

# Addendum

## Licensing and Regulatory Committee

Dear Councillor,

**Licensing and Regulatory Committee - Wednesday, 26 January 2022, 7.30 pm**

I enclose, for consideration at the meeting of the Licensing and Regulatory Committee to be held on Wednesday, 26 January 2022 at 7.30 pm, the following reports which were unavailable when the agenda was published.

**Mari Roberts-Wood**  
Interim Head of Paid Service

**5. Application for a Private Hire Vehicle Licence(Pages 3 - 6)**

To determine whether a motor tricycle is suitable to be licensed as private hire vehicle.

**6. Any other urgent business(Pages 7 - 10)**

To consider any item(s) which, in the opinion of the Chairman, should be considered as a matter of urgency.

To note and confirm the following application determined through mediation without the need for a hearing:

21/01963/LAPREM to reinstate a Premises Licence: Brooklyn's Bar and Billiards, 9 Queensway Redhill, Surrey RH1 1QT

**For enquiries regarding this addendum;**

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<b>TO:</b>	LICENSING & REGULATORY COMMITTEE
<b>DATE:</b>	

<b>AGENDA ITEM NO:</b>	5	<b>WARD(S) AFFECTED:</b>	ALL
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<b>SUBJECT:</b>	APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE
<b>PURPOSE OF THE REPORT:</b>	TO DETERMINE WHETHER A MOTOR TRICYCLE IS SUITABLE TO BE LICENSED AS A PRIVATE HIRE VEHICLE

### OPTIONS

The Committee has the following options:

1. **To grant the licence subject to such conditions as are consistent with the safe operating of the vehicle that ensure the safety of the fee-paying public.**
2. **To reject the application.**

The Committee has authority to determine the above options.

### Supplementary information for hearing

The applicant, Mr. Martin Ordish in response to receiving a copy of the committee report, has sent an email asking some questions. As both the Committee and Mr Ordish will be interested in the responses, I have answered the relevant questions below as a supplement to the report. For clarity I have numbered the questions 1 to 6 and highlighted them in italic writing. The answers are below each question.

1. *Q 'Not sure how significant the transmission details are but the motor tricycle has automatic transmission and therefore does not have a manual clutch; the V5 lists the vehicle as a tricycle and not a car.'*

A. The vehicle description was a generic example of the type of vehicle.

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2. Q *'In 2018, Whatcar reported that tyre maker Continental, recorded that motorists typically suffer a puncture every 44,000 miles, highlighting the very rare occurrence when a spare wheel might be necessary. A Whatcar survey, reviewing new vehicles and the provision of spare tyres, identified that 55% of manufacturers do not provide a spare wheel of any description, relying on the use of roadside tyre repair kits. Our motor tricycle is equipped with a tyre repair kit and we have roadside recovery cover, provided by the RAC. The safety and comfort of our customers is paramount, and we would provide return transportation, to a place of their choice, at our expense.'*

A. The 'Private Hire Vehicles, Drivers and Operators '(February 2018) conditions requires that:

Spare wheel; the vehicle must safety carry a spare wheel or temporary spare wheel in good working order and tools to change a wheel in the event of a puncture (with the equipment meeting the manufacturer's approved specification). A temporary spare wheel shall only be used to complete the current journey and shall be replaced with a standard wheel before a subsequent hiring.

There are no current plans to change this requirement for any vehicle registered as a private hire vehicle in Reigate and Banstead.

3. Q *'As our vehicle is not a motorcycle or car, is it considered as "other" under the legislation or does this legislation not apply?' (Initially unable to answer question as reference to legislation was not clear)*

A. Email received 23 January 2022 in which Mr Ordish explained his enquiry in question 3. This information was sent by email to Mr Ordish 24 January 2022.

'The licensing of Private Hire and Hackney Carriage Vehicles is controlled by various legislation, notably the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. This legislation also places a responsibility on the operators of these vehicles, with regards to providing services to all sectors of the borough's community '

The use of 'these vehicles' in this context is referring to any vehicle that is licenced as a private hire vehicle (or Hackney Carriage vehicle). And that would include your trike should the Committee decide to licence it as a private hire vehicle.

4. Q *'We are unclear what the salient points are in the example, from 2005, of an unsuccessful licence application for a motorcycle which has been included. We would like the example accessed via the following link, to be included on the*

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*grounds that it is entirely pertinent and representative of the licence we are seeking and was granted for a motor tricycle by the same council in 2013;*

*<https://democracy.leeds.gov.uk/ieDecisionDetails.aspx?ID=40298>*

*Links to documents, that detail the information on which the decision was based, can be found low down on the page; if you would like hard copies of any of this information, we can provide them. Motor tricycles have also been licensed in other countries of the UK. This link includes information on the decision to licence a motor tricycle by Orkney Council as an example.*

*[https://www.orkney.gov.uk/Files/Law-and-Licensing/Licences/Taxis-and-Private-Hire-Cars/Operators/Motorised Tricycle Private Hire Car Operator Conditions.pdf](https://www.orkney.gov.uk/Files/Law-and-Licensing/Licences/Taxis-and-Private-Hire-Cars/Operators/Motorised%20Tricycle%20Private%20Hire%20Car%20Operator%20Conditions.pdf)*

- A. The case of Leeds City Council v Chauffeur Bikes Ltd [2006] R.T.R. 7 was included in the report as it contains salient points and because as a reported case it constitutes a legal precedent. The case highlights the fact that, although a vehicle may be considered safe in itself. It does not necessarily mean that under the Local Government (Miscellaneous Provisions) Act 1976 a licensing authority would consider that the vehicle was safe or appropriate for use as a private hire vehicle.

Although we noted the decision by Leeds City Council to licence a motor trike, it is not relevant to this hearing for 2 reasons. A) Leeds City Council did not have regard to the requirements of the Equalities Act 2010, which was not mentioned in their committee report. B) Reigate and Banstead Borough Council, in making any decision regarding the licensing of a Private Hire or Hackney Carriage vehicle, are not bound by any decision made by another licensing authority. Decisions made by other authorities are made on their own facts and do not constitute legal precedents. As such the decision by Leeds City Council has no bearing on the hearing.

As pointed out by Mr Ordish, the Orkney Islands are in Scotland. Vehicles licensed for private hire operation in Scotland are licensed under different legislation (Civic Government (Scotland) Act 1982). As such any decision or licence issued by a Scottish authority is not relevant to considerations of licensing in England.

5. *Q. Surrey and Sussex Trikes are not providing a drop off service for users. Our journeys are round trips from A to A and there is no requirement for users to exit the vehicle during the service. However at the time of booking, we clarify whether the presence of an assistance dog or mobility aid, would be required at our pre-arranged stops. If this is necessary, our support vehicle would deliver these again, at our expense. Passengers requiring this service would not be subject to higher charges.*

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- A. Whilst this does address concerns regarding the issues of the safety of dogs and passengers, it overlooks the fact that assistance dogs are used for a variety of reasons. These include dogs that identify when the owner is about to have seizures. The separation of any assistance dog from the owner is not appropriate as they not only carry out important functions but become close companions of the people involved.
6. *Q. There is mention that the vehicle, once licenced, could be operated as a regular PHV. We wish to make clear that we do not want to operate as a regular PHV but as a novelty vehicle.*
- A. Although you may not wish to offer your services as a standard private hire vehicle, it is nevertheless a fact that once licenced under the Local Government (Miscellaneous Provisions) Act 1976, you would be at liberty to do so.

## Item 6 – Urgent Business

### **Application ref: 21/01963/LAPREM**

### **Brooklyn's Bar and Billiards, 9 Queensway Redhill, Surrey RH1 1QT**

This application is to reinstate a Premises Licence. The original Premises Licence lapsed when the company which runs the above premises, changed its name to Lynx Cue Sports Ltd (12152207) and failed to transfer the license to its new company name.

The application seeks to re-establish the original licensable hours and activities with no alteration to licence. The application includes retail sale of alcohol, provision of late-night refreshment, recorded music, live music and indoor sporting events as authorised by the original licence.

The hours for licensable activities applied for are 10:00 to 02:00 and includes seasonal and non-standard timings for events if not objected to by relevant authorities.

The following mediated conditions were agreed with the Police following their objections:

1. A fully operating CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. At least one camera will capture the ingress and egress point for customers. CCTV images will be provided to the police and other responsible authorities in any case within 48 hours of a request for such images.
2. A list of the names and addresses of members of the Club shall be kept on the premises at all times. Details can be produced within 48 hours upon request for inspection by the police or an authorised officer of the council.
3. There will be controlled access at the door, to ensure only members and guests are admitted. Every person who enters the premises must first report to reception.
4. There will be a full risk assessment which will be reviewed twice yearly, relating to:-
  - a) The prevention of crime and disorder
  - b) The banking of monies taken
  - c) Fire safety
  - d) Health and safety
5. In regard to the junior membership offered for persons under the age of 18, the membership card is a different colour from other memberships offered. Management staff are usually aware of their identity but can easily check their identity. These members are kept away from the part of the bar that serves alcohol and are restricted usually to the snooker and pool area. No unaccompanied children are permitted in the premises after 19:00.

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6. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 300 persons.
7. The number of guests to be allowed entry after 23:00 shall be limited to two guests per member.
8. All drinking glasses used are to be made of toughened glass.
9. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram or birth certificates accompanying a utility bill.
10. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
11. Staff training shall be recorded and updated every 6 months. Training shall cover the requirements for ID as part of age verification, the responsibilities of staff, training on dealing with an intoxicated person and assertiveness training. All training records will be available to authorities on request.
12. The licence holder shall ensure that an incident log is kept on the premises and that it documents any incident involving the premises. This shall be immediately available upon request of an authorised officer.
13. There shall be a record of any refused sale of Alcohol. The refusal register shall be inspected on a regular basis by the DPS and signed by the DPS that they have checked the register. At least 12 months of refusal register details shall be retained and made available upon request by an authorised officer.
14. Signage shall be displayed in a prominent position on the premises requesting that customers leave quietly and respect the neighbourhood.
15. There will be a minimum of 1 SIA approved Door Supervisor on site between the hours of 21:30-02:30 on Fridays and Saturdays when there is a capacity exceeding 99 persons (excluding staff) and 2 SIA approved Door Supervisors on site between the hours of 21:30-02:30 on Fridays and Saturday where there is a capacity exceeding 149 persons (excluding staff).
16. There will be a minimum of 1 SIA approved Door Supervisor on site during major sporting tournaments (excluding internal tournaments such as internal snooker, football and darts events) between the hours of 21:30-02:30 when



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there is a capacity exceeding 99 persons (excluding staff) and 2 SIA approved Door Supervisors on site during these tournaments between the hours of 21:30-02:30 where there is a capacity exceeding 149 persons (excluding staff).

17. A logbook documenting all SIA Door Supervisor's names and badge numbers and working dates and times will be kept and available to be viewed on request by Police or any other responsible authority.

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