

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 18 January 2010

Report of: Mr A Potts, Interim Licensing Manager

Subject/Title: Proposed consultation relating to the policy of limiting the number of hackney carriages within the Congleton zone (zone 1).

1.0 Report Summary

- 1.1 The report provides details of the current position in relation to the limit on numbers of hackney carriage licences within the Congleton zone (zone 1) and seeks approval for a consultation exercise in relation to this policy.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to authorise the Licensing Manager to carry out a consultation exercise, as set out within the report, relating to the policy of limiting the number of hackney carriages within the Congleton zone of the Council's area.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee is requested to provide its approval so that the Licensing Manager may take appropriate steps to commence the process.

4.0 Wards Affected

- 4.1 Alsager, Congleton Rural, Congleton Town East, Congleton Town West, Middlewich, Sandbach, Sandbach East and Rhode.

5.0 Local Ward Members

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|-----|-----------------------|--|
| 5.1 | Alsager - | Rod Fletcher
Derek Hough
Shirley Jones |
| | Congleton Rural - | Les Gilbert
Andrew Kolker
John Wray |
| | Congleton Town East - | David Brown
Peter Mason
Andrew Thwaite |

Congleton Town West - Gordon Baxendale
Roland Domleo
David Topping

Middlewich - Paul Edwards
Simon McGrory
Michael Parsons

Sandbach Stella Furlong
Gillian Merry
Barry Moran

Sandbach East & Rhode - Elsie Alcock
Rhoda Bailey
Andrew Barratt

6.0 Policy Implications including - Climate change - Health

- 6.1 As set out within the report, the Congleton zone currently has a policy of limiting the number of hackney carriages whilst the Macclesfield and Crewe zones are 'de-limited.' The report seeks to obtain approval for consultation in relation to the Council's current policy in relation to the Congleton zone.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 There will be costs associated with a consultation exercise. It is estimated that public notices in local newspapers would cost in the region of £1,500; that there would be postage costs in the region of £400 together with the costs associated with officer time required in the preparation of consultation documentation and collation of responses. It is proposed that these costs will be met within existing budgets.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Under the provisions of the Town Police Clauses Act 1847 the Borough Council has the power to licence hackney carriages.
- 9.2 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."

- 9.3 The Council is required to consult with interested parties when reviewing matters of policy. The law governing consultation was laid down by the Court of Appeal in the case of R v North and East Devon HA ex parte Coghlan [2001] which states:

“It is common ground that, whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.”

10.0 Risk Management

- 10.1 Any consultation exercise to be carried out must be in accordance with the requirements set out in paragraph 9.3 above. Any consultation responses received must be taken into consideration before a decision is made. Failure to comply with these requirements would leave a decision open to challenge.

11.0 Background and Options

- 11.1 On 14 January 2009 the Licensing Committee considered a report in relation to ‘zoning’ of the hackney carriage licensing function within the areas of the three predecessor district Councils. Having considered the report, the Committee resolved (a) that the course of taking no action at this time be adopted, thereby allowing the creation of hackney carriage zones on vesting day; and (b) that the Head of Licensing, Cheshire East Council, be requested to undertake a thorough review of the hackney carriage licensing function in the first year of the new authority.
- 11.2 As Members will be aware, the Congleton zone (zone 1) is currently subject to the policy determined by the former Congleton Borough Council of limiting the number of hackney carriages; the current numerical limit being set at 42. The Macclesfield zone (zone 3) and Crewe zone (zone 2) are not subject to a limit on the numbers of hackney carriages. It is suggested that it is appropriate for the Council to determine its position in relation to the issue of limitation of numbers within the Congleton zone as a first stage in the process of reviewing the hackney carriage function.
- 11.3 As set out within the legal implications at paragraph 9, the Council is required to consult with interested parties when reviewing its policy. It is suggested that the consultation exercise would encompass consultation with the local hackney carriage and private hire trade, transport providers, local businesses and other interested parties such as the Police and consumer and passenger groups within the area covered by the Congleton zone. It is suggested that, in addition to direct correspondence with the parties referred to above, the consultation exercise will include a notice in local newspapers circulating in

the area and a notice on the Council's website. It is proposed, in accordance with the Government's Code of Practice on consultation, that the consultation should take place over a twelve week period.

- 11.4 At the conclusion of the consultation exercise a further report will be brought before a future meeting of the Licensing Committee.

12.0 Overview of Year One and Term One Issues

- 12.1 The Committee resolved that the Head of Licensing should undertake a review of the hackney carriage function within Year One.

13.0 Access to Information

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

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