

LICENSING COMMITTEE AGENDA



Wednesday 18th March 2009

at 2.00 pm

**in the Council Chamber,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors Aiken, Atkinson, Brash, R W Cook, Fleet, Fleming, Griffin, Hall, Jackson, G Lilley, London, McKenna, Morris, Rogan and Tumilty

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 10th December 2008
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Licensing of Horse Draw n Carriages (Landau's) as Hackney Carriages –
Head of Procurement, Property and Public Protection
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**
- 6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985

7. ITEMS FOR DECISION

- 7.1 Reviews of Recent Licensing Decisions Appealed to Hartlepool Magistrates Court – *Head of Procurement, Property and Public Protection*

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

10 December 2008

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor George Morris (In the Chair)

Councillors: Martyn Aiken, Reuben Atkinson, Rob Cook, Sheila Griffin, Gerard Hall, Geoff Lilley, Frances London and Victor Tumilty

Officers: Sylvia Pinkney, Consumer Services Manager
Ian Harrison, Principal Licensing Officer
Tony Macnab, Solicitor
Jo Wilson, Democratic Services Officer

18. Apologies for Absence

Apologies for absence were submitted from Councillors Jonathan Brash, Mary Fleet, Tim Fleming and Peter Jackson.

19. Declarations of Interest by Members

None.

20. Confirmation of the Minutes of the Meeting held on 24th September 2008

Agreed. The Chair expressed his disappointment that despite members' request that evidence of alcohol-fuelled anti-social behaviour in all areas of Hartlepool be brought to a future meeting to assist in achieving a town-wide designation the Head of Community Safety and Prevention had been unable to bring said evidence to this meeting.

21. Hackney Carriage and Private Hire Policy *(Head of Procurement, Property and Public Protection)*

Purpose of report

- I. To consider an amendment to the Hackney Carriage and Private Hire Licensing Policy in the light of recent legal developments.

- II. To consider further additions and amendments to the Hackney Carriage and Private Hire Licensing Policy in order to address other outstanding issues

Issue(s) for consideration by the Committee

Members were advised that Berwick Upon Tweed Borough Council had recently had their taxi policy judicially reviewed by Newcastle City Council. For the previous two years Berwick Council had been licensing Hackney Carriages that were not operating in the Berwick area. Legally Hackney Carriages and Private Hire Vehicles were able to carry out pre-booked work anywhere in the country regardless of where they were originally licensed. While this was not expressly stated in law it was at the same time not expressly prohibited. Berwick had been identified by Operators as having low standards and licensing fees who then brought their vehicles up to Berwick to be licensed. A number of these vehicles had subsequently worked in the Newcastle area leading to objections from Newcastle as it was felt that the Berwick licensed vehicles and drivers were not of a sufficient standard. Newcastle City Council had subsequently applied for a Judicial Review of Berwick's taxi policy. In November 2008 the High Court ruled that the taxi licensing laws were essentially local in character and as such vehicles should generally work in the area in which they were licensed.

Hartlepool officers proposed therefore that when carrying out pre-booked work Hackney Carriages must predominately be used for journeys where either the pick up or drop off point was within the boundary of Hartlepool. Predominately would mean 90% of all pre-booked work over any continuous 7 day period. Members asked why this could not be 100%. The Principal Licensing Officer advised that the High Court Judge had very deliberately chosen the word 'predominantly' in his ruling and officers did not want to go against that. 90% was a good robust condition which would be difficult for drivers to go against while still making a profit. 100% could limit the trade of Hartlepool drivers unduly. In terms of vehicles licensed by other authorities working in Hartlepool it was the responsibility of the licensing authority to take action. Hartlepool could only advise the licensing authority of any incidents.

A number of further amendments to the current Hackney Carriage and Private Hire Licensing Policy were also suggested including a minimum public insurance liability of £5,000,000 per vehicle and that applicants for a drivers licence must pass the knowledge test within 5 attempts. Should they fail to do this the applicant would need to wait 6 months before reapplying. Members were reluctant to approve this limit given that there was no similar limit on the number of attempts imposed on applicants taking their driving test. However the Principal Licensing Officer advised that even if this limit was not imposed the current 6 month limit between the CRB check and issuing of the licence would address this anyway. The need for an 80% pass rate on the knowledge test was also questioned given the

availability of satellite navigation equipment. However this was not recognised in the current policy as it would not necessarily provide information on the shortest journey. Also newer roads and estates tended to be missing from the database.

Officers proposed a further amendment whereby Private Hire Operators and Hackney Carriage employers would hold the licence for every driver employed by, or operating through, them. Members felt this was very important highlighting the need for a badge to enter the Civic Centre. Reference was also made to the need for an appropriate standard of dress by drivers.

Members questioned whether there would be enough taxis to supply demand during the Tall Ships Event in 2010. The Principal Licensing Officer advised that given the proposed road closures and provision of park and ride services he thought the current provision was adequate. In terms of provision of transport from Durham Tees Valley Airport this fell under the jurisdiction of Darlington Borough Council licensing authority.

Decision

That the new and amended conditions as contained within the appendix to the report be approved.

22. Review of Street Trading Controls (*Head of Procurement, Property and Public Protection*)

Purpose of report

To review the current arrangements for the control of street trading in Hartlepool.

Issue(s) for consideration by the Committee

On 12th March 2008 Members had requested a review of current street trading controls following representations from a Member expressing concern regarding the level of fees charged to mobile traders. Since March 2005 anyone wishing to trade from any street in Hartlepool, except a prohibited street, was required to obtain a Street Trading Licence or Street Trading Consent from the Council. In July 2008 following the previous review request Members had rejected the proposed reduction of £200 per annum in the licence fee for ice cream vans without increasing the costs for other mobile traders, by abolishing refunds for those traders who surrendered their consents early. Members had felt that a larger reduction was justified while the refunds should be retained. A number of proposals were brought back to members. These included changes in fees and the amendment of evening street trading charges from 6pm to 9pm. The Principal Licensing Officer advised that charges for evening trading were double those for daytime trading because of the increased expense for enforcement and

also to discourage traders. At the moment there were no street traders operating after 9pm.

Members were advised that a £100 reduction in the charge for ice cream vans would mean an addition of £11 for mobile hot food traders. The Principal Licensing Officer was of the opinion that the current charges, equating to £3 a day were not unreasonably high. This issue had been brought to Members attention owing to a perceived lack of ice cream vans frequenting certain areas of the town but the reason for this was not the current level of fees. Members felt that current fees were not excessive given the amount of money that traders could make. It was also noted that the traders themselves had not complained about the fees they were being asked to pay, Therefore Members indicated their support for retaining the current fee structure with the alteration that charges for evening consent would now begin from 9pm.

In addition as part of the forthcoming planning for the Tall Ships event a number of additional conditions had been highlighted by officers whereby there would be a minimum separation distance of 2 metres between traders, licence holders could have no more than 2 liquefied petroleum gas cylinders of 47kg on the premises at any one time and these could not be filled on the trading site. Members also supported these.

Decision

That the current fee structure in street trading consent and licence fees remain unchanged and that the proposed new conditions be approved.

23. Any other items which the Chairman considers are urgent

The Vice-Chair indicated that he had been advised that Royal Cars had changed their trading name. The Principal Licensing Officer had no information on this however he informed members that prosecution proceedings were currently underway against Royal Cars and their director. The hearing was due to take place from 15th January 2009.

The meeting concluded at 3.15 pm

CHAIR

Report of: Head of Procurement, Property & Public Protection

Subject: LICENSING OF HORSE DRAWN CARRIAGES
(LANDAU'S) AS HACKNEY CARRIAGES

1. PURPOSE OF REPORT

- 1.1 To consider the incorporation of additional conditions into the current hackney carriage/private hire licensing policy in order to facilitate the licensing of horse drawn carriages as hackney carriages.

2. BACKGROUND

- 2.1 The current hackney carriage/private hire licensing policy was adopted in April 2008.
- 2.2 At present there are no provisions within the current policy for the licensing of horse drawn vehicles that are acting as hackney carriages or private hire vehicles within the borough.
- 2.3 An enquiry has been received from a local company (Dream Day Carriages) that wishes to offer horse drawn tours of Hartlepool and, as such, consideration must be given as to how horse drawn vehicles should be regulated within the current licensing regime.
- 2.4 Due to the nature of their construction and use specific conditions and exemptions in relation to both the driver and the horse drawn carriage and its equipment must be considered.
- 2.5 The proposed additional conditions and exemptions are attached as Appendix I.
- 2.6 The enquiry from Dream Day Carriages relates to the provision of a horse and carriage as a hackney carriage (i.e. available without pre-booking) for tourist trips along specific routes, primarily around the Navigation Point and Marina area.
- 2.7 The provision of a horse drawn carriage from an existing tourist attraction can only go toward promoting and enhancing tourism within Hartlepool.
- 2.8 If successful in their application this will be the first licensing of a horse drawn vehicle with this authority, and neighbouring authorities, in modern times. It will therefore be of interest to the press and full advantage will be taken of any media interest to promote Hartlepool as a location, an authority and tourist attraction.

3. ISSUES FOR CONSIDERATION

- 3.1 Whilst the current enquiry has prompted the need to consider the adoption of additional licensing conditions, it must be remembered that the policy would apply to any further applications for similar vehicles.
- 3.2 The conditions considered as appropriate for adoption into the new revised policy must therefore be suitable for all applications of a similar nature and not be too specific to the current enquiry.
- 3.3 A range of proposed conditions are attached as Appendix I. Members may wish to note and consider the following specific issues: -
- 3.4 Approved Routes
- 3.5 It is proposed that landaus should be restricted to approved routes only. These routes would be determined in consultation with the Council's Highways department.
- 3.6 Tariffs
- 3.7 It is proposed that landaus should be exempted from the requirement to carry a taxi meter. If this were to be approved an alternative method for calculating fares would be required.
- 3.8 Whilst the current enquiry includes details of specified routes it must be remembered that any variation to these routes would require additional approval from the authority.
- 3.9 A possible solution would be to require the driver of the carriage to agree the fare prior to the commencement of any journey and to require the display of a prominent notice stating that the fares for all journeys must be agreed in advance.
- 3.10 Colour of the Vehicle
- 3.11 Members will be aware that at present all hackney carriages must be painted a specified shade of yellow. This is to allow passengers to easily identify hackney carriages should they choose to flag one down.
- 3.12 It is proposed that landaus be exempted from this requirement as their means of operation are significantly different from those of motorised hackneys.
- 3.13 Driver qualifications
- 3.14 Landau drivers will be responsible for their carriages on the public highway. It is proposed that drivers be required to hold a qualification or other form of recognised approval demonstrating their fitness to be in charge of a horse and carriage on a public highway.

3.15 In addition it is proposed that landau drivers be exempted from the current requirement to hold a valid DVLA licence.

3.16 Licence fees

3.17 Licence fees are determined by the Adult and Public Health Services Portfolio Holder.

3.18 Carriage Safety and Suitability

3.19 It is proposed that any licensed landau must be subject to examination and approval by an appropriately qualified inspector at the Council's Lynn Street depot.

3.20 Animal Welfare

3.21 Conditions are proposed that would require a means of permanent identification of the animal (i.e. microchip), a minimum age, periodic veterinary inspections and carriage drivers would be required to have an appropriate knowledge of animal welfare.

4. RECOMMENDATIONS

4.1 That conditions of licence as detailed in Appendix 1 be incorporated into the current hackney carriage/private hire licensing policy and be applied to relevant horse drawn carriages and drivers of the same.

PROPOSED CONDITIONS RELATING TO THE LICENSING OF HORSE DRAWN CARRIAGES (LANDAUS) AND THEIR DRIVERS

1. Making an Application - Essential Requirements

- 1.1 Prior to a vehicle licence being issued the applicant, being the proprietor of the vehicle, shall: -
- a) Complete and submit to the Council an application on the prescribed form together with the required licence fee no later than three working days prior to the licence being required.
 - b) Pay the required licence and associated fees. If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void. Licence fees are non-refundable.

2. Conditions of Licence

- 2.1 The proprietor of any licensed carriage shall ensure that the following conditions are complied with: -
- 2.2 The Vehicle - External Construction and Markings
- 2.3 The vehicle shall be purpose built and suitable for the carriage of passengers.
- 2.4 The vehicle shall be inspected and approved as appropriate for use as a hackney carriage prior to licensing.
- a) Carriage licence plates shall be fixed to the rear of the vehicle in a clear and conspicuous location in a vertical plane at right angles to the longitudinal axis of the vehicle;
 - b) Licensed carriages must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference only and does not constitute a definitive list of matters that may be considered to evaluate whether a vehicle is in a good condition: -
 - i. Bodyshell/paintwork – free from rust, broken metal and other visible damage;
 - ii. Door hinges – shall be in good working order and to be seated correctly when closed;
 - c) No external markings shall be permitted on the vehicle with the exception of the name and contact number of the owner/operator which may be displayed in

the upper half of both passenger doors. Such advertisements must, in the opinion of an authorised officer, be tasteful and decent.

- d) The carriage must be fitted with such equipment as to be able to collect and retain horse manure, water and feed for the animal.
- e) All tack and fixtures must be kept in good order and be available for inspection by authorised officers.

2.5 The Vehicle - Internal construction and markings

2.6 The carriage shall meet the following minimum measurements:-

- i. Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450mm.
- ii. In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760mm.
- iii. Seats (width) – The shortest distance between the edges of a seat shall be no less than 400 mm. Where the rear passenger seating area is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of a passenger, the above measurement shall be ascertained by measuring the distance between seatbelt anchorages (if applicable).

2.7 Floor and seat coverings shall be kept in good condition and be free of holes, stains or other damage at all times.

2.8 Blankets shall be provided for the comfort of passengers.

2.9 No fittings or signs (except for advertising detailed below) shall be attached to the inside of vehicle unless approved by the Council.

2.10 Advertising in the interior of a vehicle is permitted but only where such advertising does not detrimentally affect the safety or comfort of passengers and is not designed or intended to be viewed from the exterior of the vehicle.

2.11 The Vehicle - Additional Conditions

2.12 A vehicle licence applies solely to the vehicle specified on the licence.

2.13 The licence and associated plates shall remain the property of the Council at all times.

2.14 The proprietor of a licensed vehicle shall: -

- i. Produce the licensed vehicle for inspection at the request of any authorised officer or police constable;
 - ii. Return the licence to an appropriate Council Officer within 7 days of the surrender, expiry, revocation or suspension of such licence or upon the proprietor transferring his/her interest in the vehicle;
 - iii. Report the loss of any plates or the vehicle licence to an appropriate Council Officer as soon as the loss becomes known;
 - iv. Notify the Council of any transfer of interest or ownership within 7 days of that transfer. This must include the date of the transfer, plate number and name and address of the new owner;
 - v. Comply with any reasonable request made by an authorised officer or police constable in respect of that vehicle; and
 - vi. Notify the Council of any significant damage to the vehicle within 72 hours of the occurrence.
- 2.15 A vehicle that has failed a vehicle inspection test must be submitted for a re-test to the vehicle examiner approved and appointed by the Council on the defects found within 14 days from the date of the test otherwise a further full vehicle inspection test fee will be liable to be paid.
- 2.16 Any material alteration to the design or construction of a vehicle must have prior approval from the Council.
- 2.17 The carriage must have a valid policy of insurance in respect of third party risks and a minimum of £5,000,000 public liability insurance.
- 2.18 The carriage may only be used on previously approved routes.
- 2.19 The Horse
- 2.20 The horse must be a minimum of three years old.
- 2.21 Horses must be appropriately shod at all times.
- 2.22 If a horse is considered to be lame, or in any other way unwell, it shall be removed from service immediately.
- 2.23 Horses must be provided with regular access to drinking water.
- 2.24 The horse, and its associated tack, must be examined and passed as fit for the task involved, by a qualified veterinary surgeon who may also advise the authority on the maximum number of hours that a horse may work.

- 2.25 The local authority shall require the horse(s) to be examined by a qualified veterinary surgeon on an annual basis, at time of renewal of the licence and at the licence holder's expense.
- 2.26 Certified horses should be easily identified by means of microchip or permanent marking.
- 2.27 The horse must have a current passport.
- 2.28 The horse should be stabled in appropriate accommodation with access for inspection at all reasonable times.
- 2.29 Any horse used in any one day as a horse drawn carriage horse shall not be used during that day for any other purpose.
- 2.30 No horse shall be used for drawing a carriage during the hours of darkness.
- 2.31 The Driver
- 2.32 The driver of the carriage must be a licensed hackney carriage driver and produce the following certificates:
- i. Suitable qualification demonstrating a knowledge of the most common horse ailments and basic knowledge of the horses general needs/requirements.
 - ii. Road Driving Certificate issued by either the British Driving Society or the Heavy Horse Training Committee, passing the driver as capable of handling the horse and carriage under highway conditions.
- 2.33 The driver of a carriage is exempted from the requirement to hold a full drivers licence issued by the Driver and Vehicle Licensing Agency (DVLA).
- 2.34 The driver of a carriage is exempted from the requirement to pass the locations element of the driver's examination.
- 2.35 Fares
- 2.36 It shall be the responsibility of the carriage driver to advise any prospective passenger of the cost of the agreed journey prior to the commencement of that journey. In addition, the driver must ensure that a notice is prominently displayed stating that fares must be negotiated and agreed prior to the commencement of a journey.