

Appendix F

ATTENDING NEWBURY MAGISTRATES COURT IN THE MATTER REGARDING SAV APPEALS

These are Appeals sought by Mr Jack Socker and four other holders of Hackney Carriage Licences granted by West Berkshire Council, against the imposition on these licences of conditions. The Appeals are brought by virtue of Section 47 Sub Section 3 of the Local Government (Miscellaneous Provisions) Act 1976. The conditions complained of are that the Appellants be required in the alternative to:

1. Install a front passenger seat which swivels or
2. To provide a vehicle which is capable of taking a person in a wheelchair.

The Appellants do not challenge the Council's power to impose conditions on such a licence but rather contend that the conditions are unnecessary and unfair. They further contend that there are alternative conditions which would meet the needs of disabled passengers.

Whilst the Disability Discrimination Act 1995 is in force it has not been totally implemented. Under Section 32 of that Act the Government has power to make regulations as to taxi accessibility. No such regulations have yet been made but there is a published timetable for implementation, which has woefully slipped behind schedule. West Berkshire Council non the less decided to act in advance of the proposed statutory regulations and attempted to ensure that the disabled population of West Berkshire and presumably visitors should have ensured to them proper access to taxi services.

It embarked upon a wide consultation process with all interested parties as the way forward and indeed commissioned an independent report by MCL Transport to report to its committee. The Appellants thought initially to complain of proper consultation by the Council, but as I understand from their Counsel, they no longer take that view. In any event I would have rejected that suggestion.

The test that I have to apply in deciding whether these Appeals should be allowed is whether the Council is in proper exercise of its discretion – has it acted reasonably and whether the conditions imposed are reasonable.

I have asked myself the following questions:-

1. Was there a lack of consultation? I have already answered that question and reject that there was any lack of consultation.
2. Is there a need? Of course there is a need for disabled to have proper access to taxi services.
3. Is safety compromised? The evidence produced by the Council on this issue satisfies me that the provision for installation of the two swivel seats currently available meet safety requirements similar to any unmodified vehicle.
4. What are the alternatives? I am not sure that this is a matter for me. I have to decide whether what it proposes is the right way to proceed. Of course I now, as part of the demonstration which took place yesterday, have seen an alternative suggestion made by the Appellants i.e. the swivel cushion as apparently in use in Scarborough. I must say that this was to me less than impressive.
5. Has the Council acted on sufficiently good information as to the efficacy of the solution proposed by the Council in its condition.

6. Quite apart from the safety factor, should I not also consider the question of passenger comfort, not just to the disabled passenger but to others more able. While not as important as the safety aspect comfort cannot be lightly disregarded.

Yesterday I had the opportunity of seeing in action 2 swivel seats which are currently available and I must say I found these demonstrations of the most enormous value. While I was satisfied that some of the participants in common parlance "hammed it up" considerably, it was clear to me that the operation of these seats leave a lot to be desired and did very little in achieving easy access to the vehicles and would be greatly detrimental to the comfort of passengers being carried in it. I recall a quite diminutive person being in the seat and he too was very restricted as to head room, not only in the vehicle itself but particularly on entry to an egress from the vehicle. I add I have not let any economic factor enter into my deliberations. I repeat what I said earlier – the Council's aims are laudable and is to be applauded for their wish to see that proper provision is made for the disabled taxi user in advance of statutory regulations and would very much like to find in favour of it but in view of the current lack of proper development of the swivel seat technology I cannot. The Appeals are allowed.

Comms:

Appellants by appeal

not show by exercise discretion

unreasonably / not necessary

Onus on appellants.

not challenged: lawfulness.

Lack of consultation: / information / need

alternatives.

Safety:

Tab 1. Legal Fr. S47:

Tab 2. Wirral capital case

change OK in EC terms

P 159.

P 169¹ para 39 scope

Tab 3. Manchester 1989.

Para 14- L. P 291.

No other relevant considerations - safety, impact of passengers
- genesis in detail. Lawful & reasonable.

Taxi policy under public interest. Acts of divs captured & adopted
which or change them:

Lack of Consultation ? over sum 2000 Council chose policy with extensive consult

* Consultants report:

P 87. Cons. Part 4 1

P 93. Cte. minutes lead to resolution in principle.
even suspended staying over to allow representation

P.95 July 2000 - at Cte: 2 1.
3 1.

5 Option. Option 5

at some fr. - points here in favour.
Amor Amor - must not compete
Amor Amor - bonus.

New licenses At confirm: dual licences

unlike, to adapt which not attract a score

- more purpose & even caused by SAV

123 Dec 2000 further consultation - definite proposal

125 Express At Input: Draft

130 J.R. result. 2.2 time table implications

131 3 1

162/3 Feb 2002 Rpt. another stage = progress.

New letter sent out to all licensees 173 →

Concern many by e-mail. practical observations

clearly dem. oper. of service sent.

Along found at in Jvd. Review

sound foundation for conditions. - neither unfair or unreasonable.

if Council acts in public interest - not to protect interests.
no be ultra vires

: Informatica ?

: MCL report:

man. pts: para 7.38 P 62

- no dist. b/w n/chair or swirl seats.
- form n/a w/c specific demands. Dist. Dis Act where will require it is false.

P. 71

§ 51

§ 52

dist. b/w Cmcil hasnt b/w @ need - seen as unmet demand
 that is unmet demand anyway. Can have n/a w/c future policy appt.

P. 83

9.22

- Cmcil cd be quora for several years.

- Swirl seat is opti - my hot to profuna for everyone.
- Subject - info's report. that D.D Act shd be taken into a/c.

Goals intention P 137

2 man version. in/out. - wheelch accessible

- must also be able to transfer to vehicle seat

- swirl seat spec. is friend to

- other cmcils. Rdg. Aug. has work in L black cb types.

W Dennis

- Cmcil hasnt give that for.

2 man vgt. train on board - provide as alternatives.

alternatives

left into? / or shift into a seat.

Some may be capable. Other not.

Proper objective - A fair access. no ulterior motive

dis-ble get flexib- choices in use A be times

: Safety ?

- Cmcil extreme acceptiv. that it is safe.

P. 220. McDonald's letter.

C=V Regs.

Dynamic testing. Reg 17 seat anchorage etc.

221. no mandats for side air bags. seat belt pretensioners

- Choice of consumer.

no effort to reg. reduce safety by no mandatory standard.

Hyundai will depend on model year used 222

no problems: Galaxy acceptable to Council.

Other Cars have no rear side curtains. Scarborough made a change to

small curtain: no safety testing. if small curtain

entry diff. object - chalk & cheese

not lockable. can't entry small out.

no problem with air bag. with small curtain:

Small seat placed into front of the rearview.

• Will it give drivers false hope. officer's opinion. no technical data

• not abandoned in entry. • not universal conclusion

Small seats are the safest solution. not usually difficult to use.

maybe for lot time. SAFETY PARAMOUNT.

• Many drivers already equipped - appeal the law is full knowledge
of curtain. Known but placed to assist.

• Ophi 5 inc. quality / access. quality & person / basis rear necessary.

Appellants.

ground set mt.

Condition not worse nec. cond. H.M.

1) when is necessity. 2 plus - either Central Govt in legislation or L/A correct way. discl. request to make more accessibility v type needed.

Dis. Disc. Act 1995.

S. 32. may make regs

(3) will make in an Advance

no such regs have been made.

propose to P. 134.

136 draft timetable not copied with.

d. 138 prov. licensed taxis

Clear rights to existing wheelchair acc. taxi. many black cabs.

need discl. in for pose of wheelchair acc. taxi.

139 diagram. what regit will be.

Stat in House. Nov 2003

W/Bans in 1st phase

Donald McDonald. (Letter in bundle). June 2003. ask why t/taxi not full mod.

Q. are max of provision. 100% - wheelchair accessible

use of black cab in Newbury. not to bottom Act.

Curia will have post black cab to galoon.

if op. Dis. cab in - then in am. economic disadvantage.

what type in/at practicality. - Govt give little guidance.

push for disabled city?

MCL report: P. 7.23 / 7.24.

now expr by disabled community

- rel. with class is important thing.

P 62

7.38

- ref to wheelchair accessible vehicles.

Conclusion: bear in mind - not by any means H.C. sphere.

Key can be by H.C. vehicles can't be private hire.

P 71:

8.50

- that pt seemed to be lost: economic disadv. w/ chair vehicles are nt.

no unmet demand:

Disadv. City users? app. to be about

July 2000 - must shut fuel cap when in L. cabs.

don't want LA of black cabs.

Consult with input of condition.

Just P e-mail. show - prefer not to use it

not fit for urban purpose. marginal benefit in giving access.

- in order to ensure w/c vehicles. not Council Corporate item.

- how Council would usefulness of this since their introduction.

- no feed back since no steps to be if needed or used.

T. Ousik. sys next not used. none find it useful.

- reduce of cost. not as comfortable as we replaced.

Reasonable way? Is it safe. Yes it is. accept.

no status apply. not mass marketed item

Loss of safety features side air bag:

Does it improve access. - had demo of it in use.

- small no of people: costly. any vehicle will be full with small seat.

h/room etc:

doesn't meet purpose behind it - what about needs of non-disabled.

permanent adaptation: does affect experience of other people.

it is relevant - places cars @ disadv. in open market

Let's put it out - front seat - not comfortable - loss of headroom.

h/seat support: my car do h/seat.

Door loses ability to use in a tie 3 seats.

Soc. you can't have it preferences. - places car differently

exercise choice against vehicle.

Alternatives? wrong approach. - are they really necessary conditions

Orisk. filtered seat - hasn't used it.

- People can't? doesn't mean do, which - too high to get into.

- indic. that Council take about case. - quite common: access taxi/juni, etc but not about their usefulness.

Cancel pair scan on small ashim. Scrub use it - same function. note permanent adaptation:

what they have done isn't common sense. | Door cycle use it
disadv. more agitated. no benefit to that extent.

McHugh. P 292

- View entrance casually. but no change in parties
once expressed might by that trade.

Rdg. Sligh. gov. move to wholly bicucabes. diff. nature A Rch. + Stronger
more densely populated -> why

laudable aim. of Council. but wish to stand in the way.