

## Bath & North East Somerset Council

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| MEETING:  | <b>Cabinet</b>  |                                   |
| MEETING DATE:   | <b>13<sup>th</sup> June 2012</b>  | EXECUTIVE FORWARD PLAN REFERENCE: |
|   |   | <b>E 2417</b>                     |
| TITLE:  | <b>Review of taxi limitation policy following an Unmet Demand Survey.</b> |                                   |
| WARD:   | All   |                                   |
| <b>AN OPEN PUBLIC ITEM</b>  |   |                                   |
| <b>List of attachments to this report:</b>                        |   |                                   |
| Annex A: Conclusions and Recommendations from Unmet Demand Survey |   |                                   |

### **1 THE ISSUE**

1.1 The Council currently regulates the number of taxi licences in the city of Bath. Because of this the Council is under a duty to carry out a review of Unmet Demand from time to time. This report asks the Cabinet to consider the findings of the latest survey and to decide on future policy.

### **2 RECOMMENDATION**

The Cabinet agrees that:

2.1 The Council continues with the policy of regulating the number of hackney carriage vehicle licences in zone 1 (Bath) and continues with the limitation of hackney carriage vehicle licences in zone 1 (Bath) to 122.

2.2 A further survey into the unmet demand in zone 1 (Bath) is carried out in 2014.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 The Council sets the fee rates for both hackney carriages and private hire vehicles (currently £355 and £315 respectively). Total income in 2011/12 from fees was £185,000 including fees for transfer of vehicles.
- 3.2 If the number of hackney carriages is allowed to increase this will not necessarily result in an increase in income overall, as it may be offset by a reduction in private hire vehicles.
- 3.3 The cost of future Unmet Demand surveys, required to continue with a limitation policy, will be in the region of £16K - £20K. The cost of carrying out the survey is contained within the annual licence fee for all hackney carriages.
- 3.4 If the limitation policy is removed then the application fee for a hackney carriage vehicle will be the same as for a private hire vehicle.
- 3.5 If the decision is taken to continue with a limitation policy then there is the possibility of legal challenge to the decision in court. The cost of any challenge could be in the region of £30K and the costs would have to be borne from within existing budgets, funded from the fee income.
- 3.6 If the decision is taken to delimit the number of taxis then there will be a need to expand the number of ranks, which the Council would be responsible for funding. Costs would range from a few hundred pounds to a few thousand pounds depending on what was required in the specific circumstances. Also, as there is no evidence of unmet demand within zone 1 (Bath) the removal of the current limitation policy could result in a legal challenge from the existing vehicle licence holders.

### **4 CORPORATE OBJECTIVES**

- Building a stronger economy

### **5 THE REPORT**

- 5.1 The Council is the licensing authority for hackney carriages. Under the Town Police Clauses Act 1847, a licensing authority had an unfettered discretion to limit the number of hackney carriage licences by being able to licence only such numbers as it thought fit. It was a power, which was widely used by many authorities to restrict the numbers of hackney carriages for the purposes of exercising control and supervision over them. Under the Transport Act 1985, the position in law changed and the 1847 Act, as now amended by Section 16 of the Transport Act, provides as follows: *“That the grant of a licence may be refused for purposes of limiting the number of hackney carriages..., if but only if, the person authorised to grant a licence is satisfied that there is no significant demand for the services of hackney carriages..., which is unmet”*.
- 5.2 Currently hackney carriages are restricted by zone and numbers within the authority. There are two zones which were set up at the time of reorganisation in 1996. Zone 1 has the same boundaries as the former Bath City Council and zone 2 has the same boundaries as the former Wansdyke District Council.

5.3 There is no restriction on the number of hackney carriage licences in zone 2 (North East Somerset). Following the previous survey of unmet demand the approved number of licences in zone 1 (Bath) was set at 122 as recommended from the consultant's report.

5.4 In July 2009 Cllr Charles Gerrish, Cabinet Member for Customer Services, considered a report on the findings of an unmet demand survey and to decide on future policy. It was decided:-

(1) To continue with the policy of limiting the number of hackney carriage vehicles in zone 1 (Bath);

(2) To increase the number of hackney carriage vehicle licences in zone 1 (Bath) to 122;

(3) Only fully accessible vehicles should be granted one of the new licences;

(4) Members of the Licensing Team enter into negotiations with First Great Western about increasing the number of taxis which can operate from outside the Bath Spa railway station.

(5) An additional rank is provided in the Milsom Street/George Street area of Bath;

(6) To review the provision of additional taxi marshals at key ranks in the city to encourage more drivers to operate late at night and at the weekends.

5.5 In October/November 2011 a survey was undertaken to see if there was any unmet demand within Bath, a summary of the consultant's report is provided in Annex A.

5.6 In addition to the unmet demand survey the consultants were also contracted to address the requirements specified by the Department for Transport (DfT) for those local authorities who decide to continue with limitation policies. In 2006 the DfT produced "Best Practice Guidance" for taxi licensing; the guidance stated that the DfT considers it to be best practice not to impose quantity restrictions. However, where restrictions are imposed, the Department urges that the matter is regularly reconsidered. This guidance has been followed in determining the conclusions of the unmet demand survey carried out in 2011.

5.7 In the conclusions of the consultant's report, which are summarised in Annex A, it states that there is no current evidence of unmet demand and that the number of hackney carriage licences in zone 1 (Bath) should remain at 122.

## **6 RISK MANAGEMENT**

6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES**

3.1 An Equalities Impact Assessment has been completed. No adverse or other significant issues were found.

## **8 RATIONALE**

- 8.1 Government has recommended to local licensing authorities that a restriction on numbers should only be applied where there is a demonstrable benefit to the consumer and that it would not be in the interest of consumers for market entry to be refused to anyone who meets the application criteria.

The 2011 study has identified, “on balance, it is not considered this potential unmet demand is substantial enough on its own to warrant a recommendation for additional Hackneys to be licensed”.

## **9 OTHER OPTIONS CONSIDERED**

- 9.1 The options available to the Cabinet are to:

(a) To partially delimit. Case law shows that it would be feasible to issue batches of licences at a time which would allow a Council to assess the impact of each tranche and decide when there is significant unmet demand. This option has been rejected as such assessments would require additional budgetary provision and may result in periods of uncertainty within the trade and elsewhere.

(b) To delimit altogether. This option has been rejected as there is no evidence of unmet demand within zone 1 (Bath) and the removal of the current limitation policy could result in a legal challenge from the existing vehicle licence holders.

## **10 CONSULTATION**

- 10.1 As part of the unmet demand survey the following groups were consulted on the issue of taxi availability:- Ward Councillor; Cabinet members; Other B&NES Services; Service Users; Local Residents; Community Interest Groups. Consultation was carried out using questionnaires, letters and street surveys. Details of exactly who were consulted and the results of the consultation are provided in the consultant’s report, which is available via the Council’s web site.

## **11 ISSUES TO CONSIDER IN REACHING THE DECISION**

- 11.1 Social Inclusion; hackney carriages are seen as an integral part of the public transport service and are able to offer a personal service, which operates outside the hours of other forms of public transport.

- 11.2 Customer Focus the opinions of the public and local businesses into the level of service provided by the hackney carriages operating within the district were sought as part of the unmet demand survey.

- 11.3 Other Legal Considerations; there is a legal requirement for local authorities to review the provision of the taxi service within their area, from time to time, to ensure that there is no unmet demand.

11.4 Human Rights. In order to be compatible with the European Convention of Human Rights regard must be had to Convention rights in the decision making process and a fair balance struck between the rights of individuals and the community as a whole.

## 12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

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| <b>Sponsoring Cabinet Member</b>   | Councillor Roger Symonds  |
| <b>Background papers</b>   | Department of Transport: Taxi and Private Hire Vehicle Licensing Best Practice Guidance (March 2010).   |
| <b>Please contact the report author if you need to access this report in an alternative format</b> |   |

## Unmet Demand Survey carried out by TPi in 2011

### 7.0 CONCLUSIONS

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#### 7.1. Unmet Demand

- 7.1.1. Based on rank observations the ISUD model shows an overall value of 0.00. As this is well below the threshold of 80, it is concluded that significant unmet demand for Hackney carriages does not exist in the overall Bath rank based market. This is the case specifically for Zone 1 Bath City the focus of this study, as well as throughout the Council area (i.e. across both zones). This finding is supported by the relatively low level of excess demand to be found at ranks during the week (0% on weekdays and 6% weekday nights) and that supply is in equilibrium most (81.25%) of the time. It is also supported by all members of the trade, both Hackney and PHV drivers, amongst whom 100% said they believed the number of Hackneys licensed in Bath to be adequate and by the fact that overall demand for Hackneys in the City has reduced by 25% since the previous survey.
- 7.1.2. However, the balance of supply and demand does shift somewhat at weekends, especially weekend nights, to show excess demand of 12% on Saturday and 25% weekend nights suggesting there may potentially be some unmet demand at these times. This is clearly reflected by the comments of some of the stakeholders consulted and it should also be noted that just over a third (34%) of the general public when asked specifically about the numbers of Hackneys provided stated there were not enough, although this is offset by only 8% seeking more taxis when asked how they would like to see Hackney provision improved. It's also the case that the greatest proportion of drivers said they worked Saturdays and that this was their busiest day, although the time most worked was afternoons and amongst Hackney drivers alone, rush hour and evenings, rather than at night. The latter will probably be a function of some drivers sharing their cab with others meaning only some will work the 'night shift' and this is supported by the consultant observing 80% of the Hackney fleet to be active at this time, the most observed across all times of day.
- 7.1.3. Therefore, on balance, it is not considered this potential unmet demand is substantial enough on its own to warrant a recommendation for additional Hackneys to be licensed. If this were to be done it is likely supply will be too great at all other times apart from the night time peak and as suggested by the responses from drivers, this is likely to have a knock on effect on their economic viability. However, it is considered an issue that needs to be addressed, probably by working with existing operators and drivers to encourage more to provide a service at weekends, especially on a Friday and Saturday night time, to take advantage of the greater market available then. Based on our own observations and feedback from those consulted there is also potentially a need to encourage a greater dispersal of Hackneys across all ranks in the City, especially at night, to provide a wider choice of locations for the public to obtain a Hackney from.
- 7.1.4. In terms of the rank locations in the City there is clearly a concern amongst both the general public and the individual stakeholders consulted about the rank provision in the North or 'top' of the City, where there are significant night time leisure facilities. The Taxi Owners Association when consulted raised concerns about using the only rank in this area, in George St and both they and the taxi drivers consulted suggested a new rank would be useful in the area, in Milsom St. To this end the Association asked if it might be possible to utilise the Park and Ride bus stop in Milsom St as a rank after the buses cease operating in the early evening. It appears that as a result of the limited rank provision in this area visitors to the leisure facilities often walk

through the city to get to the rank at Orange Grove or Westgate Buildings and in so doing can cause some disturbance to local residents.

7.1.5. This is also a particular issue that should be addressed. The solution proposed by the Association to use Milsom St Park and Ride bus stops was welcomed by many of the stakeholders who raised concerns. However, there were also other alternatives proposed such as Southgate or Kingsmead. All of the alternatives, including Milsom St are said to have been tried in the past but failed, so it is clear there is no straight forward solution and it may be that other infrastructure to attract people to any rank put in place may also need to be considered, as suggested by Bath University, Students Union representatives consulted.

### **Other Significant Issues**

7.2.1. Just over two thirds of the general public surveyed thought the quality of taxi services in Bath to be good or very good. However, when asked to rate specific aspects of quality the general public rated driver helpfulness and appearances significantly lower than other considerations. The former was also the area highlighted by those recent Hackney passengers consulted who were not entirely satisfied with their journey, while the latter was the greatest concern amongst all drivers when asked about customer care.

7.2.2. The on street survey highlighted cost as the biggest barrier to use of taxis amongst the general public. This was confirmed by cheaper fares being by far the most common response to the question about what improvements to Hackneys the general public would like to see introduced.

7.2.3. Amongst stakeholders the need for taxi drivers to take on a more ambassadorial role was a common suggestion. This was also supported by the taxi drivers themselves with 49% of all drivers expressing a willingness to consider this, rising to 54% amongst Hackney drivers.

7.2.4. Significant numbers of drivers also supported the need for language skills to be improved, sought more advertising opportunities, improved signage at/to ranks and the need to promote the use of greener fuels, although, primarily, they thought the latter should be the responsibility of government.

7.2.5. Both the Taxi Owners Association and drivers of Hackneys also wanted more spaces at ranks, solutions to congestion, especially in Dorchester St and to see greater enforcement activity.

## **8.0 OPTIONS AND RECOMMENDATIONS**

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### **8.1 Options**

8.1.1. In the absence of any significant unmet demand in Zone 1 Bath and North East Somerset Council can currently choose to:

- maintain its limit at the current level of Hackney Carriage licences;
- issue that number of Hackney Carriage licences as it sees fit (in one or in stages); or
- remove the current limit on Hackney Carriages (de-limitation)

8.1.2. The choice of policy is ultimately a political decision and TPi therefore, does not make any specific recommendations in this report on which option the Council should choose. However, for information we provide below a summary of some of the key positive and negative impacts that need to be taken into account when considering the choices available:

| Option   | Positives   | Negatives   |
|--|---|---|
| Maintain the current limit on hackney licenses             | Most closely meets the preference of local consultation<br>Most likely to sustain operator viability<br>Most likely to maintain service quality<br>No disruption in provision   | Little scope for increased provision<br>Least likely to encourage improvements in service provision<br>Sustains the current 'premium' on hackney licenses   |
| Increase the current limit on hackney licenses (in one)    | Closely meets thrust of regional policy<br>Provides for the impact on operator viability to be limited<br>Can maintain or improve service quality through entry standards and controls<br>Can address demand for more accessible taxis<br>Can meet some demands for increased vehicle provision and market entry<br>Can allow specific entry requirements to be placed alongside the new licenses available<br>Continues regulation while allowing for growth in operations | Requires operators to incur costs of changing or obtaining new vehicles<br>Offers neither the benefits of retaining a limit or of deregulating<br>Maintains the possibility of a court challenge by both those who do not think there should be a limit and those that do not wish to see it removed<br>Increasing the limit requires further study to establish by how much it should be raised. This will require modelling of the elasticity of demand for new ranks and calculating the extent of other latent demand.<br>Increasing the limit in one go risks introducing too many hackneys if the above calculations prove inaccurate |
| Increase the current limit on hackney licenses (in stages) | Most closely meets thrust of regional policy<br>Provides for a controlled increase in hackney numbers<br>Can maintain or improve service quality through entry standards and controls<br>Can address demand for more accessible taxis<br>Can meet some demands for increased vehicle provision and market entry, over time<br>Can allow specific entry requirements to be placed alongside the new licenses available and improved/   | Requires operators to incur costs of changing or obtaining new vehicles<br>Offers neither the benefits of retaining a limit or of deregulating<br>Maintains the possibility of a court challenge by both those who do not think there should be a limit and those that do not wish to see it removed<br>Will take time to bring about any service improvements and market growth.   |



| Option                               | Positives  | Negatives  |
|--------------------------------------|--|--|
|                                      | <p>changed at each issue<br/>           Continues regulation while allowing for controlled growth in operations<br/>           Increasing the limit in stages negates the need for detailed further study to establish by how much it should be raised, as long as impacts of each increase are monitored<br/>           Avoids the risk of over supply to the market<br/>           Can be used as a 'stepping stone' towards deregulation</p>  |  |
| Remove the limit on hackney licenses | <p>Most closely meets thrust of national policy<br/>           Most likely to bring consumer benefits<br/>           Assuming transfer of PHVs to hackneys, most likely to increase hackney and reduce PHV numbers bringing vehicle mix more in line with the national average<br/>           Most likely to meet the demands of those consulted who sought increased numbers of taxis or opportunities for market entry (ie drivers on the waiting list, 50% of drivers leasing a vehicle)<br/>           No need for costly unmet demand surveys to be undertaken every 3 years<br/>           Can lead to reduced fares</p> | <p>May generate excessive competition for prime demand (ie as the 'bus wars' that developed following the 1985 transport ACT)<br/>           May cause a reduction in service quality<br/>           Can be disruptive to markets until new arrangements are understood<br/>           Can require substantial administration and enforcement effort until markets and the trade settle<br/>           New licence holders cannot easily be required to serve particular or new aspects of the taxi market<br/>           Can lead to a reduction in the viability/sustainability of operators</p> |

## Recommendations

### It is recommended that:

- Based on our analyses, in zone 1, Bath and North East Somerset Council has the discretion to either:
  - i) maintain the limit at the current level of Hackney licences;
  - ii) issue that number of Hackney Carriage licences as it sees fit; or
  - iii) remove the current limit on Hackney Carriages (de-limitation)

- If there is to be any change, to the current policy, this should be considered in the light of the latest DfT guidance to licensing authorities and the outcome of government considerations of the section on taxis in the Single Equalities Act, once this becomes available.
- Consideration is given to increasing the spaces (taxi bays) available at the Orange Grove Rank at night through use of the current coach parking bays in the vicinity of this.
- Consideration is given to the provision of a new rank in the North of the City, in a location that is near to food and drink and toilet facilities, that is secure and well lit and which can readily be managed by Taxi Marshalls where these are made available. If a location with these additional facilities already in place cannot be found then a suitable location which can be served by mobile/portable facilities should be identified. This should include consideration of the suggestion by the Taxi Owners Association to use the Park and Ride Bus stop in Milsom St as a night time rank.
- Discussion takes place with hackney operators and drivers to establish a voluntary agreement, prior to any work taking place on the above, that any new rank put in place will be used by them to serve the North of the City, especially at weekend night time. Also, within the same agreement, to establish a means by which drivers agree to communicate with one another and when available Taxi Marshalls (probably using mobile phone or in vehicle radio), to make each other aware of which ranks in the City have spaces available for hackneys/require supply in order to ensure a good spread of vehicles at all ranks at all times and especially at weekend night time.
- In the course of the above there should also be discussion about the need to add, in general, to the current supply of vehicles available on a Saturday night/early Sunday morning and how this might be resolved. This may also need to be supported by additional provision of Taxi Marshalls, including extending the hours Marshalls are available to 04.00 on a Sunday morning on a permanent basis. Funds for this may need to be found through an increase in hackney license fees.
- Training should be made available as a matter of course to hackney drivers on renewal of their license (with a requirement that this should be undertaken within 6 months of this) covering the following. The only exception to this should be where drivers are already in receipt of an appropriate, accredited, qualification in each/any of the following or who intend to obtain such a qualification (and do so) within 6 months of obtaining their license.
  - Customer Care
  - Language skills (only for drivers whose first language is not English)
  - Being an Ambassador for Bath
  - Safe driving techniques
  - Environmentally friendly driving and fuels
- A leaflet (credit card size fold out) should be produced by the Council, listing within it the telephone numbers of any hackney operator and/or driver who wishes to be included and that also identifies which amongst these operate wheelchair accessible vehicles, provides a map of the locations of all hackney ranks in the City and information on how to distinguish between hackneys and PHVs.
- Further work is undertaken by traffic planners to identify potential solutions, in the form of low cost 'quick fixes', to congestion faced by taxis in the City, in general and in particular in Dorchester St. This work should be undertaken in consultation with the taxi licensing officer, taxi owners and drivers and, especially in relation to the latter, 1<sup>st</sup> Great Western.

- Consideration should be given to increasing the opportunities for hackney operators to accept advertising on their vehicles as a means to meet the cost of any additional fees introduced for providing additional hours for Taxi Marshalls and training.
- Consideration should be given to the introduction of a dress code for all taxi (hackney and PHV) drivers.
- Future Public/Passenger Transport Strategies and policy documents, including the Local Transport Plan for Bath and North East Somerset, should take account of this report.