

COMMITTEE: REGULATION COMMITTEE

DATE: 2ND APRIL 2009

SUBJECT: HACKNEY CARRIAGE UNMET DEMAND SURVEY

REPORT BY: HEAD OF ENVIRONMENTAL AND CONSUMER SERVICES

CONTACT OFFICERS: TONY IRELAND 546416

IMPLICATIONS:

LEGAL	✓	COMMUNITY SAFETY
EQUALITIES	✓	ENVIRONMENT
FINANCIAL	✓	CONSULTATIONS
STAFFING		OTHER

WARDS AFFECTED: ALL

PURPOSE

1. To receive a report and presentation by Colin Buchanan and Partners, independent transport consultants commissioned by the Licensing Service, to assess whether significant unmet demand for Hackney Carriage Vehicles exists in the Borough.

RECOMMENDATION(S)

2. Regulation Committee is recommended to:
 - (i) Consider the content and recommendations of the report submitted by Colin Buchanan and Partners, the Council's external consultants, any representations made by interested parties, and make a decision on the number of additional Hackney Carriage Licences to be issued by the Council and over what period;
 - (ii) If appropriate, agree the criteria in paragraph 11 which will be adopted to decide in a fair and transparent way how additional licences will be awarded to applicants, the appropriate date of implementation, a suitable fee to cover the cost of administration and the principle of appointing an independent organisation to select suitable applicants;
 - (iii) Request the Head of Engineering & Transportation to consider and report back on the possibility of identifying the allocation of any additional rank space in the Town Centre.

BACKGROUND

3. This report was initially listed for this Committee on 25th February 2009, however, Members agreed to defer it owing to insufficient time being given for the circulation of the full report and Appendices.
4. The Council maintains a limit on the number of Hackney Carriage vehicle licences that are issued. This policy currently restricts the number to 161. Under the Transport Act 1985, Local Authorities are only able to limit the number of Hackney Carriage licences issued if there is no 'significant unmet demand'. The existence of the concept of 'significant unmet demand' must be determined through robust statistical analysis as any decision to limit the number of licences may be open to detailed scrutiny by the Courts should the Committee's decision be challenged. Such surveys are normally conducted every 3 years.
5. Significant unmet demand is made up of two components:
 - Patent demand – that which is directly observable from observing queues and waiting time at the ranks.
 - Latent demand – calculated using data from the rank observations and public attitude information gleaned from the survey.
6. In relation to determining whether any significant unmet demand exists within Luton, the survey has identified that unmet demand did exist, albeit at a lower level than in 2005, when the last survey was completed. The recommendation by the consultants is to issue an additional 15 – 20 Hackney Vehicle licences each year for 2009/10; 2010/11; and 2011/12 and to carry out a further study in the third year in line with Department of Transport guidelines.

REPORT

7. Colin Buchanan and Partners carried out their study between June and November and have produced their report for consideration. The Executive Summary is attached as Appendix 1. The full report is attached as Appendix 2. A representative from Colin Buchanan and Partners will attend the meeting to present the results of the Unmet Taxi Demand Survey.
8. The report was not commissioned with a view to examine the possibility of a complete removal on the limit of licences issued. Whilst this has been flagged as a potential option in paragraph 25 (Option 3), Members should be cautious of taking this decision without a further independent assessment of the impact of this decision.
9. One of the main issues that has been identified by the consultants is the prevalence of Private Hire Drivers illegally 'touting for hire' and the direct impact that this has on the demand for Hackney Carriages. Whilst the Enforcement Staff in Licensing have increased their enforcement activity, this issue remains a problem. The only method of enforcement to successfully prove an offence is both

limited and time consuming whilst being resource intensive.

10. The consultant's report identifies some areas in which the Council could improve its provision for drivers in the provision of rank space and facilities for drivers at taxi ranks.
11. It is essential to ensure that the process for issuing new licences is both fair and transparent. The Licensing Service proposes, if appropriate, to follow the procedure used in recent years when issuing new Hackney Carriage licences and this is as follows:

The applicant must

- a Satisfy the Council's Conviction Policy for the grant of a new licence in relation to criminal and motoring offences
- b Be able to finance the provision of a Hackney Carriage that satisfies the Council's current policy in terms of access, manufacture and design and the vehicle must be less than 12 months old when first licensed.
- c Give a written undertaking that they will not sell the Hackney Carriage Licence within two years of the licence being granted.
- d Not be an existing Hackney Carriage Proprietor and not be the holder of a current Hackney Carriage Vehicle Licence issued by Luton Borough Council. That any person who has previously held a Hackney which was bought commercially and transferred to another family member or friend within the last two years be barred from being granted a Hackney Carriage Vehicle Licence.
- e Give a written undertaking that the Hackney Carriage will ply for hire, in the Borough, at night and weekends.
- f Tender an administration fee of which $\frac{2}{3}$ ^{rds} will be non refundable

That duplicate applications, when identified will result in all applications by that individual being disqualified from consideration.

That all applications for a new Hackney Carriage Licence be processed by the Council's Licensing Service and applications which meet the agreed criteria be forwarded to the Electoral Reform Society, or some other independent organisation unconnected with Luton Borough Council, for final selection.

That, if appropriate, the decision of the Committee, the process and the procedure be advertised in the Public Notices section of the local newspaper inviting applications from interested individuals.

LEGAL IMPLICATIONS

12. The following legal Implications were identified by Clive Tobin, Solicitor, Legal Services on 20th February 2009:-
12. Under section 37 of the Town Police Clauses Act 1847 as amended, the Council may refuse to grant a licence for a hackney carriage only if there is evidence that there is no demand for hackney carriages which is unmet. It is important to note the Council does not have a duty to refuse to grant a licence where there is no evidence of unmet demand but rather it has a discretion to refuse to grant a licence in this situation. If the Council is not satisfied that there is no unmet demand for

hackney carriages it cannot refuse to grant a licence for the purpose of limiting the number of hackney carriages and is therefore obliged to grant the licence.

13. Any decision to increase the number of hackney carriages must be based on evidence of the current situation. This means considering the report commissioned by the Council and the representations by representatives of the hackney carriage and private hire trades.
14. As the Council does not in any circumstances have a duty to maintain its limit on the number of hackney carriage licences that may be issued, any decision as to whether or not to maintain this limit is to be made by balancing the needs of the public with the legitimate expectations of those who already hold such licences, together with those who may wish to obtain such licences. In doing this the Council must take account of all relevant factors, disregard all irrelevant factors and reach a decision which is reasonable in the circumstances.
15. Having carried out appropriate consultation there is nothing to stop the Council from allowing the issue of further licences if it considers it reasonable to do so.

EQUALITIES IMPLICATIONS

16. There are no direct implications as any additional vehicles that may be licensed as Hackney Carriage vehicles must have wheelchair access.

COMMUNITY SAFETY

17. Having sufficient Hackney Carriage vehicles to satisfy the demand for them ensures that members of the public can access this form of transport without undue delay.

FINANCIAL IMPLICATIONS

18. The cost of the unmet demand survey has been met by adding a £34 surcharge to all Hackney Carriage Vehicle and Driver licences for the previous year.

COUNCILLORS CONSULTATIONS

19. Consultation has taken place with the portfolio holders for Licensing.

STAKEHOLDERS CONSULTATIONS

20. The full Unmet Taxi Demand Study was issued to the trade representatives and a briefing session held with them in January 2009. A copy of the Summary and Conclusions (Appendix 1) was sent to every Hackney Carriage Driver/Proprietor.
21. There have been three written responses received at the time of this report being compiled and are attached as Appendices 3, 4 & 5 respectively.
22. The first is from Edwards Duthie Solicitors, who have been instructed by the Town Hackney Carriage Association and the Hackney Carriage Owners Association. It is

understood that a representative of the Solicitors will attend the Committee meeting to speak on behalf of their clients.

23. The second response is from Mr Shoket Malik writing on behalf of the Luton Hackney Carriage Owners Association and he has indicated that he intends to attend the Committee meeting and speak on the subject.
24. The third response was from a Mr A Hussain.

OPTIONS

25. The Committee is reminded that whilst other factors may be taken into account, the main consideration is that if there is a significant demand that is unmet then the Council is obliged to release licences subject to an assessment of the level of demand. Only if the Council can be completely satisfied that there is no significant unmet demand can the existing limit be retained. Therefore the 3 possible options for consideration are:

- Option 1 Retain the existing limit of 161 Hackney Carriage Licences.
- Option 2 Increase the number of licences year on year in line with the recommendation contained in the Unmet Taxi Demand Study.
- Option 3 Remove the limit on the number of licences issued.

APPENDIX

- A Executive Summary (Pages 8/6-8/9)
- B Unmet Demand Survey report (Pages 8/10-8/106)
- C Representation from Edwards Duthie Solicitors(Pages 8/107 – 8/119)
- D Representation from Mr Shoket Malik of the Luton Hackney Carriage Owners Association (Pages 10/120-10/122)
- E Representation from Mr A Hussain (Pages 10/123-10/125)

BACKGROUND PAPERS

None