



## Exeter City Council

To the Chair and Members  
of the Licensing Committee

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A meeting of the **LICENSING COMMITTEE** will be held in the Rennes Room, Civic Centre, Paris Street, Exeter at **5.30 pm** on **TUESDAY 29 MARCH 2011** to consider the following business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, on **Exeter 265107**.

Pages

### AGENDA

#### Part I: Items suggested for discussion with the press and public present

1

#### MINUTES

To sign the minutes of the meeting held on 15 February 2011.

2

#### DECLARATIONS OF INTEREST

Councillors are reminded of the need to declare personal and prejudicial interests, including the nature and extent of such interests, in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3

#### CLARIFICATION OF DECISION TO END THE REQUIREMENT FOR CERTAIN HACKNEY CARRIAGES TO BE DISABLED ACCESSIBLE VEHICLES

1 - 4

To consider the report of the Head of Environmental Health Services.

(Report circulated)

4

#### REVIEW OF DEMAND FOR HACKNEY CARRIAGE SERVICES IN EXETER 2011

5 - 6

To consider the report of the Head of Environmental Health Services.

(Report circulated)

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

**TOWN POLICE CLAUSES ACT 1847**

5 **LICENSING OF PURPOSE BUILT HACKNEY CARRIAGE VEHICLES**

7 - 8

To consider the report of the Head of Environmental Health Services.

(Report circulated)

**DATE OF NEXT MEETING**

The next Licensing Committee will be held on **Tuesday 14 June 2011** at 5.30 pm

***Membership -***

Councillors Shiel (Chair), Sterry (Deputy Chair), Branston, S Brock, Mrs Danks, A Hannaford, Macdonald, Newby, Newton, Robson, Ruffle, Taghdissian, Wadham and Winterbottom

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## EXETER CITY COUNCIL LICENSING COMMITTEE

29 MARCH 2011

### CLARIFICATION OF DECISION TO END THE REQUIREMENT FOR CERTAIN HACKNEY CARRIAGES TO BE DISABLED ACCESSIBLE VEHICLES

#### 1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to clarify the situation in relation to the decision made by the Committee on 30 November 2010 to end the requirement placed on the remaining hackney carriages in the fleet that were not accessible by disabled users, to become disabled accessible vehicles (DAVs), and explain why the draft minute of that decision differed from the published minute.

#### 2. BACKGROUND

- 2.1 The longstanding policy of this Committee has been to encourage access for persons with a disability within the Hackney Carriage fleet; new applications for Hackney Carriage Licences have only been granted (with some exceptions) for those vehicles equipped to be wheelchair accessible. This requirement did not extend to the existing fleet.
- 2.2 In line with guidance issued on the accessibility of taxi fleets after the introduction of the Disability Discrimination Act 2006, this Committee introduced a modification to this policy on 10 July 2007, which sought to increase accessibility in the fleet and in particular require those vehicles that were not accessible to become so when reaching 8 years old, or on the transfer of the vehicle to another proprietor, or to add or alter the names on the existing licence.
- 2.3 In practical terms this requirement to convert to a DAV, meant that the Hackney Carriage saloon taxis would comply with the requirement if a specialised swivel seat was fitted to assist those disabled users with mobility issues.
- 2.4 This requirement was not supported by some members of the trade, principally those operating Hackney Carriage saloon taxis, and a series of representations followed seeking to have this Committee's decision rescinded. The main thrust of these representations was that the swivel seat adaptation had safety and insurance concerns, and that they did not offer improved accessibility to any great extent.
- 2.5 In order to revisit this issue, Committee called for a report, which was tabled on 30 November 2010, following a consultation process with stakeholders. The report advised that of the 92 responses received, the overwhelming majority (83%) supported the existing requirement in relation to Hackney Carriage saloon cars, with 11 (12%) opposed.
- 2.6 The Licensing Committee decided to end the requirement for saloon taxis to be so converted with effect from 30 November 2010.
- 2.7 Following this decision, some members of the trade sought clarification of its implementation, and officers duly responded to the effect that with the option of converting the saloon taxis by means of a swivel seat removed, then it would be necessary to provide a wheelchair accessible vehicle (WAV) when the saloon taxi reached 8 years of age, or on transfer, etc. This interpretation was in error, and understandably caused some consternation within the trade.

2.8 Further consternation ensued when a draft minute of this decision was obtained that differed from the published minute, and it was wrongly construed that the draft had been wilfully altered to replace the requirement to convert to a DAV, with one of conversion to a WAV.

### **3. MINUTES**

- 3.1 All Committees are supported by Member Services Officers whose task it is to produce minutes of that meeting. However, it is not the case that a verbatim record is made, rather that minutes are derived partly from notes of what is said by those at the meeting, and partly from the body of the report itself. In terms of Licensing Committee reports, this is not assisted by a relatively recent informal convention for there not to be a clearly stated recommendation from the officers, which differs from the convention for reports to other committees.
- 3.2 It is normal practice for draft minutes to be circulated and for these to be amended where necessary by officers present at the meeting before being published, in order to ensure the accuracy and legality of the minutes. In this case the Head of Environmental Health Services sought advice from the Licensing Solicitor on wording to ensure it related to the requirement introduced in 2007, which clearly was the intent of this Committee.
- 3.3 The draft minute stated, *'Resolved that the policy requiring the installation of swivel seats in Hackney Carriage saloon cars be discontinued'*. Although this conveyed the intent of the Licensing Committee, it was not factually correct in that there is no policy requirement to this effect; rather it is a later modification to a longstanding policy that requires the provision of accessible taxis for persons with a disability, when applied to certain taxis (new applications).
- 3.4 The published minute re-stated the intent of the Licensing Committee to discontinue the use of swivel seats in the fleet as a means of conversion of taxi saloons to become DAV's, but clarified the decision in terms of the recommendation of the report, and ensured it was legally and factually correct, stating, *'Resolved that the modification to the original policy requiring all new Hackney Carriages to be wheelchair accessible, which allowed the installation of swivel seats as an alternative in Hackney Carriage saloons, be discontinued.'*
- 3.5 Both the draft minute and the published minute have exactly the same result, which is that any Hackney Carriage saloon that is not currently adapted to be wheel-chair accessible or accessible to disabled persons, will not be required to be converted to a DAV when they reach 8 years old, or on transfer of the vehicle to another proprietor, or to add or alter the names on the existing licence.

### **4 TAKING TAXI POLICIES FORWARD**

- 4.1 This episode has further highlighted the need and potential merits of bringing together all particular policies relating to the regulation of Hackney Carriages and private hire vehicles into one over-arching policy document, which builds upon and updates the current Taxi Policy. It will be prudent to encompass the proposals by Government to place a minimum threshold level for accessible taxis, when they are enacted later in the year.

### **5. RECOMMENDATION**

- 5.1 It is recommended that Licensing Committee note the report and approve:

(i) that future reports pertaining to Licensing policy matters follow the normal convention for committee reports and contain a clear recommendation by officers;

(ii) that a future report is brought to Licensing Committee presenting a comprehensive Taxi Policy for approval; and

(iii) that the draft Minute 35 for the Licensing Committee meeting of 30 November 2010 be approved.

**HEAD OF ENVIRONMENTAL HEALTH SERVICES  
COMMUNITY AND ENVIRONMENT DIRECTORATE**

Local Government (Access to Information) Act 1985 (as amended).  
Background papers used in compiling this report:  
Report to meeting on 30 November 2010

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## EXETER CITY COUNCIL LICENSING COMMITTEE

29 MARCH 2011

### REVIEW OF DEMAND FOR HACKNEY CARRIAGE SERVICES IN EXETER 2011

#### 1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the Licensing Committee on the outcome of the top-up survey into unmet demand (survey) carried out by Mouchel Ltd on behalf of Exeter City Council, in order to determine whether it remains the case that there is no significant unmet demand in relation to Hackney Carriages in Exeter.
- 1.2 Representatives of Mouchel will be in attendance to present the findings and to answer any questions that may arise from the report.

#### 2. BACKGROUND

- 2.1 Following applications by prospective hackney carriage proprietors to the Licensing Committee on 15 February 2011, the Committee found it could no longer solely rely upon the survey of demand received in September 2010, due to recent changes in the dynamics of taxi provision in the evening.
- 2.2 These changes in dynamics arose following the cessation of the arrangements between private hire operators and Club Rococo and the Arena night clubs that serviced a night-time demand. Mouchel had stated in the survey report of September 2010 that:

*“...if club agreements were ended, the level of hackney carriages on early Sunday mornings would clearly become insufficient, and the issue of more licences may be necessary...”*

Consequently, the Committee felt that further information about the effects of these changes on demand was needed, and requested a new top-up survey to establish what, if any, demand existed that was unmet.

- 2.3 The top-up survey was carried out at a time when there were no major events or activities taking place and when the schools, colleges etc. were functioning normally, so as to reduce the likelihood that the top-up survey would be unduly influenced by extraneous factors.

#### 3. LEGAL POWER TO ISSUE HACKNEY CARRIAGE LICENCES

- 3.1 In England and Wales (but excluding London), local authorities (district/borough councils or unitary authorities) are obliged to issue licences for hackney carriages while there is significant unmet demand. Once significant demand is met, there is a discretion to issue further hackney carriage licences. Exeter City Council adopts a policy not to exercise this discretion and thereby restricts the number of hackney carriage licenses issued, by virtue of Section 37 of the Town Police Clauses Act 1847, as amended by Section 16 of the Transport Act 1985.
- 3.2 In effect this quantity control means the Council must grant a hackney carriage licence to any applicant meeting our applications criteria to such numbers as the Council considers necessary to meet significant unmet demand. Thereafter the Council adopts a policy of

refusing to grant additional hackney carriage licences whilst it remains satisfied that there is no significant unmet demand unless there are exceptional circumstances that justify a departure from the policy.

- 3.3 Local authorities are obliged to grant hackney carriage licences to meet the level of significant unmet demand. Where a local authority maintains a policy of quantity control above the level of significant unmet demand, it is important that the level of significant unmet demand is reviewed periodically in accordance with current best practice methods to protect the authority from appeals against refusals where significant unmet demand may exist.

#### **4. CURRENT POSITION REGARDING UNMET DEMAND AND OTHER CONSIDERATIONS**

- 4.1 Because of the very tight time constraints involved, it has not been practicable to circulate Mouchel's findings from the survey to Members prior to this meeting.
- 4.2 There are currently 10 valid applications for hackney carriage licences submitted and awaiting a decision. Valid is used in this sense to mean that the applications meet the requirements of a strict interpretation of section 40 Town Police Clauses Act 1847.

#### **5. CONSULTATION**

- 5.1 Consultation with a range of stakeholders had been undertaken as a part of the original survey in 2010, to ensure that views on the above issues were considered when reviewing the policy, so further consultation was felt less necessary and impracticable within the time constraints being operated.

#### **6. OPTIONS**

- 6.1 Because the outcome of the top-up survey was unknown at the time this report was completed, the available options open to the Licensing Committee are not available in this report, but will be verbally reported at the meeting of 29 March 2011.

#### **7. RECOMMENDATION**

- 7.1 That the Licensing Committee considers the information before them and determines:
- (a) whether it remains the case that there is no significant unmet demand in relation to Hackney Carriages;
  - (b) in the case that significant unmet demand is shown, to quantify the number of licences needed to meet that demand.

#### **HEAD OF ENVIRONMENTAL HEALTH SERVICES COMMUNITY AND ENVIRONMENT DIRECTORATE**

Local Government (Access to Information) Act 1985 (as amended).  
Background papers used in compiling this report:  
Validated Mouchel report.

**EXETER CITY COUNCIL  
LICENSING COMMITTEE  
29 MARCH 2011**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
TOWN POLICE CLAUSES ACT 1847**

**LICENSING OF PURPOSE BUILT HACKNEY CARRIAGE VEHICLES**

**1. PURPOSE OF REPORT.**

- 1.1 To seek the approval of the Licensing Committee to permit the Head of Environmental Health Services to deal with the grant of purpose-built hackney carriage vehicle licences, normally referred to as London-type cabs, from up to 4 years old rather than the current three years, without the need for an independent mechanical inspection report.

**2.0 BACKGROUND**

- 2.1 Currently, the hackney carriage fleet consists of a variety of vehicles, from purpose-built London-type cabs, to all types of standard saloon cars. The London-type cabs, are robust vehicles designed specifically for the taxi trade, and that has been recognised by this Committee in permitting an extension in the operating life of such vehicles to 12 years, which is 4 years longer than that of a standard saloon taxi.

A recent representation from the newly elected trade representatives for the St. David's Taxi Association (the trade body for hackney carriage proprietors), has highlighted the fact that the Council's current policy of not granting a licence for vehicles over 3 years old, has an indirect deterrent effect on the purchasing of London-type cabs, as there is a large second-hand market for ex-lease vehicles (leased by the manufacturers) that are available after standard 3 year leases have ended. They have asked whether the policy for the acceptable age of the vehicle can be extended from 3 to 4 years, without the need for an independent mechanical inspection report, to overcome this deterrent effect.

- 2.2 This class of vehicle is designed and built to last at least 12 -15 years and often are perfectly serviceable for some time after that, assuming good servicing and maintenance practices are adopted. It is appropriate to recognise the robust design of these London-type cabs and differentiate between them and standard saloon cars, as the Council has already done for the operating life of the vehicle.
- 2.3 Current policy allows for the Head of Environmental Health Services to re-licence all licensed vehicles including London-type cabs that are no more than 3 years old under delegated powers, with a discretion to licence up to 4 years old when supported by an independent mechanical inspection report. In the case of the London-type cabs, the requirement to produce an independent mechanical inspection is now considered to be an unnecessary burden upon the trade.
- 2.4 The removal of this deterrent effect is likely to encourage an increase in the numbers of London-type cabs within the hackney carriage fleet. London-type cabs are generally easily recognised by the public as taxis they can hail, and also offer good accessibility and a good standard of transportation; an increase in their numbers would be beneficial to potential users.

### **3.0 PROPOSAL**

- 3.1 To reduce the demand on resources involved in the organising of Sub - Committees; producing and circulating the reports and documents, attendance by officers and members required to attend Sub-Committee hearings it is proposed that future applications for the grant of licenses to applicants willing to provide London-type cabs that are no more than 4 years old at the time of licensing be dealt under delegated powers by the Head of Environmental Health Services.
- 3.2 All other applications for the grant of vehicle licenses which relate to a vehicle over 3 years old, other than a London-type cab, will be subject to the extant policy meaning that the applicants continue to be referred to a Licensing Sub-Committee unless the application is supported by an independent mechanical report.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications for the Council as all costs relating to the purchase of a vehicle belong to the applicant for the grant of the licence.
- 4.2 The trade representatives have advised that there are significant benefits to the trade if the policy is adopted, firstly in the removal of the cost of the independent mechanical inspection and secondly and more significantly in the reduced cost of available used London-type cabs that are on the market, and their likely growth within the fleet.

### **5.0 RECOMMENDATION**

- 5.1 It is recommended that the Licensing Committee adopt the proposal and allow the Head of Environmental Health Services under delegated powers to determine hackney carriage vehicle licenses relating to London-type cabs that are no more than 4 years, without the need for an independent mechanical inspection report.

### **HEAD OF ENVIRONMENTAL HEALTH SERVICES COMMUNITY AND ENVIRONMENT DIRECTORATE**

Local Government (Access to Information) Act 1985 (as amended).

Background papers used in compiling this report:

None