

TITLE OF REPORT: VIABILITY ASSESSMENT OF PROVIDING AN ADDITIONAL HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE TESTING CENTRE IN THE ROYSTON AREA**REPORT OF THE HEAD OF HOUSING AND PUBLIC PROTECTION****1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update the Licensing and Appeals Committee on the progress of the viability assessment of providing an additional authorised MOT testing centre for licensed hackney carriage and private hire vehicles.

2. FORWARD PLAN

- 2.1 This report does not contain a recommendation on a key decision that has been notified to the public in the Forward Plan.

3. BACKGROUND

- 3.1 The Council has a duty to ensure that all hackney carriage and private hire vehicles issued with licences to carry members of the public are adequately maintained in a safe and roadworthy condition at all times. In addition to the standard requirements under road traffic legislation for all motor vehicles to be tested after reaching three years of age at an authorised VOSA testing station, the Council's Hackney Carriage and Private Hire Licensing Policy ("the Policy") imposes additional testing requirements on licensed hackney carriage and private hire vehicles.
- 3.2 Before obtaining a licence from the Council, a vehicle intended to be used as a hackney carriage or private hire vehicle must obtain an MOT and an Engineer's Report from the Council's authorised testing facility irrespective of the vehicle's age. The Engineer's Report consists of specific policy related requirements relating to licensed vehicles over and above the standard MOT requirements, for example, the condition of the vehicle's interior, the external appearance of the vehicle, the requirement to carry a first aid kit and fire extinguisher, etc.
- 3.3 Every licensed vehicle must be tested and pass a combined MOT and Engineer's Report inspection every twelve months until the vehicle reaches five years of age from the date of first registration. From that point onwards, every vehicle must be tested and pass a combined MOT and Engineer's Report inspection every six months until it reaches the maximum allowable age specified in the Policy dependant on the type of vehicle. To ensure consistency, the Council have nominated the testing facility at North Hertfordshire Homes, Blackhorse Road, Letchworth Garden City as its sole authorised testing facility.
- 3.4 At the Licensing and Appeals Committee meeting on 23rd November 2010, during the consideration of the adoption of a new Hackney Carriage and Private Hire Licensing Policy, representatives of the trade raised the question

of why the Council had only authorised one garage, that being North Hertfordshire Homes in Letchworth Garden City, to carry out MOT and Engineer Report testing on hackney carriage and private hire vehicles.

- 3.5 It was felt by representatives of the trade from the Royston area that, in light of the fact that one of the underlying principles of the proposed Policy was to reduce the carbon footprint of vehicles and support the Council's strategic objective of 'green issues', a second authorised testing facility in the Royston area would further promote that objective.
- 3.6 The reason why the North Hertfordshire Homes testing facility is used is that prior to the transfer of the Council's housing stock to North Hertfordshire Homes, the testing of hackney carriage and private hire vehicles was undertaken by the Council's own in-house garage at Blackhorse Road which also tested and serviced the Council's fleet of service vehicles.
- 3.7 On the transfer of the Council's housing stock to North Hertfordshire Homes, the garage at Blackhorse Road was also transferred. A Service Level Agreement was agreed between the Council and North Hertfordshire Homes for the garage to continue to maintain the Council's service vehicles and continue testing hackney carriage and private hire vehicles.
- 3.8 In addition to the formal Service Level Agreement, the Council have obtained an additional informal agreement that North Hertfordshire Homes will not undertake any maintenance or repairs on hackney carriage or private hire vehicles in order to ensure impartiality during the testing process.
- 3.9 In recent years there has been pressure from the Royston hackney carriage and private hire operators for an additional testing facility in the north of the District. The argument had largely been based on the lost trading time and the additional cost of travelling from Royston to Letchworth Garden City, however, the introduction of the new Hackney Carriage and Private Hire Licensing Policy from 1st January 2011 further supplemented their case with the addition of the Council's strategic objective of 'green issues' highlighting the environmental impact.
- 3.10 Whilst there has been pressure from businesses in Royston for an additional testing facility, there has been no such pressure from businesses operating from Hitchin or Knebworth.
- 3.11 Following the representations made by the businesses in Royston at the Licensing and Appeals Committee meeting on 23rd November 2010, the Committee resolved:

"That officers be requested to investigate the possible addition of an authorised MOT station in the Royston Area, in addition to the current authorised MOT station in Letchworth Garden City"

4. APPROACH TO THE VIABILITY ASSESSMENT

- 4.1 Given the legal complexity of this issue, coupled with the potential commercial impact on North Hertfordshire Homes, officers had to approach this issue carefully.
- 4.2 The Licensing Project Officer was tasked with undertaking the initial assessment which involved:
 - (i) visiting the hackney carriage and private hire companies in Royston;

- (ii) visiting the North Hertfordshire Homes testing facility;
 - (iii) undertaking research into the testing facilities offered by our neighbouring authorities; and
 - (iv) establishing whether any garage in the Royston area would be interested in providing a testing facility
- 4.3 The Licensing and Enforcement Manager liaised with Legal Services to investigate the potential implications of ending the current Service Level Agreement if required and the issues involved with increasing the testing facilities offered, for example, would a formal tendering process be required and should the process be opened to all garages within North Hertfordshire.
- 4.4 It was clear from an early stage that the initial viability assessment would identify a number of issues involved with increasing the number of testing facilities, many of which would require detailed investigation and costing, including discussion with North Hertfordshire Homes about the potential impact on their business.
- 4.5 Officers decided, in consultation with the Portfolio Holder for Housing and Environmental Health, that prior to the undertaking of detailed negotiations, assessments and costings, a report should be made to the Licensing and Appeals Committee outlining the issues.

5. ISSUES

Current service provided by North Hertfordshire Homes

- 5.1 The quality of the testing facility offered by North Hertfordshire Homes has always been of a high standard and was further confirmed during a visit by the Licensing Policy Officer who witnessed some actual testing.
- 5.2 North Hertfordshire Homes have three mechanics that currently undertake testing on behalf of the Council. Two have undertaken this work for a number of years and the third has been trained in-house to provide the same level of service. This has resulted in a highly professional and consistent interpretation of the subjective requirements of an Engineer's Report.
- 5.3 In order to assist the Council in ensuring that all licensed vehicles are roadworthy and members of the public are not put at risk, North Hertfordshire Homes have agreed to retain the licence plate of any vehicle that fails its testing requirements. Without a licence plate on the vehicle, the public are less likely to use an unlicensed vehicle that does not meet the Council's testing requirements.
- 5.4 Additionally, a copy of the Engineer's Report for every test is sent electronically to the Council so that it is aware of any vehicles that should not be operating. The report records the mileage of the vehicle at the time of the test which enables the Council to compare mileage readings between the original failed test and the subsequent re-test which assists in ensuring that the vehicle is not used until it meets the testing requirements.
- 5.5 The clear view of the two main hackney carriage and private hire providers in Royston is that North Hertfordshire Homes, whilst providing a quality testing facility, are not as flexible as a normal commercial garage as they offer limited appointments and are not open at weekends. It may be the case, however, that if part of the existing business was lost to an alternative testing facility,

North Hertfordshire Homes may reduce the number of appointments for licensed vehicles to enable them to pursue other commercial activity.

- 5.6 The two main hackney carriage and private hire providers in Royston also feel that the pricing monopoly afforded to North Hertfordshire Homes prevents a more competitive price from being negotiated.

Potential advantages to the trade of an additional testing facility

- 5.7 There is a perception held by the two main hackney carriage and private hire operators in Royston that the Council is not receptive to the operating needs of taxi businesses in the north of the District. An additional testing facility may assist in changing that perception, providing of course that it is made for the right reasons.
- 5.8 It is the view of the trade that the time lost whilst a vehicle and driver from Royston is unavailable for hire due to the travelling involved in the testing requirements is disproportionate compared to other businesses closer to Letchworth Garden City. It is estimated by the Royston operators that a vehicle travelling from Royston to North Hertfordshire Homes, undergoing a test and then returning to Royston could be unavailable for hire for an average two hours (longer if there are delays at the testing facility).
- 5.9 Since the removal of the hackney carriage zones from 1st January 2011, vehicles from Royston could (if they wished) operate from the hackney carriage ranks within Letchworth Garden City rather than return to Royston after testing. This would have to be considered by the Royston operators, however, against the remaining vehicle availability in Royston to meet the Royston demands for hackney carriages. Private hire vehicles, however, could be sent anywhere in the District and are not dependant on ranks for obtaining work.
- 5.10 The smaller operators based in Knebworth face a similar travel distance to that experienced by the Royston operators, however, they remain content to travel to the existing testing facility.

Consistency of interpretation associated with a subjective test

- 5.11 As can be seen from the current Engineer's Report attached at Appendix A, much of this testing is subjective based on an interpretation of Council Policy. There is considerable concern amongst officers that the introduction of an additional testing faculty could lead to inconsistency. It would be counter-productive to have two testing facilities where a vehicle could potentially fail at one facility whilst pass at the other.
- 5.12 The advantage of the current testing facility is that officers can regularly visit to monitor standards which, coupled with the commitment of the North Hertfordshire Homes engineers, has led to a consistent standard of interpretation. In the rare case of uncertainty, engineers can initially discuss the concern between themselves to reach a consensus, with the fallback position of the vehicle attending the Council offices for an officer's view on cosmetic standards.
- 5.13 Whilst it is accepted that new engineers can be trained to meet the Council's requirements, this will be harder to implement in an additional testing facility without an existing trained engineer available in-house, and with a lesser throughput of vehicles.

- 5.14 Consistency of standards in the MOT is not a concern as all authorised garages work to, and are audited against, VOSA (the Vehicle and Operator Services Agency) determined standards.

Approach of neighbouring authorities

- 5.15 The Licensing Policy Officer contacted neighbouring authorities to establish the testing facilities offered in their Districts / Boroughs. A summary of these findings is listed below:

Stevenage Borough Council

MOT	-	Any VOSA approved garage at the garage's commercial charge
Engineer's Report	-	Council Depot £45.00

Luton Borough Council and Central Bedfordshire Council

MOT	-	Any VOSA approved garage at the garage's commercial charge
Engineer's Report	-	Council Depot (Luton or Bedford) £54.80

East Hertfordshire District Council

MOT and Engineer's Report	-	Combined testing at one of a number of authorised Council testing facilities £50.00
---------------------------	---	---

Welwyn Hatfield Council

MOT	-	Any VOSA approved garage at the garage's commercial charge
Engineer's Report	-	One of a number of Council authorised testing facilities £65.00

South Cambridgeshire District Council

MOT	-	Any VOSA approved garage at the garage's commercial charge
Engineer's Report	-	One of a number of Council authorised testing facilities £30.00

The fees charged by North Hertfordshire Homes in respect of licensed vehicle testing are set out in paragraph 5.22 below.

- 5.16 Of the neighbouring authorities contacted, no other authority stipulates that the MOT and Engineer's Report must be conducted at a single garage.
- 5.17 That said, allowing vehicles to obtain an MOT at any VOSA approved garage but restricting the Engineer's Report to a single Council facility (the most prevalent alternative offered by neighbouring authorities) would be of little benefit to the trade. Whilst obtaining an MOT would be open to commercial markets, the lost time travelling to a single testing facility for the Engineer's Report would remain.

Potential impact of terminating the existing Service Level Agreement

- 5.18 No formal approach has been made to North Hertfordshire Homes to discuss the possible termination or renegotiation of the current Service Level Agreement. Whilst there appears to be no immediate obstacle to its termination, officers do not know North Hertfordshire Homes' position in this respect. It is possible that North Hertfordshire Homes may seek to obtain

some compensation for terminating the agreement and/or challenge the Council's decision.

- 5.19 Alternatively, if the Service Level Agreement was to be terminated, North Hertfordshire Homes could take the view that they were not prepared to enter into a new agreement for a reduced service should an additional testing facility be introduced. This could potentially result in the additional testing facility being the only testing facility until, or if, a replacement testing facility could be found in the south of the District. In that scenario, all vehicles would then be travelling to Royston to undergo testing which would conflict with the environmental and 'lost time' argument for an additional testing facility.

Procurement process

- 5.20 If the decision is made to increase the number of testing facilities, advice will need to be taken on the appropriate procurement process. Consideration will have to be given whether the Council can simply choose to locate an additional testing facility in the Royston area or whether a tendering process will be needed to cover the provision of testing facilities across the District as a whole (see legal implications).

Potential cost implications to the trade associated with an additional testing facility

- 5.21 It is a requirement of the Council's Hackney Carriage and Private Hire Policy that any licensed vehicle involved in an accident has to be inspected by the Council's nominated testing facility to ensure that it remains compliant with the Policy. On occasions when the accident damage is only cosmetic, the garage often undertake that inspection without charge to the vehicle owner. If North Hertfordshire Homes lose some of the existing business to an alternative testing facility, they may introduce a separate charge for that service that will be incurred by the trade.
- 5.22 North Hertfordshire Homes currently charge the trade £56.00 for a combined MOT and Engineer's Report, with a re-test fee (often consisting of just the Engineer's Report) of £20.00. The recommended VOSA price for an MOT alone is £54.85 (although garages are free to charge as they feel appropriate), therefore, the combined testing fee of £56.00 appears to represent good value. If North Hertfordshire Homes were to lose part of their business to an additional testing facility, they may take the commercial decision to increase the combined testing fee which is borne directly by the trade.
- 5.23 North Hertfordshire Homes currently provide additional services over and above those required by the Service Level Agreement (see paragraphs 5.3 and 5.4). If North Hertfordshire Homes were to lose part of their business to an additional testing facility, they may take the commercial decision to charge for these additional services by increasing the testing fee, the cost of which is borne directly by the trade.
- 5.24 Whilst North Hertfordshire Homes do not currently charge the Council a fee for entering into a Service Level Agreement, it is possible that any renegotiation of the Service Level Agreement may involve a fee being levied for carrying out the service. If this was the case, the fee would be a reasonable charge for administering the service that the Council could recover through increased licence fees.

Potential additional testing facility in Royston

- 5.25 As part of his initial investigations, the Licensing Project Officer approached two garages within Royston to discuss the possibility of providing an additional testing facility.
- 5.26 One of the garages indicated an interest in providing a testing facility with charges similar to that levied by North Hertfordshire Homes. The garage acknowledged that it would have to forego the opportunity to undertake any maintenance or repairs on licensed vehicles that it tested, however, the provision of the additional services currently undertaken by North Hertfordshire Homes (see paragraphs 5.3 and 5.4) was not discussed.
- 5.27 The garage accepted that its staff would have to be trained by the Council to meet the high standards of testing required and that they would be subject to regular audit checks to ensure that the standard was maintained.
- 5.28 It is important to be aware that the discussions detailed in paragraphs 5.12 and 5.13 were informal discussions on the basis of a potential business opportunity. The negotiation of a Service Level Agreement may result in a different stance from the potential garage identified by the Licensing Policy Officer.

6. LEGAL IMPLICATIONS

- 6.1 The Council would need to investigate the procurement implications of any decision to increase the number of suppliers to provide the services. It is not clear whether the Council could procure such services in specific named locations. This may be deemed too restrictive and anti-competitive.
- 6.2 Procurements must comply with all relevant laws and the Council's Contract Procurement Rules. A fair procurement process, in terms of transparency and non discrimination, is usually a prerequisite to achieve this and any process which unduly discriminates between potential tenders could leave the Council open to challenge.
- 6.3 Under the Constitution, the terms of reference of the Licensing and Appeals Committee include consideration of all licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Strategic Director of Planning Housing and Enterprise.

7. FINANCIAL AND RISK IMPLICATIONS

- 7.1 It is estimated that the introduction of an additional testing facility would have a significant financial impact on the Council in terms of officer time involved with the further investigation into, procurement of and ongoing monitoring of the additional testing facility.
- 7.2 Legislation provides for the Council to recover its full reasonable costs involved in the administration of the licensing of hackney carriage and private hire vehicles, therefore, the additional costs could be recovered through increased licence fees and this would be an essential requirement with respect to the Council's constrained finances.
- 7.3 The introduction of an additional testing facility may have risk implications for the Council. As the Engineer's Report involves a high degree of subjectivity,

there is a risk that any new facility may not meet and/or maintain the current high standards provided by the existing testing facility and/or lead to some inconsistencies between each testing facility.

- 7.4 Not only would this risk an inconsistency of service provided to the hackney carriage and private hire trade, it could potentially put members of the public at risk if a lower benchmark was set by the new facility for obtaining the Engineer's Report.

8. HUMAN RESOURCE AND EQUALITY IMPLICATIONS

- 8.1 The introduction of an additional testing facility would involve considerable officer time in terms of further detailed investigations and costings, coupled with the time involved in the procurement process.
- 8.2 Once an additional facility had been introduced, officers would be required to undertake ongoing assessments to ensure that the new facility matched the consistently high standards required by the Council.
- 8.3 Any additional resource implications required as a result of the introduction of an additional testing facility would have to be absorbed by the existing officers.
- 8.4 The Council incorporates the statutory equalities duties which apply to all its activities into policies and services as appropriate, as set out in the Council's Corporate Equality Strategy. We also recognise that in our society, groups and individuals continue to be unfairly discriminated against and we acknowledge our responsibilities to actively promote good community relations, equality of opportunity and combat discrimination in all its forms.

9. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS

- 9.1 The Licensing Policy Officer met with the two main hackney carriage and private hire providers in Royston to explore their concerns.
- 9.2 The issue was raised at a meeting of the Hackney Carriage and Private Hire Trade Forum and, whilst there was general support for the views of the Royston companies, there was also a concern about the consistency of standards applied if a new testing facility was introduced.
- 9.3 The Portfolio Holder for Housing and Environmental Health has been updated on the progress of the viability assessment.

10. RECOMMENDATIONS

- 10.1 That the Licensing and Appeals Committee request officers to continue with the one existing testing facility provided by North Hertfordshire Homes at Blackhorse Road, Letchworth Garden City.

11. REASONS FOR RECOMMENDATIONS

- 11.1 Given the subjective nature of the Engineer's Report, it is felt that remaining with the one proven facility would be the most effective method of maintaining the current high consistency of service which assists in promoting two of the Council's hackney carriage and private hire licensing objectives of:

'The protection of the health and safety of the public'; and

'To provide and maintain a professional and respected hackney carriage and private hire trade, by continued monitoring and improvement of their required standards of service'

- 11.2 The current charges made by North Hertfordshire Homes in connection with licensed vehicle testing are competitive and do not place an undue burden on the trade.
- 11.3 The costs likely to be incurred by the Council in providing and monitoring an additional testing facility may be prohibitive. As legislation provides for the Council to recover its costs in administering this licensing function through licence fees, the increase in licence fee will potentially exceed the cost of travelling from Royston to Letchworth for testing. In addition, as the Council operates as one licensing area for the purpose of hackney carriage and private hire licensing, only one set of licence fees may be set, therefore, all applicants for a hackney carriage or private hire vehicle licence would be faced with an increase in licence fee even though they are unlikely to use the additional testing facility.
- 11.4 It is possible that there would be a net reduction in CO₂ emissions from licensed vehicles in connection with their periodic assessment should an additional testing facility be commissioned in Royston, however, this ought to be assessed having regard to total annual emissions from the hackney carriage and private hire fleet. If licensed vehicles are properly maintained they need only make one return trip to the North Hertfordshire Homes testing site in Letchworth until they reach five years of age from date of first registration; after that five years, six-monthly testing is required necessitating two return trips to Letchworth each year. Given that the average total hackney carriage use is typically in the region of 25,000 miles per year, the CO₂ reductions attributable to the development of an additional testing facility in Royston would be approximately 0.2% of total emissions for a vehicle tested six-monthly (approximately 0.1% of total emissions for a vehicle tested annually). This theoretical reduction is, therefore, not significant having regard to the costs as outlined above.
- 11.5 Likewise, there may be a marginal increase in hackney carriage and private hire utilisation rates as regards the Royston fleet if an additional testing facility is established in that town. A more local testing facility would reduce the opportunity cost associated with Royston based vehicles making the return trip to Letchworth for their annual/six-monthly test, however, given the time associated with this exercise is not likely to exceed three hours per test, the prospective efficiency increases are again likely to be minimal when viewed in the context of annual hackney carriage and private hire vehicle operational use. Additionally, the current fares set by North Hertfordshire District Council in respect of licensed vehicles are relatively generous. North Hertfordshire is currently joint 28th in the table of 363 fare setting Council's nationally (England, Scotland and Wales), with a tariff that is 15% above the national average. [Data supplied by the September 2012 edition of *Private Hire and Taxi Monthly*, the official newspaper of the National Private Hire Association] This would suggest, all things being equal, that the marginally higher costs for the Royston hackney carriage and private hire vehicle trade in respect of vehicle testing at Letchworth may be off-set by the Council's approach to maximum permitted fares.
- 11.6 The difficulty in structuring a procurement that could deliver the garages in specific named locations as outlined in section 6 of this report (Legal Implications).

12. ALTERNATIVE OPTIONS CONSIDERED

- 12.1 Officers considered the alternative option of commencing negotiations with the testing facility identified in Royston by the Licensing Project Officer to provide an additional testing facility. Having considered the issues listed in paragraphs 5.1 to 5.28 of this report, with particular reference to the reasons given in paragraphs 11.1 to 11.6 above, officers were unable to recommend this option.
- 12.2 Officers considered the alternative option of commencing a procurement process to provide an additional testing facility, open to any testing facility in Royston. Having considered the issues listed in paragraphs 5.1 to 5.28 of this report, with particular reference to the reasons given in paragraphs 11.1 to 11.6 above and the likelihood that the process may have to be extended to the whole of the District, officers were unable to recommend this option.

13. APPENDICES

- 13.1 Appendix A - Engineer's Report required by the Council as part of the testing process for all licensed vehicles.

14. CONTACT OFFICERS

- 14.1 Andy Godman
Head of Housing and Public Protection
01462 474293
- 14.2 Steve Cobb (Report Author)
Senior Licensing and Enforcement Officer
01462 474833
steven.cobb@north-herts.gov.uk
- 14.3 Giovanna Silverio
Licensing and Enforcement Manager
01462 474478
- 14.4 Nigel Bratchell
Licensing Policy Officer
01462 474393
- 14.5 Gavin Ramtohal
Solicitor - Legal Services
01462 474578
- 14.6 Liam Byott
Solicitor – Legal Services
01462 474319

15. BACKGROUND PAPERS

- 15.1 Hackney Carriage and Private Hire Licensing Policy 2011 – 2016.
- 15.2 Licensing and Appeals Committee meeting minutes 23rd November 2010.