

To: General Purposes Licensing Committee

Date: 15th June 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, and the intended licence fees to be charged.

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: A vibrant and sustainable economy

Recommendation(s):

Committee is recommended to:

- i) note the progress made with Oxfordshire County Council with regard to the proposed Horse Drawn Carriage scheme,**
- ii) approve the level of fee determined to be reasonable for the guide, driver and proprietor of a Horse Drawn Carriage,**
- iii) recommend Council now make the approved byelaws, and**
- iv) authorise the Head of Environmental Development and the Head of Law and Governance carry out the statutory advertisement of the byelaws.**

Introduction

1. On the 1st March 2011, The Head of Environmental Development submitted a report to the General Purposes Licensing Committee which detailed how the proposed scheme to licence a Horse Drawn Carriage as an omnibus was progressing, following the Committee's decision on 13th October 2010 to request that Officers carry out further research in to such a scheme.

2. At the meeting on 1st March 2011, the Committee agreed:
 - (a) To implement the proposed conditions for the:
 - Proprietor of a Horse Drawn Carriage
 - Driver of a Horse Drawn Carriage
 - Guide of a Horse Drawn Carriage
 - Route Provisionally Agreed with Oxfordshire County Council
 - Byelaws
 - (b) To request 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;
 - (c) To request 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 and a guide of a Horse Drawn Carriage;

Background

3. A report was heard previously by this Committee on the 13th October 2010, following a request to operate a Horse Drawn Carriage to provide rides/tours on a fixed route in Oxford. The company is Kevin Merry Carriages.
4. It is possible for the Council to licence a Horse Drawn Carriage as an Omnibus under the provisions of the Town Police Clauses Act 1847 to operate on a fixed route, and to make byelaws under section 6 of the Town Police Clauses Act 1889 to regulate their operation. Under the Road Traffic Act 1930 and the Transport Act 1985 these provisions remain in force for non-motorised vehicles.

Oxfordshire County Council

5. Following discussions with Oxfordshire County Council, it has been agreed that the location for the “stand” for the carriage to wait for customers will be Broad Street. There is already a byelaw in place for the stand which has not been in use since 2000.
6. Concern had been expressed that the County Council had placed disabled parking on top of the stand, but it has been confirmed that this is not the case. If at some point it becomes apparent that the stand

needs repainting because of traffic enforcement carried out by the County, it will be their financial responsibility to re-instate the stand.

Welfare of Animals

7. The Public Health Team Leader in Environmental Development has been consulted on the welfare of the horses. The horses will be stabled at Kidlington and will be transported by horse-box each day to the Abingdon Road near Redbridge Park & Ride. The horses will then drive the carriage to Broad Street.
8. There are a number of provisions in the proposed byelaws that relate to the welfare of the horses. With the adoption of these provisions, and the legislative framework of the Animal Welfare Act 2006, the Public Health Team Leader did not believe that any further measures were required to ensure the welfare of the horses.

Financial Implications

9. 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.
10. When determining fees and charges, calculations are made based on the gross cost to the service of the Officer carrying out the Horse Drawn Carriage function, and the time taken to carry out the necessary work in facilitating and processing any application, and the time and material costs involved in issuing a licence and associated materials (i.e. badges and licence plates) (reference Institute of Licensing Course: Fees & Charges, Oxford 11 May 2011).
11. Fees for carriages may also include the costs associated with Officers needing to inspect the carriage to ensure that is considered appropriate for use by the public. Any observations made by the Officers inspecting the carriage should be referred to the proprietor, and the proprietor carry out the necessary remedial work before the carriage is permitted to take passengers. It is proposed that the carriage be inspected at intervals of 6 months, or sooner should the need arise.
12. There are additional costs to be borne by the applicants, and these include an Enhanced Criminal Records Bureau Disclosure and Medical Certificate for the driver and an Enhanced Criminal Records Bureau Disclosure for the guide.
13. Having calculated the fees in accordance with the formula in Paragraph 10 above and with consideration to the need to carry out enforcement activity as described in Paragraph 11 above, the proposed licence fees are:
 - Guide of a Horse Drawn Carriage £100.00
 - Driver of a Horse Drawn Carriage £100.00

- Proprietor of a Horse Drawn Carriage £250.00
14. At the time of writing this report, the current charges applicable for the additional elements of this scheme are:
- Enhanced Criminal Records Bureau Disclosure £43.00
 - Badge / Replacement Badge £10.00
 - Plate / Replacement Plate £25.00
15. Any other costs associated with the applicants meeting the criteria agreed by the Committee on 1st March 2011 will be payable by the applicant directly to the relevant service provider (i.e. Medical Certificate).
16. At the Committee meeting held on 13th October 2010, the owner of the carriage company stated that he would be prepared to cover the costs of the byelaws. It is therefore proposed that this cost be charged to Mr Merry, and that the matter be dealt with by the Head of Law & Governance and the Head of Finance to seek a reasonable manner in which this cost can be collected.

Legal Implications

17. At the meeting on 1st March 2011, Committee approved the draft byelaws. The draft byelaws have now also received provisional approval from the Secretary of State for Transport (**Appendix 1**) with some minor amendments. The Secretary of State approved draft is attached (**Appendix 2**). Full Council must now make the byelaws before statutory advertisement and final confirmation by the Secretary of State.

Recommendations

18. The Committee is recommended to:
- i) Note the progression made with Oxfordshire County Council with regard to the proposed Horse Drawn Carriage scheme
 - ii) Approve the level of fee determined to be reasonable for the guide, driver and proprietor of a Horse Drawn Carriage.
 - iii) Recommend Council now make the approved byelaws.
 - iv) Authorise Head of Environmental Development and Head of Law and Governance to carry out the statutory advertisement of the byelaws

Name and contact details of author: Jill Cramer
Senior Taxi Licensing Officer

☎ 01865 252115
email: jcramer@oxford.gov.uk

Background papers:

Version number: 1

This page is intentionally left blank