

**To:** General Purposes Licensing Committee

**Date:** 1<sup>st</sup> March 2011 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Update on Request to Licence a Horse Drawn Carriage as an Omnibus

### Summary and Recommendations

**Purpose of report:** To provide the Committee with an update with regard to the request to licence Horse Drawn Carriage as an Omnibus, following discussions with the Oxfordshire County Council as to the viability of roads and stands.

**Report Approved by:**

**Finance:** Gillian Chandler  
**Legal:** Daniel Smith

**Policy Framework:** Improve the local environment, economy and quality of life

**Recommendation(s):**

i) To request that the Head of Environmental Development submit a further report to the next meeting of the General Purposes Licensing Committee providing details as to the progression of this scheme following further discussions with Oxfordshire County Council;

ii) To request that the Head of Environmental Development give consideration to a reasonable fee to be charged to hold a licence as a proprietor of a Horse Drawn Carriage, a driver of a Horse Drawn Carriage, a guide of a Horse Drawn Carriage;

iii) To request that the Head of Environmental Development in consultation with the Head of Finance, and the Head of Law & Governance to give details as to the costs likely to be incurred by the Authority in setting up this scheme, and how these costs will be recovered.

## **Introduction**

1. On the 13<sup>th</sup> October 2010, The Head of Environmental Development submitted a report to the General Purposes Licensing Committee which detailed a request to licence a horse drawn carriage as an omnibus.
2. At that meeting, the Committee agreed:
  - (a) To support in principle the licensing of horse drawn carriages;
  - (b) To request the Head of Environmental Development to submit a further report to the General Purposes Licensing Committee in March 2010 following discussions with the Oxfordshire County Council as to the viability of roads and stands.

## **Background**

3. A report was placed before this Committee on the 13<sup>th</sup> October 2010 after a request was received to operate a horse drawn carriage to provide rides/tours on a fixed route in Oxford. The company is Kevin Merry Carriages. This report is to update the Committee on a number of issues that had to be resolved.
4. If the Committee is minded to licence horse drawn vehicles, it is possible for the Council to licence them as Omnibuses under the provisions of the Town Police Clauses Act 1899, and to make bye laws under section 6 of the same act to regulate their operation. Under the Road Traffic Act 1930 these provisions remain in force for non-motorised vehicles. A horse drawn vehicle could be licensed as an omnibus to operate on a fixed route.
5. In 2001 when a similar omnibus scheme was proposed The Head of Law and Governance prepared provisional byelaws for consideration by the Secretary of state for Transport. A copy of these provisional byelaws is attached to this report for consideration by Committee. The 2001 scheme was aborted after concerns were expressed by the charity Animal Aid over the welfare of horses. Appendix One "proposed byelaws", and Appendix Two "proprietors" conditions

## **Considerations**

6. As well as the carriage being licensed, the driver and guide should also be licensed. In line with Hackney Carriage and Private Hire drivers an Enhanced Criminal Records Bureau and DVLA check should be carried out. Officers do not think that the driver should have to take the Local Knowledge test as the journey will be on a fixed route and the accompanying guide will have knowledge of the places of interest on the route. The driver of the carriage will have to provide proof that he/she has attained a Road Certificate as described in the Department of Transport Code of Practice for Horse Dawn Vehicles. Attached to

this report are Appendix Three “driver” conditions, and Appendix Four “guide” conditions.

7. It is proposed that the rickshaw stand in Broad Street, which was first put in place in 1994, be used for the carriage to pick up and drop off passengers. The stand is opposite the Tourist Information Office which will be helpful in promoting the tour. The County Council has been consulted as the highway authority, and their officers are looking into the feasibility of reinstating the stand and the potential enforcement of it. The County has also been consulted on a route that the tour could take and a revised route has been drawn up by the company and is described at Appendix Five. At the time of writing this report the County officers have not provided any information into their progress, and therefore a further report will need to be submitted at a later General Purposes Licensing Committee to determine this progress, and as such the viability of the Horse Drawn Carriage Scheme.

### **Financial Implications**

8. The Licensing Authority is permitted to set fees to cover the costs of the administration of the licensing function under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 S70. Officers are not able to recommend what fees to set for the licenses until they know the cost of having the byelaws put in place. At the October Committee meeting, the owner of the carriage company did state that they would be happy to cover the costs. When determining the fees the officer's time and administration costs must also be taken into account.

### **Further Research**

9. In order that the Members of the General Purposes Licensing Committee are able to determine accurately the viability of this scheme, further information is required, and is detailed in the recommendations below.

### **Recommendations**

10. The Committee is recommended to:
  - i) Request that the Head of Environmental Development submit a further report to the next meeting of the General Purposes Licensing Committee providing details as to the progression of this scheme following further discussions with Oxfordshire County Council.
  - ii) Request that the Head of Environmental Development in consultation with the Head of Finance, and the Head of Law & Governance give details as to the costs likely to be incurred by the Authority in setting up this scheme, and how these costs will be recovered.

iii) Request that the Head of Environmental Development provide details as to the reasonable fee to be charged to hold a licence as:

- a proprietor of a Horse Drawn Carriage,
- a driver of a Horse Drawn Carriage,
- and a guide of a Horse Drawn Carriage.

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**Background papers:**

<b>Appendix One</b>	<b>Byelaws</b>
<b>Appendix Two</b>	<b>Proprietors Conditions</b>
<b>Appendix Three</b>	<b>Driver Conditions</b>
<b>Appendix Four</b>	<b>Guide Conditions</b>
<b>Appendix Five</b>	<b>Revised Route</b>

**Version number: 1**

# Appendix One

## OXFORD CITY COUNCIL

### BYELAWS

**Made under section 6 of the Town Police Clauses Act 1889, as incorporated with the Public Health Act 1875, by the Oxford City Council with respect to Omnibuses in the City of Oxford.**

#### **Interpretation**

1. Throughout these byelaws :-
  - “the Council” means the Oxford City Council,
  - “the district” means the City of Oxford,
  - “veterinary surgeon” means a Member or Fellow of the Royal College of Veterinary Surgeons, and
  - “vehicle licence” means a licence issued in accordance with section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976.

#### **Provisions regulating the manner in which the number of each omnibus corresponding with the number of its licence shall be displayed.**

2. (a) The proprietor of an omnibus shall cause the identification plate of the licence granted to him in respect of that omnibus to be prominently displayed at the rear of the vehicle. The identification plate will be supplied by the Council  
  
(b) A proprietor, driver or conductor of an omnibus shall not :-
  - i) wilfully or negligently cause or suffer any such identification plate to be concealed from public view while the vehicle is plying or standing for hire by or used to carry passengers; or
  - ii) cause or permit the vehicle to ply or stand for hire or be used to carry passengers with any such plate so defaced that any figure or material particular is illegible.

#### **Provisions securing the fitness of the omnibus and the harness of the animals drawing the same.**

3. The proprietor of an omnibus shall cause the omnibus and all of its fittings and equipment to be kept in a clean and safe condition, well maintained and in every way fit for public service.
4. A proprietor or driver of an omnibus shall cause every part of the harness of any animal hitched up to the omnibus to be kept in good order so that the animal is properly and securely attached to the vehicle and under control at all times.

**Provisions regulating the conduct of the proprietors, drivers and conductors of omnibuses plying within the district in their several employments, and determining whether such drivers and conductors shall wear any and what badges.**

5. The proprietor, driver or conductor of an omnibus shall not carry or permit to be carried in such omnibus any greater number of passengers than the number of passengers which it is licensed to carry.
6. A driver or conductor of an omnibus shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, entering or alighting from the omnibus, and of any animal used to draw it.
7. A driver or conductor of an omnibus shall not smoke at any time when the omnibus is being used to convey passengers.
8. A driver or conductor of an omnibus shall at all times when the omnibus is plying or standing for hire by or used to carry passengers wear the badge provided by the Council in such a position and manner as to be plainly visible.
9. A driver or conductor of an omnibus shall not, at any time when the omnibus is plying or standing for hire by or used to carry passengers, operate a radio or other sound-reproducing equipment other than for the purposes of sending or receiving messages in connection with the operation of the vehicle.
10. The proprietor, driver or conductor of an omnibus shall not, in any street within the district, feed or allow to be fed any animal harnessed or otherwise attached to the omnibus, except with food contained in a proper bag or container suspended from the head of the animal or from any centre pole of the vehicle, or which is being held and delivered with the hand of the person feeding the animal.

**Provisions regulating the number and securing the fitness of the animals to be allowed to draw an omnibus, and for the removal therefrom of unfit animals.**

11. The proprietor or driver of an omnibus shall not cause or permit the same to be drawn by more than two animals at any one time, and shall ensure that the two animals are of the same species.
12. A proprietor or driver of an omnibus shall not cause or permit the animal to be used to draw the omnibus unless, within the preceding twelve months, a certificate of fitness, in a form supplied by the Council, has been issued in respect of that animal following an examination by a veterinary surgeon specialising in large animal practice.

14. A proprietor or driver of an omnibus shall not, at any time when the omnibus is plying or standing for hire by or used to carry passengers, drive or allow to be driven or harness or allow to be harnessed to the omnibus any animal in such condition as to expose any person being conveyed or being in such omnibus, or any person traversing any street, to risk of injury.
15. A proprietor or driver of an omnibus shall not cause or permit an animal to draw any omnibus or to be harnessed or otherwise attached to such an omnibus for more than six hours in any one day. And, if the animal is harnessed to an omnibus for a period of three consecutive hours, the proprietor or driver shall ensure that the animal is rested for a period of not less than one hour, during which time the animal must be fed and watered.
16. A proprietor or driver of an omnibus shall not cause or permit any animal which has previously been used to draw an omnibus for a total of not more than six hours, on any one day, to be used at any other time during the remainder of that day for any other purpose in connection with that or any other omnibus.
17. A proprietor or driver of an omnibus shall ensure that while an animal is being rested in accordance with byelaw 15 above, that the animal shall not remain harnessed, or otherwise attached to an omnibus, or used for any other purpose in connection with an omnibus.
18. (a) The proprietor or driver of an omnibus shall, on being so instructed by an authorised officer of the Council, immediately cease to use, for the purpose of drawing an omnibus, any animal which that officer, after consultation with a veterinary surgeon, specialising in large animal practice, considers to be unfit for that purpose.  
  
(b) Where a proprietor or a driver of an omnibus has been instructed to stop using a particular animal for the purpose of drawing an omnibus, no such proprietor or driver shall cause or permit that animal to be used again for that purpose until a certificate of fitness has been issued by a veterinary surgeon, specialising in large animal practice, in a form supplied by the Council.

#### **Provisions for securing the safe custody and return of private property**

19. The driver or conductor of an omnibus shall, before departing from any point fixed by the vehicle licence issued in respect of that omnibus, carefully search the omnibus for any property which may have been accidentally left therein.
20. Any proprietor, driver or conductor of an omnibus shall, if any property accidentally left therein by any person who may have been conveyed in the omnibus be found by or handed to him, take it as soon as possible

and in any event within 24 hours, if not claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of a police constable on his giving a receipt for it.

**Provisions for the exhibition on some conspicuous part of every omnibus of a statement in legible letters and figures of the fares to be demanded and received from the persons using an omnibus.**

21. (a) The proprietor of an omnibus shall cause a statement of the fares payable by passengers to be exhibited conspicuously inside the vehicle, in clear legible letters and figures.
- (b) The proprietor, driver or conductor of an omnibus bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time when the vehicle is plying or standing for hire by or used to carry passengers.

**Provisions preventing importuning and the blowing of or playing upon horns or other musical instruments, or the ringing of bells, by any person travelling on or using an omnibus.**

22. The owner, driver or conductor of an omnibus shall not, at any time when the omnibus is plying or standing for hire by or used to carry passengers, by touting, calling out or otherwise, importune any person to use or to be carried for hire in such omnibus, to the annoyance of any such person or of any other person, and shall not make use of the services of any other person for the purpose.
23. A driver, conductor or any person travelling on or using an omnibus shall not blow or play upon any horn or other musical instrument or ring any bell.

**Penalties**

24. Any person who offends against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale, and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after the date of conviction.

**Dated:**

**THE COMMON SEAL OF THE )  
OXFORD CITY COUNCIL was )  
hereunto affixed by order of the )  
Council in the presence of :- )**

**Head of Law & Governance**



The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into force on the    day of    2001.

Signed by order of the Secretary of State

## **Appendix Two**

### **Horse Drawn Omnibus Licence**

#### **Proprietor Conditions**

The driver of Horse Drawn Omnibus (hereinafter called "the driver" and "the Omnibus" respectively) and the holder of the vehicle licence (hereinafter called 'the proprietor') shall ensure that they are aware of their duties and responsibilities in respect of the vehicle, driver and the Licensing Authority. He/she shall comply with the provisions of The Town Police Clauses Act 1847 and 1889, Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Bye-laws and conditions in respect of the licensing of horse drawn vehicles.

1. The proprietor must be aware and have a copy of any byelaw relating to the licensing of an Omnibus
2. The proprietor shall ensure that the driver and guide are aware and adhere to the conditions on their licence at all times.
3. The proprietor shall, on ceasing to operate the Omnibus for which a licence is granted or when required to do so surrender the licence to the Licensing Office, together with any plate required to be affixed to the vehicle.
4. The proprietor must ensure the welfare of any animals and that the driver/guide are trained sufficiently to do so.
5. The proprietor must make arrangements for a suitable person to assume the day to day responsibilities in respect of both vehicle and driver should he/she not be readily available to undertake them.
6. The holder of any licence must provide the address of his/her normal place of abode and if the address changes he/she must give notice in writing to the Licensing Office with seven days of such change.
7. The holder of any licence shall co-operate with any Officer of the City Council and undertake to comply with any reasonable request or instruction given by the aforesaid Officer.
8. The holder of any licence shall co-operate fully in the investigation of complaints by any authorised Officer and shall attend at the Offices of the Council and produce any information reasonably requested during the course of the investigation.
9. Holders of any licence should be aware that the council does not take responsibility for informing licence holders of the expiry of the licence and that refunds are not made for any unexpired periods of a surrendered licence.

10. The Licensing Authority reserves the right to amend, delete or add any conditions to the Licence by way of written notice to the Licensee.

## Appendix Three

### Horse Drawn Omnibus Licence

#### Driver Conditions

1. The driver of a Horse Drawn Omnibus (hereinafter called "the driver" and "the Omnibus" respectively) and the holder of the vehicle licence (hereinafter called 'the proprietor') shall ensure that they are aware of their duties and responsibilities in respect of the vehicle, driver and the Licensing Authority. He/she shall comply with the provisions of The Town Police Clauses Act 1847 and 1889, Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Bye-laws and conditions in respect of the licensing of horse drawn vehicles.
2. The driver of a Horse Drawn Omnibus shall be over 21 years of age, have held a full driving licence for at least 12 months.
3. The driver of a Horse Drawn Omnibus will have attained a Road Driving Certificate as described in the Department of Transport's Code of Practice for Horse Drawn Vehicles.
4. The driver will be required to be certified medically fit and have the physical ability to handle a Horse Drawn Omnibus.
5. The driver will ensure that the Omnibus keeps to the prescribed route as approved by the Council.
6. The driver shall not permit children under the age of 14 years to travel in the Omnibus unless accompanied by an adult.
7. The driver shall not allow passengers to be carried in the Omnibus unless a driver's assistant/groom is in attendance to supervise passengers whilst the Omnibus is in motion.
8. If the driver is convicted of an offence he/she must inform the Licensing Officer in writing within 7 days of conviction, giving full details.
9. The holder of a driver's licence shall not act as driver of the Omnibus without the consent of the proprietor of the Omnibus.
10. The driver shall not allow any animal to be conveyed in the Omnibus unless it is an assistance dog.
11. The driver shall at all times when driving the Omnibus carry with him a copy of the Bye laws and these conditions and shall make it available for inspection on request by the hirer or any other passenger.

12. The holder of any licence must provide the address of his/her normal place of abode and if the address changes he/she must give notice in writing to the Licensing Office with seven days of such change.
13. The holder of any licence shall co-operate with any Officer of the City Council and undertake to comply with any reasonable request or instruction given by the aforesaid Officer.
14. The holder of any licence shall co-operate fully in the investigation of complaints by any authorised Officer and shall attend at the Offices of the Council and produce any information reasonably requested during the course of the investigation.
15. Holders of any licence should be aware that the council does not take responsibility for informing licence holders of the expiry of the licence and that refunds are not made for any unexpired periods of a surrendered licence.
16. The Licensing Authority reserves the right to amend, delete or add any conditions to the Licence by way of written notice to the Licensee.

## Appendix Four

### Horse Drawn Omnibus Licence

#### Guide Conditions

1. The guide of a Horse Drawn Omnibus (hereinafter called "the guide" and "the Omnibus" respectively) and the holder of the vehicle licence (hereinafter called "the proprietor") shall ensure that they are aware of their duties and responsibilities in respect of the vehicle, driver and the Licensing Authority. He/she shall comply with the provisions of The Town Police Clauses Act 1847 and 1889, Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Bye-laws and conditions in respect of the licensing of horse drawn vehicles.
2. The guide will be required to be certified medically fit and have the physical ability to handle a Horse Drawn Omnibus.
3. The guide shall not permit children under the age of 14 years to travel in the Omnibus unless accompanied by an adult.
4. The guide shall not allow passengers to be carried in the Omnibus unless a driver is in attendance whilst the Omnibus is in motion.
5. If the guide is convicted of an offence he/she must inform the Licensing Officer in writing within 7 days of conviction, giving full details.
6. The guide shall not allow any animal to be conveyed in the Omnibus unless it be an assistance dog.
7. The holder of any licence must provide the address of his/her normal place of abode and if the address changes he/she must give notice in writing to the Licensing Office with seven days of such change.
8. The holder of any licence shall co-operate with any Officer of the City Council and undertake to comply with any reasonable request or instruction given by the aforesaid Officer.
9. The holder of any licence shall co-operate fully in the investigation of complaints by any authorised Officer and shall attend at the Offices of the Council and produce any information reasonably requested during the course of the investigation.
10. Holders of any licence should be aware that the council does not take responsibility for informing licence holders of the expiry of the licence and that refunds are not made for any unexpired periods of a surrendered licence.
11. The Licensing Authority reserves the right to amend, delete or add any conditions to the Licence by way of written notice to the Licensee.

## Appendix Five

### Proposed Route Provisionally Agreed with Oxfordshire County Council

The route should take approximately 30 minutes. The carriage stand is in Broad Street

- Starting from Broad Street right into Catte Street
- Through into Radcliffe Square (authority and key permitting) , round Camera back into Catte Street, straight on to Parks Road
- Left into Keble Road, left into Blackhall Road, left into Museum Road
- Right into Parks Road. Left into South Parks Road
- Right into St. Cross Road, into Longwall Street
- Left into High Street, over Magdalen Bridge to The Plain, back up High Street
- Left into Merton Street, right into Oriel Square
- King Edward Street (authority permitting)
- Left into High Street, right into Turl Street
- Left into Broad Street and back to stand