

Report to: **Licensing Committee**
Date: **9th March 2023**
Title: **Consideration of an application to license a vehicle as a Hackney Carriage**
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **N/A**

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Recommendation:

That the Committee considers the application for a new Hackney Carriage licence and determines:

1. Whether the vehicle type is suitable to be licensed as a Hackney Carriage.
2. Whether a Hackney Carriage licence may be granted for this vehicle, subject to the Applicants providing additional documentation as listed in the report at section 2.7

These recommendations are in accordance with Section 37 of the Town Police Clauses Act 1847.

1. Executive summary

- 1.1 The Licensing Department has received an application from ZEST (Salcombe) Ltd to license a vehicle as a Hackney Carriage.

- 1.2 The vehicle type does not comply with the South Hams District Council Hackney Carriage and Private Hire Licensing Policy, so the application has been brought before the Licensing Committee to consider.

2. Background

- 2.1 An application has been received from Niall Rudd and Spencer Williams of ZEST (Salcombe) Ltd, to license an electric shuttle bus as a Hackney Carriage vehicle. ZEST stands for 'Zero Emission Salcombe Transit.' A copy of the application is attached at **Appendix A**.
- 2.2 The vehicle is known as a 'Fairway Electric Shadow Shuttle' and is manufactured by the Suzhou Eagle Electric Vehicle Manufacturing Company. A photograph of the type of vehicle that they are hoping to license as well as specific details about the vehicle are at **Appendix B**. The vehicle has 8 passenger seats and a maximum speed limit of 42 km/hour which is around 26 miles/hour.
- 2.3 The South Hams Hackney Carriage and Private Hire Licensing Policy lists a number of vehicle licensing requirements at Section 17.1. One of the requirements is that all new vehicles will have a 4 or 5 Star Euro NCAP Safety Rating.
- 2.4 The Fairway Electric Shadow Shuttle does not have a rating because it has not undergone testing by Euro NCAP.
- 2.5 Occasionally the Licensing Department is asked to consider whether to license a vehicle that has not been rated by Euro NCAP. In these circumstances we request equivalent safety information about the vehicle, such as crash testing and details of the safety features included before making a decision. This information is often provided by other reputable organisations such as the Insurance Institute for Highway Safety and National Highway Traffic Safety Administration which are based in the US.
- 2.6 It has not been possible to obtain equivalent safety information about the Fairway Electric Shadow Shuttle so we are unable to automatically grant a Hackney Carriage licence without further consideration by the Licensing Committee.
- 2.7 All licensed vehicles must have twice yearly MOTs and enhanced vehicle tests (known as FTA tests) to ensure that they are safe and suitable to be used as a taxi. If the decision is made to license this type of vehicle, the Applicants will be required to provide their MOT Certificate and Certificate of Compliance prior to the licence being granted. This is in addition to a valid vehicle insurance certificate, including cover for hire and reward, as well as proof of public liability insurance.
- 2.8 During discussion with the Applicants they have confirmed that their plan is to provide the residents and visitors of Salcombe with a 'round-robin'

service throughout the day using their shuttle bus. They would also like to be able to use the vehicle for private hire purposes in the evenings. To be able to operate on a set route charging passengers separate fares, they will also be required to obtain a 'Special Restricted PSV Operators Licence' from the Driver and Vehicle Standards Agency (DVSA).

- 2.9 It is the intention that the vehicle will only be used within Salcombe, although once licensed we cannot restrict the vehicle to only being used in a particular area. During our discussion with the Applicants it was noted that the nature of the vehicle, particularly the speed limit of under 30 miles/hour, would likely limit its use to within the town and nearby beaches.
- 2.10 The company that is supplying the vehicle to ZEST has provided us with certification that they have available in relation to the vehicle (**Appendix C**). The first of these certificates confirms that the manufacturer has a quality management system that meets customer and applicable statutory and regulatory requirements. Although this standard has since been superseded in 2018.
- 2.11 The second certificate confirms that the vehicle meets the essential protection requirements for electrical and electronic equipment, as tested by The Military Technical Institute of the Czech Republic.
- 2.12 The third certificate is to confirm that the manufacturer of the shuttle bus is an organisation that meets the internationally recognised leading environmental management system and is therefore committed to continuous improvement and reduced environmental impact.
- 2.13 We have requested further explanation of the rest of the information provided at **Appendix C**. The Applicants will be able to give this to the Committee at the meeting.
- 2.14 The vehicle will be wheelchair accessible, which would provide a valuable service for wheelchair users living in and visiting in the town. As confirmed in the taxi policy, the Licensing Authority encourages the licensing of wheelchair accessible vehicles (WAVs) as well as the use of vehicles which use cleaner technology such as Ultra-Low Emission Vehicles.
- 2.15 South Hams District Council signed up to the Devon Climate Declaration and declared a Climate Change and Biodiversity Emergency on 25 July 2019. As part of this the Council is working with residents, organisations and businesses to promote the reduction of emissions throughout the District. A zero emission vehicle transit operation would help towards this aim and link to the theme of 'Adapting and mitigating climate change and increasing biodiversity' which is contained within the South Hams 'Better Lives for All 2021' Vision.

- 2.16 Two of the other themes included in the 'Vision' are 'Stimulating a thriving economy' and 'Strengthening community wellbeing'. Both of which are relevant to the provision of the type of service being proposed by ZEST through their electric shuttle bus.

3. Outcomes/outputs

- 3.1 When determining an application for a new Hackney Carriage licence it is expected that a vehicle will meet the minimum standards set by the Licensing Authority in its licensing policy.

- 3.2 Section 37 of Town Police Clauses Act 1847 states:

“The commissioners may from time to time licence to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) [such number of]hackney coaches or carriages of any kind or description adapted to the carriage of persons [as they think fit].”

- 3.3 As this is a 'may' power, the Local Authority may choose not to grant a licence for a vehicle. The reference to the prescribed distance is now a reference to the area of the district council.
- 3.4 The fact that the vehicle does not meet the Council's policy does not necessarily mean that the vehicle is unfit to be a Hackney Carriage. A vehicle's suitability should be looked at as a whole in the light of all information available.
- 3.5 The Committee will need to consider the information provided in the report and any additional information provided by the Applicants when determining whether to approve the application.
- 3.6 The main objectives of the Licensing authority in relation to taxi and private hire licensing are:
- The safety and health of drivers and the public;
 - Vehicle safety, comfort and access;
 - To prevent crime and disorder and to protect the public;
 - To encourage environment sustainability.
- 3.7 The decision made should aim to promote the above objectives.

4. Options available and consideration of risk

- 4.1 The two options available to the Committee are to either grant a licence (subject to additional certification being provided) or to refuse to license the proposed vehicle.
- 4.2 When determining whether to grant the licence, the Committee need to be satisfied that the vehicle is safe and suitable to transport members of

the public. While other aspects, such as the fact that the vehicle has zero emissions and would provide a service to the community can be taken into consideration, the main priority is ensuring public safety.

- 4.3 If the Committee determine that the vehicle should not be licensed, then the applicant would have the right of appeal against this decision to the Crown Court.

5. Proposed Way Forward

- 5.1 The Committee need to consider the information provided and determine whether or not the vehicle should be licensed. Reasons must be given for the decision.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>When determining an application for a new licence it is expected that a vehicle will meet the minimum standards set by the Local Authority in its licensing policy. Section 37 of Town Police Clauses Act 1847 states</p> <p>“The commissioners may from time to time licence to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) [such number of]hackney coaches or carriages of any kind or description adapted to the carriage of persons [as they think fit].”</p> <p>As this is a ‘may’ power, the Local Authority may choose not to grant a licence for a vehicle. However a person aggrieved by this decision has the right to appeal.</p> <p>The decision of the Licensing Committee needs to be based on the balance of probabilities. Do the Committee consider that the vehicles are fit to be used as a Hackney Carriage vehicle? Reasons must then be given for the decision.</p> <p>Article 1 of Protocol 1 of the European Convention of Human Rights confers on individuals (and companies)</p>

		<p>the Right to Peaceful Enjoyment of their Possessions and the Protection of Property. Once granted, a licence is a possession and no one can be deprived of his property or have controls put on his property except where the action is permitted by law and justified in the public or general interest. When considering matters relating to the grant, revocation, renewal or refusal of licences, the Committee must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. Consideration must be given to whether any interference is proportionate.</p> <p>Members are advised that Article 6 of the Human Rights Act provides that everyone is entitled to a fair hearing. Accordingly, a person should be afforded the right of a hearing before any decision is taken in respect of a licence, which is currently in force. The Applicants have therefore been informed of this hearing, been invited to make written representations beforehand if he so wishes and to also attend the hearing to be heard.</p> <p>There would be a right of appeal against a refusal to Grant a licence which, in the first instance, is to the Crown Court.</p>
Financial		There are no financial implications to the Council unless the Crown Court overturn the Licensing Authority's decision on any appeal.
Risk		There is a risk to the authority that a poor decision may lead to an appeal being made and the decision being squashed by the Crown Court.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None known
Safeguarding		The requirements of ensuring that a vehicle is suitable to be licensed is to ensure that it does not pose a risk to the safety/welfare of vulnerable passengers.
Community Safety, Crime and Disorder		

Health, Safety and Wellbeing		The requirements of ensuring that a vehicle is suitable to be licensed is to ensure that it does not pose a risk to the safety/welfare of vulnerable passengers.
Other implications		

Supporting Information

Appendices:

Appendix A – Application for Hackney Carriage Vehicle Licence

Appendix B – Photograph and vehicle specifications

Appendix C – Certificates and additional information provided by vehicle supplier

Background Papers:

South Hams District Council Hackney Carriage and Private Hire Licensing Policy.

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	No
SLT Rep briefed	No
Relevant Exec Director sign off (draft)	No
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	N/A