

Item 7 Hackney Carriage Licensing – Future policy

Report of the Head of Administration (Portfolio: Corporate)

Recommended that:

- 1. With effect from 1 October 2013 the Head of Administration make available for grant five additional hackney carriage vehicle licences but only for vehicles which meet the conditions set out in Annex 2 attached to this report.**

- 2. That a further report on the matter is submitted to this Committee at such time as either all five licences have been issued or there is a change in legislation affecting the Council’s ability to restrict licence numbers, whichever is soonest.**

SUMMARY:

- The Borough Council continues to be in a minority of authorities that restricts the number of hackney carriage licences it issues.

- Following consideration of this matter at the meeting of this Committee held on 17 January 2013, a consultation exercise was undertaken. There was a poor response and the results were inconclusive.

- The Borough Council has been contacted by a number of persons wishing to apply for a hackney carriage licence. This makes the current policy of restricted numbers untenable. Officers recommend the issuing of a further five licences subject to previously agreed quality control measures.

1 Introduction

- 1.1 The Council currently restricts the number of hackney carriages (taxis) it licences. Such a restriction can only be imposed if the Council believes that there is no significant unmet demand for hackney carriages within the Borough. An independent survey undertaken in 2005 and reported to this Committee in 2006 indicated that there was unmet demand but rather than remove all restrictions, licence numbers should be increased and then reviewed after a period of time. This process is known as ‘managed growth’. Since then this Committee has received further reports on the matter.

- 1.2 In October 2010 this Committee received a report on this subject and decided to make available as from January 2011 five additional licences for wheelchair accessible vehicles less than a year old and meeting certain other criteria. As of April 2012, none of these five licences had been issued and so officers reported to this Committee on a recommendation to relax the criteria associated with the five licences in the hope of attracting potential applicants.

The Committee agreed to this approach in respect of three licences but, following a representation from the Corporate Portfolio Holder about the difficulty in obtaining a taxi in the Romsey area, decided that two of the licences should be made available to non-wheelchair accessible vehicles. Despite advertising the availability of these licences there was no significant interest by prospective proprietors. This lack of interest was considered by this Committee at its January meeting where a decision was made to issue no further licences subject to officers undertaking a consultation exercise on de-restriction.

- 1.3 At present the authority licences 36 taxis of which 2 operate in the Romsey area; none of these are wheelchair accessible vehicles. Of the remaining 34 that operate in the Andover area 12 are wheelchair accessible vehicles. It is the view of officers that provision of a greater number of wheelchair accessible vehicles remains the priority in terms of taxi provision within the Borough and an ideal situation would be if approximately 50% of the taxi fleet comprised wheelchair accessible vehicles.

2 Background

- 2.1 In 2004 the Department for Transport (DfT) wrote to all Councils in England and Wales which still restricted licences asking that restrictions be reviewed and the results reported back to the DfT. The clear implication from the DfT was that if Councils wished to retain a restriction then they could only do so if it was in the public interest not to de-restrict licence numbers. The government's policy on the subject remains the same namely that:

- In the Government Action Plan for Taxis (and Private Hire Vehicles) restrictions should only be retained where there is shown to be a clear benefit for the consumer.
- Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached.
- Unless a specific case can be made, it is not in the interests of consumers for market entry [to the taxi trade] to be refused to those who meet the application criteria.

- 2.2 The government recommends that a regular, ideally triennial, survey of unmet demand be undertaken. Officers had originally put forward a bid for sufficient budgetary provision for a survey to be undertaken in 2009-10 but due to the Council's financial situation, this bid was rejected and officers were asked to consider other means of reviewing the current policy.

3 Corporate Objectives and Priorities

- 3.1 None; the licensing of hackney carriages is a statutory function of the Borough Council. Licensing of hackney carriages reduces the potential for illegal plying for hire by unlicensed vehicles and also licensed private hire vehicles. It provides transport for the public who may not have any safe alternative means of transport available to them. The service provided by the hackney carriage trade plays a key role in the provision of an integrated public transport system.

Decisions taken by the Council should be approached in the interests of the travelling public.

4 Consultations/Communications

- 4.1 Following the recommendation agreed at the 17 January 2013 meeting of this Committee, officers conducted a consultation exercise by sending a questionnaire to hackney carriage proprietors, private hire vehicle operators, members, County Councillors, MPs, the Police, Parish and Town Councils and also Test Valley Transport Forum which includes transport providers and groups representing disabled persons.
- 4.2 Over 260 questionnaires were sent out but only 17 returned. The detailed results are shown in Annex 1 to this report. The poor level of response provides no real assistance in determining future policy on this subject. It is extremely unlikely that a repeat of the consultation exercise would produce a better response rate. In addition to the completed questionnaires a letter was received from the office of Sir George Young MP stating that as a member of the Government he would not support the actions which go against Government guidance and is in favour of competition and choice. Mr Newell, an existing hackney carriage proprietor and private hire vehicle operator, submitted a letter rather than a completed questionnaire and this is attached as Annex 3 to this report.
- 4.3 As of 2012, 86 (or 26%) of the 343 licensing authorities in England and Wales including Test Valley had a numerical restriction on the number of hackney carriage licences issued. Within Hampshire the position is as follows:

Council	Hackney carriages	Numbers restricted?	Ratio of hackney carriages to population**
Basingstoke & Deane	65	No	1:2593
East Hampshire	106	No	1:1094
Eastleigh	109	No	1:1154
Fareham	219	No	1:511
Gosport	78	No	1:1059
Hart	150	No	1:611
Havant	40	Yes	1:3019
New Forest	123	No	1:1437
Portsmouth	234	Yes	1:877
Rushmoor	164	No	1:575
Southampton	283	Yes	1:833
Test Valley	36	Yes	1:3241
Winchester	113	No	1:803

** Mid 2011 Population estimates based on the results of the 2011 Census (Source – Office for National Statistics)

It can be seen therefore that Test Valley residents are not well served by the number of hackney carriages available to them in comparison with the residents of neighbouring authorities. Whilst there is no guide figure as to the ideal number of hackney carriages per head of population, Kielder Newport West Limited who undertook the unmet demand survey for the Council in 2005 suggested that an average ratio was one hackney carriage for every thousand persons.

5 Options

- 5.1 The Council has a number of options in relation to the review of the current policy.
- (a) In theory it could maintain the existing policy of restricting licence numbers and agree not to release any further licences at this time.
 - (b) It could issue a number of licences either immediately or over a periodic basis to satisfy any unmet demand (managed growth).
 - (c) Alternatively it could remove numerical restrictions on hackney carriage licences completely and opt for total delimitation meaning that there are no restrictions as to how licences are granted.
 - (d) Finally, it could opt for total delimitation subject to a policy which supports quality control mechanisms.

6 Option Appraisal

- 6.1 By adopting option (a), the Committee are restricting the number of licences available and as such, an unmet demand survey would need to be undertaken to defend our position should a licence application be received. As has been mentioned, funding to undertake a survey is unavailable and so this option is not considered viable. By adopting a new policy of 'managed growth' (option (b)) the Council would be following the recommendations of the independent survey albeit that the survey was conducted over seven years ago and thus it is questionable if the survey results are still reliable and relevant. If this option was pursued, it would be necessary to review the policy at a future date and particularly once all additional licences have been issued.
- 6.2 Options (c) and (d) involve removing any current numerical restriction upon the number of licences. There is the potential for dissatisfaction within the existing taxi trade due to extra competition if additional licences are issued, particularly if option (c) is pursued. Also, there is the likelihood with this option that de-restriction may result in a sudden increase in the numbers of hackney carriages (possibly by 100% or more). Such an increase would be difficult to administer within existing resources and might make enforcement problematic with the result that there may be a reduction in the current high standards of vehicles and drivers. Members are reminded that public safety is the primary licensing test not that of employment or business related issues.
- 6.3 Such problems could be overcome if option (d) were pursued whereby de-restriction is accompanied by additional requirements e.g. only licensing wheelchair accessible vehicles, or vehicles of a certain age or type.

This is the preferred approach of officers but it is acknowledged that current proprietors and members of this Committee have previously expressed concerns over the impact of complete de-restriction (even if criteria are attached).

- 6.4 Consequently officers are minded to recommend that the Borough Council pursue option (b) provided the licences are subject to the conditions set out in Annex 2 attached to this report. Officers believe that this option is the most preferred in that it will provide an opportunity to those wanting to enter the trade without potentially flooding the trade with additional vehicles (thus allaying the fears of existing proprietors). Importantly it has the potential to increase provision for wheelchair users requiring a wheelchair accessible taxi. The main requirements of these conditions is that vehicles will only be licensed if they: are wheelchair accessible with side loading access; have European Whole Vehicle Type Approval, European Small Series Type Approval or National Small series Type Approval; and are no more than 12 months old since the date of first registration. Examples of such vehicles include the LTI TX4 (London style cab), Mercedes Vito, Patons TW200 and Peugeot E7. These conditions are as those adopted in April 2012 except for the provision relating to vehicle age which has been reduced to 12 months rather than three years. Officers had previously recommended a relaxation of the age requirement as no applications for new licences had been made. However, shortly after changing the criteria a new vehicle licence was issued for a vehicle less than 12 months old. This suggests that other prospective proprietors would be prepared to make the significant investment needed to purchase this type of vehicle and on balance officers believe this is a better policy.
- 6.5 It is important to state that these conditions will not apply to the existing original 35 hackney carriage licences already issued and these vehicles will continue to be replaced on a “like for like” basis. The commercial premium associated with hackney carriage proprietor licences is something that the Borough Council has no control over. This “like for like” approach may help to preserve some of the value of the licence plate thus appealing to the existing proprietors. Adoption of this approach will hopefully result in the creation of a mixed fleet of licensed vehicles including saloon cars, multi-purpose vehicles and purpose built wheelchair accessible vehicles thus giving the public a choice of vehicle.
- 6.6 The relevant extracts of the current Department for Transport Best Practice Guidance on this matter are reproduced in Annex 4 attached to this report. A recent development that has further influenced this matter is the Law Commission review of taxi licensing law. The Commission was asked by the Government to undertake a review and initial expectations were that the Commission would recommend removing the ability for Councils to restrict hackney carriage licence numbers. An interim statement issued by the Commission makes it clear that they have now revised their position on the subject and are minded to recommend that those Councils who wish to restrict numbers are allowed to continue to do so.

It remains to be seen whether the Government will agree with this approach and a draft Bill is expected in November 2013. Adopting option (b) addresses the potential demand from licence applicants without committing the Borough Council to a policy which could not subsequently be reviewed and revised.

7 Resource Implications

- 7.1 Adopting option (a) would still require an unmet demand survey to be undertaken as mentioned above there is no funding available for such. Adopting option (c) as mentioned may produce a sudden increase in the numbers of licensed vehicles and place a sudden demand upon existing resource levels which potentially could not be met. By adopting option (b), any increase in the number of vehicles is limited and as such will have little if any impact upon existing resource levels.

8 Legal Implications

- 8.1 As has been stated previously, the Council can only maintain its current policy of restricting licence numbers on the basis of an up to date unmet demand survey. The last survey did indicate unmet demand although, increasingly, the survey results cannot be relied upon as justification for our current policy as they become more and more out of date. Members should be aware that the Council could at any time receive an application for a hackney carriage licence which would be refused based upon current policy. Should a disappointed applicant seek to mount a legal challenge to such a refusal, then it will become more difficult, as time goes by, for the Council to defend its current position.
- 8.2 Prior to this report being produced officers have been contacted by up to four prospective hackney carriage proprietors who have enquired about the availability of hackney carriage licences. If the Council were to deny these persons the opportunity of applying for a licence it is possible that one or more of them may launch a legal challenge and as previously mentioned the Council would be unable to defend such a challenge. A letter from one applicant, Mr Dunn, appears as Annex 5 attached to this report.
- 8.3 The proposed policy recommended in this report, namely that of managed growth linked to a policy of quality control has not been challenged where other local authorities have taken such a course of action. Therefore the approach recommended in this report is considered to be lawful.

9 Equality Issues

- 9.1 Adoption of the recommendations constitutes a change in Council policy. Consequently an Equalities Impact Assessment screening has been undertaken. This has shown that there is no intentional or unintentional discrimination as a result of adopting this revised policy. The screening indicates that adoption of the new policy would produce a benefit in that potentially it increases the provision of wheelchair accessible vehicles in the Borough thus benefiting wheelchair users.

10 Other Issues

- 10.1 Community Safety – none apart from that mentioned in 3.1 above.
- 10.2 Environmental Health/Sustainability Issues – the provision of hackney carriages may lead to slightly less reliance upon private motor vehicles, although the effects are more difficult to quantify.
- 10.3 Property Issues – none.
- 10.4 Wards/Communities Affected – none directly but indirectly the whole Borough particularly Andover town and the surrounding environs.

11 Conclusion

- 11.1 The Council's current policy of restricting hackney carriage licences is becoming increasingly untenable. It is difficult to justify the current policy without the results of a recent survey and this is not possible because of the significant costs of undertaking such a survey. The Council must now consider whether continued restriction of licence numbers is viable. The consultation exercise undertaken earlier this year has proved inconclusive in providing information which would help formulate future policy. Whilst de-restriction is perfectly reasonable and lawful, concerns have been raised by existing proprietors and some members. However, there are potential applicants waiting who if denied an opportunity of applying for a licence may launch legal action. Consequently officers recommend issuing a limited number of additional licences, subject to them being combined with a policy of quality control, as the best way forward.

Background Papers (Local Government Act 1972 Section 100D)

European Conference of Ministers of Transport – Improving Access to Taxis 2007

Department for Transport Consultation on Improving Access to Taxis February 2009

Reports to Licensing Committee 17 October 2006, 15 July 2009, 19 October 2010, 12 April 2012 and January 2013

Letter from Department for Transport dated 16 June 2004

Department for Transport Best Practice Guidance for local authorities: Taxi and Private Hire Vehicle Licensing October 2009

Hackney Carriage Unmet Demand and De-restriction Survey report dated 20 June 2005

Results of consultation exercise undertaken 2013

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	Five		
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