

**Item :7**

**Meeting: GENERAL PURPOSES COMMITTEE**

Date: 3 June 2013

**REVIEW OF LIMIT ON HACKNEY CARRIAGE VEHICLE NUMBERS**  
(Environmental Health & Licensing)

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**1 PURPOSE**

- 1.1 That members consider whether to undertake an unmet demand survey in order to consider a review of the Council's current policy of limiting hackney carriage vehicle licence numbers.

**2 RECOMMENDATIONS**

- 2.1 That members approve that an unmet demand survey be undertaken to inform Members regarding future policy decisions of the limitation of hackney carriage license numbers.

**3 BACKGROUND**

- 3.1 Members will be aware that this authority currently restricts its number of hackney carriage vehicles; this limit is currently set at 100.
- 3.2 Stevenage conducted unmet demand surveys in 2002 and 2006. The conclusion from both these surveys was that there was no evidence of their being any significant unmet demand.
- 3.3 During 2009, the licensing authority began works to review the current arrangements as to the limitation of hackney carriage vehicles in Stevenage. Feedback from the taxi forum and the trade as a whole at that time, was that they did not wish for an unmet demand survey or a review of the current limit to be conducted at that time due to the downturn in the UK's economy.
- 3.4 At this time also, there was no interest from any of the trade's members in making an application for any further hackney carriage vehicle licences.
- 3.5 Whilst no applications have been made to the licensing authority for any further hackney carriage vehicle licenses, interest has been indicated by the holders of dual driver licenses as to when a review is to take place.

3.6 The latest guidance issued by the Department for Transport in March 2010 reviews the matter of quantity restrictions in detail and is as follows:

3.6.1 Quantity Restrictions of Taxi Licences Outside of London.

- (a) *“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’.*
- (b) *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.*
- (c) *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 deterioration in the amount or quality of taxi service provision?*
- (d) *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.*
- (e) *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.*
- (f) *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 hailing 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.*

- 3.7 Apart from the requirements of the 1985 Act, the Department's letter of 16 June 2004 asked all local 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.
- 3.8 Therefore, we are now seeking to review the current policy in line with the Department for Transport (DfT) guidance, as the more time that passes with regards to the current position as to limitation, the lesser that we as a licensing authority would be able to defend a decision to refuse an application for the grant of a new hackney carriage vehicle licence should the applicant lodge an appeal to the Crown Courts.
- 3.9 The Council is not required to conduct an unmet demand survey before deciding to delimit, so long as they are happy that they could demonstrate the reasoning for this.
- 3.10 As an alternative to conducting an unmet demand survey, to be able to substantiate a decision locally as to whether there is, or is no unmet demand, a consultation

would be carried out by licensing with all of our existing stakeholders on the issue, and a decision made on the results of the consultation completed.

## **4 DISCUSSION**

- 4.1 In summary, the legal position with regard to the ability of a local authority to limit the numbers of hackney carriages is as follows:
  - 4.1.1 before a local authority can refuse an application for a vehicle licence in order to limit the number of licensed taxis, they must be satisfied that there is no significant unmet demand;
  - 4.1.2 if the local authority are satisfied that there is no unmet demand they have discretion to refuse to grant a licence; but
  - 4.1.3 if the local authority is not satisfied, they cannot refuse to grant a licence for the purpose of limiting the number of licensed hackney carriages
- 4.2 An applicant whose application for a hackney carriage proprietor's licence is refused has a right of appeal to the Crown Court.

## **5. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

- 5.1 In summary, the options available are:-
- 5.2 OPTION 1
  - 5.2.1 To arrange for an unmet demand survey to be undertaken.
  - 5.2.2 The information from this would be used to inform a review of the limit on numbers on-going.
- 5.3 OPTION 2
  - 5.3.1 Not to undertake an unmet demand survey, but to maintain the current limit as to hackney carriage vehicles numbers. This could pose a risk to the licensing authority if we were to be challenged; due to the time that has lapsed since our last unmet demand survey was completed.
- 5.4 OPTION 3
  - 5.4.1 Not to undertake an unmet demand survey, but to make a decision to not restrict its hackney carriage vehicle numbers, should they be happy that there is unmet demand locally to do so, with the provision of introducing additional vehicle requirements that would be consulted and agreed upon separately.

## **6. IMPLICATIONS**

### **6.1 Financial Implications**

- 6.1.1 The cost of carrying out a survey is likely to be in the region of £10 - £15,000.

## **6.2 Legal Implications**

- 6.2.1 There could be legal implications and associated costs with appeals ongoing if we were to continue to rely on the unmet demand survey completed in 2006 in determining applications for additional hackney carriage vehicle licences.

## **6.3 Risk Implications**

- 6.3.1 If an appeal was successful this would have the effect of delimiting. There would be a risk of not having a strategy in place to ensure that it did not result in a sharp uncontrolled increase in vehicle numbers. This has caused some other councils (including Watford) to reinstate their limits.

## **6.4 Equalities and Diversity Implications**

- 6.4.1 An Equality Impact Assessment (EIA) of Environmental Health (including Licensing) has been carried out. The EIA did not identify any adverse or discriminatory impacts on the grounds of age, disability, gender, ethnicity, sexual orientation, religion or beliefs or by way of financial exclusion.

## **6.5 Community Safety Implications**

- 6.5.1 If it was identified that additional licences should be issued, this should enable a better service and availability of vehicles to all user groups within Stevenage at all times of the day, in particular the night time economy users through having increase availability of licensed hackney carriage vehicles at all times when public transportation is not in operation.

## **BACKGROUND DOCUMENTS**

Department for Transport: Taxi and Private Hire vehicle licensing best practice guidance (2010)

Stevenage Borough Council's unmet demand survey report (2006)