

Cabinet Members for Performance & Capacity and Safer & Stronger Communities

Agenda

Date:	Monday, 21st March, 2011
Time:	9.00 am
Venue:	Committee Suite 1 & 2, Westfields, Middlewich Road, Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

Contact:	Paul Mountford, Democratic Services
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4. **Policy for the Allocation of Grants for 2011/12** (Pages 1 - 10)

To consider a report on the adoption of the Policy for the Allocation of Community Grants and the maximum amounts payable under the scheme for 2011/12; the funding allocations for key infrastructure groups for the forthcoming year; and the transfer of responsibility for a number of payments.

5. **Appointment of Hackney Carriage Stands - Macclesfield and Wilmslow** (Pages 11 - 36)

To consider a report seeking approval, subject to statutory consultation, for the appointment of certain hackney carriage stands in Macclesfield and Wilmslow.

(There are no Part 2 items)

CHESHIRE EAST COUNCIL

Cabinet Member for Performance and Capacity

Date of Meeting: 21st March 2011
Report of: Head of Policy & Performance
Subject/Title: Policy for the Allocation of Grants for 2011/12
Portfolio Holder: Councillor David Brown

1.0 Report Summary

- 1.1 To enable Cheshire East Council to continue with its community grants scheme for the next and subsequent financial years, a policy needs to be agreed and maximum funding amounts set.
- 1.2 In addition, a number of decisions need to be made as regards funding allocations to infrastructure organisations and on the future funding for other organisations which are currently the responsibility of the Performance & Partnerships service.

2.0 Recommendations

- 2.1 To adopt the Policy for the Allocation of Community Grants and to agree the maximum amounts payable under the scheme for 2011/12 be as follows:

Facilities	£3,000
Activities	£500
Events	£250

- 2.2 To agree to the funding allocations for key infrastructure groups for the forthcoming year.
- 2.3 To agree to transfer responsibility for a number of payments from/to Performance & Partnerships and other service departments.

3.0 Reasons for Recommendations

- 3.1 The Community Grants policy was adopted for the financial years 2009/10 and 2010/11 and applications were invited from organisations who met the criteria. The Council recognises the valuable input that the voluntary and community sector brings to the quality of life in the community and the scheme has enabled funding to be focused on those organisations that complement the aims and objectives of the Corporate Plan. A large number of organisations have received funding over recent months which has enabled a wealth of community activity to take place. A similar demand for funding is anticipated in the future. The scheme now needs minor amendment if it is to be adopted for

coming years and it is suggested the maximum grant amounts be reviewed. The draft scheme is appended to this report.

- 3.2 On LGR, funding for a number of infrastructure and key community organisations became the responsibility of the Partnerships team. Previous funding commitments were honoured for 2009/10 and 2010/11 to enable a review of funding to be undertaken. As a result of this review, it is recommended that funding continue for a number of organisations and that funding agreements be put in place for 2011/12. The Organisations receiving funding are:

- (a) Community & Voluntary Service Cheshire East
- (b) Cheshire, Halton & Warrington Race & Equality Centre
- (c) Cheshire Association of Local Councils
- (d) Cheshire Community Council
- (e) Cheshire Gypsy & Travellers Voice
- (f) Cheshire East Citizens Advice Bureau South
- (g) Cheshire East Citizens Advice Bureau North
- (h) Valley Green Community Association

- 3.3 During recent months, a Council wide review has been undertaken of funding to the sector with an initial aim of rationalising funding agreements, eliminating duplication and looking to common processes. As a result of this work, it is suggested that a number of grants previously administered by the Partnerships Team would be more appropriately the responsibility of other services. As part of this work, a small number of organisations have been identified which, it is suggested, transfer to/from Performance & Partnerships and work be undertaken establishing new funding agreements as soon as possible. All organisations proposed for transfer are detailed in the following table:

Organisation	Current service	Proposed Service
Home Start Central Cheshire	Performance & Partnerships	Children & Families
Wingate Special Children's Trust	Performance & Partnerships	Children & Families
Survive	Performance & Partnerships	Children & Families
CLASP	Performance & Partnerships	Children & Families
Bethel Baptist Church	Performance & Partnerships	Children & Families
Crewe Women's Aid	Performance & Partnerships	Children & Families
Cheshire Neighbours Credit Union	Performance & Partnerships	Regeneration
Christian Concern	Performance & Partnerships	Adults
Iris Vision Resource Centre	Performance & Partnerships	Adults
Age Concern	Performance & Partnerships	Adults
Disability Resource Exchange	Performance & Partnerships	Adults
Alzheimer's Society	Performance & Partnerships	Adults
Samaritans	Performance & Partnerships	Adults
Autism Networks	Performance & Partnerships	Adults
Vision Support	Performance & Partnerships	Adults
Central Cheshire Alcohol Services	Performance & Partnerships	Adults
Cheshire Carers Centre	Performance & Partnerships	Adults
Speaking Up/Speaking Out	Performance & Partnerships	Adults
OCEAN	Adults	Performance & Partnerships
Cheshire, Halton & Warrington Race & Equality Centre	Adults	Performance & Partnerships
Cheshire Community Action	Regeneration	Performance & Partnerships

4 Wards Affected

- 4.1 The recommendations relate to all wards within Cheshire East

5.0 Local Ward Members

- 5.1 All Ward members

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 Positive impact

- 6.2 All of the applications contained in this report have been considered in the light of the Council's Policy for the Allocation of Grants, and the recommendations on each one conforms to that Policy.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The recommendations will enable grants from 2011/2012 to be funded within existing budget provision

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 In awarding grants, the Council must ensure that in each case it has the legal power to fund the proposed scheme. In all cases there is a condition requiring a report back to the Council on the expenditure of the grant. Consideration should also be given in each case to the imposition of other appropriate conditions.

- 8.2 The Council's legal powers for awarding these grants are contained in various statutes, including Section 137 of the Local Government Act 1972, and Section 2 of the Local Government Act 2000. In addition the Council should ensure that there is a transparent process and policy in respect of determining the level of grant subsidy to any community group.

9.0 Risk Management

- 9.1 The risk of not agreeing an approach to funding the community & voluntary sector is that some organisations may be unable to continue their activities, resulting in a loss of community benefit. This is a particular issue during an economic downturn when other funding sources may not be available.

10.0 Background and Options

- 10.1 A decision is required to enable the allocation of grants to voluntary and community organisations in 2011/12.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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POLICY FOR THE
ALLOCATION OF
COMMUNITY GRANTS

1.0 BACKGROUND

- 1.1 Cheshire East Council wishes to operate a community grants scheme within Cheshire East. This policy addresses the governance arrangements, procedures and monitoring process to facilitate this process.
- 1.2 The aim of the grants scheme is to support small scale community projects that will improve the quality of life for local communities. Grants will be awarded to organisations/project/events which meet the priorities in the Cheshire East Sustainable Community Strategy and the Council's Corporate Plan.
- 1.3 The definition of Grants refers to transfers of Council funds to organisation or bodies by way of an application process within the existing budget provisions.

2.0 LEGAL AND BUDGETARY FRAMEWORK

- 2.1 The Cheshire East Borough Council Constitution states that each Cabinet Member is responsible for:
 - 2.1.1 Ensuring that budget control and financial monitoring within the scope of their portfolio.
 - 2.1.2 Approving the use of specific grants/and or funding for non-government sources and any annual delivery plans and agreements in relation to such funding.
- 2.2 The Performance & Capacity portfolio holder will be responsible for the Community Grants Scheme and has delegated authority to approve applications for grants from local organisations to assist in developing community based activities and projects, subject to the maximum amounts set out in paragraph 3.2 of this scheme.
- 2.3 In order to assist the portfolio holder with the decision making process, the relevant Officers will offer administrative and professional support to ensure that all grants are made in accordance with the criteria set for grant applications set out below (3.5).
- 2.4 All grant decisions will be made based on affordability criteria and within the agreed budget approved by Council each year.

3.0 APPLICATION PROCESS

- 3.1 The Cheshire East Community Grants Scheme will operate within set criteria, agreed by the portfolio holder and relevant officers of the council in line with the Council's corporate priorities.

3.2 WHAT CAN BE FUNDED?

Grants up to the following amounts are available to support community, environmental, sports, arts, heritage and play projects/activities. See examples below.

Facilities – subject to a maximum award of £3,000:

- a) Renovations/improvements etc., to buildings, play areas, conservation areas.
- b) Grant towards third party funding (e.g. WREN).
- c) Equipment for facilities (e.g. kitchen furniture, tables, chairs etc).
- d) Feasibility Studies/Architects Fees (maximum 5% of the costs)

Activities subject to a maximum award of £500:

- a) Equipment/materials to help the Club/Group/Organisation develop.
- b) Training courses.
- c) Specialist coaching/teaching sessions.
- d) Contribution towards facility hire (new groups only).

Events – subject to a maximum award of £250:

- a) Hire of facilities for rehearsals/workshops/events.
- b) Hire of equipment.
- c) Performers.
- d) Publicity.

3.3 WHAT CAN NOT BE FUNDED?

- Organisations which hold substantial free reserves, including local branches of national or regional organisations which hold free reserves that could be utilised.
- Applications from Town and Parish Councils
- Work which has already taken place before receipt of offer letter
- Individuals
- General appeals or sponsorship; fundraising for national, local charities (including local branches) or other local organisations
- Activities of a mainly political or religious nature
- assistance with providing transport
- refreshments and/or accommodation
- travel expenses
- projects, activities or events organised for the sole benefit of students of a school or college
- events which do not involve members of the local community participating
- repair costs where deterioration is due to neglect
- Churches, where the project is related only to religious services or activity
- Loan against loss or debt
- Administration expenses (e.g. postage, telephone, utilities etc)
- Running costs (e.g. gas/electricity/water/salaries)
- land purchase

- vehicle purchase
- Disabled facilities where there is no proven need for the work to be carried out.

3.4 WHO CAN APPLY?

To qualify for a grant the group or organisation must:

- Meet one or more of the criteria listed below.
- Operate within Cheshire East Council's Geographical area.
- Provide value for money.
- Be a voluntary or community group or registered charity.
- Have their own bank or building society account with 2 signatories.
- Have a set of accounts or as a minimum an organisation bank statement/building society book.
- Have a properly constituted management committee.
- Have Safeguarding Children Policy specific to their Club or organisation where children and young people are involved.
- Not have received Council funding in the current financial year.

3.5 CRITERIA FOR FUNDING

Priority will be given to applications for voluntary and community sector projects and activities which:

- Enhance the quality of life of Cheshire East residents.
- Support the priorities identified in the Cheshire East Sustainable Community Strategy and the Council's Corporate Plan.
- Increase involvement in the community.
- Attract more participants/volunteers.
- Demonstrate the potential to be sustained in the future.
- Show innovation and creativity.
- Have funding contributions from organisation's own funds and/or funding support from other bodies is in place or promised.
- Provide direct participation by members of the local community via workshops, dance, music etc.

4.0 MONITORING AND RECORD KEEPING

- 4.1 Following a successful application and in order to ensure that monies are used in an appropriate manner as set out in the conditions for funding, a monitoring process will take place throughout the financial year.
- 4.2 The Council reserves the right to monitor the use of the grant and ask for evidence to support an application, the organisation will allow reasonable access to premises/accounts upon request from the Council.

- 4.3 Organisations need to retain records relating to the grant for an appropriate period (to be advised depending on the grant).
- 4.4 Organisations and groups will be required to return the appropriate monitoring and evaluation form along with details of expenditure against the activity or project.
- 4.5 The community grant applications will be considered at quarterly intervals with notification sent to groups following the Portfolio holder's decision.

POLICY APPROVED:

Portfolio Holder Signature _____

Date _____

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CHESHIRE EAST COUNCIL

Cabinet Member for Safer and Stronger Communities

Date of Meeting:	21 st March 2011
Report of:	Head of Safer and Stronger Communities
Subject/Title:	Appointment of Hackney Carriage Stands – Macclesfield and Wilmslow
Portfolio Holder:	Councillor Rachel Bailey

1.0 Report Summary

- 1.1 The report provides (within Appendix 1) background information on the procedural requirements relating to the appointment of hackney carriage stands (or 'ranks'). The report requests approval, subject to statutory consultation, for the appointment of certain hackney carriage stands in Macclesfield and Wilmslow.

2.0 Recommendations

- 2.1 The Cabinet Member for Safer and Stronger Communities is requested to:
- 2.1.1 authorise the Borough Solicitor, or an officer acting on her behalf, to provide notice in accordance with the requirements of section 63 of the Local Government (Miscellaneous Provisions) Act 1976, in relation to the proposed appointment of hackney carriage stands set out in paragraph 10.5 of the report at Appendix 1 (and illustrated within Appendices 2, 3 & 4 of this report);
 - 2.1.2 authorise officers to seek the consent of the Highway Authority in relation to the proposed appointment of hackney carriage stands set out within paragraph 10.5 of the report at Appendix 1 (and illustrated within Appendices 2, 3 & 4 of this report);
 - 2.1.3 subject to the consent of the Highway Authority being received, approve that if no objections or representations are received within the statutory consultation period, the appointment of the hackney carriages stands will come into effect on the day after the last day of the consultation period; and
 - 2.1.4 note that if objections or representations are received within the statutory consultation period, these will be reported to a subsequent meeting for consideration.

3.0 Reasons for Recommendations

- 3.1 On 7th March 2011 the Licensing Committee resolved to recommend to the Cabinet Member for Safer and Stronger Communities the decision requested within paragraph 2.1.

4.0 Wards Affected

- 4.1 Wilmslow South
Macclesfield Town

5.0 Local Ward Members

- 5.1 Wilmslow South - Councillor Gary Barton, Councillor Wesley Fitzgerald and Councillor Rod Menlove
Macclesfield Town – Councillor Stephen Broadhurst, Councillor David Neilson and Councillor Christine Tomlinson

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 None

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 The financial implications in relation to the decision recommended are set out within paragraphs 7.4 – 7.6 of the report to the Licensing Committee on 7th March 2011 (attached as Appendix 1).

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The legal implications in relation to the decision recommended are set out within paragraph 8.4 of the report to the Licensing Committee on 7th March 2011 (attached as Appendix 1).

9.0 Risk Management

- 9.1 The full consideration of any objections and representations received will mitigate the risk of challenge to any subsequent decision.

10.0 Background and Options

- 10.1 Officers have recently undertaken a consultation exercise relating to the hackney carriage service within the Borough dealt with issues such as quantity restrictions, tariffs, conditions and taxi ranks. The consultation period concluded on 18th February 2011 and the responses reported to the Licensing Committee at its meeting on 7th March 2011.
- 10.2 The consultation document listed the current hackney carriage stands (or 'ranks') within each of the three zones. The document also recognised that a previous consultation was carried out by the Highways Authority in 2009 in relation to certain amendments to taxi ranks within the Macclesfield zone (zone 3) and that following that consultation exercise two traffic regulation orders were made under the provisions of the Road Traffic Regulation Act 1984 which included limitations in relation to waiting in hackney carriage stands in Macclesfield and Wilmslow.

- 10.3 As the Cabinet Member will note, paragraphs 10.5.3 and 10.5.4 of the 7th March report provided details of the effect of two traffic regulation orders which came into force in March 2010 and relate to hackney carriage stands in Wilmslow and Macclesfield respectively. On 7th March, the Licensing Committee was requested to consider the factors within section 63(3) of the 1976 Act and to recommend to the Cabinet Member for Safer & Stronger Communities that authorisation be given for the provision of notice relating to the appointment of the stands in Wilmslow and Macclesfield to bring the designation of stands under section 63 of the 1976 Act in line with the provisions within the traffic regulation orders (referred to in paragraphs 10.5 of 7th March report and illustrated within the plans at Appendix 2, 3 and 4 of this report).
- 10.4 The Licensing Committee resolved to recommend to the Cabinet Member for Safer & Stronger Communities that:
- 10.4.1 the Borough Solicitor, or officer acting on her behalf, be authorised to provide notice in accordance with the requirements of section 63 of the 1976 Act, in relation to the proposed variation of hackney carriage stands set out within paragraph 10.5 of the report [of 7th March 2011];
- 10.4.2 officers are authorised to seek the consent of the Highway Authority in relation to the propose variation to hackney carriage stands set out within paragraph 10.5 of the report [of 7th March 2011];
- 10.4.3 subject to the consent of the Highway Authority being received, if no objections or representations are received within the statutory consultation period, the variation to the hackney carriage stands will come into effect on the day after the last day of the consultation period; and
- 10.4.4 it be noted that if objections or representations are received within the statutory consultation period, these will be reported to a subsequent meeting for consideration.

11.0 Overview of Year One and Term One Issues

- 11.1 None

12.0 Access to Information

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CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 7th March 2011

Report of: Head of Safer & Stronger Communities

Subject/Title: Review of hackney carriage service

1.0 Report Summary

- 1.1 The report provides details of the responses received in relation to the recent consultation exercise carried out regarding the hackney carriage service. A copy of the consultation document is attached as Appendix A. The report analyses the responses received and makes suggestions about the next steps to progress the issues raised by the consultation exercise.

2.0 Recommendations

Quantity controls

- 2.1 The Licensing Committee is requested to consider both the consultation responses and the information within the report about the principles relating to restrictions on the numbers of hackney carriages, and to resolve which of the options (or combination thereof) within paragraph 10.2.9 to recommend to Cabinet or the Cabinet Member for Safer & Stronger Communities.

Table of fares

- 2.2 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage tariffs, and, having considered these responses:
- 2.2.1 to formulate proposals in relation to the variation to the table of fares in each of the three hackney carriage zones within the Borough, and if new tariffs are proposed, to authorise the Borough Solicitor, or an officer acting on her behalf, to publish notice of the proposals in each of the three zones, making provision for any objections to be submitted within the statutory consultation period of fourteen days;
- 2.2.2 to resolve that if no objections are received within the statutory consultation period, or if any objections that are received are withdrawn, that the table of fares published in accordance with the resolution under 2.2.1 above will come into operation in each of the three zones on the date of the expiration of the consultation period. If objections are received and not withdrawn, these will be reported to a subsequent meeting of the Licensing Committee for consideration.

Conditions

- 2.3 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage vehicle conditions and, having considered these responses:
 - 2.3.1 to determine any proposed amendments to the hackney carriage vehicle conditions for each of the three zones and to authorise officers to carry out a further consultation exercise in relation to these proposed conditions;
 - 2.3.2 subject to the decision in 2.3.1 above, to authorise officers to draft vehicle test guidelines which reflect the requirements of the conditions so that these guidelines may form part of the further consultation exercise;
 - 2.3.3 to resolve that if no objections are received within the consultation period, or if any objections that are received are withdrawn, that the conditions proposed in accordance with the resolution under 2.3.1 above (together with the accompanying vehicle test guidelines), will come into operation in each of the three zones on the day after the last day of the consultation period. If objections are received and not withdrawn, these will be reported to a subsequent meeting of the Licensing Committee for consideration.

Hackney carriage stands

- 2.4 The Licensing Committee is requested to recommend to the Cabinet Member for Safer & Stronger Communities that:
 - 2.4.1 the Borough Solicitor, or officer acting on her behalf, be authorised to provide notice in accordance with the requirements of section 63 of the 1976 Act, in relation to the proposed variation of hackney carriage stands set out within paragraph 10.5 of the report;
 - 2.4.2 officers are authorised to seek the consent of the Highway Authority in relation to the propose variation to hackney carriage stands set out within paragraph 10.5 of the report;
 - 2.4.3 subject to the consent of the Highway Authority being received, if no objections or representations are received within the statutory consultation period, the variation to the hackney carriage stands will come into effect on the day after the last day of the consultation period; and
 - 2.4.4 it be noted that if objections or representations are received within the statutory consultation period, these will be reported to a subsequent meeting for consideration.
- 2.5 The Licensing Committee is requested to consider the consultation responses received in relation to taxi ranks and is requested to authorise officers to

engage in discussions with the Highway Authority about the location and number of taxi ranks in each of the three hackney carriage zones.

3.0 Reasons for Recommendations

- 3.1 A consultation exercise has been carried out in relation to the licensing of hackney carriages; the consultation period concluded on 18th February 2011. The report presents the results of the consultation exercise and requests that the Committee make resolutions in relation to a number of issues.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 The report suggests a review of a number of issues relating to the Council's existing policy on the licensing of hackney carriages. Full details are set out within the body of the report.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 There would be significant cost implications in relation to the commissioning of an unmet demand survey. Any contract with a third party supplier to carry out an unmet demand survey would be subject to a procurement exercise, however it is understood, that the costs associated with surveys carried out on behalf of other local authorities have been in the region of £25,000. The costs of such a survey may be taken into consideration when setting fees in relation to hackney carriage licences. It should also be highlighted that in areas where a quantity restriction is imposed surveys are required on a regular basis (once every three years); therefore there would also be costs associated with additional surveys in coming years if a limit is maintained/imposed in any of the zones.
- 7.2 There would be a cost implication associated with the publication of statutory notices in relation to a variation of the 'table of fares'. The publicity costs relating to the statutory notices are estimated to be in the region of £2,000.
- 7.3 There would be a cost implication associated with printing and postage of any further consultation document relating to amended vehicle conditions. These costs are estimated to be in the region of £850 for postage (if send second class) and £300 for printing.

- 7.4 There would be a cost implication associated with the publication of statutory notices in relation to the appointment of hackney carriage stands. The publicity costs relating to the statutory notice are estimated to be in the region of £500.
- 7.5 The costs in paragraphs 7.2 – 7.4 would be met from the Licensing Service's budget, although it is to be noted that these costs would put further financial pressure on the Service's limited budget in 2010-11.
- 7.6 There are also costs associated with the marking on the highway of the extent of hackney carriage stands and the purchase of signage to provide details about the relevant waiting restrictions. Costs for markings for a new stand on the highway will be recharged to the services budget. Maintenance of an existing marking is paid from Highways Maintenance Budget.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Quantity controls

- 8.1.1 Section 16 of the Transport Act 1985 provides that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis "if but only if the person authorised to grant licences [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet."
- 8.1.2 Any decision to refuse a hackney carriage proprietor's (vehicle) licence on the basis of numbers may be subject to appeal to the Crown Court. In order to successfully defend any such challenge, a local authority must be in a position to establish that it had, reasonably, been satisfied that there was no significant unmet demand. It is generally accepted that unmet demand can only genuinely be measured by conducting a comprehensive survey.
- 8.1.3 Any decision that the Council make about whether to place a limit on the number of hackney carriage vehicles or not, must be reasonable in the Wednesbury sense. In other words, account must be given to all relevant considerations and irrelevant considerations must not be taken into account. Any decision relating to the limitation of numbers may be subject to legal challenge.
- 8.1.4 There is a plethora of case law in relation to decisions about quantity restrictions. The principles which can be drawn from these cases include the following: (i) it is possible to delimit at any time, subject only to the requirement that such a decision must not be unreasonable in the Wednesbury sense (*R v Great Yarmouth Borough Council, ex parte Sawyer [1987]*, *R v (on the application of Royden) v Metropolitan Borough of Wirral [2003]*, *R v Council of the City and District of St.Albans [2000]* etc) or re-limit subject to the same requirements (*R v Halton Borough Council ex parte ex p Gunson [1988]*); (ii) full and genuine consultation must take place before a decision to delimit is taken (*Sadar v Watford Borough Council [2006]*); (iii)

consideration must be given to the commercial impact of a delimitation decision, but provided that is done, commercial impact alone is not a ground for challenge (*St Albans and R (on the application of Nemeth) v West Berkshire District Council*); (iv) if it cannot be demonstrated that there is no unmet demand the licences must be granted (*Tudor v Ellesmere Port and Neston Borough Council [1987]*, *Kelly and Smith v Wirral Metropolitan Borough Council [1996]*).

- 8.1.5 The Department of Transport “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” (the Best Practice Guidance) referred to throughout the report does not have statutory effect and therefore does not automatically bind the decision of the Council. However, if the Council is to depart from the recommendations within the Best Practice Guidance, it would need to carefully set out its reasons for so doing.

8.2 Table of fares

- 8.2.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the following is required when varying a table of fares:

- (i) publication of a notice setting out the variation to the table of fares (specifying the period within and manner in which objections can be made) in at least one local newspaper circulating in the district; and
- (ii) deposit of the notice for the period of fourteen days at the offices of the Council (for public inspection)

- 8.2.2 If no objection to the variation is made within the relevant fourteen day period (or if all such objections are withdrawn) the variation comes into operation on the date of the expiration of the period specified in the notice (or the date of withdrawal of the last objection (if any)). If objection is made and not withdrawn, a further date (not later than 2 months after the first specified date) shall be set on which the table of fares shall come into force with or without modifications as decided after consideration of the objections.

8.3 Conditions

- 8.3.1 Section 47(1) of the 1976 Act provides local authorities with the power to attach to hackney carriage licences such conditions as they may consider ‘reasonably necessary.’ Section 47(2) states that without prejudice to the generality of section 47(1), a council may require vehicles to be “of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.” The imposition of conditions on a hackney carriage vehicle licence is subject to a right of appeal to the Magistrates’ Court.

- 8.3.2 The imposition of policy requirements in relation to licensed vehicles must not be applied in such a way as to fetter the discretion of a local authority and each application which falls outside the policy must be considered on its own individual merits.

8.4 Hackney carriage stands

8.4.1 Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal procedure involved in the creation of hackney carriage stands (otherwise known as 'ranks'). Section 63(2) provides that notice must be given to the Chief Officer of Police and must be published in a local newspaper circulating in the district, making provision for objections or representations to be made within 28 days. Any objections or representations received need to be taken into consideration before any final determination is made.

8.4.2 Section 63(3) provides that stands may not be appointed:
(a) so as unreasonably to prevent access to any premises;
(b) so as to impede the use of any points authorised to be used in connection with a local service within the meaning of the Transport Act 1985 or PSV operator's licence granted under the Public Passenger Vehicles Act 1981, as points for the taking up or setting down of passengers, or in such a position so as to interfere unreasonably with access to any station or depot of any passenger road transport operators, except with the consent of those operators;
(c) on any highway except with the consent of the highway authority;
and in deciding the position of stands the Council is required to have regard to the position of any bus stops for the time being in use.

8.4.3 The amendment of existing ranks and the creation of new ranks may require amendments to traffic regulation orders made under the Road Traffic Regulation Act 1984.

8.4.4 The function of appointing hackney carriage stands under section 63 of the 1976 Act is, by virtue of the 2000 Regulations, an executive function. As a result, the Licensing Committee is requested to make a recommendation in relation to hackney carriage stands to the Cabinet Member for Safer and Stronger Communities.

9.0 Risk Management

9.1 The legal risks are set out within paragraph 8 above.

10.0 Background and Options

10.1 In accordance with the decision of the Licensing Committee taken at its meeting on 13th September 2010, a consultation exercise relating to the hackney carriage service within the Borough has been conducted; the consultation period concluded on 18th February 2011. The consultation document, a copy of which is attached as Appendix 1, dealt with issues such as quantity restrictions, tariffs, conditions and taxi ranks. Details of the responses received are set out within the table at Appendix 2.

10.2 Quantity controls

- 10.2.1 The Congleton zone (zone 1) is subject to a restriction on the number of hackney carriages; the current limit is set at forty-two. The Crewe & Nantwich zone (zone 2) and the Macclesfield zone (zone 3) are not subject to a restriction on the number of hackney carriage licences which may be issued. The number of hackney carriage proprietors (vehicle) licences issued in the Crewe & Nantwich zone as at the end of January 2011 was 162; the number in the Macclesfield zone was 315.
- 10.2.2 As set out with paragraph 8 above, the legal position in relation to quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis “if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”
- 10.2.3 The consultation document asked the following questions in relation to the limitation of numbers of hackney carriages: *“What are your views on: (i) the removal of a limit on the number of hackney carriages in the Congleton zone; (ii) an unmet demand survey in relation to the quantity of hackney carriages in any of the zones; (iii) maintaining the status quo; (iv) an increase in licence fees to fund an unmet demand survey?”*
- 10.2.4 As Members will note from the table at Appendix 2, the majority of the consultation responses received are supportive of the imposition of a limit on the number of hackney carriages in each of the three zones; any such proposal would necessitate unmet demand surveys in each of the zones.
- 10.2.5 Recommendations to local authorities about the principle of quantity restrictions have been provided within the Office of Fair Trading (OFT) report “The regulation of licensed taxi and PHV services in the UK” published in 2003 and more recently within the Department of Transport Best Practice Guidance published in March 2010 (‘the Guidance’), a copy of which is attached as Appendix 3.
- 10.2.6 The OFT report found that: (1) Quantity regulation limiting the number of taxis reduces availability and lowers the quality of service to the public; (2) It is sensible to regulate quality and safety by means of driver and vehicle standards but any such regulation must be proportionate to the quality and safety goals to be achieved; and (3) There are sound reasons to regulate taxi fares, for example, to protect consumers in vulnerable situations. But there could be greater freedom for beneficial price competition below regulated fare caps. The recommendations made to the OFT as a result of the study were: (1) That regulation slowing local authorities to restrict the number of taxis in their areas should be repealed; (2) That best practice guidelines on driver and vehicle quality should be developed and disseminated to assist local

authorities; and (3) That local authorities should be encouraged to look at ways of encouraging fair competition on taxi services where appropriate.

10.2.7 The Government's response to the OFT report was published in March 2004. The Government did not accept the principle recommendation of the OFT (i.e. that local licensing authorities' power to restrict the number of taxi licences they issue should be repealed), taking the view that local authorities should continue to be responsible for making decisions about whether or not to control taxi numbers in their respective areas. However, the Government conveyed its belief that, in general terms, quantity restrictions were unlikely to be in the best interests of consumers. Local licensing authorities that imposed quantity controls were asked to review their policies with particular emphasis on benefits for consumers.

10.2.8 Paragraphs 45 to 51 of Guidance set out the recommendations of central government's in relation to quantity restrictions of taxi licences outside London. Paragraph 47 states:

Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in the interests of the travelling public – that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of the controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

10.2.9 The Licensing Committee may recommend to the Cabinet Member for Safer & Stronger Communities one (or a combination) of the following options:

(a) that a formal consultation is undertaken in relation to the removal of the existing quantity restriction within zone 1 (Congleton zone);

(b) that the current position of 'de-limitation' within either zone 2 (Crewe & Nantwich) or zone 3 (Macclesfield) is maintained;

(c) that an unmet demand survey is commissioned in one, two or all of the hackney carriage zones.

10.3 **Table of Fares ('Tariffs')**

10.3.1 As Members are aware, local authorities have the power, under section 65 of the 1976 Act, to set the 'table of fares' which apply to hackney carriage vehicles. As previously reported, due to the fact that the licensing of hackney carriages within Cheshire East remains on a zoned basis, it is not possible at present to set a 'table of fares' or 'tariff' which relates to the Borough as a whole and tariffs must still be set for each individual zone.

10.3.2 The tariffs which are currently in operation came into force within the areas of the predecessor district Councils during the course of 2008 (Congleton – 1 April 2008; Crewe & Nantwich – 29 September 2008; and Macclesfield – 16 April 2008). Copies of the existing tariffs are set out within appendices A, B & C of Appendix 1 to this report. The table below summarises the fares in a manner which allows a simple comparison to be made between the existing provisions:

	ZONE 1 Congleton	ZONE 2 Crewe & Nantwich	ZONE 3 Macclesfield
Flag drop	£2.60 (up to first 1,760 yards)	£2.20 (first 200 yards)	£2.60 (first 1,466.69 yards)
First mile	£2.60	£3.80	£3.00
Two miles	£4.40	£5.60	£4.80

10.3.3 The consultation document asked consultees to comment in response to the following questions: (a) *what are your views on how the differing tariffs should be brought into line?*; and (b) *whether or not the tariffs can or should be standardised across Cheshire East, what are your views on the current table of fares?*

10.3.4 Whilst the majority of consultees support the principle of standardising the tariffs across the three zones, a number of consultees suggest that the differentiation between the tariffs are too great to be harmonised and express concerns about the impact on trade/consumers in the zones where the existing fares are lowest.

10.3.5 As can be seen within the table at Appendix 2, a number of the consultation responses include proposals in relation to amended tariffs. For ease of comparison, details of these proposals are set out alongside the existing tariffs within the table at Appendix 3.

10.3.6 Paragraph 52 of the Department of Transport Best Practice Guidance states that fare scales should be designed with a view to practicality and that it is seen as good practice to “review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week.” The paragraph continues “The Department also suggests that in reviewing fares authorities should pay particular regards to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also so the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.” Members will also note the content of paragraphs 53 and 54 of the Guidance in relation to downward negotiation of fares between passengers and drivers.

10.3.7 The options which are available in relation to the future of tariffs are as follows:

- (a) to harmonise each of the tariffs to one of the existing tariffs;
- (b) to harmonise each of the tariffs to a new level;
- (c) to separately vary each of the existing tariffs; or
- (d) not to vary the existing tariffs.

10.3.8 Subject to the above, the Committee is requested to formulate proposals in relation to the variation to the table of fares in each of the three hackney carriage zones within the Borough and to authorise the Borough Solicitor, or an officer acting on her behalf, to publish notice of the proposals, making provision for any objections to be submitted within the statutory consultation period of fourteen days. As Members will note the consultation responses suggest a number of different approaches to tariffs, however these are not the only options available and Members have the discretion to consider differing fare structures.

10.4 **Hackney carriage vehicle conditions**

10.4.1 The existing vehicle conditions within the three zones are set out within appendices D, E & F of the consultation document at Appendix 1 to this report. As Members will note, there are differences between the conditions as they relate to matters such as the acceptable vehicle specification and frequency of testing. The consultation document asked the following questions in relation to existing terms and conditions: *“Which of the conditions do you think should be retained? Which do you think should be abolished or changed? Please provide reasons for your responses to this question.”*

10.4.2 The responses received appear to be broadly supportive of the harmonisation of vehicle conditions across each of the three zones. The responses received do make certain specific suggestions in relation to an amended set of vehicle conditions. If Members are minded, subject to consultation, to approve amendments to the hackney carriage vehicle conditions in each of the zones, the following conditions may be considered in order to address the points raised within the consultation responses.

10.4.3 Vehicle specification

The representatives of the Association have suggested the vehicle specification in relation to private hire vehicles within Cheshire East be adopted in relation to hackney carriages, with the addition of a requirement that all new hackney carriage vehicles must be wheelchair accessible (to MI specification) (whilst all existing saloon cars would have the benefit of ‘grandfather rights.’).

A copy of the Council’s existing Private Hire Vehicle conditions are attached as Appendix 5.

Paragraphs 13 to 25 of the Best Practice Guidance cover issues relating to accessibility. Paragraph 14 states:

Different accessibility considerations apply between taxis and PHVs. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with a driver. PHVs can only be booked through an operator. It is important that a disabled person should be able to hire a taxi on the spot with the minimum delay or inconvenience, and having accessible taxis available helps to make that possible. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet. The Department has produced a leaflet on the ergonomic requirements for accessible taxis that is available from: <http://www.dft.gov.uk/transportforyou/access/taxis/pubs/research>

Paragraphs 26 to 29 of the Best Practice Guidance deals with the specification of vehicles. Paragraph 27 states: “Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible....” Paragraph 28 continues: “It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicles or prescribes only one type or a small number of types of vehicle...”

As Members will note, condition 3 of the zone 1 (Congleton zone) currently makes provision for all new vehicle licences to be purpose built wheelchair accessible vehicles which are M1 type approved on manufacture.

10.4.4 Age limits

The consultation response from representatives of the Association suggests that the conditions should be amended to ensure that any new application for a hackney carriage vehicle must relate to a vehicle under eight years of age, and that no vehicle may remain licensed once it is over twelve years old. In addition the response suggests that the requirement for six monthly testing in relation to vehicles over seven years old be removed.

Paragraph 32 of the Best Practice Guidance states as follows in relation to age limits: “it is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles – for example, twice yearly tests for vehicles more than five years old.

The argument in support of an age limit would be that the condition seeks to ensure that licensed vehicles are as safe, reliable and comfortable as possible. Some local authorities have imposed age limits which subject to an exemption in relation to vehicles in ‘exceptional condition’ however any such exemption may itself be subject to appeal due to different interpretation of ‘exceptional condition.’

At present none of the existing vehicle condition seek to impose an age restriction on vehicles, however the zone 3 (Macclesfield zone) conditions require vehicles over seven years old to be subject to six monthly testing.

If Members are minded to approve a condition imposing an age limit, the following wording may be considered: "A hackney carriage vehicle licence will not be issued to a vehicle more than [insert] years after the date of first registration of the vehicle in the UK or any other country. A hackney carriage vehicle licence will not be renewed in relation to a vehicle more than [insert] years after the date of first registration of the vehicle in the UK or any other country."

10.4.5 Tow bars

The existing zone 3 (Macclesfield zone) conditions explicitly prohibit tow bars; this condition was originally imposed in the interests of safety (due to the additional risks inherent in towing trailers). The representation from the Association suggests that the conditions should not restrict the installation of tow bars on hackney carriage vehicles.

If tow bars are to be permitted then, it is suggested that conditions in relation to trailers are required. An example of conditions in relation to trailers is set out below (taken from the Halton Borough Council Hackney Carriage Vehicle Conditions):

- (a) trailers shall be subject to prior approval by the Council;
- (b) trailers shall be painted the same colour as the towing vehicle;
- (c) an identity plate supplied by the Council shall be affixed to the rear of the trailer;
- (d) a trailer shall be used in conjunction with one licensed vehicle;
- (e) trailers shall be tested initially before use at the Council's testing facility and thereafter tested annually at the same time as the towing vehicle;
- (f) trailers shall not be used while the towing vehicle is standing or plying for hire.

10.4.6 In addition to the specific issues raised above, Members are requested to consider the remainder of the points dealt with by the existing vehicle conditions, including matter such as taximeters, signs and notices, advertising, licence plates, safety equipment, insurance etc. It is recognised that Members may require additional information in order to formulate a new set of proposed conditions; if this is the case any such additional information will be reported to a future meeting of the Committee.

10.4.7 Independently of the consultation exercise, officers have been made aware of concerns raised by two residents about the location in which hackney carriage vehicles are parked when not in use. The residents have suggested to officers that conditions should be imposed which require the proprietor of the vehicle to park their vehicles 'at home' or at some approved 'off-road'

parking site when they are not in use. Legal advice has previously been provided about the lawfulness of any such condition, as any conditions imposed must be 'reasonably necessary.' As decisions in relation to vehicle conditions are dealt with by the Committee, this matter has been highlighted so that Members may consider it as part of their deliberation on conditions.

10.5 **Hackney Carriage Stands**

10.5.1 Section 63 of the 1976 Act provides the Council with the power, subject to statutory consultation and the consent of the owner of the land (or the highway authority where the land in question forms part of the highway), to appoint stands for hackney carriages.

10.5.2 The consultation document lists the current hackney carriage stands (or 'ranks') within each of the three zones. The document also recognises that a previous consultation was carried out by the Highways Authority in 2009 in relation to certain amendments to taxi ranks within the Macclesfield zone (zone 3). Following this consultation exercise two traffic regulation orders were made under the provisions of the Road Traffic Regulation Act 1984 which included limitations in relation to waiting in hackney carriage stands in Macclesfield and Wilmslow.

10.5.3 The Cheshire East Borough Council (Hackney Carriage Stands and Street Parking Places)(Wilmslow Town Centre) Order 2010 came into operation on 1st March 2010. The order has effect (a) of removing the existing stand on Water Lane, Wilmslow (on the south side of the road) and replacing it with a seven space stand on the north side of the road to be operational between the hours of 18.30 and 06.00; and (b) of removing the existing stand on Alderley Road, Wilmslow and replacing it with a rank adjacent to numbers 21 – 29 Alderley Road (operational between the hours of 21.00 and 06.00) and a stand adjacent to numbers 1 – 3 Alderley Road (operational between the hours of 06.00 and 21.00). The plan attached as Appendix 6 shows the relevant restrictions.

10.5.4 Similarly, the Cheshire East Borough Council (Hackney Carriage Stands and Street Parking Places)(Macclesfield and Knutsford) Order 2010 came into operation on 1st March 2010. The order has the effect, amongst others, of (a) adding an additional space to the existing stand on Exchange Close, Macclesfield (to be operational on a 24 hour basis); (b) creating an additional stand with five spaces further along Exchange Close (to be operational on a 24 hour basis); and (c) creating a new stand with two spaces at Pickford Street, Macclesfield (to be operational on a 24 hour basis). The plan attached as Appendix 7 shows the restrictions in relation to Exchange Close, the plan at Appendix 8 shows those relating to Pickford Street.

10.5.5 The changes to hackney carriage stands made within the orders were subject of a report to the then Macclesfield Local Joint Highways Committee in March

2009. The report indicated that the proposed hackney carriage stands in Wilmslow had been 'agreed with local councillors through the Town centre review.' In relation to Exchange Close, the report noted that the previous rank was a very busy one alongside Tesco and that whilst only being a 14 metre long stand, "more than 10 taxis can be observed during daytime queuing around the corner of the building." Traffic regulation orders are subject to statutory consultation in accordance with the Local Authorities Traffic Orders (Procedure)(England and Wales) Regulations 1996, including publication of a notice in local newspapers and a twenty-one day consultation period.

10.5.6 The Licensing Committee is requested to consider the factors within section 63(3) of the 1976 Act (see paragraph 8.4.2 of the legal implications) and to recommend to the Cabinet Member for Safer & Stronger Communities that the authorisation be given for the provision of notice relating to the appointment of stands to bring the designation of stands under section 63 of the 1976 Act in line with the provisions within the traffic regulation orders referred to in paragraphs 10.4.3 and 10.4.4 above and illustrated within the plans at Appendix 6, 7 and 8.

10.5.7 As Members may be aware, there is a bus stop on the south side of Water Lane, Wilmslow (between the junctions with Alderley Road and Kings Close). In addition, the Macclesfield bus station is located at the top of Pickford Street, although there is no vehicular access from Pickford Street into the bus station. Officers are not aware of any pick up points (for the purposes of the Transport Act 1985 or the Public Passenger Vehicles Act 1981) in the vicinity of the propose stands.

10.5.8 The consultation document asked consultees to respond to the following question: *"How suitable do you think the current provision of ranks is, and what, if any, changes do you think are necessary?"*

10.5.9 Hackney drivers from each of the three zones have stated that there is insufficient rank provision in their zones. Particular comment is made in relation to Swinemarket in Nantwich, Crewe town centre, Congleton and Macclesfield town centre. Knutsford Town Council have made specific comment about the ranks at Canute Place in Knutsford. The Congleton Neighbourhood Policing Team have advised that they feel there is a need for additional rank provision in High Street, Sandbach.

10.5.10 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage stands. If Members are minded to do so, as the consent of the Highway Authority is required in relation to the appointment or alteration of a hackney carriage stand on the highway, the Committee and is requested to authorise officers to engage in discussions with the Highway Authority about the location and number of taxi ranks in each of the three hackney carriage zones.

11.0 Access to Information

Appendix 1 – Consultation Document

Appendix 2 – Table of consultation responses

Appendix 3 – Department of Transport Best Practice Guidance

Appendix 4 – Table of tariff comparisons

Appendix 5 – Private hire vehicle conditions

Appendix 6 – Plan showing hackney carriage stands (Wilmslow)

Appendix 7 – Plan showing hackney carriage stands (Exchange Close, Macclesfield)

Appendix 8 – Plan showing hackney carriage stands (Pickford Street, Macclesfield)

The background papers relating to this report can be inspected by contacting the report writer:

The Office of Fair Trading report “The regulation of licensed taxi and PHV services in the UK” is available on the Office of Fair Trading website: www.offt.gov.uk

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KEY

Bus stop (box marking to be provided) [BUS STOP]

Existing no waiting at any time

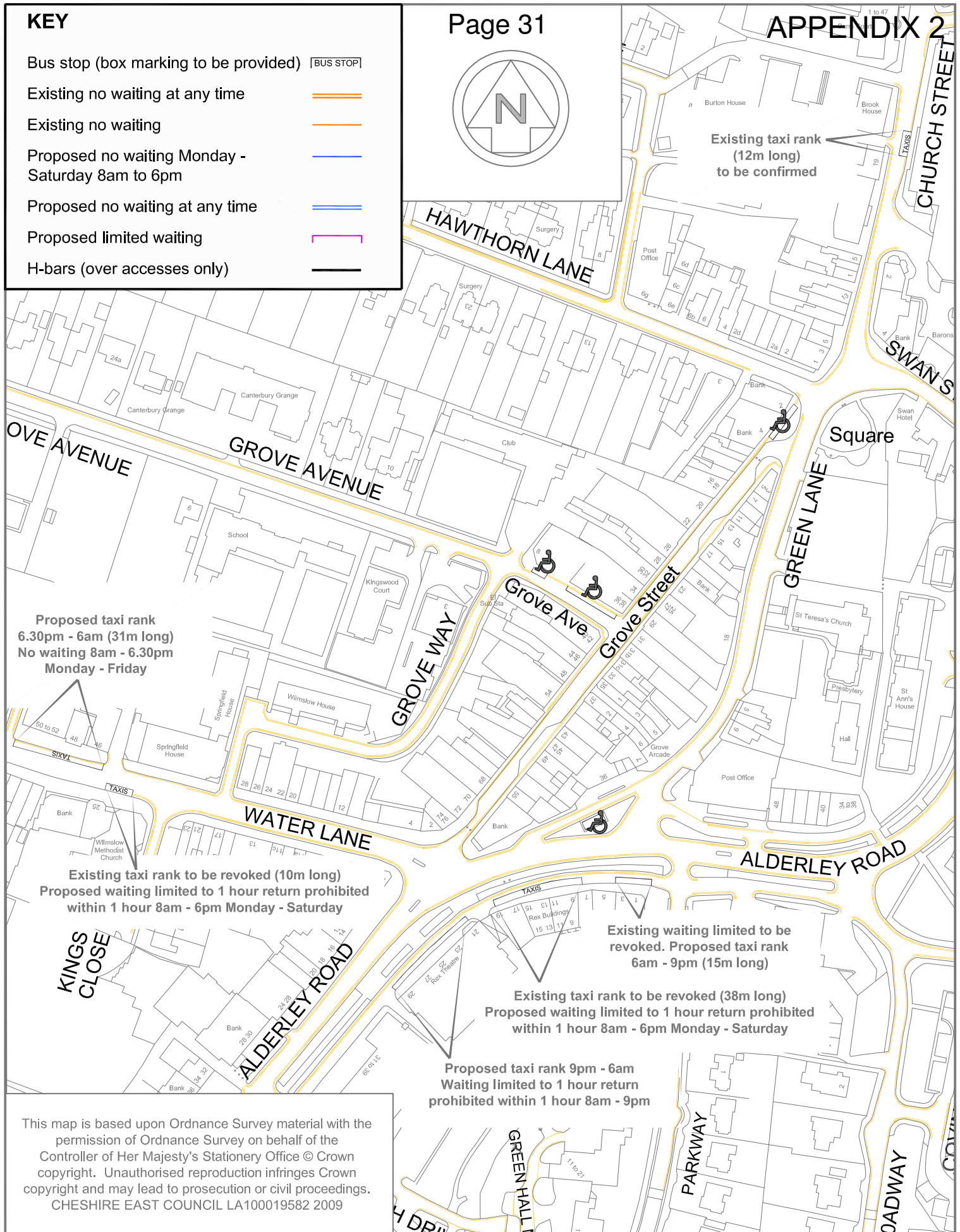
Existing no waiting

Proposed no waiting Monday - Saturday 8am to 6pm

Proposed no waiting at any time

Proposed limited waiting

H-bars (over accesses only)



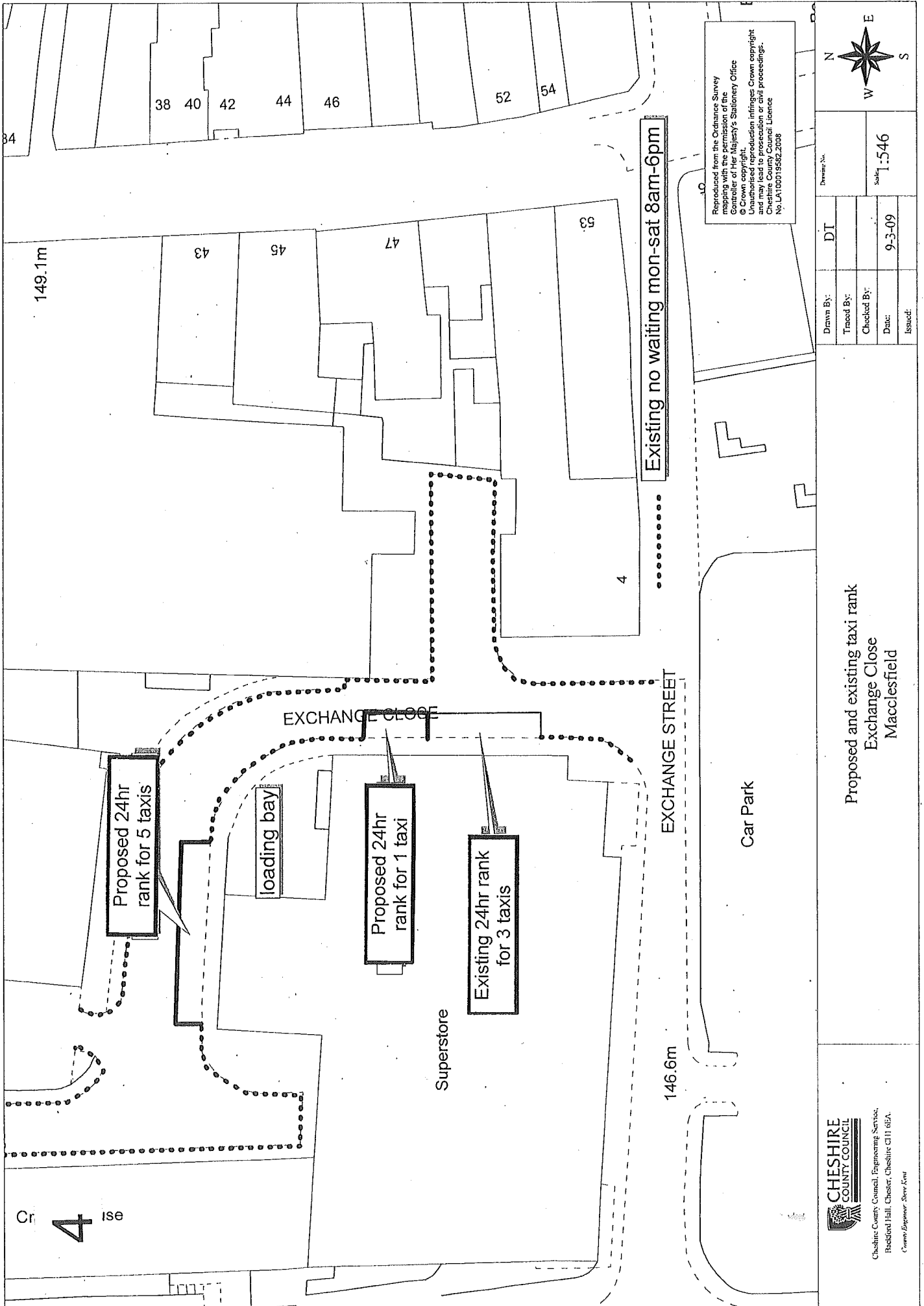
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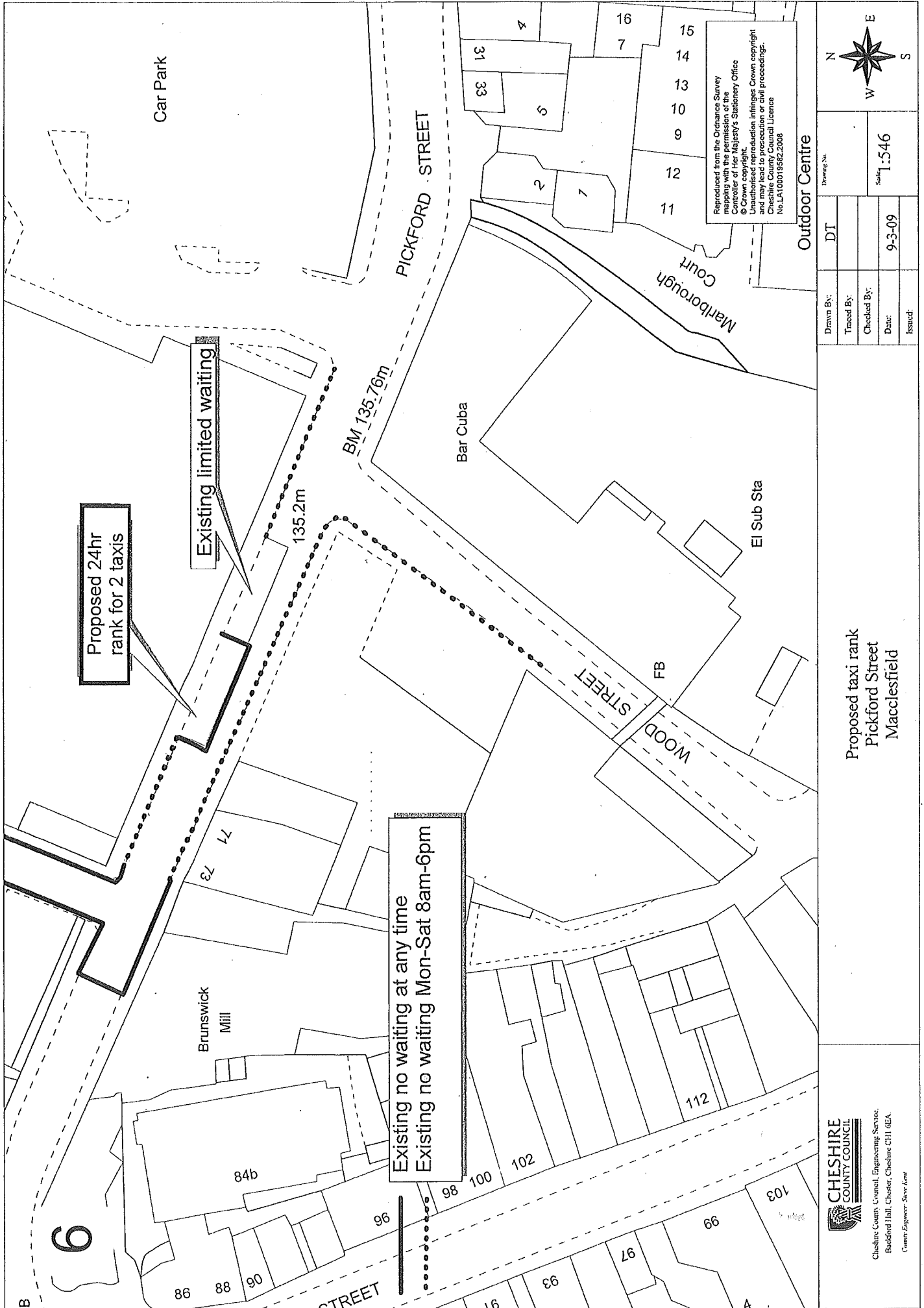
Project:

Wilmslow Taxi Rank Proposals

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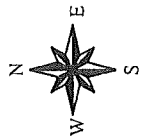
Proposed taxi rank
Pickford Street
Macclesfield



Cheshire County Council, Engineering Services;
Buckford Hall, Chester, Cheshire CH1 6EA.
County Engineer: Steve Kent

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Outdoor Centre



Drawn By:	DT
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