

LICENSING COMMITTEE - SPECIAL

16 March 2015

Present:

Councillor Catherine Dawson (Chair)

Councillors Laws, Brimble, Choules, Clark, Crew, George, Fullam, Henson, Holland, Pearson and Tippins

Apologies:

Councillors Newby and Shiel

Also present:

Corporate Manager - Legal, Assistant Director Environment, Environmental Health Manager, Principal Licensing Officer and Democratic Services Officer (Committees) (HB)

5 Declarations of Interest

No declarations of interest were made by Members.

6 Policy of Restriction and Quality Control Standards for Hackney Carriages

The Assistant Director Environment presented the report on the findings of the consultation conducted in respect of the Council's policy of restriction in respect of hackney carriages.

At the Licensing Committee on 22 July 2014, the Committee had considered the options of retaining the policy of restriction and commissioning a survey into unmet demand or entering into consultation with the public, trade and other stakeholders to consider whether to remove the policy of taxi restriction in a managed way, and enhance the quality controls for taxis to improve standards further and prevent any potential negative impact from de-restriction. The Committee resolved the latter option.

Following the above decision, the Council commissioned Marketing Means to undertake research as part of its Taxi Licensing Consultation at the end of 2014. The work of Marketing Means included:-

- a telephone survey of a random sample of 500 members of the general public in Exeter;
- three focus groups in Exeter with invited groups of Hackney carriage drivers, private hire drivers, and older people/representatives of groups for people with disabilities;
- an online survey accessible to all; and
- in addition, representations had been invited and received from individuals and organisations.

The online survey closely followed the questions in the telephone survey although, in the former, there was additional visual material for the question on a city-wide livery.

The phone survey gathered the views from a random selection of people that was matched to the demographic profile of Exeter's population.

Full copies of the representations and responses were made available to the Licensing Committee and published.

The results from the consultation exercise were set out in the report and key points summarised. The Assistant Director Environment stated that the responses from the consultation did not highlight any issues that would significantly strike against ending the policy of restriction, especially if introduced at the same time as the imposition of higher quality standards. The results indicated that higher quality standards were broadly supported.

The Assistant Director Environment stated that the results indicated that there was a demand for Hackney Carriages that was not being met and that the policy of restriction had negative consequences that were not in the public interest. He suggested that there may be weaknesses in the way past surveys had been carried out, which could call into question whether the "demand" surveys could be robustly relied on.

In addition, the Assistant Director Environment stated that the following options had also been considered and discounted:-

- adopting a policy of managed growth in taxi numbers, incrementally increasing numbers year by year, but requiring an affirming survey to be commissioned. It was the view of the Assistant Director Environment that this would not by itself, achieve an increase in quality of the taxi fleet. It would also be open to legal challenge from those who were outside of the batch allowed through each year. Consequently, this was not considered a preferred option.
- maintaining the policy of restriction and coupling it with enhanced quality standards. The Assistant Director Environment's view was that this would not overcome the negative issues surrounding the policy of restriction such as the legal challenges to the policy, the failure demand associated with the policy, the barring of prospective applicants who genuinely wish to operate a taxi, the gender imbalance amongst proprietors, and, most importantly, whether the policy of restriction actually served the public interest.

The Assistant Director Environment advised that he considered that the pragmatic way forward was not to end the policy in isolation, but to implement at the same time as de-restriction, a policy of enhanced quality controls, that significantly raised the threshold for entry to new applicants, in order to avoid any potential negative impacts associated with weakly regulated and unmanaged growth in taxi fleet numbers that have occurred elsewhere. Over time, these enhancements would also act to improve the overall quality of the Hackney taxi fleet further.

In the event that the Committee resolved to end the restriction policy, the Assistant Director Environment recommended that the enhanced quality controls should apply to any applicant for a new Hackney Carriage licence with effect from 17 June 2015. In order to harmonise the standards over time it was recommended that new and higher quality standards should be gradually applied to the existing Hackney Carriage fleet over a 5 year period commencing from 17 June 2015 in a phased way.

It was the Assistant Director Environment's view that better quality controls may act to visibly enhance the quality of the taxi fleet, e.g. by introducing requirements for a distinctive colour scheme and livery, wheelchair accessibility, low emission vehicles, and in-cab CCTV. However, these could also act as a proxy restriction and, in so doing, they would act as a fairer, more pragmatic, beneficial and sustainable alternative to a policy of a numerical restriction.

The Right Worshipful the Lord Mayor, Councillor Prowse, attended the meeting and spoke on this matter having given notice under Standing Order 44.

He stated that legislation covering the operation of hackney carriages had not changed since the Town Police Clauses Act 1847. Since that time, successive Parliaments had not identified the need to change this legislation. He referred to a report to this Committee on 9 September 2008 when de-restriction had not been supported and to surveys he had carried out personally at that time and in recent days. He visited the John Lewis rank on 3 and 20 February. On both occasions the rank had been full and he randomly approached one of the drivers who told him that he had been waiting on the rank for 90 minutes. On the second occasion he visited the same rank and randomly approached another driver who, coincidentally, was the same driver he had spoken to on 3 February and, on that occasion, the driver indicated that he had been waiting for one hour.

The Right Worshipful the Lord Mayor, Councillor Prowse stated that he had recently visited Plymouth and he had spoken to the drivers there and they told that there were too many taxis chasing too few fares.

The Right Worshipful the Lord Mayor, Councillor Prowse also referred to an interim report of the Law Commission which stated that there was no reason why Local Authorities should not be allowed to continue to restrict the number of hackney carriages. He maintained that there was no evidence of unmet demand and asked the Committee to support the second recommendation which was to maintain the policy of restriction.

The Assistant Director Environment responded that the final report of the Law Commission proposed that Local Authorities should be able to determine whether or not to restrict because their unique knowledge of their respective areas put them in the best position to assess what was in the public interest. He further stated that the Councillor's survey had been somewhat anecdotal and that comparison with Plymouth had no relation to the situation in Exeter.

In response to a petition about the high floor height of wheel-chair accessible Hackney vehicles, he advised that he noted that the petition stated a preference for a saloon car from some people with a mobility issue; however, the proposed higher standards did not rule out saloon vehicles, (that is ULEVs which were predominantly saloons). In addition, the wider taxi fleet contained many saloon vehicles, if people preferred these.

The Assistant Director Environment advised that the higher standard recommended required the Euro standard 6 emission vehicles with side access from the pavements (which was deemed better than rear-access vehicles that needed access from the road). These were not yet available from the manufactures although should be available in Autumn 2015. Until that time, it would be necessary to accept Euro 5 standard, side wheelchair-accessible vehicles, providing all other criteria were met. There was currently one Private Hire Euro 5 vehicle with side access.

The Corporate Manager Legal advised the Committee that a Local Authority was obliged to grant an application for a hackney carriage licence unless it was satisfied that no significant unmet demand existed.

A Member recorded his support for the findings of the Law Commission and to the ability of a local authority to determine whether or not to restrict. With regard to unmet demand, he felt that the continuing requests for plates suggested that these applicants were not deterred by the reported wait times of up to and over one hour in the ranks. He stated that he assumed the majority of drivers were self employed but that those without plates were reliant on securing employment from those with and that there was therefore little job security for many drivers. He suggested that a significant proportion of what was earned by these drivers went to meet the rental of the plates. The number of appeals in recent years was an indication that applicants were willing to go to some length to secure a hackney carriage licence which indicated to him that there was sufficient business demand for hackney carriage licences.

He supported the higher standards that were proposed in the report as part of a decision to de-restrict referring to the benefits of CCTV cameras and a higher percentage of wheelchair accessible vehicles. He did accept that it would be appropriate in respect of existing taxis for the requirement for higher standards to be brought in over a period of five years. He did not accept the arguments that de-restriction could lead to longer delays for a taxi and acknowledged that it would be sensible to manage the situation to avoid flooding the market.

Another Member referred to a general level of satisfaction expressed through the survey with the public recording a "4" or "5" level of satisfaction and not a great deal of evidence that the public waited a very long time at ranks. He also felt that a wait of over 10 minutes could be expected on a busy evening/early morning. However, he recognised the support for higher standards and a distinctive colour scheme for city taxis.

A further Member, whilst recognising the rights of all to earn a living, emphasised that the interests of the public were paramount. A number of taxi drivers had sold plates on for significant sums and that it had been apparent from the consultation responses that when personnel were seen observing the ranks the trade mobilised in response to a survey to give a false picture of there being no unmet demand by filling the ranks.

The Assistant Director Environment and the Principal Licensing Officer responded as follows to Members' queries:-

- the higher standards required alongside de-restriction would limit the numbers of existing Private Hire vehicles that could transfer. At present, of the 292 Private Hire fleet, only two met the higher standards in respect of emissions, one of which had a short window of opportunity to apply to transfer as it was a Euro standard 5 emission vehicle which would be ruled out when Euro standard 6 vehicles became obtainable from the Autumn onwards. Moreover, a further nine wheelchair accessible vehicles were required to bring the fleet up to the required 50% standard of such vehicles, in order to allow admission of any ULEV. Thereafter, an additional wheelchair side-accessible vehicle would be required before another ULEV could be added;
- as the policy only permitted the grant of one plate per applicant, any new applicant could only be granted one licence, whether a company or individual. Existing licence holders would therefore be prohibited from applying for additional licences;

- the consultation exercise suggested that some private hire firms were turning away work due to lack of capacity and had been approaching Hackney Carriage drivers to work on the Circuit;
- the option of annual incremental growth would still require evidential justification pointing to an absence of significant unmet demand. This would necessarily require reliance on a survey into the presence (or otherwise) of demand. Any such survey would become less reliable with the passage of time;
- in terms of justifying a policy of restriction, the burden of proof rested with the Local Authority;
- the licensing authority cannot currently prohibit the sale on of licensed vehicles. Of the previous six plates issued in recent years, five had been sold on;
- given the five year period recommended to Members requiring existing Hackney Carriage licence vehicles to upgrade to the enhanced standards, it is anticipated that the existing vehicles may still command a residual premium as they provide an alternative to funding a new vehicle to meet the higher standards;
- if de-restriction did lead to a flood of taxis then restriction can be re-instated, but this is not anticipated because of the higher standards proposed that may also act as a proxy restriction. The cost of meeting the higher standards will not be insignificant and therefore a flood of the market is unlikely;
- applicants must show they are capable of being licensed when they apply for a plate and this will include evidence of finance arrangements being in place;
- it was the case that some ranks become under-utilised such as the Quay and Lower Argyll Street, however the County Council will shortly provide further ranks in the immediate vicinity of busy night-clubs;
- the percentage of the public who had to wait over 5 and over 10 minutes for a hackney carriage, (22% and 25% respectively), was not small in percentage terms. Removing the restrictions (and introducing higher standards) could only positively impact on that position;
- it was apparent that the applicants genuinely wished to provide a good service with investment in high quality vehicles but were currently being prevented by the policy of restriction;
- despite the Council's existing policy of limiting the numbers of licenses issued, a number of additional licenses were granted as exceptions to the current policy or as a result of a successful legal challenge;
- it was important to note that any demand survey might not justify continuing with a policy of restriction. It had been necessary, after the last survey in 2010, to undertake a top up survey a year later; and
- it was likely that existing licence holders had a vested interest in the retention of the status quo because of the plate value should they wish to sell on, and the rental income obtainable from use by other drivers.

RESOLVED that the Council ends its current policy of restricting the number of hackney carriage vehicles with effect from 17 June 2015, and couple this with the introduction of an enhanced set of quality controls as set out in Appendices A-F of the circulated report in order to prevent any negative impact (if any) which may arise as a result of any potential growth in the number of Hackney carriage licences, and to improve standards of the Hackney taxi fleet further.

The meeting commenced at 5.30 pm and closed at 7.10 pm

Chair