

LICENSING SUB-COMMITTEE

Monday, 12 June 2023

Attendance:

Councillors:
Laming (Chairperson)

Cunningham

Kurn

Officers in attendance:

Claire Humphreys – Licensing Officer
Carol Stefanczuk – Licensing Manager
Daniel Lucas – Litigation Lawyer

[Full recording of the hearing](#)

1. **TO CONFIRM A CHAIRPERSON FOR THE MEETING**

RESOLVED:

That Councillor Laming be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR A SPECIAL PRIVATE HIRE VEHICLE LICENCE (TUK TUK) (LR575)**

The Chairperson welcomed the applicant, Mr Roger Walker, to the meeting.

The Licensing Officer introduced the report which set out an application received from Mr Roger Walker to licence an electric tuk tuk as a special private hire vehicle. Mr Walker proposed to provide a pre-bookable service for weddings, special events and short journeys in and around Winchester and was looking to operate during the summer months initially, when the weather was generally improved. The fare payable would be set by the operator when a booking is

made. The tuk tuk was a three-seater vehicle with motorbike steering, classed as a tricycle by the DVLA for MOT purposes, electric powered for approximately 50 miles with a maximum speed of 20mph and would be a UK approved vehicle. A comprehensive document with business plan, proposed costs to customers, proposed tour routes and vehicle specifications was provided by Mr Walker, as set out in Appendices 2 and 3 of the report.

The Licensing Officer reminded the Sub-Committee that, if minded to grant the licence, this would be a special private hire (tuk tuk) licence for the vehicle in question and special conditions approved by the Sub-Committee would be attached to the licence. The standard Hackney Carriage and/or Private Hire Vehicle Conditions had been amended for the application and vehicle type which would be attached to the licence if granted, as set out in Appendix 4 to the report, subject to approval/and or any amendments considered necessary by the Sub-Committee and the tuk tuk being tested to ensure its safety and appearance to carry passengers. It was reported that Mr Walker would not submit an application for a new private hire driver's licence until a decision had been taken on this application.

In conclusion, if minded to grant the licence, the Sub-Committee were asked to depart from the Statement of Licensing Policy in respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators (the Policy) for paragraphs 3.4 and 3.12 of the Policy. The Licensing Officer referred the Sub-Committee to the full options it could consider in the determination of the application, as set out within the report.

At the invitation of the Chairperson, the applicant, Roger Walker, addressed the Sub-Committee to set out the application and answered questions of the Sub-Committee thereon. Mr Walker clarified that the electric tuk tuk would carry two passengers plus one driver (total 3 persons) and made reference to a number of points, including a request for the minimum age of passengers travelling in the tuk tuk to be 15 years of age to allow him to offer transport to students attending prom nights or similar events and advised of the UK specifications and DVLA requirements for the purchase and approval of a tuk tuk vehicle.

For clarification following questions of the Sub-Committee in relation to the transportation of assistance dogs, the Litigation Lawyer made reference to Section 170 of the Equality Act 2010 which stated, 'The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person and the reason for the failure or refusal to take the booking is that the disabled person would be accompanied by an assistance dog'. Therefore, it would be a criminal offence to refuse a booking solely on an assistance dog and the duty would be on the operator of the private hire vehicle to make the necessary arrangements if a booking were requested.

The Sub Committee then retired to deliberate the case in private.

In his closing remarks, the Chairperson stated the Sub-Committee had carefully considered the evidence presented. It had taken into account the Council's

Statement of Licensing Policy, the Public Sector Equality Duty and the rights set out in the Human Rights Act 1998.

The Sub-Committee concluded that it would depart from the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Driver's and Private Hire Operators (the Policy) and delegate to the Licensing Manager (or an authorised officer) to grant a Special Private Hire Vehicle (Tuk Tuk) Licence, subject to the usual checks, to Mr Roger Walker for 12 months with special conditions attached as approved by the Sub-Committee:

- (i) That an extra condition be added in the "general" conditions section, being a new condition – Condition 5 – which shall limit and restrict the use of the private hire vehicle (tuk tuk) to two fare-paying passengers and authorise officers to draft and attach this additional condition to the vehicle licence accordingly, subject to other checks being completed.

The Chairperson announced that the Sub-Committee were happy to grant, in principle, a special private hire driver's licence (tuk tuk), with special conditions, as set out in the report, subject to the usual checks.

In conclusion, the Chairperson stated that Mr Walker would be formally notified of today's decision in writing and that should he disagree with the decision and wish to challenge it, this notification would include details of the right to appeal against this decision to the Magistrates' Court, which must be made within 21 days of the notification.

RESOLVED:

1. That the Sub-Committee depart from the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators (the Policy) and delegate to the Licensing Manager (or an authorised officer) to grant a special private hire vehicle (tuk tuk) licence (subject to the usual checks) to Mr Roger Walker for 12 months, with special conditions as set out in Appendix 4 of the report and subject to an additional condition 5 as set out in (i) above, subject to completion of other checks; and
2. That the Sub-Committee grant, in principle, a special private hire driver's licence (tuk tuk) with special conditions, as set out in Appendix 5 of the report (subject to completion of usual checks).

The meeting commenced at 10.00 am and concluded at 11.10 am

Chairperson