

## Notice of Meeting

# Licensing

**Date:** Thursday 19 November 2020

**Time:** 5.30 pm

**Venue:** Being held virtually by Microsoft Teams. The public can listen to a live stream here:

<http://www.audiominutes.com/p/player/player.html?userid=tvbc>

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**Legal and Democratic Service**

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

**PUBLIC PARTICIPATION SCHEME**

*If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.*

### Membership of Licensing

#### MEMBER

#### WARD

Councillor G Bailey (Chairman)	Blackwater
Councillor N Matthews (Vice-Chairman)	Andover Romans
Councillor I Andersen	Andover St Mary's
Councillor T Burley	Andover Harroway
Councillor J Burnage	Romsey Cupernham
Councillor N Daas	Romsey Abbey
Councillor C Donnelly	Andover Downlands
Councillor A Dowden	Valley Park
Councillor D Drew	Harewood
Councillor A Johnston	Mid Test
Councillor L Lashbrook	Charlton & the Pentons
Councillor P Lashbrook	Bellinger
Councillor R Meyer	Andover Winton
Councillor J Parker	Romsey Tadburn
Councillor R Rowles	Andover Winton

## **Licensing**

Thursday 19 November 2020

### **AGENDA**

**The order of these items may change as a result of members  
of the public wishing to speak**

- 1 Apologies**
- 2 Public Participation**
- 3 Declarations of Interest**
- 4 Urgent Items**
- 5 Minutes of the Licensing Committee held on 15  
October 2020**
- 6 Minutes of the Licensing Sub-Committee held on 22  
October 2020**
- 7 Hackney Carriage Licensing - Future Policy** **4 - 11**

A report recommending action regarding the Council's existing policy relating to the number of hackney carriage licences.

## **ITEM 7                    Hackney Carriage Licensing – Future policy**

Report of the Head of Legal and Democratic (Portfolio: Corporate)

### **Recommended:**

- 1.     That the Head of Legal and Democratic arrange for a consultation exercise to be undertaken in respect of the current policy of restricting hackney carriage licence numbers.**
- 2.     That the results of the consultation form the basis of a further report on the matter to this Committee to assist the Committee in formulating the Council's future policy on the subject.**

#### **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 25<sup>th</sup> September 2014, a decision was made to issue five additional hackney carriage licences but only for vehicles meeting agreed quality control measures, i.e. wheelchair accessible vehicles.
- All but one of these licences has now been issued and so the Borough Council must re-visit its current policy. Officers recommend that a consultation exercise be undertaken to help seek views on determining any future policy on the matter.

### **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 September 2013 this Committee received a report on the subject and decided to make available as from October 2013 five additional licences for side-loading wheelchair accessible vehicles less than a year old. These licences were all subsequently issued and so this Committee considered the matter again on 25<sup>th</sup> September 2014 where it was decided to issue a further five licences also for wheelchair accessible vehicles less than a year old. Only one of those licences remains to be issued and so it is now necessary to re-visit the subject.

- 1.3 At present the authority licences 45 taxis of which 2 operate in the Romsey area; neither of these are wheelchair accessible vehicles. Of the remaining 43 that operate in the Andover area 22 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 a minimum of 50% of the taxi fleet comprised wheelchair accessible vehicles; presently 48% of the fleet is wheelchair accessible and across England as a whole 58% of all licensed taxis are wheelchair accessible.

## **2 Background**

- 2.1 Government guidance on the matter is set out in the Department for Transport (DfT) Best Practice Guidance to Local Authorities, the relevant sections of which are set out in the Annex to this report. That Guidance makes it clear that if Councils wish to retain a restriction then they can only do so if it is in the public interest not to de-restrict licence numbers. Government policy on the subject has remained consistent for most of the last 20 years namely that:

- 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. In the absence of a survey, officers have undertaken consultation exercises the most recent being in September 2013 which was taken into account at the Committee meeting held in 2014 referred to above. The absence of a current survey is only an issue if the Council was to impose a restriction upon issuing licences.

## **3 Corporate Objectives and Priorities**

- 3.1 Hackney Carriage and Private Hire licensing falls within the broader remit of public safety which in itself cuts across the Council's corporate priorities with particular reference to growing the potential of our Communities and People. 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 No additional consultation has been undertaken beyond that undertaken in early 2013 and reported to this Committee in September 2013.
- 4.2 The Department for Transport Taxi and Private Hire Vehicle Statistics 2019 show that 86 (30%) of the 291 English licensing authorities restrict hackney carriage licences. Within Hampshire the position is as follows:

Council	Hackney carriages	Numbers restricted?	Ratio of hackney carriages to population**
Basingstoke & Deane	61	No	1:2932
East Hampshire	92	No	1:1350
Eastleigh	107	No	1:1250
Fareham	153	No	1:755
Gosport	64	No	1:1305
Hart	183	No	1:539
Havant	40	Yes	1:3156
New Forest	116	No	1:1540
Portsmouth	234	Yes	1:908
Rushmoor	95	No	1:1030
Southampton	283	Yes	1:918
<b>Test Valley</b>	<b>45</b>	<b>Yes</b>	<b>1:2893</b>
Winchester	154	No	1:825

\*\* 2019 Hampshire County Council Small Area Population Forecasts

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 most other Hampshire 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 residents.

#### 5 Options and Option Appraisal

- 5.1 There are a number of options available in terms of what policy the Council should adopt going forward. However, owing to the significant public transport role undertaken by licensed taxis it is recommended that an eight week consultation period be undertaken which will be open to the taxi trade and the wider public. This Committee will receive a further report in due course on the findings of the consultation with a view to using those results in determining the Council's future policy.

## **6 Resource Implications**

- 6.1 There are no direct resource implications as a result of the recommendation. The consultation exercise and the subsequent adoption of a new policy can be undertaken from within existing budgets.

## **7 Legal Implications**

- 7.1 As has been stated previously, the Council can only maintain its current policy of restricting licence numbers on the basis of there being no unmet demand. 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 all but one of the additional five licences made available following the decision of this Committee in September 2014 have now been issued and the Council could at any time receive an application for that remaining licence. Any further applications received after that would have to be refused if no licences were available for issue which could result in a legal challenge which the Council would be unable to defend.

## **8 Equality Issues**

- 8.1 Adoption of the recommendations does not constitute a change in Council policy as it will merely provide approval to undertake a consultation exercise. As has been stated, it is the view of officers that the Borough Council should prioritise an increase in the provision of wheelchair accessible vehicles in the Borough thus benefiting wheelchair users.

## **9 Other Issues**

- 9.1 Community Safety – none apart from that mentioned in 3.1 above.
- 9.2 Environmental Health Issues – the provision of hackney carriages may lead to slightly less reliance upon private motor vehicles, although the effects are more difficult to quantify.
- 9.3 Sustainability and Addressing a Changing Climate – no implications identified.
- 9.4 Property Issues – no implications identified.
- 9.5 Wards/Communities Affected – none specific but potentially the whole Borough.

## **10 Conclusion**

- 10.1 The Council continues to retain a policy of restricting hackney carriage licences. At its last consideration of this matter this Committee decided to make available a further five licences. All except one of these licences have been issued and the Council must now consider whether continued restriction of licence numbers is viable. Officers recommend undertaking a consultation exercise to help inform the Council's future policy on the subject.

<p><u>Background Papers (Local Government Act 1972 Section 100D)</u>                  Reports to Licensing Committee 17 October 2006, 15 July 2009, 19 October 2010, 12 April 2012, January 2013, 19 September 2013 and 25 September 2014</p>			
<p><u>Confidentiality</u>                  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.</p>			
No of Annexes:	1		
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File Ref:	MW/		
Report to:	Licensing Committee	Date:	19 November 2020

## QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

- The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.
- Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.
- Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?
- In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.
- If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.
- As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

**the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...

**waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...

**latent demand**, for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.

**peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.

**consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);

**publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.

**financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

- Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)

## **TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE**

### **Useful questions when assessing quantity controls of taxi licences**

Have you considered the Government's view that quantity controls should be removed unless a specific case that such controls benefit the consumer can be made?

#### **Questions relating to the policy of controlling numbers**

- Have you recently reviewed the need for your policy of quantity controls?
- What form did the review of your policy of quantity controls take?
- Who was involved in the review?
- What decision was reached about retaining or removing quantity controls?
- Are you satisfied that your policy justifies restricting entry to the trade?
- Are you satisfied that quantity controls do not:
  - reduce the availability of taxis;
  - increase waiting times for consumers;
  - reduce choice and safety for consumers?

- What special circumstances justify retention of quantity controls?
- How does your policy benefit consumers, particularly in remote rural areas?
- How does your policy benefit the trade?
- If you have a local accessibility policy, how does this fit with restricting taxi licences?

#### **Questions relating to setting the number of taxi licences**

- When last did you assess unmet demand?
- How is your taxi limit assessed?
- Have you considered latent demand, i.e. potential consumers who would use taxis if more were available, but currently do not?
- Are you satisfied that your limit is set at the correct level?
- How does the need for adequate taxi ranks affect your policy of quantity controls?

#### **Questions relating to consultation and other public transport service provision**

- When consulting, have you included etc.
  - all those working in the market;
  - consumer and passenger (including disabled) groups;
  - groups which represent those passengers with special needs;
  - local interest groups, e.g. hospitals or visitor attractions;
  - the police;
  - a wide range of transport stakeholders e.g. rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?
- What is the level of service currently available to consumers (including other public transport modes)?