

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
MONDAY, 23 APRIL 2007 AT 10.00 A.M.
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Easton, R. (Chairman)
Butler, R.D. (Vice-Chairman)

Ball, G.D.	Freeman, M.P.
Davies, D.N.	Holder, M.J.

(Apologies for absence were received from Councillors Mrs. P.A. Ansell, J. Burnett, I. R. Carr, R.C. Turville and B. Williams).

36. Exclusion of Public

RESOLVED:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in paragraph 2, Part I, Schedule 12A, Local Government Act 1972 (as amended).

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PART 2

37. Application for a Hackney Carriage Proprietor's Licence

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 4.1 – 4.11 of the Official Minutes of the Council).

The Applicant's representative attended the meeting to present the Applicant's case. The Officer explained that the Applicant was unable to attend the meeting as he was in Spain and had asked his son to represent him.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. She advised that the application for a Hackney Carriage Proprietor's Licence had been made by the Applicant on 27 February 2007. The Applicant was made aware of the Council's policy regarding the use of tinted glass and that his vehicle did not currently meet the requirements of the policy as the rear window's glass was much darker than the rest of the vehicle's glass. The Applicant had requested that the matter be referred to the Committee for determination.

Members were being asked to consider whether the vehicle should be exempt from the policy in respect of privacy glass and to determine whether the application for a Hackney Carriage Proprietor's Licence should be granted or refused.

Members then examined the Applicant's vehicle.

The Applicant along with Members of the Committee were afforded the opportunity of asking questions of the Officer. A Member sought confirmation that Peugeot had advised that the glass was fitted as standard and they did not supply a less tinted glass for the vehicle. The officer confirmed that this was the case and that the tinted glass was fitted in all models from the basic to the top end of the range.

A Member asked the Officer to indicate which of the criteria outlined within (a) to (d) of paragraph 6.5 of the report, applied in this case. The Officer explained that the vehicle did not meet the Council's policy as one window was darker. The tinted glass policy was introduced for safety reasons and the criteria outlined within (a) to (d) of paragraph 6.5 would be something for the Committee to discuss during their deliberations.

The Member stated that if the vehicle was classed unsafe because of the tinted glass it would not pass an MOT test. The Council's Legal Advisor explained that different issues were relevant when considering whether a vehicle was safe to be a Hackney Carriage Vehicle to those considered during the course of an MOT test.

A Member asked whether the vehicle had been previously licensed as a taxi. The Officer confirmed that the vehicle had not been licensed by this Authority but she could not say if it had been licensed by another Local Authority. She confirmed that the mileage of the vehicle on 1 March 2007 was 124,311 miles.

A Member asked if a precedent would be set if the application was granted. The Officer advised that each case would be judged on its own merits and it may be that other applicants were able to replace the tinted glass if it did not comply. She further confirmed that amendment of the Council's policy was currently being considered.

The Legal Advisor stated that the Committee should not allow the tinted glass policy to fetter its discretion when determining the application and that the Committee could step outside its policy if it considered it appropriate.

The Chairman asked for confirmation as to why the Committee was being asked to consider the application in view of the Council's policy regarding tinted glass. The Officer explained that Officers did not have the power to refuse the application and a licence could not be granted as the vehicle did not meet the Council's policy. The Applicant had therefore requested that the application be referred to the Committee for determination.

The Applicant's representative was then afforded the opportunity of presenting the Applicant's case. The representative stated that the Applicant had attempted to replace the tinted glass in the rear window but had been unable to do so as the manufacturer offered no alternative. He considered that, given the circumstances, the licence should be granted.

Following this, Members of the Committee had the opportunity of asking questions of the Applicant's representative.

A Member asked the representative to confirm whether the Applicant was aware of the tinted glass policy prior to purchasing the vehicle. The representative stated the Applicant had not taken this into consideration when purchasing the vehicle, he had considered the comfort of the vehicle and the side access allowed by the sliding doors.

The Member stated that, as a taxi proprietor, the Applicant should have been aware of this policy. The representative stated that it was possible the Applicant thought he would be able to replace the glass.

In response to a question from the Chairman the Applicant's representative confirmed that

the vehicle had been purchased approximately 18 months – 2 years ago. The representative stated that the Applicant may have purchased the vehicle prior to the tinted glass policy being introduced.

The representative confirmed that the name that appeared on the registration certificate was that of the Applicant's partner.

The Officer was then afforded the opportunity of asking questions of the Applicant's representative. She asked if the vehicle had been licensed previously as a taxi in view of its high mileage. The representative confirmed that the vehicle had not been licensed as a taxi and its high mileage was due to the Applicant travelling regularly to Spain in the vehicle.

The Officer was then given the opportunity to sum up the Council's case. She explained that all proprietors had been notified by letter of the new policy regarding tinted glass. The policy had been introduced after discussions with the trade following difficulties Enforcement Officers had encountered with tinted glass. The Council's conditions and policies were more stringent than the MOT standard, the main issue being the comfort and safety of passengers. Enforcement Officers needed to be able to look inside Hackney Carriage vehicles both on the taxi rank and whilst travelling. The Committee should have regard to the criteria outlined in (a) to (d) of paragraph 6.5 of the report. One window on the vehicle did not meet the Council's policy and Members would need to decide if this meant that safety was being compromised.

The Applicant's representative was given the opportunity to sum up the Applicant's case. He stated that the Applicant had made every attempt to change the tinted glass on the rear window but there was no alternative available.

Photographs of the vehicle were then circulated to the Committee.

The Committee then deliberated in private accompanied by the Council's Legal Advisor and Secretary to the Committee.

RESOLVED:

That, having regard to the Council's relevant Policy, specific circumstances of the application, unique characteristics of the vehicle and the duty and obligations upon the Committee, the application for a Hackney Carriage Proprietor's Licence be approved.

CHAIRMAN