

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON TUESDAY, 26 AUGUST 2008**

MEMBERS

* Cllr J H Baverstock - Chairman

* Cllr J W Squire - Vice-Chairman

∅ Cllr K J Baldry

* Cllr J I G Blackler

* Cllr B E Carson

* Cllr R J Carter

∅ Cllr P H Cook

* Cllr C W Jones

* Cllr D W May

* Cllr C M Pannell

∅ Cllr S L Rankin

* Cllr M F Saltern

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance:

All Agenda Items: Head of Environmental Health, Licensing Manager, Legal Executive and Member Support Services Manager

L.4/08 MINUTES

The minutes of the meetings of the Licensing Committee held on 16 June 2008, and of the Licensing Sub Committees held during the period 16 June to 5 August 2008, were confirmed as a correct record and signed by the Chairman.

L.5/08 DECLARATIONS OF INTEREST

Members were invited to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as:-

Cllr D W May declared a personal interest in item 5: 'To Determine an Application Received Under The Town Police Clauses Act 1847 and the Public Health Act 1875 to Licence a Motorised 'Tuk Tuk' as a Hackney Carriage' (minute L.5/08 below refers) by virtue of his business involvement in the repair of taxis and remained in the meeting and took part in the discussion thereon.

L.6/08 TO DETERMINE AN APPLICATION RECEIVED UNDER THE TOWN POLICE CLAUSES ACT 1847 AND THE PUBLIC HEALTH ACT 1875 TO LICENCE A MOTORISED 'TUK TUK' AS A HACKNEY CARRIAGE

In welcoming those in attendance, the Chairman advised that the applicants had parked a 'Tuk Tuk' in the Follaton House Car Park. The Chairman felt it beneficial for all present to view the vehicle. Once Members had viewed the vehicle and were satisfied that they had no further issues to raise, all parties returned to the meeting room.

(a) Licensing Manager's Report

The Licensing Manager presented his report and outlined the application before the Committee. In his presentation, the Licensing Manager made particular reference to:-

- the vehicle being defined as a 'Hackney Carriage' and the consequent relevance of the Town Police Clauses Act 1847;
- the need for vehicular compliance with Council Byelaws for Hackney Carriages and the Licensing Standard Conditions;
- the intended primary use of the vehicle. The Committee was informed that the primary proposed use was to take passengers from Steamer Quay, Totnes, to either the top of Totnes town area or to the Rotherfold, Totnes. However, should a Hackney Carriage licence be granted, the driver must be able to take passengers to any required destination within the South Hams;
- breaches in the Byelaw requirements. A number of areas in which the 'Tuk Tuk' did not comply with the Byelaw were highlighted. However, the Licensing Manager made specific reference to the vehicle not having at least two doors and having an engine capacity of only 416cc, which was well below the minimum requirement of at least 1300cc;
- safety concerns. The Licensing Manager stressed safety concerns associated with the application, in particular highlighting the lack of doors for rear passengers and adequate seat belts;
- the contents of the letter submitted by the applicant (attached at appendix c to the presented agenda).

In conclusion, the Licensing Manager felt that the application was admirable for a number of reasons and closely linked with the Council's Corporate Priorities 2 and 4. However, safety considerations had to be of paramount importance in granting any licence and officers considered that on balance, safety concerns, when coupled with the lack of compliance with legislation, were so significant in this application that they could not recommend approval.

In discussion, the following points were raised:-

- (i) Officers confirmed that the vehicle was officially classified as a 'tricycle', with an 'A1' categorisation on a driving licence. It was possible for any driver with a 'B' categorisation on their licence to also be able to drive an 'A1' vehicle;
- (ii) Whilst not sure of the exact stopping distances of the vehicle, the Committee was advised that the vehicle had been tested at a Government Centre and had been deemed roadworthy, with the brakes being considered to be very sound;

- (iii) With regard to the noise of the vehicle, it was noted that it had conformed with noise legislation when it had been tested. The vehicle contained a new diesel engine which was yet to be run in and whilst possible methods to reduce noise were continually being considered, it was almost inevitable that a totally sustainable vehicle would have an impact on noise;
- (iv) Although there was no official training centre for drivers, Members were informed that two drivers had been given the equivalent of fifteen weeks of training. Whilst the vehicle was considered to have its quirks, it was felt to be relatively easy to drive;
- (v) Due to a good torque rate on the engine, the vehicle was considered to be deceptively powerful and could reach speeds of up to 40mph.

(b) Address by the Applicant

The applicant, Mr Lacey, informed those present that this was an unusual application and it was his wish to respect the related Byelaws. The vehicle was felt to be a novel and incredibly stable vehicle, with a serious purpose and was brought into the area notably for sustainability and tourism reasons.

In hoping that Members could support the application, Mr Lacey also highlighted the extensive 40 page staff handbook which had been produced and his belief that nobody would be wishing to travel the extent of the South Hams in such a vehicle.

In discussion, reference was made to:-

- (i) comparative tariffs with a taxi. Mr Lacey advised that it was intended that a full fare would not be charged to use the vehicle, with the main purpose being to provide a service and facility to those people who wished to get to the top of Totnes town relatively cheaply and quickly;
- (ii) confirmation that those stakeholders involved in the project had no association with any other related companies;
- (iii) the wish for advertisements to be placed on the vehicle. The Community Interest Company was a 'not for profit' organisation and it was hoped that income generated through advertising would both promote local businesses and financially support the project;
- (iv) the company currently owning two vehicles.

(c) Address by the Project Manager

The Project Manager, Mr Ryeland, reiterated that the vehicles were not designed for travelling long distances and it was envisaged that any potential passengers who wished to travel longer distances would be advised to use a taxi. It was noted that the vehicle was currently insured on a private policy, as the company did not wish to commit to an expensive commercial insurance policy without the application being granted. Furthermore, assurances had been given by potential insurers that they would be willing to insure the vehicles for such a commercial purpose.

(d) Committee Adjourned

At this stage, the Committee adjourned to deliberate. It was joined by the Council's Legal Executive who gave advice on legal matters and wording only and did not take an active role in the deliberations.

(e) The Decision

Prior to announcing the decision of the Licensing Committee, the Chairman advised that a considerable amount of thought had been given to the application. In recognising the merits of the proposal, the Chairman proceeded to announce that it was with regret that the Committee was minded to refuse this application.

In reaching this decision, the Chairman advised that the Committee had considered the following:

- The Licensing Manager's report;
- The Submissions made by the Applicant;
- The provisions within the Town Police Clauses Act 1847;
- The Council's Hackney Carriage Byelaws;
- The Council's standard Conditions of Licence for Hackney Carriages; and
- Recent case law.

(Meeting commenced at 10.00 am and concluded at 11.25 am).

Chairman