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## Licensing and Regulatory Committee

4<sup>th</sup> July 2008

Report of the Director of Neighbourhood Services

### **APPLICATION TO APPROVE PEDICABS FOR USE AS HACKNEY CARRIAGES**

#### **Summary**

1. At its meeting on 17<sup>th</sup> March 2008, this committee considered a report regarding applications received to licence pedicabs as hackney carriage vehicles and to consider the practical consequences regarding the use of this type of vehicle as a hackney carriage in the City of York Council.
2. The committee decided to defer further consideration on this matter until the results of an unmet demand survey are to hand and to consider whether the council in consequence need to review its policy on hackney carriage.
3. At its meeting on 21<sup>st</sup> May 2008 this committee, following the results of a rank queue survey, concluded there was a significant unmet demand and opted to release from 1<sup>st</sup> July 2008, 15 new licences for motorised vehicles and, after the first year, a further 2 licences released every 6 months. This policy will be reviewed after 3 years.
4. The committee noted from the survey that some 46% of respondents would use pedicabs should they be introduced in York. Members are requested to consider the practical consequences regarding the use of this type of vehicle as a hackney carriage in the City of York and whether if pedicabs should be licensed to operate in the city, how many licences should be issued.

#### **Background**

5. A pedicab or rickshaw is essentially an unmotorised tricycle powered by one human on the front, whilst up to three fare paying passengers can be transported on the rear seat. Photographs of three types of pedicabs are attached at Annex 1.
6. Pedicabs were last licensed in York some 15 years ago. They were licensed as omnibuses under the Town Police Clauses Act 1889 and worked from a stand near the Minster. Apparently they quickly went out of business, the work being somewhat seasonal.
7. Since pedicabs were last licensed in York as omnibuses the interpretation of

the law on their licensing has changed. In 1998 the Court of Appeal (R v Cambridge City Council) decided that rickshaws/pedicabs are licensable not as omnibuses but as hackney carriages if the pedicab is to be used to ply for hire or reward.

8. Arising from that ruling any application for pedicabs have been refused as the then current taxi licensing provision for the City of York up until the 21<sup>st</sup> May 2008 limited the number of hackney carriage licences to 158 operating from 11 full time ranks and 7 part time ranks.
9. At the Licensing and Regulatory Committee on Friday 2<sup>nd</sup> November 2007 the committee made a decision to remove that limit subject to a rank queue survey being conducted and repeated at least every two years in order to monitor the level of unmet demand.
10. At that same meeting, the committee also approved that novelty forms of transport such as rickshaws and pedicabs be excluded from compliance with wheelchair accessibility and a report be brought back to the committee on the issue of licensing pedicabs.

### **Rank Queue Survey**

11. Following the November meeting, Halcrow, one of the UK's largest transport planning consultancies, were contracted to carry out a study of the taxi industry in York. This study was to include a rank survey, public consultation, stakeholder consultation, trade consultation and bench marker with other authorities.
12. Halcrow conducted rank surveys between 23<sup>rd</sup> February and 9<sup>th</sup> March 2008.
13. Key conclusions of the study are as follows:
  - a) That there is a significant unmet demand for hackney carriage vehicle licences in York.
  - b) That an additional 15 licences are required to meet that demand.
  - c) That the taxi rank in St Sampson's Square be reinstated.
  - d) That many stakeholders with disabilities state they often had difficulties obtaining accessible vehicles.
  - e) 46% of respondents would use pedicabs should they be introduced in York.
14. Members should be aware other Councils outside London have licensed pedicabs as hackney carriages but many schemes have failed through lack of use. Officers have consulted with officers from the following councils: East Lindsey, Oxfordshire, Newcastle, Cambridge Durham and Herefordshire. Schemes in Cambridge, Oxfordshire and North Norfolk have either not been approved or subsequently abandoned due to lack of use. Durham, East Lindsay and Herefordshire have successfully licensed pedicabs as hackney carriages.
15. Members should note that such vehicles are currently in use in London but

outside any London licensing regime. In June 2006 the Public Carriage Office issued a consultation document regarding the possible licensing of pedicabs in London. The results of the consultation exercise have yet to be announced.

16. In conclusion, since the lifting of the limit of hackney carriage numbers in the city, the Council do have power under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to licence pedicabs as hackney carriages. Furthermore the Act permits the council to impose conditions on the grant of a hackney carriage vehicle licence.
17. The Council currently has a strict policy regarding the type and specification of vehicles which may be licensed as hackney carriage vehicles. A pedicab does not meet the strict vehicle specification laid down by the Council for hackney carriage vehicles.
18. The committee will need to consider if it is appropriate to change its specification to allow pedicabs to operate in York. Legally the Council can change from its current policy if it feels that there are sufficient reasons to do so.

#### **Main Issues - Licensing Procedure**

19. Any licensing procedure for pedicabs should assess the fitness of both vehicles and riders. Adequate insurance to cover third-party liabilities will be a requirement of pedicab licensing.
20. Hackney carriages, normally referred to as taxis and hackney carriage drivers are regulated by the City of York Council Taxi Licensing Department. The principal regulations are contained in the Town and Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.
21. Applying the same regulation would require both the pedicab and riders to be licensed at the same cost as motorised and horse drawn hackney carriages.

#### **Riders**

22. Riders will be licensed in the same way as hackney carriage and private hire drivers:-
  - Held a driving licence for at least 12 months.
  - An enhanced Criminal Records Bureau Disclosure check.
  - Character references.
  - Medical fitness.
  - Knowledge test/topographical skills.
23. Driving/riding ability – evidence will be required that a rider is competent to handle a pedicab. This will be achieved by a requirement that the applicant has achieved CTC (National Standard for Cycle Training) Level 3 and has

demonstrated this competence on a pedicab. This independent qualification is the nearest to a motor vehicle driving licence and demonstrates that a pedicab rider has completed a competence based qualification that is relevant to the type of pedicab.

24. The proposed pedicab rider and operator code of conduct are detailed at Annex 3 and Annex 4.

### **Pedicab Licensing**

25. Officers take the view that any pedicab should be of a design which has the rider in the front or forward position and the passenger seated at the rear. Pedicabs that have the passengers in the forward position are considered to restrict rider visibility, especially when any canopy is raised in place.
26. If a decision is made to licence pedicabs the Council will wish to be assured that they are structurally and mechanically safe as such vehicles can be. Pedicabs should therefore be required to comply with conditions of fitness and undertake a vehicle examination carried out by a CTC qualified mechanic.
27. Motorised hackney carriages are required to comply with conditions of fitness which specify certain technical requirements to ensure that the vehicle is fit for purpose. Pedicabs will similarly be required to meet a minimum standard and be maintained to that standard throughout the licensing period. Pedicabs will be the subject of one licensing inspection each year with random on-street compliance inspections.
28. The proposed pedicabs conditions of fitness are detailed in Annex 2.
29. The licensing period for a pedicab will be one year. A licence and identifying plate will be issued. Both items would remain the property of the City of York Council and would have to be returned when expired. The plate will have a unique number and be affixed to the rear of the pedicab.

### **Fares**

30. Currently the maximum fares for motorised hackney carriages are set annually by the council and vehicles are fitted with meters that calculate the maximum fare based on a distance travelled or time taken. It would be difficult to introduce metered fares based on distanced travelled due to the cost and technical difficulties in fitting a meter to pedicabs.
31. Secondly a pedicab is unlikely to ever go fast enough to allow charging by distance.
32. It appears that the only simple and effective method of charging is to set a standard fare for all journeys which would be per vehicle not per passenger.

### **Area of Operation**

33. It is officers views, following consultation with two prospective applicants, that pedicabs should not have access to the pedestrian foot streets. Unlike the

horse drawn carriages there should be no fixed routes or control of the area in which pedicabs operate. In practice, taking example from London in which pedicabs operate, they tend to work within a half mile radius of the city centre. Having no controlled area will allow pedicab operators to tailor individual trips to the customer and to service specific destinations like the Knavesmire during race meetings.

## **Ranks**

34. Officers are of the view that highway space for any extra ranks solely for the use of pedicabs is at a premium in York and there is no existing budget to fund them. Officers cannot see how any new ranks can be readily provided. It is officer proposal, given the findings in the unmet demand survey and hackney carriage trade, that pedicabs operate from the Tower Street ranks and the middle rank in Duncombe Place near to the horse drawn hackney carriage rank.

## **New Licence Allocation**

35. Should members be minded to grant a limited number of pedicab licences, each application will be judged on its own merit. Applicants will also be the subject of a suitability interview. Officers will take into account previous experience of managing a pedicab operation and previous registered interest.

## **Conclusion**

36. Officers believe that York could significantly benefit from a successful pedicab service. They would be an undoubted asset to the city and an additional attraction to the 4 million visitors to the city. They would provide an environmentally friendly mode of transport with no pollution. Pedicabs would provide a useful short distance service ferrying tourists, and indeed residents, between various tourist attractions, restaurants and hotels.
37. Officers are acutely aware of the problems that pedicabs can potentially bring to the streets of York, whether it is blocking access to tourist attractions, holding up traffic, use of bus lanes or the lack of suitable ranks, but do not think the licensing of pedicabs should be disregarded outright.
38. It is officers' views that pedicabs in limited numbers would provide a welcome and colourful, albeit minor, addition to the local transport provision.
39. However, given the enquiries already received, the likelihood is that if they are successful, other operators may also look to set up in York. There is, therefore, the chance that the authority could be inundated with applications for pedicab licences similar to the congestion seen in London. The Council do limit the number of horse drawn carriages to four and they could consider limiting the number of licences issued to pedicabs.

## **Consultation**

### **York Taxi Association**

40. The views of the York Taxi Association were obtained at their quarterly meeting. They support in principle the licensing of a small number of pedicabs similar to the number of horse drawn carriages. They believe they are mainly aimed at the tourist market and would not undertake the same sort of hiring as the average hackney carriage. Indeed, it is likely they will be used for extremely short length journeys. There are concerns regarding the lack of rank provision in the city and if large numbers of pedicabs were licensed the adverse effect on traffic flow and possible conflict at the limited number of rank spaces in the city.

### **North Yorkshire Police**

41. The views of the North Yorkshire Police centre on the safety issues of pedicabs, especially at night. They have concerns regarding the slow moving nature of the vehicles and the adverse effect on traffic flow. If used in bus lanes this will affect the First York buses leading to driver frustration and inappropriate behaviour.

### **Network Management**

42. Main issues of concern relate to the slow moving nature of the pedicabs, 6 to 8 mph, and the effect this would have on traffic flows and the limited number of opportunities for motorised vehicles to overtake. Issues of ranks would need to be addressed that would not impact on existing ranks and residents parking. The possible effect on bus lanes and park and ride services is also of concern.

### **CTC – The National Cyclists’ Organisation**

43. Pedicabs may seem a minor issue reserved to larger cities. Currently the main value of pedicabs is as a form of entertainment and a tourist attraction. However, they also have the potential to serve as a complement to public transport networks in towns and cities in the future. We also understand that according to DfT officials, “Ministers have expressed the general view that, properly regulated, cycle rickshaws (often called “pedicabs”) have a role to play in local transport provision”. CTC also believes that, if properly regulated, pedicabs can make a positive contribution to the cultural life of major cities. Yet at present, London is the only city in Britain where they are managing to operate on a “ply for hire” basis, taking advantage of the different regulatory frame work which applies there.

### **Options**

44. Option 1: To issue a licence to all pedicab applications for use as hackney carriages within the City of York which meet the appropriate vehicle specifications, licensing conditions and other relevant matters.
45. Option 2: To issue licences up to a maximum of 10 for use as hackney carriages within the City of York which meet the appropriate vehicle specifications, licensing conditions and other relevant matters.

46. Option 3: Resolve not to licence pedicabs within the City of York.

### **Analysis**

47. The reasoning and analysis of the proposal has been set out in previous paragraphs.
48. Legally a pedicab can be licensed within the city as a hackney carriage. In the past they have been prevented from doing so due to the limit on hackney carriage licences. There are two operators currently operating in the city outside any licensing regime, taking donations rather than fares.
49. Officers believe that if properly regulated and numbers restricted, pedicabs can make a positive contribution to the cultural life of the city. Pedicabs would provide a welcome and colourful, albeit minor, addition to the streets of York. In addition they would provide an environmentally friendly mode of transport with no pollution and could have a role to play in any future local transport provision.
50. However, for all the reasons set out in this report, there are considerable factors to be overcome if pedicabs are to operate on the streets of York. Whilst this is not prohibitive, the key factor would be the essential issues around safety, impact on traffic and suitable rank space balanced against the introduction of an environmentally friendly mode of transport and tourism benefits. What is evident is there is a willingness from two operators to work with the council to overcome the many obstacles and provide a quality product and service.
51. Members should determine this application on its own merits and consider whether or not it is an appropriate form of transport to be licensed as a hackney carriage in York or recognise that licensing pedicabs in York is not appropriate at this time.

### **Corporate Priorities**

52. To increase the use of public and other environmentally friendly modes of transport.

### **Implications**

#### **Financial**

53. If approval is granted the necessary licence fees are payable.

#### **Human Resources (HR)**

54. If approved it will be necessary for officers to establish whether the pedicabs comply with the conditions and standards laid down. This will be in addition to the testing currently undertaken. It is anticipated this will be achieved from existing resources.

## **Equalities**

55. There are no equalities implications.

## **Legal**

56. In the case of (R v Cambridge City Council ex parte Lane) it was held that a pedicab was a hackney carriage for the purpose of the Town and Police Clauses Act 1847. This decision was followed more recently in the case of Robert David Oddy v Bugbugs Ltd and others.

## **Crime and Disorder**

57. To ensure that members of the public are transported safely in appropriately licensed vehicles driven by identified licensed drivers.

## **Information Technology (IT)**

58. There are no information technology implications.

## **Property**

59. There are no property implications.

## **Other**

60. There are no other implications.

## **Risk Management**

61. In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.
62. Measured in terms of impact and likelihood the risk score has been assessed at less than 16. This means that at this point the risk need only provide a real threat to the objectives of this report.

## **Recommendation**

63. Members of the Licensing and Regulatory Committee are asked to:

Approve option 2 with regard to the issuing of 10 hackney carriage (pedicab) licences within the City of York which meet the appropriate vehicle specification, licensing conditions and other relevant matters.



## Contact Details

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**Report Approved**  **Date** 18/6/08

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**Wards Affected:**

**All**

For further information please contact the author of the report

## Background Papers

Local Government (Miscellaneous Provisions) Act 1976  
Public Carriage Office Consultation on the Licensing of Pedicabs

## Annexes

- Annex 1 – 3 photographs of pedicabs
- Annex 2 – Pedicab conditions of licensing
- Annex 3 – Code of Conduct pedicab riders
- Annex 4 – Code of Conduct pedicab operators