
PURCHASE OF STAGECOACH IN DARLINGTON BY ARRIVA

**Responsible Cabinet Member - Councillor Nick Wallis, Highways and Transport Portfolio
Councillor Stephen Harker, Resource Management Portfolio**

Responsible Director - John Buxton, Director of Development and Environment

Purpose of Report

1. To brief members on the proposal by bus operator, Arriva North East, to purchase the business of Stagecoach in Darlington.

Information and Analysis

2. Arriva North East are currently seeking to purchase the local business of Stagecoach; encompassing the local bus services, vehicles, staff and depot of that operator. Under current legislation, they require the approval of the Office of Fair Trading (OFT) before the proposal can take effect.
3. If approved, Arriva North East would supply over 99% of bus passenger trips within, into and out of the Borough based on current usage patterns. Such a dominant position in the local bus market could be a cause for concern if Arriva subsequently chose to abuse its monopoly position. Members should be aware that the OFT may consider the local bus market to be that of County Durham where Arriva would not enjoy a monopoly position due to the presence of strong competitors which would weaken our opportunity to seek much desired improvements in local bus services. As part of its standard assessment process, the OFT sought comment on Arriva's proposal for ten working days ending 29 June 2007.
4. In recent years, both Arriva and Stagecoach have consistently been unable to justify commercial investment in new buses and have been unable to maintain a stable set of bus routes as costs increase. In part, their difficulties lie in their significant duplicated overheads of depots and local management. A single operator situation would improve the economics of local bus operation by minimising these overheads and this should result in much needed improvements as the business case improves. Such a situation should also result in less volatility in the commercial bus network, thus benefiting local people and also the Council (through less volatility in the need for supported bus services and, potentially, a reduced need as well). A single operator providing much of the commercial local bus network is not unusual in a town of Darlington's size and provides the potential to answer many of the issues raised by local people about bus services.

5. At the moment, the possible benefits and risks of the new situation to the Council are not financially quantifiable until Arriva indicate their long term plans for local bus services (expected in late 2007). However, I feel that the situation would be better than the continuation of the current one, with its increasing levels of service changes and reduction in commercial bus operation. In any event, I feel that this is a “windfall” opportunity to seek improvements, as discussed below, for the benefit of local people. These improvements cover matters such as operator behaviour, stability of services, frequencies, ticketing and vehicles.
6. In light of Arriva’s likely dominant market position, it is recommended that Members seek public assurances over the company’s future behaviour and commitment to improve local bus services. Arriva has offered to abide by a set of proposals (**Appendix 1**) should they purchase Stagecoach in Darlington. The proposals are not contractual and cannot be legally enforced by the Council – for this reason it is recommended that the proposals are published in public if approved. I understand that Arriva have also submitted these proposals to the OFT for their consideration. Given the very short consultation timescale, I have written to the OFT saying that I will recommend that the Council does not object, subject to a caveat over behaviour and commitment.
7. Many of the behaviours and commitments listed in the proposals cover many issues that have been raised by local people in the past, including in the preparation of the Second Local Transport Plan. These issues include service stability, frequency and vehicle quality, as well as customer care and multi-operator ticketing. The last is still important, since some bus services will continue to be provided by other operators and it is always possible that another bus company, including Stagecoach, will wish to provide local bus services in Darlington in the future (there is no “lock out” agreement proposed between Arriva and Stagecoach). The proposals also cover the timescale and design of the local bus network, giving the Council an early opportunity to influence what bus journeys are provided commercially and what are provided with financial support.
8. Given that the percentage of bus journeys that would be carried by Arriva in Darlington is so high, it is recommended that Members do not object to the OFT on the strict understanding that there is a genuine and long-term commitment by Arriva to the proposals set out in Appendix 1.
9. Negotiations over the future of Arriva’s leasehold interest in the Council owned Feethams Bus Depot are ongoing. It is hoped that the leasehold may be acquired by, or for, the Council shortly. Consolidating ownership would help to facilitate redevelopment in due course.

Outcome of Consultation

10. No specific consultation has been carried out regarding Arriva’s proposed purchase due to the short timescales. However, as noted above, many of the issues raised previously are covered by the proposed behaviours and commitments.

Legal Implications

11. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

12. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

13. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

14. For the purpose of the 'call-in' procedure this does represent an urgent matter, due to the short, externally imposed, deadline for comment by the Office of Fair Trading.

Key Decisions

15. The proposed purchase of Stagecoach in Darlington by Arriva North East is a key issue since it affects local bus services throughout the Borough.

Recommendation

16. It is recommended that:-
 - (a) Members do not object to the proposed purchase of Stagecoach in Darlington by Arriva North East, subject to a genuine and long term commitment by Arriva to the proposals set out in Appendix 1 to this report.
 - (b) Officers are requested to negotiate with Arriva the acquisition of Arriva's leasehold interest in the Feethams bus depot and report back to Cabinet.

Reasons

17. The recommendations are supported by the following reasons:-
 - (a) to realise the benefits of commercially viable operation of local bus services in the Borough, subject to commitments designed to prevent abuse of a dominant market position;

(b) to facilitate re-development of the bus depot.

John Buxton
Director of Development and Environment

Background Papers

Letter from Arriva, 25 June 2007

Letter from John Buxton, 28 June 2007

Simon Houldsworth : Extension 2701
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