensing Service received a request from a local resident to consider licensing a motorised tricycle for private hire work. The interested party has provided a detailed report to support their proposal, see Appendix 1. The attached report sets out specific details relating to the proposed vehicle, its intended use, the business plan and safety considerations. It is important to emphasise that the proposal is to use the vehicle for special events and tours only, not routine private hire style operations.
- 3.2 The proposal relates to the operation of a three seater motor tricycle on which it is intended to take up to two passengers at a time, on sight-seeing tours and to celebrate special occasions. The vehicle in question is a 'Boom Mustang Family' purpose built three seat motor tricycle with a 1.6 Ford Focus Zetech 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 are over the age of 21 years.
- 3.3 The Council's current policy envisages the licensing of novelty style vehicles, specifically Appendix 3, paragraph 3.7 states:
"In general terms private hire vehicles must have four passenger doors, must not appear in design to be a hackney carriage, including the use of a roof sign and have forward facing seats. **Non-standard road vehicles such as tuk tuks or novelty means of transport such as a horse and carriage will be considered on their own merits but because they raise special safety concerns they will be subject to additional scrutiny.**"
- 3.4 With regards to other aspects of the Council's policy, while there are no policies that would absolutely prevent the licensing of this style of operation, there are several areas that require consideration:
Licence and badge display
- 3.5 The policy generally requires licensed private hire vehicles to display:
- A licence plate attached to the rear of the vehicle showing the licence number, registration number, vehicle make and model, licence expiry and maximum number of passengers.

- Council issued door signs to be attached to the sides of the vehicle showing the licence number, maximum passenger numbers, and the words “be booked be insured” and “advance bookings only”.
- A window sticker displayed in the windscreen.

While it may be possible to display the rear licence plate in compliance with the first of these requirements, the lack of doors and a windscreen make it impossible to comply with the other requirements. The Council can grant exemptions for vehicles engaged in ‘executive style’ work, so they are only required to display a window sticker on the front wind shield, which contains the same information as the licence plate. Once again, as the vehicle has no windshield, it would not be possible to comply with this requirement. The legislation, Section 75 of the Local Government (Miscellaneous Provisions) Act 1976, provides that the Council may exempt the displaying of licence plates if the Council has issued an exemption notice for defined types of work and the notice is kept on the vehicle; under this exemption drivers are also relieved from the requirement to wear on display their licence badge.

Age requirements and MOTs

- 3.6 The current policy allows any vehicle to be licensed up to the age of 10 years old and requires one annual MOT and an enhanced vehicle conditions check. The only other local authority known to licence this style of vehicle for private hire work is Leeds City Council. Under their requirements, vehicles must be less than one year and no older than seven years, and must undergo six monthly MOT testing. This requirement appears to reflect their general licensing arrangements rather than any specific reason related to the style of vehicle.
- 3.7 A key consideration is how the proposed vehicle satisfies those elements of the Local Government (Miscellaneous Provisions) Act 1976, particularly in terms of safety, suitability and comfort which must be demonstrated both by the vehicle and its proposed usage. These elements are considered in detail as follows:
- 3.8 Section 48 of the Act provides that the Council must be satisfied that a vehicle is:
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe;
 - (v) comfortable; and

There is in force in relation to the use of the vehicle a policy of insurance.

Suitable in type, size and design for use as a private hire vehicle

- 3.9 This type of vehicle is accepted internationally as a suitable mode of transport. A similar style vehicle has been licensed by Leeds City Council for private hire work since 2013 without any reported concerns or complaints. The Council can impose conditions upon the vehicle to ensure its suitability for use as private hire style work. A significant number of new conditions have been drafted specific to this style of vehicle, as shown in Appendix 2. These conditions have been drafted following consultation with Leeds City Council and incorporate Aylesbury Vale’s existing licence conditions.

- 3.10 The vehicle is designed to comfortably accommodate two passengers and their needs, including a 240 litre luggage compartment. The safety features designed in to 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.
- 3.11 In respect of the Equalities Act 2010, the vehicle would not be listed as a Wheel Accessible Vehicle (WAV) and as such the driver would not be required to accommodate a passenger travelling with a wheelchair. However, operators and drivers of licensed PHV are not permitted to refuse a booking by a disabled passenger who is accompanied by an assistance dog. Given the nature of the vehicle, it is questionable whether it would be safe to accommodate an assistance dog. The views of the Guide Dogs for the Blind Association were sought on this issue and they responded that safety should be the paramount consideration. The Highway Code does not prohibit dogs and other animals from travelling in vehicles, however they are required to be suitably restrained. The relevant code provides some advice about various restraint methods in respect of cars, however it is not conclusive whether any of these would be suitable for a motorised tricycle:

“When in a vehicle make sure dogs or other animals are suitably restrained so they cannot distract you while you are driving or injure you, or themselves, if you stop quickly. A seat belt harness, pet carrier, dog cage or dog guard are ways of restraining animals in cars.”

The Equalities Act, Section 171 , provides that:

- “(1) A licensing authority must issue a driver with a certificate exempting the driver from the offence under section 170(3) (an “exemption certificate”) if satisfied that it is appropriate to do so on medical grounds.
- (2) In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the private hire vehicle which the person drives or those of any kind of private hire vehicle in relation to which the person requires the certificate.
- (3) An exemption certificate is valid—
- (a) in respect of a specified private hire vehicle or a specified kind of private hire vehicle;
- (b) for such period as is specified in the certificate.”

The wording is in some respects ambiguous and it is not clear whether medical grounds are the only reason for granting an exemption, or an exemption can be granted on a discretionary basis having regard to the physical characteristics of the vehicle. Further clarification may be needed on this point but in general terms it is proposed in the conditions that animals not be permitted to travel in the vehicle.

Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

- 3.12 Given the nature of the vehicle and proposed style of operation this element will not be problematic.

In a suitable mechanical condition;

- 3.13 New conditions have been drafted, as shown in Appendix 2, to ensure the vehicle would be maintained in a suitable mechanical condition. A number of the key new proposed conditions are highlighted as follows:

- The requirement of the vehicle to meet European Whole Vehicle Type Approval provides assurance that relevant environmental, safety and security standards are met.
- The vehicle must be less than one year from date of first registration in order to be first licensed and insurance disposed vehicles will not be considered for licensing. This ensures that the vehicle will essentially be in a new or near new condition when first licensed.
- The vehicle must be serviced every 6000 miles and presented for 6 monthly MOT testing. 6000 mile servicing is in line with the manufacturers recommended service interval. 6 monthly MOTs has been proposed to ensure the ongoing roadworthiness of this vehicle, the shortened interval from the usual 12 months is to reflect the fact the vehicle does not have all the standard safety features of a regular licensed PHV.
- No material alterations may be made to the vehicle without Council approval.

Safe

- 3.14 The driver and passengers are exposed to external elements associated with this mode of transport. The levels of protection normally associated with a car, such as airbags, side impact bars, and crumple zones are not an option with this type of vehicle. However, the vehicle is able to support additional 'safety' features which the Council may impose as reasonable and necessary conditions.
- 3.15 The proposed new conditions, shown in Appendix 2, contain a number of additional safety requirements that could be applied to the vehicle including: passenger head restraints; side restraints; passenger forward restraint bar; suitable foot plates; BSI standards approved seatbelts/lap belts; fire extinguisher; first aid kit; inter passenger driver communication.
- 3.16 Appendix 3 shows proposed conditions that could be applied to the licensed driver of this vehicle. These conditions contain a number of new additional conditions that address safety matters, such as: pre-journey risk assessments and safety briefings; ensuring passengers are appropriately dressed and wearing helmets; ensuring passengers meet height, weight and age requirements; not playing music.
- 3.17 Appendix 4 shows proposed conditions that could be applied to the licensed operator driver of this vehicle. These conditions contain a number of new additional conditions that address safety matters, such as: briefing prospective passengers about appropriate attire; providing documented safety instructions to passengers; providing protective jackets, gloves, eye protection and helmets; maintaining risk assessments; ensure the vehicle has adequate communication between driver and passenger; prohibition on routine private hire work.

Comfortable

- 3.18 The vehicle 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. The distinct style of vehicle and the business plan for this vehicle's usage should make it clear to prospective passengers what level of comfort is being offered. In addition, the proposed operator conditions include a requirement that any advertising must ensure that members of the public are fully aware of the type of vehicle and the associated effects of being exposed to the elements prior to booking.

Insurance

- 3.19 Valid insurance documentation will be checked at the time of application; applications without valid insurance will not be accepted.

4 Options considered

- 4.1 None.

5 Reasons for Recommendation

- 5.1 The main consideration is whether or not this vehicle can be operated safely. Leeds City Council have licensed the same style of operation and vehicle since 2013 without any reported concerns or complaint. New additional conditions have been drafted, specific to this style of operation, to help best ensure the safety and comfort of the travelling public, while providing them the opportunity to experience the local landscape in a novel way.

6 Resource implications

- 6.1 The cost of licensing the vehicle, driver and operator will be recovered from the relevant licence application fees.

Contact Officer

Simon Gallacher Ext 5083