

WYRE FOREST DISTRICT COUNCIL

LICENSING & ENVIRONMENTAL COMMITTEE
MONDAY 17th JULY 2006**Wyre Forest Taxi Liaison Group Meeting Friday 2nd June 2006**

| OPEN ITEM | |
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| RESPONSIBLE OFFICER | Head of Planning, Health and Environment |
| CONTACT OFFICER | Mike Parker Mike.Parker@wyreforestdc.gov.uk |
| APPENDICES | Appendix 1 – Report to Wyre Forest Taxi Group Appendix 2 – Letter from T Owen, Regency Vehicle Hire Appendix 3 - Letter from Mark Kay, WFDC Appendix 4 – Letter from Mr T Owen, Regency Vehicle Hire |

1. PURPOSE OF REPORT

1.1 At the last meeting of the Wyre Forest Taxi Liaison Meeting on the 2nd June 2006, representatives of Wyre Forest taxi trade requested a review of the new licensing conditions for hackney carriage and private hire vehicles which came into force into the District on the 1st October 2005, and requested that:

- a) All existing licensed saloon cars should be subject of a moratorium for seven years.
- b) The silver livery should apply to new entrants to the trade only.
- c) The Council maintains the policy of less than two years as a lower age limit and seven years as an upper age limit for saloon cars which are renewed.
- d) All wheelchair accessible vehicles have an upper age limit of ten years, in line with proposed London Carriage Office guidelines.
- e) A further letter was received from Mr. T. Owen, Regency Vehicle Hire on 29.6.06 (Appendix 4). This letter on behalf of Regency Vehicle Hire only, asks the Council to give a 12 months moratorium (Oct 06 – Oct 07) on the full introduction of new hackney carriage licence conditions, whilst further negotiations could take place.

2. RECOMMENDATION

The Committee is asked to RECOMMEND to Cabinet:

- a) **The request from the taxi trade for a seven-year moratorium on new licensing conditions be refused.**

- b) **The silver livery should apply to all new and replacement hackney carriage vehicles.**
- c) **Approval be given to the proposal that wheelchair vehicles have an upper age limit of ten years to accord with London Carriage Office Guidelines as opposed to the current 7 years.**
- d) **The request from Mr. T. Owen, Regency Vehicle Hire for a 12 month moratorium on new licensing conditions for hackney carriage vehicle conditions be refused.**

3. BACKGROUND

- 3.1 Following an independent study on significant unmet demand (final report April 2005) the Council at its meeting on the 18th May 2005, decided to discontinue its policy on the limitation on the number of such licences. It recognised that there were concerns over immediate deregulation, and agreed to phase in the Deregulation over the next three years.
- 3.2 Deregulation of number control over hackney carriage vehicle licences began on 1st October 2005 and will be completed by the 31st March 2008.
- 3.3 Deregulation will be accomplished in accordance with this plan which has been developed by the Licensing and Environmental Committee in consultation with the taxi trade, and approved by the Cabinet at its meeting on the 25th August 2005 and the 29th September 2005.
- 3.4 The Deregulation Plan, through a review of its hackney carriage and private hire licensing conditions will ensure that quality standards and customer safety are improved.
- 3.5 The Plan includes, but is not limited to provisions designed to:
 - a) Meet the Government's request to review the case for restricting the number of hackney carriage vehicle licences
 - b) Provide a three year phased approach to removing the numerical number limits on hackney carriage licences after 1st April 2008;
 - c) Balance the needs of taxi users, licence holders and new entrants to the taxi industry
 - d) Improve quality by reviewing conditions including vehicle age, safety, and livery by introducing service standards.
- 3.6 The Council intends to ensure that all vehicles are of a certain profile, safe and easily recognisable.
- 3.7 For this reason new conditions were proposed which address the following main areas:

- Age profile of the fleet
 - Wheelchair accessibility
 - Livery
- 3.8 The new vehicle conditions have applied since the 1st October 2005 with a lead in period of exemption for vehicles due to be licensed in the period 1st October 2005, to the 30th September 2006.
- 3.9 The Council recognises that it will take some time for the existing hackney carriage fleet to be fully replaced with the new standards and expects that by 1st October 2013, all vehicles will adhere to the new standards.
- 3.10 During this time all existing licence holders will be encouraged to apply new livery details, provided by the Council, to offer some consistency of identification.

4. KEY ISSUES

- 4.1 On the 31st October 2005 Mr David WATKINS, a licensed hackney carriage driver, supported by the Wyre Forest Taxi trade lodged an appeal against the new hackney carriage licence conditions by giving notice to the Kidderminster Magistrates Court. Mr B Rowland of the National Private Hire Association represented him.
- 4.2 Mr WATKINS appealed against all of the new hackney carriage vehicle licence conditions and gave a brief skeleton argument.
- 4.3 On the 16th March 2006 Officers met with Mr Rowland, at Duke House to appraise the circumstances of the appeal, and to explore common ground prior to attending a case management meeting of the case with the Magistrates Clerk.
- 4.4 After discussions with Mr Rowland it was apparent that only the age policy, and livery, for hackney vehicles were to be contested, and the taxi trade asked for a moratorium of four years.
- 4.5 Officers consulted with the Council's Legal and Democratic Services, and specialist advice from John Wood Partnership, Solicitors, of Wakefield, Yorkshire who directed that any moratorium, or current exemption, is not part of the new hackney carriage vehicle licence conditions, and cannot be appealed at the Magistrates Court.
- 4.6 This information was communicated to the trade via Mr Rowland, who agreed that it would be difficult to oppose any of the Council's Conditions except colour, and any exemption / moratorium, could **not** be for an extended period.
- 4.7 Mr Rowland prepared a statement for the information of the trade and this was published to them on Thursday 1st June 2006. (Copy at Appendix 1)
- 4.8 On Friday 2nd June 2006, Mr Trevor OWEN of Regency Vehicle Hire also representing Central Taxis and Owner Drivers of Regency, submitted a letter to the Wyre Forest Taxi Liaison Group meeting due to meet later the same day. (Copy at Appendix 2)

4.9 He addressed the aims of the Council's Deregulation Plan with regard to Quality, Quantity, and Safety, and has commented on the effect of the new licensing conditions since the adoption on 1st October 2005.

4.10 He asked, inter alia, that:

- All existing licensed saloon cars should be subject of a moratorium for seven years.

Comment. This request is in excess of four years previously asked for by Mr WATKINS within his Appeal Notice, and would delay the fleet implementation for fourteen years.

- The silver livery should apply to new entrants to the trade only.

Comment. Legal advice reflects that this action would be unlawful in the creation of a cartel, protection of one group to the detriment of another.

- The Council maintains the policy of less than two years as a lower age limit and seven years as an upper age limit for saloon cars

Comment Saloon cars will not be admitted to hackney carriage Licences

- With regard to wheelchair accessible vehicles it is suggested an upper age limit of ten years, which is in line with proposed London carriage Office guidelines.

Comment This amendment would be in order to complement the London Carriage Office recommendations.

4.11 On 29th June 2006 a further letter was received from Mr. T. Owen, representing just his company, Regency vehicle Hire asking the Council to consider a 12 month moratorium on the new hackney carriage licence conditions whilst negotiations took place (Appendix 4).

Comment Mr Owen controls 3 of the 7 vehicles exempted under the terms of the Deregulation Plan. If the exemption were to be extended for 12 months, 7 further vehicles would be affected, 4 belonging to Mr. Owen.

4.12 Mr. Owen's costs appear to be based on £17,000 for a purpose built cab or £7,875 for a replacement saloon. No allowance has been made for rebadging some hackney carriages as private hire vehicles. The costs for Regency Vehicle Hire appear high due to the number of vehicles (32) but proportionately would be the same for all members of the trade.

5. FINANCIAL IMPLICATIONS

5.1 If the Council were to allow an extended moratorium for saloon vehicles the Council could face legal costs with respect to legal challenges.

6. LEGAL IMPLICATIONS

- 6.1 Further advice was obtained from specialist Solicitor John Wood which indicated that any extended derogation or moratorium would place the Council in a position where it could be challenged and this could leave the Council open to legal costs and or claims for compensation.
- Seven years is too long a period for moratorium and could not be justified and should be regarded as unreasonable.
 - It is felt that the one-year exemption currently in force was justified and can be defended on the grounds of preventing “hardship” to individuals.
- 6.2 These details were communicated to the taxi trade by letter on the 6th June in a letter sent by the Environmental Health and Licensing Manager (Copy at Appendix 3)
- 6.3 The Case Management hearing into the Appeal by Mr Watkins was held at the Magistrates Court Kidderminster on Thursday 8th June 2006.
- 6.4 Mr WATKINS reconsidered his case and asked that his Appeal against all of the Conditions against the Hackney Carriage Vehicle Licence should be withdrawn.
- 6.5 Initial advice regarding Mr. T. Owen’s request of 29.6.06 (Appendix 4) is that it is only from his company and is not a request from the trade as a whole although this request is for a much shorter time period than previous requests. Our original advice was that the 12 month derogation within the deregulation plan was justified and could be defended. The longer any derogation the harder it is to defend and Mr. Owen appears to suggest that negotiations would revolve around modifying conditions and or further extending the derogation.

7. CONCLUSION

- 7.1 The Trade have been advised that the Licensing and Environmental Committee will be asked to consider the proposals based on all of the advice and evidence put before them, including relevant legal advice.
- 7.2 The request from Mr. T. Owen is from his company alone and he does not appear to be acting in concert with the rest of the trade.
- 7.3 The deregulation plan allows a phased introduction lasting until 2013 and any further phasing in would not appear to be justified.
- 7.4 Negotiations with the trade and their legal representatives have taken place over an extended time period and further talks can continue whilst administering the provisions of the Deregulation Plan.

8. CONSULTEES

- 8.1 Head of Legal and Democratic Services

9. BACKGROUND PAPERS

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3.7.06

