

LICENSING AND REGULATORY COMMITTEE

Minutes and Decisions of the Licensing and Regulatory Committee meeting of Broadland District Council, held on Tuesday 9 November 2021 9:30 am.

Committee Members Present: Councillors: D King (Chairman), K Leggett and S Prutton

Officers in Attendance: The Licensing Team Leader (SH), the Licensing and Enforcement Officer (CN) and the Democratic Service Officer (DM)

Others in Attendance:	Mr Batchelor - the Applicant (for minute no:17) The applicant (for minute no: 19) Sarah Moss, Solicitor NPLaw (the Committee's legal advisor)
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14 DECLARATIONS OF INTEREST

None made

15 APOLOGIES

None made.

16 MINUTES

The minutes of the meeting held on 29 September 2021 were agreed as a correct record.

17 MATTERS ARISING

None raised.

18 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 PRIVATE HIRE VEHICLE DRIVER LICENSING

The Chairman welcomed everyone to the meeting and explained that the matter before the Committee was an application for a Private Hire Vehicle (PHV) licence for an armoured personnel carrier, model FV432, registration UBD 149G.

Licensing and Regulatory Committee

The Licensing Team Leader read out the officer's report. She advised the Committee that comments had been received in relation to the application from Norfolk Constabulary who had advised that, as long as the vehicle was serviced and maintained to a high standard, they saw no issue with it. Ideally the vehicle should be inspected by the DVSA to confirm it met the required standards. They had also suggested that, as the vehicle was being proposed for hire and reward, they would like to see seatbelts installed.

The Chairman commented that both the Police and the Council's licensing policy made reference to the need for seat belts.

The Committee then heard from the applicant who explained that he had originally purchased the vehicle for personal use by family and friends. He had however received enquiries from the public to hire the vehicle and had contacted his insurance company to see if this was possible. He had subsequently been advised that he needed to have a PHV licence to carry paying passengers although he understood he could do weddings and funerals without such a licence. With regard to the issue of seat belts, the vehicle pre-dated the legal requirement for vehicles to be fitted with seatbelts but one seat had been fitted with a seat belt for his child who was under 3. The legislation was a bit unclear as to whether this was required by law or not but he had chosen to install one. He was not sure if the vehicle could be fitted with belts to all seats. He added that the vehicle was limited to travelling at 20mph and was steel armour plated so there would be limited impact for a passenger should an accident occur. With regard to reference in the report to the significant step serving the main rear door, he commented that he had provided a portable step to facilitate easier access.

The applicant then answered questions. In response to a question from the Council's legal advisor, regarding whether the vehicle was legally permitted to be used on a public highway, Mr Batchelor stated the vehicle was registered with the DVLA and had a VC5 registration certificate (log book). It was 15 tonnes in weight and he was always mindful of ensuring it was only driven on suitable roads. He had also contacted Norfolk Police who had confirmed the vehicle could be used subject to meeting normal safety/MOT requirements. The Legal Advisor asked Mr Batchelor if he was aware of the Road Vehicle (Construction and Use) Regulations 1986 (as amended) to which Mr Batchelor responded that he was not.

A question was raised about the effect on passengers should the vehicle be forced to an emergency stop. It was suggested that the vehicle when forced into an emergency stop may suddenly tilt forward with a potential impact on any passengers not wearing seatbelts. Mr Batchelor commented that whilst he had encountered a situation where he had stopped sharply, coming to a quick standstill, he had not attempted an emergency stop with an immediate halt in movement such as to cause tilting. Mr Batchelor went on to confirm that the vehicle did not have any windows for passengers to see outside but that there was a TV in the vehicle which could be linked to camera's on the outside to

Licensing and Regulatory Committee

offer a view of the outside if required. The top hatch could also be opened. The Vehicle had a total of 4 access doors. With regard to the issue of brake lights, Mr Batchelor was unsure if these were currently functioning but would investigate this further. (He subsequently confirmed that the vehicle did have brake lights fitted although it couldn't be confirmed that they were fully-functioning).

At this point in the meeting the Committee adjourned to view the vehicle. They noted that the vehicle appeared to have facility for the connection of seat belts. A comment was made that a grab rail would assist with easier access/egress.

On the meeting being reconvened, all present were then invited to make their closing statements.

The Licensing Team Leader invited the Committee to determine the matter and Mr Batchelor invited the Committee to support his application.

Mr Batchelor and the Licensing Officers then left the meeting. They were subsequently readmitted to the meeting and the Chairman announced the Committee's decision.

DECISION OF THE LICENSING AND REGULATORY COMMITTEE

The Committee unanimously decided not to grant a private hire vehicle licence.

REASONS FOR THE COMMITTEE'S DECISION

In its role as the Licensing Authority, the Committee carefully considered all the information presented to it, including the submissions put forward by the Applicant, the paperwork including guidance and photographs presented by the Licensing Officers and inspection of the vehicle itself.

In coming to their decision, the Committee had regard to Section 48 of the Local Government (Miscellaneous Provisions) Act 1976, noting that they should not grant a private hire vehicle licence unless they were satisfied that the vehicle was: suitable in type, size and design for use as a private hire vehicle; and safe. The Committee were mindful of their obligation to ensure the safety of the public.

With regard to this, the Committee were of the understanding that according to government guidance, all vehicles to be driven on public roads in Great Britain must comply not only with insurance and licensing requirements, and registration with the DVLA requirements, but also the applicable construction and use regulations, namely the Road Vehicles (Construction and Use)

Licensing and Regulatory Committee

Regulations 1986 (as amended) and the Road Vehicles Lighting Regulations 1989 (as amended), to ensure that the vehicle meets accepted standards of construction and can, therefore, be legally driven on public roads. The Committee also understands that with reference to the Road Vehicles (Authorisation of Special Types) (General Order) 2003, there is a restriction of use under section 43(2), which prohibits any track-laying vehicle not complying with all aspects of the Road Vehicles (Construction and Use) Regulations 1986 from being used for hire or reward. Further, the Committee understands that registration of the vehicle with DVLA does not exempt compliance with the Road Vehicles (Construction and Use) Regulations 1986.

The Applicant having confirmed that he had no knowledge of the Road Vehicles (Construction and Use) Regulations 1986 and had believed that he was permitted to use public roads on the basis of confirmation from Norfolk Police, the Committee were of the opinion that due to the many specialised and technical provisions of the Road Vehicles (Construction and Use) Regulations 1986 and Road Vehicles Lighting Regulations 1989 (as amended) they could not be satisfied that the vehicle met all aspects of this legislation and could legally be driven on public roads. Any decision to grant a licence may, therefore, be unlawful given the restriction of use under section 43(2) for track-laying vehicles not being in full compliance with the Road Vehicles (Construction and Use) Regulations 1986. The Committee were of the opinion that the relevant authority to decide whether the vehicle in question was in full compliance with the applicable legislation was the Department of Transport.

Further, applying the requirements of the council's own policy, the Committee had various concerns as to the safety of the vehicle for fee-paying passengers in terms of the lack of brake lights, grab rails, and sufficient numbers of seat belts for all passengers, which the Committee felt affected whether the vehicle was safe for use as a private hire vehicle. However, the principal reason for refusing the application was that the Committee could not be satisfied as to the vehicle's compliance with the applicable construction regulations and subsequent concerns as to the lawfulness of granting a licence, given the restrictions on use for a track-laying vehicle. Should confirmation that the vehicle does comply with the applicable legislation be obtained, the Applicant was invited to make a new application.

RIGHTS OF APPEAL

Rights of appeal are set out in S.48(7) of the Local Government Miscellaneous Provisions Act 1976. Any person wishing to appeal this decision by the licensing authority to refuse to grant the application, or any conditions imposed on the licence should do so within the period of 21 days from the receipt of written notification of the decision appealed against. Any appeal must be sent directly to the Magistrates' Court.

Licensing and Regulatory Committee

This written decision would be provided to the applicant within 5 working days of the meeting.

19 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

to exclude the press and public from the meeting for the remaining business because otherwise, information which was exempt information by virtue of Paragraphs 1, 3 and 7 of Part I of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, would be disclosed to them.

20 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 PRIVATE HIRE VEHICLE DRIVER LICENSING

The Committee considered matters involving an application for a private hire vehicle driver licence, as detailed in the exempt appendix to the signed copy of these minutes and made the decision below and detailed in full in the appendix.

RESOLVED

To grant the licence but attach a written warning.

(The meeting concluded at 12.40pm)

Chairman