

APPLICATION FORM LTI – LONDON CABS FOR APPROVAL AS A WHEELCHAIR ACCESS VEHICLES MANUFACTURER - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

REPORT BY: Head of Environmental Health and Trading Standards

Purpose

1. To consider approving LTI – London Cabs as an approved manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.

Background

2. To ensure vehicles are fit for the purposes to be used as licensed vehicles in the County of Herefordshire

Manufacturers Tests and Quality Procedures

3. Details of the quality systems in place relating to the installation for wheelchair access facilities. Appendix 1.
4. Examples of previous quality check records demonstrating systems have been in place to ensure consistent manufacturer of the wheelchair access vehicles. Appendix 2.
5. Type approval certificate from Vehicle certification Agency (for vehicle excluding the wheelchair access facilities), Appendix 3

Options

- A. To approve manufacturer
- B. To approve manufacturer on the proviso that a prototype vehicle passes the VOSA single vehicle approval Standard test (including class P and class D).
- C. To require further information
- D. To refuse to approve the manufacturer.

RECOMMENDATION

To go with option B to approve LTI – London Cabs on the proviso that a prototype vehicle passes the VOSA SVA test. Which Herefordshire Council will pay for the first test (if the vehicle fails the manufacturers would have to pay for any subsequent tests).

Notes:**Appeal**

Section 77. -

(1) Sections 300 to 302 of the Act of 1936, which relate to appeals, shall have effect as if this part of this Act were part of that act.

(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act –

- (a) involves the execution of any work or the taking of any action; or
- (b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;

(3) then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution-

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and
- (ii) that person may carry on that business.

Sections 300 to 302 of the Public Health Act 1936 see Notes below.

Appeals and applications to court of summary jurisdiction

300. -(1) Where any enactment in this Act provides –

- (a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a council; or
- (b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,

the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Act shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from which the date on which notice of the council's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In the case where such appeal lies, the document notifying to the person concerned the decision of the council in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

APPEALS TO [CROWN COURT] AGAINST DECISIONS OF JUSTICES

301. Subject as hereinafter provided, where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to [Crown Court], he may appeal to such a court:

Provided that nothing in this section shall be construed as conferring a right of appeal from the decision of a court of summary jurisdiction in any case if each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by such a court.

[Substituted by the courts Act 1971.]

“person aggrieved”; see 22.009 and *Cook v. Southend borough Council* [1990] 2 W.L.R. 61. In that case, the Court of Appeal held that a licensing authority, ordered by magistrates to pay the costs of a taxi-driver's successful appeal against his licence revocation, was a

“person aggrieved” within the meaning of this section. The effect of this was that the authority was entitled to appeal to the Crown Court, not merely against the order for costs, but also on the merits of the magistrates’ decision. The Court of Appeal further clarified the position of confirming that the Council had been entitled to appeal to the Crown Court irrespective of the order of costs made against it by the justices.

EFFECT OF DECISION OF COURT UPON AN APPEAL

302. Where upon an appeal under this Act a court varies or reverses any decision of a council, it shall be the duty of the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

For appeal to magistrates’ courts and Crown Courts generally, see 2.001.

Subsection (2) of section 77 enables an unsuccessful applicant or a licensee who has had his licence suspended, revoked or not renewed to carry on his business until such a time as an appeal is disposed of or withdrawn or fails for want of prosecution.

Appendix 2

Summary of Status testing

Test Procedure – Wheelchair restraints and wheelchair user restraints.

Test Procedure – Vehicle Fitted Wheelchair Ramps & Tail Lifts

Test Procedure – Re located Spare Wheels in Wheelchair Accessible

Test Procedure – Adapted Torsional Stiffness Assessment Vehicles