

**WYRE FOREST DISTRICT COUNCIL**

**LICENSING AND ENVIRONMENTAL COMMITTEE**

**25<sup>TH</sup> SEPTEMBER 2009**

**Draft Policy for the Licensing of Novelty Vehicles to operate as Private Hire Vehicles in the District**

<b>OPEN</b>	
<b>RESPONSIBLE OFFICER:</b>	Director of Planning and Regulatory Services
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<b>APPENDICES:</b>	Appendix 1 – Private Hire Licence Conditions Appendix 2 – Draft Novelty Private Hire Vehicle Licence Conditions

**1. PURPOSE OF REPORT**

- 1.1 To introduce a policy to allow licensing of Novelty Vehicles to operate within the District as Private Hire Vehicles under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

**2. RECOMMENDATION**

**The Committee is asked to RECOMMEND to Council:**

- 2.1 **the introduction of a policy to allow the licensing of Novelty Vehicles in the district as private hire vehicles on a case by case basis subject to the Licensing and Environmental Committee being satisfied that conditions can be attached ensuring that safety criteria are met.**

**The Committee is asked to DECIDE:**

- 2.2 **whether Auto Rickshaws (Tuk Tuks) are safe and suitable vehicles to be licensed as Novelty Private Hire Vehicles, and if so to**

**RECOMMEND to Council:**

- 2.3 **the conditions set out in *Appendix 2* be adopted to ensure the safety of the general public using such vehicles.**

**3. BACKGROUND**

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 enables a Council to licence Private Hire Vehicles operating within the district.

- 3.2 The Council will currently licence vehicles for Private Hire operation subject to Conditions outlined at *Appendix 1*.
- 3.3 Notably, inter alia, Private Hire Vehicles must be:
- unaltered from the manufacturer's specification and documentation must be produced to show that the vehicle is certified to M1, European Whole Vehicle Approval or Low Volume Type Approval standards;
  - red in colour, suitably finished to a high quality. The red colour shall be matching to BS 5252 (reference 04E55) or other similar colour as the Council may agree;
  - less than 2 years of age. The upper age for Private Hire Vehicles will be 7 years at the time of application for renewal. These age limits can be waived if the vehicle is special or prestigious as designated by the Council's Licensing Officer;
- 3.4 Private Hire Vehicles shall also have a minimum of 4 doors, each adjacent to and allowing direct access to and from the seats.
- 3.5 The quality of Private Hire Vehicles operating in Wyre Forest is high and as safe as the Council can make them.

**Development**

- 3.6 Recently, the Private Hire trade has seen the increased usage of 'Novelty' vehicles where it is fashionable for customers attending events at Night Clubs, School Proms etc. to use vehicles such as decommissioned Fire Engines, and Police or Ambulance Service vehicles for transportation as fare paying passengers.
- 3.7 Interest has been expressed locally to use a Tuk Tuk to promote a local Public House and Restaurant.

**Interpretation**

- 3.8 'Novelty' vehicles include such vehicles as decommissioned Fire Engines, Police and Ambulance vehicles and motorised Tuk Tuks which are capable of carrying up to, but not exceeding, eight passengers.

4. **KEY ISSUES**

**Current Licensing Status**

- 4.1 The Council's current Private Hire Policy does not permit the Licensing of 'Novelty' vehicles, but Members may consider it appropriate to introduce a policy to allow such vehicles to operate as Private Hire vehicles on a case by case basis, subject to the Licensing and Environmental Committee being satisfied that Conditions ensuring that safety criteria are met. Further, as the Council has now received an application to licence a Tuk Tuk (to be considered at this meeting), Members will need to consider whether in principle they are prepared to consider applications for such vehicles and if so, to recommend to Council conditions under which such vehicles should be licensed.

**Novelty Vehicles**

- 4.2 It is not possible to be prescriptive in terms of the Conditions of Licence which could apply due to the range of vehicles that might be put forward for licensing; however they should, in the first instance, meet with the standard requirements relating to mechanical fitness.

**Tuk Tuks**

- 4.3 Tuk Tuks are motorised vehicles (typically with three wheels), which have traditionally been used for town / city centre transport in India, Thailand and South East Asia.
- 4.4 Passenger capacity varies from 2-3 persons up to 6-8 and the configuration can also vary in that the seats can face forwards, inwards or sideways.
- 4.5 Seat belts can be simple lap type, but three point belts can be fitted in some vehicles.
- 4.6 The passenger compartment can be enclosed by perspex / plastic covers and doors, but are generally left open. Passenger comfort is minimal with no heater and basic seats.
- 4.7 One important factor is cill or passenger compartment height which has a direct relation to the centre of gravity and thus its stability.
- 4.8 Tuk Tuks are not routinely fitted with safety features such as air bags, crumple zones etc. so that crash protection is less than in a modern purpose built taxi or saloon type vehicle.
- 4.9 Officers have significant concerns regarding the safety of Tuk Tuks for use as licensed vehicles and any conditions applied would only improve not ensure public safety.
- 4.10 The most obvious safety considerations being the absence of doors, the flimsy construction of the vehicle, the question of roll-over stability and the provision of seat belts.

- 4.11 In addition, the level of impact protection is negligible. Tuk Tuks provide limited protection to passengers and the driver.
- 4.12 This Council's policy requires seating in Private Hire Vehicles to have a minimum width of 16 inches per person. This means that a seat for three people must have a minimum width of 48 inches.
- 4.13 However, on the positive side, licensing Tuk Tuks would provide a further range of transport options for members of the public. They would also be an additional attraction to the many visitors to the district. It may be that Tuk Tuks have a place in limited geographical areas such as restricted town centres or country parks, but care must be taken when deciding if they are fit to be used for use on the open highway amongst general traffic movements including heavy lorries.
- 4.14 Given their low emissions level (LPG/Electric) Tuk Tuks could be viewed as an environmentally friendly form of public transport, however the likelihood is that if they are successful, other operators may also look to set up in the district.
- 4.15 Members must decide firstly whether they are minded to consider it acceptable in principle to licence a Tuk Tuk or similar vehicles, bearing in mind the concerns expressed above. If they are prepared to consider this, then they need to recommend to Council appropriate conditions as set out in Appendix 2.

**Fare Structures**

- 4.16 The Council has no control over the fare structures for Private Hire Vehicles.

**5. FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications arising from this report.

**6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 A Private Hire Vehicle means a vehicle constructed or adapted to seat fewer than 9 passengers (other than a Hackney Carriage or Public Service Vehicle (PSV)).
- 6.2 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a District Council must not grant a Private Hire Vehicle Licence unless they are satisfied that the vehicle is:-
  - a) suitable in type, size and design for use as a private hire vehicle;
  - b) in a suitable mechanical condition;
  - c) safe and comfortable.

- 6.3 A District Council may attach to the grant of a Private Hire Vehicle Licence such Conditions as it may consider reasonably necessary (Section 48 (2) Local Government Act 1976).
- 6.4 All relevant information will be taken into account when consideration is given to an application for a Novelty Private Hire Vehicle Licence.
- 6.5 Whilst an application for a licence should conform to the Licensing Conditions and Council Policies or Guidelines, each application will be considered on its own merits.
- 6.6 If an application is refused by the Licensing Committee, the applicant has a right of appeal to the Magistrates Court.
- 6.7 Wyre Forest District Council may, at its discretion, waive, alter or add to any of the standards or requirements.
- 6.8 Any licensing procedures for Novelty Vehicles should assess the fitness of vehicles and drivers / riders.
- 6.9 Vehicles should be assessed on suitability for the role as well as the condition and safety of the vehicle.
- 6.10 The specification is designed to ensure the safety of fare paying passengers as well as other road users. It also aims to ensure that vehicles are comfortable and suitable for use as a Private Hire Vehicle.
- 6.11 Legally the Council can deviate from its current policy if it feels that there is sufficient reason to do so.
- 6.12 The Council's current vehicle specification specifically allows for deviation in respect of Stretch Limousine Vehicles.
- 6.13 Licence Conditions and Vehicle Specification for licensing purposes would need to be drafted by Officers.
- 6.14 There is no nationally recognised licensing specification for Novelty vehicles operating as licensed vehicles.

**7. RISK MANAGEMENT**

- 7.1 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

**8. CONCLUSION**

- 8.1 Research has confirmed that a small number of Councils have licensed Novelty Private Hire Vehicles but far more Councils have refused them almost exclusively on the grounds of safety.

## **Agenda Item No. 6**

- 8.2 The licensing for general use on public roads gives rise for concern, and extreme caution should be taken in attempting to formulate any Policy/Conditions to allow these vehicles to operate in Wyre Forest.
- 8.3 There are no National Standards, and safety must be the primary consideration. Licensing Officers have visited the leading importer/agent for Tuk Tuks within the UK who has given advice on what type, engine size and safety features should be incorporated into any conditions if it was decided to licence such vehicles
- 8.4 These recommendations have been incorporated into the draft Licence Conditions for Novelty Private Hire Vehicles at Appendix 2.

### **9. CONSULTEES**

- 9.1 Director of Legal and Corporate Services

### **10. BACKGROUND PAPERS**

- 10.1 None