



DERBY CITY COUNCIL

TAXI LICENSING AND APPEALS COMMITTEE

20 September 2007

Report of the Interim Director of Environmental Services

The Use of Rickshaws in Derby City Centre

RECOMMENDATION

- 1.1 To consider whether rickshaws and their drivers/riders should be licensed as hackney carriages/private hire vehicles.
- 1.2 If the committee decides to licence rickshaws/riders, to consider the type and scope of the licensing requirements.

SUPPORTING INFORMATION

- 2.1 A request has been received for the Council to approve the use of rickshaws within the city centre. The proposal is for a number of rickshaws to carry passengers around the city centre (within the inner ring road) free of charge; the costs would be offset from revenue derived by sponsorship/advertising on the vehicle. Evening journeys and some longer routes, such as to Pride Park or the railway station would be charged for.
- 2.2 The proposed rickshaws use a combination of pedal and battery power. They are operated by one 'rider' and can carry two passengers. The rickshaws are not motorised, unlike 'tuk-tuks'.
- 2.3 The proposal is supported by the Westfield Task Group and City Centre Management, as it will aid both tourism and shopping in Derby. Supporters of the proposal have requested that, if a licensing regime is required, that it is kept as simple as possible to minimise cost and inconvenience to an operator.
- 2.4 The first question for members to consider is whether rickshaws and their riders should be licensed under taxi licensing legislation. Licensing officers have sought advice from Legal Services on this question. The legal view is that the operation of passenger carrying rickshaws would fall into the definition of 'hire and reward', even if they did not charge and therefore should be licensed as either a hackney carriage or private hire vehicle.

- 2.5 It has been reported that rickshaws are operating without a licence in Nottingham and Leicester. Discussions with these local authorities have revealed that this is not the case in Nottingham, but a small number are operating unlicensed in Leicester. Nottingham City Council have received an application to operate a tuk-tuk and this is currently being considered. If it is approved it will be licensed as a private hire vehicle. Licensing Officers have also contacted other local authorities in Derby's Benchmarking Group to ascertain whether they licence rickshaws. The results are set out in Appendix 2.
- 2.6 The decision as to whether to licence rickshaws rests with the Council, although it will need to have regard to the legal advice given.
- 2.7 If this Committee decides that rickshaws and their riders need to be licensed to carry passengers for hire and reward, the following licensing requirements will need to be considered:

2.7.1 Should they be licensed as hackney carriage or private hire vehicles/riders?

In view of the absence of an operator and pre-bookings, licensing officers believe that 'hackney carriage' would be the most appropriate licence type. However, Part V of the Disability Discrimination Act 1996 requires that new taxis be wheelchair accessible from January 2002; rickshaws clearly cannot meet this requirement. Licensing Officers have noted that some other local authorities have licensed hackney carriages where this requirement has not been enforced. This was said to be due to the government's failure to provide a model specification for wheelchair accessible hackney carriages.

2.7.2 Does the Council need a specification for rickshaws and if so, what should it require?

Licensing Officers believe that a specification is required to prevent unsuitable or 'home made' rickshaws from being used. To simplify the process, this Committee could approve specific named makes/models, as they do currently for hackney carriages. Alternatively, a simple specification for this type of vehicle could be drawn up which would cover such areas as method of operation (pedal and battery power), wheels/tyres, lights, number of seats etc.

2.7.3 What items should be included in licence conditions for rickshaws?

A copy of the existing vehicle licence conditions for hackney carriages is attached in Appendix 3(a). A proposed, simplified set of conditions for rickshaws is attached in Appendix 3(b).

2.7.4 Should rickshaws be subject to annual inspection/safety check?

All currently licensed vehicles are examined annually. Members are asked to consider whether this requirement should extend to rickshaws, or whether they should be exempt in view of their simplified construction (compared to motor vehicles). If testing is required, a suitable testing facility will need to be found or an alternative method of approval sought.

2.7.5 Should suitable insurance cover (for passengers and third parties) be a licensing requirement?

Since rickshaws are capable of being involved in accidents, Licensing Officers believe this would be appropriate.

2.7.6 What items should be included in licence conditions for rickshaw riders?

A copy of the existing hackney carriage driver licence conditions is attached in Appendix 4(a). A proposed, simplified set of licence conditions for rickshaw riders is attached in Appendix 4(b).

2.7.7 Should a rider be required to have a CRB check prior to licensing?

Currently licensed drivers are required to have an 'enhanced' CRB check prior to licensing. One of the potential rickshaw operators has stated in his proposal that all of his riders would need to have this.

2.7.8 Should a rider be required to have and pass a medical, prior to licensing?

It could be argued that the physical exertion of cycling makes a medical relevant. However, members could decide that self certification on an application form is sufficient.

2.7.9 Should a rider have a knowledge test of some kind?

If the rickshaws operate solely in the city centre, which the Council cannot insist upon, a knowledge test of the city may be inappropriate. However, the requirements for a rider to be able to speak/read English would still be relevant.

2.7.10 What level should fees be set at?

At this stage it is not possible to accurately calculate the cost of licensing rickshaws and riders and therefore fees can only be based upon estimates. Licensing Officers propose a fee level of £20 for a rickshaw licence and £10 for a rider's licence. This is based solely as a basic administration charge without any other costs added. If this is approved by members, it is recommended that these fees are reviewed after six months, by which time a more accurate cost figure will be available.

2.7.11 Will those parts of the existing advertising policy that relate to content/material be applied to adverts on rickshaws?

A copy of the relevant parts of the existing advertising policy is attached in Appendix 5.

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Background papers:	None	
List of Appendices:	Appendix 1	Implications
	Appendix 2	Consultation results with benchmarking authorities
	Appendix 3(a)	Existing licence conditions for hackney carriages
	Appendix 3(b)	Proposed simplified licence conditions for rickshaws
	Appendix 4(a)	Existing hackney carriage driver licence conditions
	Appendix 4(b)	Proposed simplified licence conditions for rickshaw riders
	Appendix 5	Relevant parts of existing advertising policy

APPENDIX 1

IMPLICATIONS

Financial

1. None

Legal

- 2.1 The legal requirement is that any vehicle being operated, whether as a hackney carriage or as a private hire vehicle, for 'hire or reward' requires a licence for that purpose from the licensing authority for the area in which they operate.
- 2.2 The development of case law has highlighted that for there to be hire or reward, the payment of a fee by the hirer does not have to take place. What is important is the nature and circumstances of the relationship giving rise to an individual being conveyed in a vehicle.
- 2.3 What does not appear to be in doubt is that if the proposal is accepted, rickshaws will be hired by individuals who want to be conveyed from one location within the city to another. Although in the majority of instances the indication is that no fee will be charged for that service, a benefit will nevertheless be derived by the owner/driver by virtue of the sponsorship and advertising income generated.
- 2.4 Effectively, the drivers/owners obtain a reward, albeit indirectly, for the service they provide. This is so even before consideration of the circumstances in which an actual fee will be charged are taken into account, for which a licence would unquestionably be required. It should be remembered that a licensed vehicle always remains as such, even when not being used for licensable activities.
- 2.5 The view therefore is that for the purposes disclosed to officers, rickshaws are licensable. In that event, there is an obligation on the Council to safeguard the

interests and welfare of the public who have access to, and will make use of, such vehicles. However because of the lack of legislative clarity, the Council is seeking a barrister's opinion on this matter and it is hoped that a response will be available in time for this meeting.

Personnel

3. None

Equalities impact

4. Rickshaws would be available for hire to all residents and visitors to Derby. However, unlike existing hackney carriages, they will not be accessible to wheelchair users.

Corporate priorities

5. Taxi Licensing contributes to the priority of **delivering excellent services, performance and value for money.**
6. The licensing of rickshaws supports the Council's priority of **creating a 21st century city centre.**