

EAST HERTS COUNCIL

LICENSING COMMITTEE – 21 AUGUST 2019

REPORT BY HEAD OF HOUSING AND HEALTH

CONSIDERATION OF THE RESULTS OF THE HACKNEY CARRIAGE
UNMET DEMAND SURVEY

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- In March 2019 East Herts Council contracted LVSA (Licensed Vehicle Surveys and Assessment) to carry out an Unmet Demand Survey of East Herts licensed Hackney Carriage trade.
- The survey looks was commissioned to identify whether there are any particular sectors whose needs are not being met but the current number of licensed vehicles.
- Where there is no “significant” unmet demand this authority can limit the number of Hackney Carriage Proprietor licenses (vehicles) it issues if it chooses.

RECOMMENDATIONS FOR LICENSING COMMITTEE: That	
(A)	The Committee considers whether or not to limit the number of Hackney Carriage Proprietors Licences (vehicles) issued by East Herts Council;
(B)	If a decision is made to limit numbers to the current level of 247 Hackney Carriages, Licensing Committee make a recommendation to Council; or If a decision is made to limit numbers to an amount below the current level then Members instruct Officers to consult the trade regarding the proposed figure before bringing the results back to the Licensing Committee for consideration;

	and
(C)	If numbers are to be limited, the Head of Housing and Health, in consultation with the Chairman of the Licensing Committee, consider any applications for a new Hackney Carriage Proprietors Licence, on its merit, as an exception to the policy of not granting any new licences.

1.0 Background

- 1.1 East Herts, is an authority that grants licenses for Hackney Carriage and Private Hire drivers, vehicle proprietors and operators.
- 1.2 For a number of years the East Herts Hackney Carriage Trade has raised concerns that there are too many Hackney Carriage vehicles licensed within the District. Parts of the Hackney Carriage trade have advocated that the authority limits the numbers of Hackney Carriages.
- 1.3 Some concerns have been raised regarding the availability of wheelchair accessible vehicles (WAV) within the District. The Licensing Team has occasionally received enquiries from members of the public who are having difficulty hiring such a vehicle. The level of demand has not been quantifiable.
- 1.4 As a result of the above factors an Unmet Demand Survey was commissioned.

2.0 Report

- 2.1 The Unmet Demand Survey produced by LVSA is attached to this report as **Essential Reference Paper 'B'**.
- 2.2 Iain MacDonald from LVSA is in attendance at the meeting to present the report and answer any questions that Members may have about the report and the results of the survey.

2.3 The Council is the licensing authority for Hackney Carriages within the District. Under section 16 of the Transport Act 1985 there is a power to limit the number of Hackney Carriages vehicles (HCVs) where it appears there is no *significant* unmet demand for such licences.

2.4 The effect of section 16 was approved by the Court of Appeal in these terms:

- a) 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 for the services of taxis, within the area to which the licence would apply, which is unmet;
- b) if the local authority are thus satisfied, a *discretion*, as opposed to an obligation, arises to refuse the grant of a licence; but
- c) if the local authority is not satisfied, they cannot refuse to grant a licence for the purpose of limiting the number of licensed taxis and are thus obliged to grant it.

2.5 The following conclusions are drawn from the report:

- a) There is no unmet demand which is significant
- b) The biggest wait times for Hackney Carriages were at the Railway Station Ranks where the availability is limited by permit
- c) There appears to be an oversupply of Hackney Carriage vehicles
- d) The trade have responded to the consultation with the majority of respondents stating that there are too many Hackney Carriages with a suggestion that a limit should be set somewhere between 100 and 200 vehicles
- e) The availability of Wheelchair Accessible Vehicles (WAV) was not identified as a major issue.
- f) Much of the Hackney Carriage trade is engaged in pre-booked work which could be carried out by Private Hire vehicles.

2.6 **OPTIONS**

1. Continue with the current policy of not limiting the number of Hackney Carriage vehicle licence this authority issues.

This option leaves the number of Hackney Carriages to be limited by market forces however it is evident that despite the trade believing that there is an oversupply of vehicles the numbers have remained largely unchanged (250 in June 2013, 247 in August 2019). The pressures on the market have changed over this period which may be a contributing factor to Hackney Carriages placing more reliance on private hire work rather than being more traditionally rank based.

2. Attempt to overcome the current excess of Hackney Carriages by other amendments to licensing policy whilst retaining the freedom of others to obtain a Hackney carriage vehicle licence

For a number of years East Herts has been improving standards amongst licensed drivers and vehicles and increasing the criteria required to successfully become licensed. The relatively consistent numbers of drivers and vehicles that the authority has licensed over this period of change demonstrates that standards have been raised without creating barriers to entry into the trade. To raise the bar higher in an attempt to slow down the rate of applications would be open to challenge as this could be perceived as creating barriers to entry into the trade.

3. Apply a limit to the number of Hackney Carriage vehicle licences issued to the current number of licensed Hackney Carriage vehicles (247)

This would maintain the current level of licensed vehicles and would prevent any further increase in the oversupply of vehicles. This decision can be taken without further consultation with the trade. East Herts would also face the

possibility of individual applicants appealing to court against the decision to refuse to grant a new licence but the Unmet Demand Survey would be used as evidence to support the policy of limiting vehicle numbers.

4. Apply a limit to the number of Hackney Carriage vehicle licences issued to a figure below the current number of licensed Hackney Carriage Vehicles.

This would involve a diminishing limit on the number of licences issued. There would no immediate change to the number of vehicles that are licensed; vehicle licences would not simply be revoked to bring numbers down to the set figure. The lower limit would be reached over time through natural change. When a Hackney Carriage vehicle licence lapses, surrendered or revoked no further vehicle licences would be issued. As with option 3 above further surveys would need to be commissioned in the future to consider whether the limit remained appropriate and refusals would be open to appeal.

2.7 When considering limiting the numbers of Hackney Carriage vehicles concerns are sometimes raised that standards will fall as licence holders feel protected from competition. The policies that East Herts have in place are likely to prevent any deterioration in standards amongst what is a professional Hackney carriage trade. If a diminishing limit was placed on the trade it can be argued that this may raise standards as licence holders are able to invest in newer and cleaner vehicles in the knowledge that competition from other new vehicles will not be increase for a set period and that if a licence were to be revoked it would be highly unlikely that a new licence would be granted.

2.8 Policy will continue to develop and evolve and the other information contained within the Unmet Demand Survey, which does not link directly to the question of limitation, will be used to help shape this.

2.9 By allowing the Head of Housing and Health in consultation with the Chair of the Licensing Committee to grant licences outside of the policy when it is believed merited the ability to licence vehicles in exceptional circumstances remains. The suggested criteria for granting licences outside of any policy to limit vehicle numbers would be:

- a) if relevant regulations are made, under equalities legislation, requiring a certain percentage of the vehicle fleet to be Wheelchair Accessible Vehicles (WAV). At that point, if the existing fleet did not contain the specified percentage the Council would grant the number of necessary licences to accommodate the short-fall;
- b) if anyone presents a vehicle to provide Hackney Carriage services where demand is not yet met – for instance, some form of specialist market area which is currently being catered for. In these circumstances, the applicant may be said to be a genuine exception to the general policy. In these circumstances the decision to grant or not will be made by the Head of Housing and Health in consultation with the Chair of the Licensing Committee;
- c) the Crown Court on appeal orders additional licences to be granted following a refusal by the Council to grant one when it is demonstrated that in fact there is significant unmet demand at the time of the appeal. In this instance it is for the Council to allocate the licence according to its own criteria and not the courts

2.10 Waiting list and refusals

If a policy of limiting numbers is introduced, officers will refuse those applications other than those that can be considered a genuine exception to the policy as detailed above. A list will be maintained of people interested in obtaining licences in the future but applications will not be accepted at the time of being entered onto the list. Applications will only be accepted when a licence becomes available.

2.11 Impact on the Private Hire Trade and neighbouring authorities
Imposition of a limit, particularly a diminishing limit, on Hackney Carriage numbers may lead to an increase in the number of Private Hire Vehicles licensed instead. The Council is unable to limit the number of Private Hire vehicle licences it issues although the increase since 2013 has only been 9 vehicles. Given the over-supply of Hackney Carriages within the District, which are carrying out a lot of private hire work), officers believe that there is a low risk of this happening. There is a possibility that applicants unable to licence a vehicle with East Herts may go to a neighbouring authority and licence a Hackney Carriage there with the intention of predominately working within East Herts, this would be unlawful and enforcement action would be taken in relation to this matter.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Not applicable.

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