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Date: 27th August 2012

Dear Suzanne,

Re: Review of Licensing Conditions

Thank you for your letter of the 8th August in which you ask for our comments with regards to the licensing conditions in Telford. We were very surprised to receive this letter, as this issue was fully discussed only one year ago and the council decided to retain condition 2.2. It was understood by us that Telford & Wrekin Council was engaged in a review of its Hackney Carriage and Private Hire Policy not its licensing conditions, yet, somehow, this review has once again proposed changes to condition 2.2.

We can see no reason why this should be the case as all the issues were fully discussed during the consultation and licensing committee meeting on the 7th September 2011. All interested parties were able to take part in that process and all views were considered. No party felt that the process had been unfair in anyway or sought to legal challenge the decision.

As far as we can tell this current proposal is due to nothing more than an attempt by Allied vehicles to overturn a lawful decision by the council to promote its own commercial interests. This is wrong and is not the way to produce good policies that will benefit the residents of Telford.

We urge the council to retain the current policy because we accept the valid arguments put forward by councilors when this issue was last discussed.

I propose to deal with the issues raised in your service report for the 5th September meeting to show why this should be the case.

Your report from 5.1.7- 5.1.15 deals with the issue of accessibility, which is clearly a very important issue for councils to take note of. Given that, it seems strange that you do not lay out the reasons why the committee made its decision on the 7th September but only state the



outcome in 5.1.6. This is a failing as the committee debate was robust and covered all the issues that are highlighted by Allied Vehicles.

Section 20 of the Equalities Act lays out the principles that apply to decisions of this kind and provide councils with the correct procedure to be followed. In line with these principles, Telford Council recognized that the current licensing policy may be disadvantageous to groups of disabled passengers and so sought to review the policy. The result was a 12 week consultation in March 2011 that looked at all the issues involved. The licensing committee then discussed the issue fully to determine if the licensing of the E7 would ensure that the council's taxi service met the legal and social needs on the 7th September.

At that meeting councilors recognized that there was a class of wheelchair users who could not currently access the existing taxi fleet but then sought to determine if changes to the licensing conditions would improve the situation for that class of persons. It was accepted that the E7 did provide a longer wheel base that enabled the vehicle to accommodate the large types of wheelchairs that were now on the market but this did not mean that the vehicle would substantially increase the accessibility of the fleet. On a closer examination the E7 was found to have considerable draw back in terms of disabled access.

The door frames of the vehicle were found to be much smaller than the current taxi fleet with the entry way being 5 inches lower and 5 inches narrower, which has a considerable impact on accessibility. So, although the wheelbase of the vehicle allows for large wheelchairs, wheelchair users struggle to enter the vehicle and once inside do not have the head room needed forcing them to bend their necks. As a number of wheelchair users have to maintain their necks in a straight position, this would prevent them from using the vehicle but they can use the existing taxi fleet.

Access to the vehicle was further hampered by the ramp angle of the E7 that was found to be too steep for easy access. The E7's ramp, when deployed, has a ramp angle of 19 degrees which is substantially greater than the angle of the TX4 taxis. The reasons for this are that the ground clearance of the E7 is over two inches higher than the TX4 with a further three inches added due to the way the ramp is built into the vehicle. This height difference also adds an extra five inches to the step height into the vehicle preventing easy access by ambulant disabled as well.

On top of this, the vehicle uses manual sliding doors that further limit disabled access to the vehicle. In order to open the doors passengers have to use a degree of force to pull the door out and back along its runners. This process is often beyond the capabilities of wheelchair users, due to their low height, and elderly and ambulant disabled passengers due to frailty or upper body weakness making it hard to access the vehicle. Once the door is open it does not lock in place and so passengers run the risk of the heavy door sliding back on them, which can



endanger them as they try to enter the vehicle. This is not the case with the TX4 that's door is capable of being lock at the 90 degree angle. This feature also has the added benefit of acting as a stable point of support that can help elderly and ambulant disabled access the vehicle.

Once in the vehicle passengers can struggle closing the door as this requires a passenger to bend their wrist to a 90 degree angle and physically push the door forward with enough force to close and lock the door. As a large number of wheelchair users have limited movement in their wrists this process can be beyond their capability. The same can also be the case with the elderly and ambulant disabled who would all struggle to close the door.

With these features in mind, councilors decided that far from improving the accessibility for the wheelchair users the E7 could, in fact, prevent this group from accessing taxi services in clear violation of equality law.

The committee then discussed the impact this change would have on other groups of disabled passengers and found that they too could be negatively impacted by these changes. The higher step height, the lower head room and the issues with the sliding doors made it considerably harder for ambulant disabled and elderly passengers to access the vehicle. Added to this the TX4 taxi has a swivel seat feature that enables persons with physical disabilities to easily access the vehicle. This feature would be lost if the conditions were weakened and so this disabled group would suffer.

With all this in mind the committee rightly decided that, although the current licensing conditions did impact on a class of disabled passengers in larger wheelchairs, any changes to the conditions would harm large sections of the disabled community and would not help disadvantaged wheelchair users. This situation would not be offset by any improvement to overall accessibility.

This decision was fully in line with the Equalities Act and the judgment in the Alma Lunt case as it was proportionate in insuring a taxi service that catered for the widest number of disabled passengers.

This is still the case to this day. The Telford taxi fleet can still be classed as wheelchair accessible as it meets existing guidelines that define the size and weight of wheelchairs that need to be carried. Changing the licensing conditions will not improve accessibility as the E7, and other vehicles of its type like the Renault VX8, is less accessible than Telford current fleet.

We feel it is important to clear up some of the misconceptions that are held around this issue. The licensing conditions in Telford **are not illegal** as they **do not break any national or EU laws**. A number of councils across the country use the same or similar conditions and have not



been challenged as to their validity. If Allied had believed this to be the case they could have sought a judicial review last year but they did not because they could not.

Liverpool lost in the Alma Lunt case because it followed a flawed procedure in making its decision and the court found this to be illegal. Had the council followed the correct procedure then the proposed licensing conditions would have been legal. **Telford did and will continue to follow the correct procedure and was able to justify its decision based on the policy being proportionate in meeting the legitimate aim of wider disabled access.** We urge the council to reconfirm the decision for the same reasons.

Allied vehicles like to raise the issue of Article 28 of the EC Treaty to state that licensing conditions are illegal that prevent them from selling their vehicle in a given area. Firstly, no one is preventing Allied vehicles from selling the E7 in Telford, as the vehicle can be cheaply and easily converted to meet condition 2.2 but Allied chooses not to. Secondly, although the E7 base may be imported, Allied vehicles is based in Scotland and carries out substantial modification to the vehicle which changes vehicles nature. **As Allied is a UK company seeking to sell vehicles in the UK no cross boarder trade issues are raised and so Article 28 does not apply.** If Allied were so certain that this was illegal they would have sought a European Court ruling to that effect but they have not.

We feel that the turning circle requirement is just as important today as it has ever been and this is reflected by all the reviews that have been undertaken into its use. It must be remembered that the licensing conditions do not prescribe a type of vehicle, design or manufacturer but rather set a standard that vehicles have to meet based on safety.

We agree with this premise and believe that it is our duty to help meet those standards. The taxi market has always had multiple manufacturers, of which LTC has been a leading member, and this continues to be the case. The E7, for example, could be easily and cheaply converted to meet the 25 ft turning circle just as the Mercedes Vito has but the manufacturer has chosen not to do so as they would rather attack the conditions themselves. We do not believe this is the right way to proceed.

As stated above the turning circle provides benefits to drivers and passengers on a daily basis. The condition exists to ensure safety so that a vehicle can perform a swift u-turn on small and busy roads quickly ensuring limited inconvenience to other drivers. Alongside this passengers would be exposed to higher costs as taxis take more journeys round the block or are stuck in road congestion due to the inability of the vehicle to maneuver safely out of the traffic.

Less taxi maneuverability will result to some degree of taxi drivers not picking up passengers who are on the wrong side of the road, or who are in an otherwise inconvenient location, resulting in longer waiting times and reduced passenger benefits. This is particularly the case with disabled passengers who often have greater access requirements and may need to access



vehicles in inconvenient locations. Even where they can make the turn, taxis without the turning circle would take up a greater area of the road when making a turn.

The council must also consider the financial costs involved in changing its conditions as much of the taxi infrastructure has been built and designed to accommodate vehicles with the turning circle. Vehicles that do not have this feature may struggle to use existing ranks forcing the council to incur expense to modify them.

You raise the issue of safety in 5.1.16-5.1.17 of your report and I would like to address that issue now. The TX4 provides unparalleled safety for passengers and drivers alike. The vehicle itself is immensely strong and capable of withstanding significant impacts to the vehicle without causing harm to either driver or passengers. The separation of driver and passenger also ensures that both groups are free from intimidation and violence from the other. This ensures that the travelling public has peace of mind. The vehicle has been designed to meet licensing conditions such as yours that place safety at the very heart and this is reflected in its history.

The TX series offer exceptional protection to passengers in cases of road traffic accidents. The steel body is mounted on a solid steel chassis and meets the highest level of European Whole Vehicle Type Approval.





The accident above took place in Edinburgh in 2007 and you can see the taxi's headlight shining out beneath the giant skip that fell on it.

The driver, Sharon Bain said,

"I was trapped against the steering wheel, lying on my left side, with one of the skips right at my shoulder,"

"The passengers had been protected by the vehicle and because the taxi is so solid it took the fire service quite a while to get to me. If I had not been in a purpose-built taxi, I would never have survived. The fire brigade told me that."

A mother and two children who were passengers when the skip tipped over onto the cab were helped to safety and were completely unhurt.

For this reason we must take a strong exception to your comments in 5.1.16-17 where you imply that the method of securing a disabled passenger in the TX4 may be unsafe. We strongly refute that comment and will take any and all legal step necessary should council officers continue with this line of advice. Far from being unsafe the positioning of disabled passengers in a rear facing position next to the central partition is the safest position in the vehicle. The disabled passenger is placed right in the centre of the vehicle providing maximum impact zones between them and any head on or rear collision. As the passenger is placed on the gravitational centre of the vehicle the G forces involved in any collision will be less than anywhere else in the vehicle. This also goes for acceleration and breaking of the vehicle. This is not the case for passenger who are forward facing as they are exposed to much greater G forces due to breaking or head on collisions. This means a disabled passenger will suffer far less physical damage in this position than if they were in any other part of the vehicle.

This is yet another reason why vehicles like the E7 are less suitable for disabled passenger.

It seems from your report that officers are concerned over the degree of vehicle choice available to drivers and wish to widen the field for both passengers and drivers. We accept that as a valid consideration but weakening the licensing conditions will not do that as has been shown in other areas that have followed this line.



Councils, such as yourselves, that maintain high licensing standards have inspired manufactures to produce vehicles that meet your conditions. Alongside historic players like LTC, Mercedes, Nissan and Metro Cab/Frasier Nash all now produce vehicles that meet your licensing conditions. The increase in competition will bring benefits to Telford residents in terms of accessibility and improved emissions. This level of investment, however, is only possible if the current conditions are retained. The council is, thus, in a position to produce the list of vehicles, as proposed by officers, without needing to alter its conditions.

When the council surveyed residents about its taxi services it was show that 81% of respondents and residents favored the retention of the existing licensing system which goes to show how effective it is. Had disabled passengers found the existing the taxi fleet inaccessible this would not have been the case! Of the respondents who asked for the position to be changed 40% were private hire drivers who wished to take advantage of a weaker licensing system to use E7 private hire vehicles as licensed taxis. Such a situation is not in the best interests of Telford Council or its residents.

Councils that have weakened their conditions and opened up their licensed taxi service have regretted it due to a decline in the quality of the taxi fleet. The result has been a loss of civic pride.

I would ask you to support the retention the Conditions of Fitness that ensures Telford has a first class taxi service that meets the needs of your community.

Yours faithfully

Julian Francis
Government Affairs Manager
The London Taxi Company