

Milton Keynes Magistrates Court

PETER KIRKHAM and Others

Appellants

-v-

MILTON KEYNES COUNCIL

Respondents

JUDGEMENT

This appeal is brought by Mr Kirkham and a number of others by way of complaint. The complaint in essence is that Milton Keynes District Council (MKDC) have amended its conditions in relation to hackney carriage vehicles licences. In that licences would not be renewed from 1st April 2007 in respect of vehicles that did not have a specific purpose built hackney capable of carrying passengers in wheelchairs and - were rear loading, which were excluded on the grounds of safety

MKDC are entitled by the power that is vested in them as a public body to amend the conditions BUT those conditions have to be justified as being "reasonably necessary".

That is the what I have to consider today, in other words, as the respondent has put it -

"Am I satisfied that the decision reached by the Council was reasonable, having regard to the competence of the authority making the decision, taking into account all the relevant factors"

In order to assess this, I have heard from a number of witnesses, read a number of statements and read a number of guidance's produced by various bodies.

In determining whether the Council reached a reasonable decision, I need to be satisfied that MKDC took into account all relevant factors. I will mention a few of those many factors now:-

1. DEGREE AND NATURE OF CONSULTATION

On the evidence that I have heard, I come to the conclusion that consultation was extremely limited. This was conceded by Cllr Burke in his evidence and conceded by the respondents own expert witness. Furthermore, it is clear from the number of letters produced in the appellants bundle written by bodies that that would be "interested party's" that should have been consulted but clearly had not. Cllr Burke concedes that there was no public consultation and no appropriate consultation with those who have disabilities. I have also taken into account the "minutes" of meetings prepared in the respondents bundle and given that due consideration. Nevertheless, I find it is wholly inadequate that various members of the public only found out about meetings through chance and this consultation process was flawed

2. GUIDANCE GIVEN BY VARIOUS BODIES IN FORM OF REPORTS

A number of reports were produced by various bodies which are for guidance only and have been put before the court. However, there is no evidence put before the court that these reports were properly considered or at all. To the contrary, there was evidence that the Council were aware of the best practice guidance, set up a meeting to discuss it, but this was never discussed and did not appear in the minutes of the meeting.

Indeed in one report, the European Conference of Ministers of transport does not recommend a 100% wheelchair accessible fleet but a 2 design level. This does not appear to have even been considered.

The most significant factor is

WHETHER THERE IS A DEMONSTRABLE NEED IN MK TO HAVE 100% WHEELCHAIR ACCESSIBLE FLEET

No evidence put before this court to suggest that there is any such need in MK. It is still unclear to me at this stage the reasons behind the Council's thinking, I heard no evidence to that effect which would assist me on what basis this decision was made.

It is admirable that MK DC have attempted to implement changes to serve those who are disabled however, I cannot be satisfied on that the evidence that I have heard that the decision was reasonable, as MKDC failed to take into account significant and relevant factors, a few of those have been mentioned here.

The decision of the court therefore is that the amendments to the conditions were not reasonably necessary in light of the evidence that this court has heard, therefore the appeal by Mr Kirkham and others is, allowed.

Moving one stage further, in my view, the circumstances in which the court should intervene in the decisions made by an elected body should be few and far between, however since my conclusion is that the Council's decision was not reasonable, I follow the guidance given in Blackpool BC ex parte Red Cab Taxis and amend the conditions as follows:*

I amend the condition by deleting the implementation date of 01/04/07

And

Remove the prohibition on rear loading vehicles

The amendments are made to that effect.

COSTS

Costs will follow the event and MKDC will be ordered to pay the appellants costs in full.

Supporting Information given by the DDJ in clarification:-

- a. The deletion of conditions are only applicable to those who were originally given grandfather rights prior to delimitation and not all Hackney Carriage licensed vehicles i.e. the deletion of the conditions does not apply to the new Hackney Carriage drivers.
- b. Therefore only the original grandfather rights vehicles retain the right to keep saloon type vehicles or introduce rear loading wheelchair accessible vehicles.
- c. All new vehicles introduced since the introduction of side loading wheelchair accessible vehicles have to remain in compliance with this condition.