

Appeals Committee – 6 November 2018

Minutes of the meeting of the **Appeals Committee** held on **6 November 2018** when there were present:-

Chairman: Cllr Mrs J R Gooding
Vice-Chairman: Cllr B T Hazlewood

Cllr R Milne
Cllr C M Stanley

Cllr Mrs C A Weston

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Mrs D Hoy.

OFFICERS PRESENT

R Hurst	- Senior Solicitor
C Irwin	- Solicitor
S Greener	- Licensing Officer
S Worthington	- Democratic Services Officer

206 MINUTES

The Minutes of the meeting held on 19 June 2018 were approved as a correct record and signed by the Chairman.

207 PROCEDURE DOCUMENT

The Committee noted the procedure to be followed in hearing the appeal.

208 PRIVATE HIRE VEHICLE LICENCE

The Committee considered the report of the Assistant Director, Legal Services relating to an application for a private hire vehicle licence for a rear loading wheelchair accessible vehicle.

The Licensing Officer presented his report and advised that a vehicle similar to that the subject of this application was available outside for Members to view at an appropriate point during the hearing. It was noted that condition 103.6 of the Council's hackney carriage and private hire vehicle licence conditions stating: 'Permit loading of wheelchairs only through the side door(s) of the vehicle. Vehicles that load the wheelchairs through the tailgate will not be accepted for licensing unless a mechanical lift is present with rear side doors. Those proprietors whose vehicles are rear loading shall replace their vehicle with a vehicle that is side loading if the vehicle is changed or when the licence is renewed after the vehicle reaches 12 years of age' was approved by Council in 2017 following a report that included recommendations from the Spinal Association for Hackney Carriages and rear collision testing of a standard Peugeot Partner vehicle regarded by officers as being one of the regular types of rear loading wheelchair accessible vehicles. The testing had shown that collision caused crumpling beyond the rear wheel

base. The condition was originally imposed to address concerns over public safety that all wheelchair accessible vehicles should be side loading or have a tail lift.

The Licensing Officer confirmed that the vehicle that is the subject of this appeal is not a standard rear loading vehicle and has been adapted to include a number of key security aspects specifically installed to safeguard passengers. It was noted that this particular vehicle was more advanced than others currently licensed by the District Council; there was no crash test evidence available for a similarly converted vehicle. It was further noted that the rear wheel arch of this particular vehicle is positioned further back from the position of the wheelchair when fixed, which is different to other rear loading vehicles; in addition, the seats in this particular vehicle are not folded forward as in other rear loading wheelchair accessible vehicles.

In response to questions the following points were noted:-

- This particular vehicle complied with all of the Council's vehicle licensing conditions, with the exception of the rear loading condition already discussed, 103.6.
- The vehicle did comply with condition 103.4: 'Rochford Council will publish on the Rochford Council website a list of all wheelchair accessible vehicles and will highlight those vehicles capable of accommodating users of larger wheelchairs providing additional information about the vehicles allowing them to make informed choices about their journeys' in that it was able to accommodate larger wheelchairs.
- The vehicle had straps and ankle points in the floor of the vehicle that would prevent the wheelchair from falling out of the vehicle; it had a number of security measures in place that were not found in other wheelchair accessible vehicles.
- It would be possible for the Authority to impose specific conditions for this vehicle; vehicles could be licensed by the Council on a case by case basis.

The applicant presented verbal evidence to the hearing that the vehicle was required for his business that offered wheelchair customers a bespoke door to door service. He emphasised that side loading vehicles were acceptable for wheelchair users; however, these could only accommodate standard sized wheelchairs. Larger wheelchairs and most electric wheelchairs could not be turned in side loading vehicles and passengers were accordingly seated with their backs turned to the driver, against the bulkhead. Communication with such passengers was via tannoy; any passengers with speech or hearing difficulties would thus find communication with the driver difficult. He emphasised that he uses the rear view mirror to check on his passengers and to communicate with them; however, the side loading positioning of wheelchair passengers does not facilitate this. He reiterated that wheelchair

passengers in rear entry vehicles with a tail lift would still have to be loaded from the roadside and lifted to a head height of 8ft above ground and require the driver to re-enter the vehicle while the passenger was on the lift in order to load the wheelchair into the vehicle.

It was noted that wheelchair customers were unable to book taxis in advance; taxis had to be booked on the actual day, even for health-related appointments. His company offered a complete home to appointment/event transport service, which was very different to usual taxi bookings.

The applicant emphasised that no two wheelchairs were the same and as a result many side loading wheelchair accessible taxis were unable to accommodate non standard wheelchairs. He considered it important that wheelchair users have access to a transport service that allowed them to retain their dignity, to be loaded quickly and smoothly into licensed vehicles and to be able to talk to their drivers.

The applicant provided verbal evidence of emails and letters from customers who relied on his service, including dementia sufferers and people with a range of disabilities. He stated that comparisons could not be drawn between a collision test of a standard domestic vehicle and one that was converted specifically for wheelchair use; converted vehicles had to pass a safety inspection for use. He concluded by emphasising that it was simple to load wheelchairs into the vehicle that was the subject of this application.

In response to questions the following points were noted:-

- The intention was that one vehicle be licensed initially and that ultimately, over time, around 6 similar vehicles to be licensed.
- The vehicle could be operated by a single driver.
- The company had experienced several instances of medical issues with customers on home to school transport. The company carried care plans for regular customers and also relevant medication. All drivers were CPR/choking trained.
- Two drivers would be operating this particular vehicle.
- The vehicle had not yet been purchased; this was dependant upon the outcome of this hearing.
- It was considerably quicker to load wheelchairs onto this type of vehicle via a ramp at the rear of the vehicle than via side loading vehicles or rear loading vehicles with lifts.
- The company wanted to purchase this particular kind of vehicle as it would be able to transport all wheelchair users rather than those in

standard sized wheelchairs.

- In the case of any future rear collision accidents involving such vehicles each case would be managed on its own merits in terms of safely vacating passengers; that was no different to the current situation. No evidence was currently available for rear shunts involving rear loading wheelchair accessible vehicles.
- This particular wheelchair accessible vehicle would be able to transport a greater number of wheelchair users than side loading vehicles.
- Only a limited number of licensed vehicles are currently able to transport larger wheelchairs, as larger vehicles are needed for this. In addition, there are restrictions on the weight of passengers and wheelchairs in place that restrict the number of wheelchairs that can be transported by side loading vehicles. The vehicle that was the subject of this application was able to take the weight of up to 35-40 stone.
- Wheelchairs in side loading vehicles are secured by an inertia reel belt; the front wheels of the wheelchair can still move. The proposed vehicle has four securing points – two at the front and two at the back, which ensure that wheelchairs are secured to the vehicle floor and are thus unable to move.

At this point in proceedings, the Committee went outside to the car park to view an example of the vehicle that was the subject of this application and to see a demonstration of a wheelchair being loaded into it via ramp at the rear of the vehicle. This showed the wheelchair being held in position by a four point fixing system and a full harness belt, compared to a two point system in other vehicles. The demonstration showed a spinal column being locked into place behind the wheelchair, which was forward facing, rather than rear facing.

The Council's Licensing Officer concluded that the Council's licensing conditions include a condition specifically excluding rear loading wheelchair accessible vehicles in the interests of public safety. He did, however, acknowledge that the vehicle viewed was not a standard rear loading vehicle.

In conclusion the applicant emphasised that the vehicle that was the subject of this application was better for sole drivers transporting wheelchair users than rear loading vehicles with lifts. It was, in addition, more flexible for different types and sizes of wheelchairs than side loading vehicles. The service offered by the applicant was different to the standard hackney carriage or private hire taxi service, as it was bespoke to wheelchair users.

The Committee, having considered all evidence presented during the hearing, was satisfied that this particular vehicle was suitable to transport passengers in wheelchairs without having to comply with condition 103.6 given that it had a locking spinal column, four point fixings and full harness belt and that the

size of the vehicle was able to accommodate generous weights and sizes of wheelchair. In addition, the collision test evidence provided to support the general condition under 103.6 did not apply to this particular vehicle, particularly due to the position of the wheelchair when fixed in relation to the rear wheel base.

The Committee took into account the fact that passengers may at times enter the vehicle from the roadside. However, it accepted the evidence provided that passengers were loaded from the roadside in vehicles with tail lifts. The Committee was aware that condition 109.8 required that wheelchairs and users must be secured with 4 point webbing, forward facing.

Resolved

That the application be approved and that condition 103.6 be removed from this particular private hire vehicle licence, subject to the following additional conditions:-

- Wheelchairs and users must be secured using the lockable spinal column.
- The vehicle must not be fitted with any forward folding seats.
- The vehicle must be made available for inspection by Rochford District Council Licensing Officers prior to first use to ensure that the additional key security aspects are appropriately installed to the officers' satisfaction. (ADLS)

The meeting commenced at 10.00 am and closed at 12.55 pm

Chairman

Date

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