

HIGH PEAK BOROUGH COUNCIL

Report to Licensing Sub-Committee  
24<sup>th</sup> February 2017

<b>TITLE:</b>	<b>Application for Licensing Policy Variation in respect of a licence for a Hackney Carriage/Private Hire Vehicle – Netta Christie</b>
<b>Portfolio:</b>	<b>Councillor Anthony Kemp</b>
<b>Contact:</b>	<b>Alicia Patterson, Operations Manager Regulatory Services</b>

Attached documents

**1. Reason for the Report**

- 1.1 To inform the Sub-Committee that an application has been received from the Operator of “The Wonder of the Peak” tram with regard to the High Peak Borough Council Hackney Carriage and Private Hire Licensing Policy 2016 to ask for a determination on whether specific dispensations and exemptions can be granted in relation to certain sections of the policy.

**2. Recommendation**

- 2.1 That Members determine the application to vary the Hackney Carriage and Private Hire Licensing Policy in respect of the particular Operator.

**3. Executive Summary (See section 4 for Background and Detail)**

- 3.1 A representation has been received from Netta Christie, the Operator of the ‘Wonder of the Peak’ Buxton Tram, to vary particular policy conditions in respect of the operation of the service. The Operator is seeking dispensations and exemptions with regard to sections of the Policy which she believes to be overly burdensome or unnecessary in connection with the specific nature of the business.
- 3.2 The applicant is seeking to vary or seek dispensation from the following provisions of the Policy;

- 3.2.1 Appendix B – Vehicle Licence Specifications and Application Procedure
    - 3.2.1.1 Section 8 Advertising and Livery
    - 3.2.1.2 Section 11 Seats
    - 3.2.1.3 Section 12 Seat Belts
  - 3.2.2 Appendix D – Hackney Vehicle Licence Conditions
    - 3.2.2.1 Section 13 Routine Inspection and Testing
  - 3.2.3 Appendix E – Drivers licence Application Procedures and Specification
    - 3.2.3.1 Section 4 BTEC Qualification
  - 3.2.4 Appendix G – The Testing of Applicants for Hackney Carriage and Private Hire Drivers Licence
- 3.3 The applicant has made a number of representations as to why exemptions or dispensations should be given in each of the policy provisions listed above, and these are reproduced in detail in part 6 of this report for consideration.
- 3.4 The issue was discussed with the Senior Officer for Housing, Public Health and Licensing and the Head of Regulatory Services, and it was determined that in accordance with the Council's Policy and given the Council's primary objective of safeguarding the public, any decision to agree an exclusion from or variation of the Policy must be made by the Licensing Sub-Committee, as this is not a function delegated to the Licensing Officer.

#### 4 Options and Analysis

- 4.1 In determining the Application, the Sub-Committee may grant or refuse some or all of the requested variations. Where a request is granted, the Sub-Committee may vary some or all of the requests and attach particular conditions or variations of the Policy requirements in each case, and where a request is refused must indicate the reasons for refusal in each case.

#### 5. Implications

- |     |   |  |
|-----|---|--|
| 5.1 | <u>Community Safety - (Crime and Disorder Act 1998)</u> | Possible Implications on Community Safety.   |
| 5.2 | <u>Employees</u>  | None.  |
| 5.3 | <u>Equalities</u>                                       | This report has been prepared in accordance with the Council's Equal Opportunities policy. |
| 5.4 | <u>Financial</u>  | None for the Council, but may have   |

		financial implications for the driver or operator
5.5	<u>Legal</u>	None
5.6	<u>Sustainability</u>	None.

Alicia Patterson  
Operations Manager - Regulatory Services

<b>Background Papers</b>	<b>Location</b>	<b>Contact</b>
Hackney Carriage and Private Hire Licensing Policy 2016		Mr M Towers Senior Officer (Housing, Public Health & Licensing)

## 6 Background and Detail

- 6.1 The Applicant Netta Christie currently holds a Hackney Carriage Licence for the Buxton Tram. The vehicle operates under the Registration Number H693 GKV and the plate number is 0170. The current Hackney Carriage licence is due to expire on 11<sup>th</sup> March 2017.



- 6.2 The Applicant has asked that her application is heard by the Licensing Sub-Committee so that any agreed dispensations or exemptions from the Policy can be applied to the renewal of the Hackney Carriage Licence and any agreed conditions, limitations or restrictions can be added to the licence conditions prior to renewal.
- 6.3 The applicant has made a number of representations with regard to the Policy, and the detail in each case is presented under each of the following Policy references for clarity.

## 6.4 **Appendix B – Vehicle Licence Specifications and Application Procedure**

### 6.4.1 **Section 8 Advertising and Livery**

6.4.1.1 The Policy states that;

#### **Section 8.1 Operator Advertising**

Advertising on or in the vehicle will be limited to the operator's company name, logo and telephone number/website/email address (along with details of fares scale or discounts offered). All Private Hire Vehicles will be required to clearly display the operators name on the outside of the vehicle.

#### **8.2 Other Advertising**

Any other advertising on or in the vehicle will only be permitted with the express consent of the Authority and will be limited to the side panels of a vehicle only. The advertising of alcohol or related products, gambling/betting and sexual entertainment venues or other hackney carriage/private hire organisations is strictly prohibited.

#### **8.3 Livery**

From 1st November 2017 all new Hackney Carriage Vehicles, or replacement vehicles on an existing hackney Carriage Proprietors Licence (where the vehicle is either being replaced as a result of the proprietor's wishes or because it has reached the specified mileage limit), must be silver in overall colour (An exemption from this requirement will be granted where an operator proposes to use an industry-standard taxi clearly identifiable as such, when black as the main body colour which will be acceptable).

### 6.4.2 **Reason for Exemption**

The Buxton tram is a custom built vehicle and unique in its structure and colour. It is readily identifiable and there is a heavy reliance on advertisement on the body of the vehicle to ensure that the business remains a viable option. This is also commensurate with the historical adornment of trams which this vehicle seeks to emulate.

## 6.5 **Appendix B – Vehicle Licence Specifications and Application Procedure**

### 6.5.1 **Section 11 Seats**

6.5.1.1 The Policy states that

Passenger seats must be at least 400 mm wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. There must be a minimum of 860 mm headroom for all passenger seats measured from the rear of the seat cushion to the roof lining. There must be a minimum of 180 mm legroom for

all passenger seats measured from the front edge of the seat to the rear of any seat, dashboard or internal panel in front.

#### **6.5.2 Section 12 Seat Belts**

6.5.2.1 The Policy states that

All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried.

#### **6.5.3 Reason for Dispensation**

The Tram vehicle is custom built and as such has fixed seating which does not comply with the above condition. Due to the nature of the construction seat belts are not fitted for members of the public. The vehicle only travels 4 miles per hour.

### **6.6 Appendix D – Hackney Vehicle Licence Conditions**

#### **6.6.1 Section 13 Routine Inspection and Testing**

6.6.1.1. The Policy states that the vehicle proprietor must

- a) Present a valid MOT certificate to the Authority for the vehicle every six months, and
- b) Must ensure that all advisory items identified on the MOT are completed before application and documentation confirming the works have been carried out is submitted to the Authority.

#### **6.6.2 Reason for Dispensation**

The Tram is a seasonal business that only operates 6 months of the year. It is exempt from MOT because it is an electric vehicle. the Operator is proposing that her nominated garage can produce a report before the season to ensure that the vehicle is mechanically safe.

6.6.3 It should be noted, however, that the vehicle is made available for private rental and events which may fall outside the 6 months of the year claimed as the seasonal period. In this case, a single report at the beginning of the 'season' may not cover the safety of the vehicle if used at other times of the year for private functions at different locations. Members are invited to give this due consideration when determining this particular dispensation request.

### **6.7 Appendix E – Drivers licence Application Procedures and Specification**

#### **6.7.1 Section 4 BTEC Qualification**

6.7.1.1 The Policy states that

All Drivers whose applications were made after 1st November 2016 must complete and successfully achieve a pass in either the BTEC Level 2 certificate in the introduction to the role of the Professional Taxi or Private Hire Driver or the NVQ level 2 certificate in Road Passenger Vehicle Driving (Taxi and Private Hire Driver) or obtain an equivalent qualification within 1 year of the initial grant of licence, and must be enrolled on a course within 3 months of the licence being issued. Licences will only be issued for one year to applicants who have yet to complete the training and then on successful completion of the above requirement and upon presenting evidence of so doing to the Authority will be extended to the full term upon renewal. From 1st November 2019 this will be a pre-application and renewal requirement, and an application or renewal from any applicant who has not met this requirement will not be accepted.

#### 6.7.2 Reason for Dispensation

The Operator has expressed concerns that it is difficult to recruit drivers, and the drivers she currently has only work seasonally on a part time basis and are required to drive on one specific route. The requirement of the NVQ will deter future drivers and will affect her current drivers who may not wish to continue given the BTEC training obligation.

### 6.8 **Appendix G – The Testing of Applicants for Hackney Carriage and Private Hire Drivers Licence**

6.8.1 The Policy states that In order to maintain the standards that the Authority expects of its drivers, applicants for a hackney carriage or a private hire driver's licence will be required to pass various tests (known as the Knowledge Test) as part of the process of satisfying the Authority that they are suitable persons to hold such a licence. The Knowledge Test is a pre-application requirement and is in addition to the Driver Licence application conditions. The nature of the tests making up the examination are listed in Appendix G.

#### 6.8.2 **The Reason for Dispensation**

The operator has submitted a statement in support of exemption from this requirement: "The Tram travels on 4 miles per hour and operates on a set route, which leaves from the Opera House and visits The Old Hall Hotel, St Annes Well, The Crescent and Thermal baths. It then proceeds past St Johns church to the magnificent Dome where you alight with your guide to see the marvellous interior. Then to Higher Buxton and St Annes Church, and the opportunity to look inside Buxton's oldest building. We

also offer the option of visiting Poole's Cavern (spectacular limestone caverns over two million years old) and Grinlow Country Park." The Operator requests dispensation from the Knowledge Test on the grounds that the driver is not required to know a variety of destinations and drives the same, predetermined route on each occasion during the season.

6.8.3 There are some considerations in respect of this request.

6.8.3.1 It should be borne in mind that although the vehicle operates on a set route, the route almost entirely consists of driving on the public highway. The driver must therefore be expected to display some knowledge of local geography and the Highway Code.

6.8.3.2 The driver does not select the passengers, and so there is no prior knowledge of the passenger's vulnerabilities or needs. Some knowledge of safeguarding would therefore be appropriate.

6.8.3.3 The Council's Combined Hackney Carriage and Private Hire Licence ordinarily allows the holder to drive any Hackney or Private Hire Vehicle, and so once issued there is nothing to prevent the Tram Driver from taking up other taxi work as a supplement. In the event that dispensation from the Knowledge Test is granted, members may wish to consider conditioning the Drivers licence so that it is limited to driving only this specified vehicle.

6.9 In general terms, members may wish to consider the following conditions when determining the application;

6.9.1 Whether to restrict the Hackney Plate specifically to this vehicle, making the plate non-transferable.

6.9.2 Whether to restrict the dispensations only to the seasonal activity, and not to the private rental or event usage.

6.10 The primary purpose of licensing Hackney Vehicles and Drivers is to secure the safety of the public. The High Peak Borough Council is dedicated to providing a safer High Peak. The Council's aim in licensing drivers for Private Hire/Hackney Carriage work is to provide a positive approach towards the safety of people travelling in Private Hire/Hackney Carriage Vehicles within the Borough of High Peak. The over-riding consideration of the members of the Committee is to protect the travelling public; the Authority is mindful of the needs of the applicant but this will be balanced against the over-riding duty that the Authority has to protect the safety and welfare of the

public and most especially those who are vulnerable and who may rely for their safety and well-being in the process adopted in the issue of licences.

- 6.11 The Sub-Committee, in their consideration of the above point, may refer to section 1.6 of the Hackney Carriage and Private Hire Licensing Policy 2016, which states that where application of the policy may result in unfairness to an existing licensee then representations may be made at the time before renewal to explain why such unfairness will result and these must be considered by the Authority before determining the application. Each case will be considered on its merits in the light of the policy and any representations received. If it is determined that application of the policy would result in unfairness then the policy may be modified as appropriate in the individual circumstances of the case. Any decision to modify the Policy must be considered by the Licensing Sub-Committee.