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## Licensing and Regulatory Committee

17th March 2008

Report of the Director of Neighbourhood Services

### **APPLICATION TO APPROVE PEDICABS FOR USE AS A HACKNEY CARRIAGE**

#### **Summary**

1. Applications have been received to licence pedicabs as hackney carriage vehicles. 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 in principle if pedicabs should be licensed to operate in the city.

#### **Background**

2. 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.
3. Pedicabs were last licensed in York some 15 years ago. They were licensed as omnibuses under the Town Police Clauses Act 1847 and worked from a stand near the Minster. Apparently they quickly went out of business, the work being somewhat seasonal.
4. 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.
5. Arising from that ruling any application for pedicabs has been refused as the then current taxi licensing provision for the City of York limits the number of hackney carriage licences to 158 operating from 11 full time ranks and 7 part time ranks.
6. At the Licensing and Regulatory Committee on Friday 2<sup>nd</sup> November 2007 the committee made a decision to remove the restriction on hackney carriage vehicles licences by approving option (d) - to issue a limited number of hackney carriage vehicle licences each year until market demand regulates the number of licences issued but subject to a review after two years on the effects of any increased numbers. An additional recommendation at (i) - that a rank queue

survey be conducted and repeated at least every two years in order to monitor the level of unmet demand. Members should be aware that following advice from Counsel the decision to release a limited number of hackney carriage vehicle licences has not been implemented because the council is awaiting the results of an unmet demand survey.

7. 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.
8. Since this ruling the licensing team have received several requests from pedicab operators including York Pedicabs (6), Hop-on UK Ltd (6), Robert Sykora (between 12 and 24) and Magicab Services seeking to be licensed and to operate pedal powered pedicab services in York. The main aims of the applications are to provide a safe and environmentally friendly mode of transport for the city and to support the city's tourism infrastructure. The licensing of pedicabs would go some way to supporting the Council's corporate policy of increasing the use of public and other environmentally friendly modes of transport. Copy letters of applications can be found at Annex 2.
9. Members should be aware other District 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.
10. 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.
11. 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.
12. 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.
13. 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.

#### 14. **Main Issues**

Any licensing procedure for pedicabs should assess the fitness of both vehicles and riders. Vehicles should be assessed on suitability for the role and condition of the vehicle. Riders will be licensed in the same way as hackney carriage and private hire drivers who are required to hold a driving licence for a minimum of 12 months and are subjected to checks with regard to age, character and medical fitness.

If a decision is made to licence pedicabs the Council will wish to be assured that they are as structurally and mechanically safe as such vehicles can be. Pedicabs should therefore be required to comply with conditions of fitness.

Officers take the view that any pedicab should be of a design which has the rider in the front or forward position and the passengers 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 and in place.

Effective arrangements must be in place to identify vehicles in use as licensed pedicabs. Officers would recommend that this would be achieved by a licence plate attached to the rear of the vehicle.

Officers would submit, as illustrated above, there are considerable obstacles to be overcome if pedicabs are to be licensed in York.

Other key concerns likely to be revealed are:-

- Safety on the road and major thoroughfares
- Possible traffic reduction – fewer journeys by motorised hackney carriage vehicles
- Traffic congestion – slowing down of vehicular traffic
- Insufficient taxi rank provision
- Where should pick up points for pedicabs be allocated in York
- Safety of drivers and passengers within the pedicabs
- Possible breach of parking regulations and misuse of pedestrian areas and pavements in York's narrow streets
- Fare issues
- What testing regime should be introduced for pedicabs
- The level of insurance required
- The possible conflict with motorised vehicles at busy road junctions and

roads

- Cost of licences

The above is not an exhaustive list.

#### 15. **Comments**

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.

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 which could result in similar congestion as seen in the Covent Garden area of London where over 200 pedicabs operate. The Council do limit the number of horse drawn carriages to four and they could consider limiting the number of licenses issued to pedicabs, following the results of the unmet demand survey.

### **Consultation**

#### 16. **York Taxi Association**

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.

#### 17. **North Yorkshire Police**

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. A copy of the police response can be found at Annex 3.

#### 18. **Network Management**

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.

## **Options**

19. Option 1: To approve in principle pedicabs for use as hackney carriages in the City of York. If approved, that members refer the matter back to officers for further consideration of appropriate vehicle specification, licence conditions and other relevant matters.

Option 2: To defer further consideration on this matter until the results of the unmet demand survey are to hand and to consider whether the council in consequence needs to review its policy on hackney carriages.

Option 3: Reject the application.

## **Analysis**

20. The reasoning and analysis of the proposal has been set out in previous paragraphs.
21. Legally a pedicab can be licensed within the city as a hackney carriage. However, for all the reasons set out in this report, there are considerable obstacles to be overcome. 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 that it will take a considerable amount of officers' time to overcome the many obstacles and produce a robust policy.
22. 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 or until the results of the unmet demand survey are to hand.

## **Corporate Priorities**

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

## **Implications**

24. **Financial**

If approval is granted the necessary licence fees are payable.

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

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**

There are no equalities implications.

## **Legal**

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 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**

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

## **Information Technology (IT)**

There are no information technology implications.

## **Property**

There are no property implications.

## **Other**

There are no other implications.

## **Risk Management**

25. 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.

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**

26. Members are asked to consider the issues raised in this report and determine to either:
- approve in principle the licensing of pedicabs for use as hackney carriages in the City of York;
  - defer the decision for a further report from Officers;
  - reject the principle of using pedicabs as hackney carriages.

Reason: To make a decision in relation to the future use of pedicabs within the City of York.

## Contact Details

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**Report Approved**

**Date**

27<sup>th</sup> February  
2008

**Specialist Implication Officer**

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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 – Applications from York Pedicabs, Hop-on UK Ltd., Robert Sykora and Magicab Services
- Annex 3 – Consultation from North Yorkshire Police
- Annex 4 – Consultation from Network Management