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06 March 2017

To: All Councillors

As a Member or Substitute of the **Licensing and Appeals Sub - Committee**, please treat this as your summons to attend a meeting on **Tuesday 14 March 2017 at 10.15am in the Committee Room, Town Hall, Matlock DE4 3NN.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sandra Lamb', with a stylized, cursive flourish.

Sandra Lamb
Head of Democratic Services

AGENDA

1. APOLOGIES/SUBSTITUTES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. ELECTION OF A CHAIRMAN

Proposal that a Member of the Committee be elected Chairman.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

4. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press in order to consider its decision in private in accordance with the hearing procedure.

5. TAXI / PRIVATE HIRE VEHICLE DRIVER LICENSING

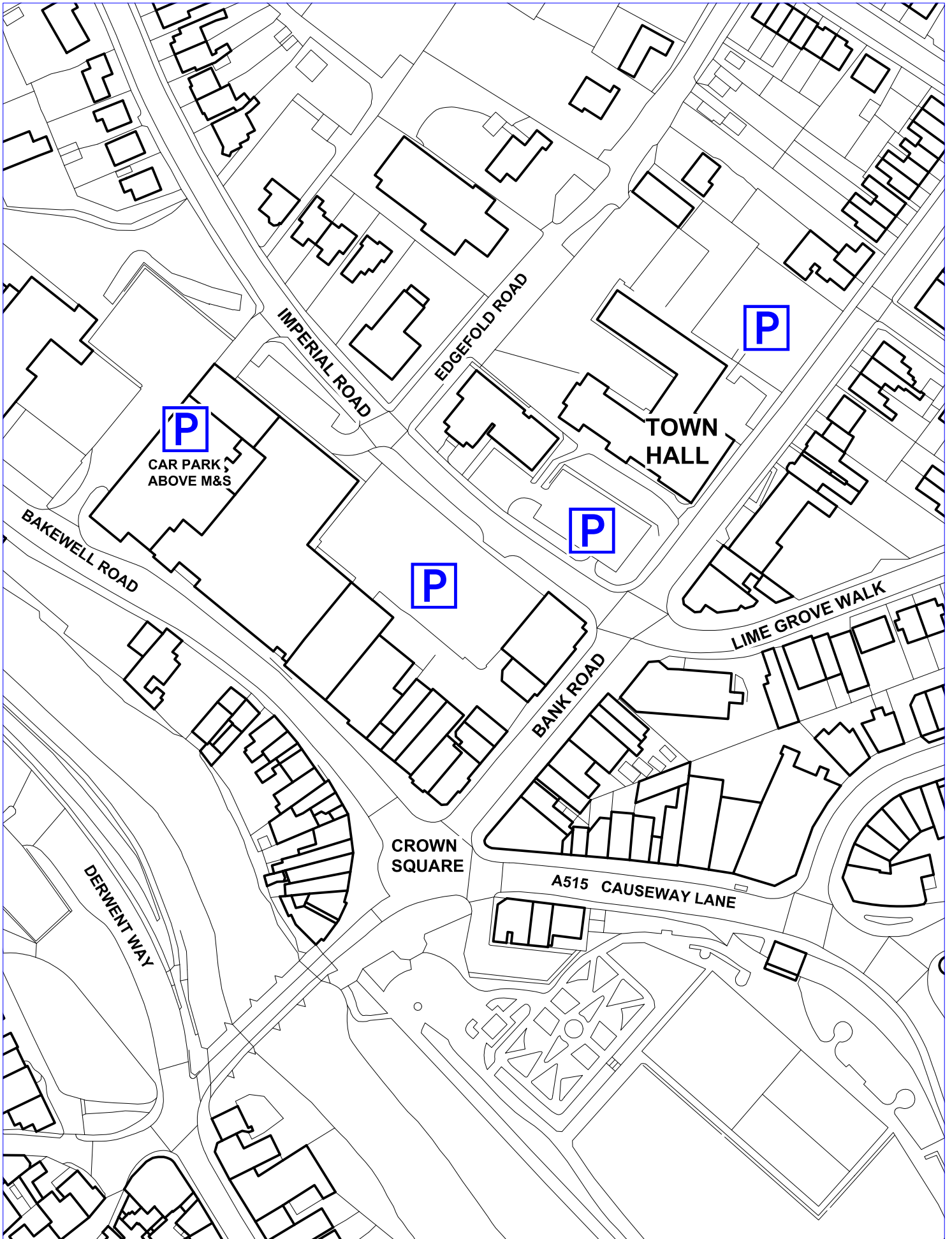
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To determine whether Applicant B is a fit and proper person to hold a Licence to drive a Hackney Carriage/Private Hire Vehicle in Derbyshire Dales.

Members of the Committee Nominated to hear this Appeal:

Councillors: Stephen Flitter, Helen Froggatt and Jean Monks.

Substitute: Councillor Joyce Pawley



LICENSING AND APPEALS COMMITTEE

14 MARCH 2017

Report of the Head of Regulatory Services

TAXI/PRIVATE HIRE VEHICLE DRIVER LICENSING

PURPOSE OF THE REPORT

The Council's Taxi Licensing Policy requires all new applicants for a combined Hackney Carriage/Private Hire Driver's Licence to undertake and pass a written Knowledge Test before a Driver's Licence can be granted.

There is nothing to prevent the applicant from continuing with the second stage of the application process, while they are in the process of sitting/passing the Knowledge Test. The second stage requires him/her to submit a completed application form, a satisfactory medical report an enhanced criminal record check (from Disclosure and Barring Service), and a DVLA driving record report.

This report informs the Committee of a case where a person has failed 3 Knowledge Tests.

The legal issue to be determined by the Committee is whether the applicant is a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle, on the basis of the failed tests.

RECOMMENDATION

That the Committee determine whether **Applicant B** is a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the core values and key aims set out in the Council's Corporate Plan, in particular, the priority that focuses on delivering safer communities, thereby protecting the safety of residents and visitors.

1 THE KNOWLEDGE TEST

1.1 Background

The Council's Taxi Licensing Policy requires new applicants for a Hackney Carriage/Private Hire Driver's Licence to undertake and pass a written Taxi Licensing Knowledge Test before a licence to drive a hackney carriage (taxi) or a private hire vehicle will be granted. This is part of the overall process in which the Applicant must satisfy the Council that he/she is a suitable person to hold such a licence.

1.2 Currently, the Council allows a candidate to sit a different test on 3 occasions. This is to give them every chance of passing the test provided that they have studied sufficiently.

1.3 The written test is split into three sections and consists of the following:

Highway Code: In section one of the test, an applicant is required to answer questions on driving laws, skills, road information and etiquette as set out in the Highway Code and required as part of obtaining a DVLA Driving Licence.

Applicants are expected to answer at least 8 of the 10 questions in this section correctly.

Local Geography: In section two of the test, an applicant's knowledge of the Derbyshire Dales District Council's area is tested, by requiring him/her to identify streets and names of given premises/locations/points of interest.

There are 20 locations to identify and applicants are expected to get at least 16 correct.

The Hackney Carriage and Private Hire Vehicle Licensing Law and Council Rules and Policy: In section three of the test, an applicant is tested on his/her knowledge and understanding of the law in respect of Hackney Carriage (Taxi) and Private Hire Licensing, and of the District Council's Taxi Licensing Policy.

Applicants are expected to answer at least 8 of the 10 questions in this section correctly.

Applicants are required to pass all 3 sections of the same test.

1.4 The Applicant

Applicant B sat the Knowledge Test for the first time on 24 January 2017, but did not pass all three sections of the test. Further tests were undertaken on 7 February and a 21 February. A pass was not achieved not pass all 3 sections in any one test. His tests results are shown in the following tables:

24 January 2017	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
	6/10	16/20	8½/10	28½/40
Did not achieve 80% in each of the 3 sections - Re-sit Required.				

7 February 2017	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
	8½/10	14/20	9/10	31½/40
Did not achieve 80% in each of the 3 sections - Re-sit Required.				

21 February 2017	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
	7/10	18½/20	7½/10	33/40
Did not achieve 80% in each of the 3 sections – Referral to Committee.				

1.5 The Committee has powers to grant an exemption of any requirement of the Taxi Licensing Policy, for good reason. Each request for an exemption must be considered on a case-by-case basis.

1.6 Fit and Proper 'Test'

There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

“Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

1.7 If the answer to this question (or a similar test) is an unqualified ‘Yes’, then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle driver’s licence.

1.8 Duration of a Combined Hackney Carriage/Private Hire Vehicle Driver’s Badge

Since 1st October 2015 the District Council has been required to grant a combined Hackney Carriage/Private Hire Driver’s Licence for a three-year period.

1.9 The legislative change did provide that in particular circumstances (on a case-by-case basis) a driver’s licence can be issued for a lesser time period if the District Council thinks it appropriate.

2 OPTIONS

2.1 Members have the following options:

1. To decide that Applicant B is a fit and proper person to hold a Hackney Carriage/Private Hire driver’s licence without the need to sit any more knowledge tests.
2. To allow the applicant to sit a fourth test, or a part(s) of a fourth test within a given timescale.
3. To refuse the application on the basis of the failed tests that the applicant is not a fit and proper person to hold a Hackney Carriage/Private Hire driver’s licence

- 2.2 Members are reminded that the applicant has the right of appeal to the Magistrates' Court, on refusal. Members are reminded that the applicant has the right of appeal to the Magistrates' Court, on refusal to grant a licence.

3 PROCEDURE

The procedure for the Committee is set out in **Appendix 1**.

4 RISK ASSESSMENT

4.1 Legal

The Committee must exercise their discretion reasonably.

Section 52 of the Local Government (Miscellaneous Provisions) Act 1976 states that any person aggrieved by:

- I. The refusal of the District Council to grant a licence under Section 51 of the Act, or
- II. Any conditions attached to the grant of a driver's licence may appeal to a Magistrates Court.

Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

4.2 Financial

There are no financial risks arising from this report.

4.3 Corporate Risk

These decisions are one of the functions in which the Council acts in a quasi-judicial function. It is important that these decisions are robust to protect the reputation the Council has for sound decision making that stands up to scrutiny.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

For further information contact:

Eileen Tierney, Licensing Manager

Tel: 01629 761374

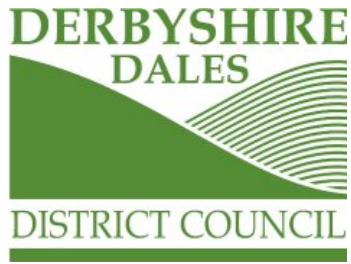
Email: eileen.tierney@derbyshiredales.gov.uk

7 BACKGROUND PAPERS

None.

8 ATTACHMENTS

Appendix 1 – Committee Hearings Procedure



LICENSING AND APPEALS COMMITTEE PROCEDURE (Taxi Licensing)

1. Introduction by the Chair explaining that the process is not an adversarial one and all comments should be directed through the Chair
2. Report of the Licensing Officer
3. Any questions for the Licensing Officer from Councillors
4. Any questions for the Licensing Officer from the Applicant/Licence Holder (or representative)
5. Statement from Licence Holder/Applicant (or representative)
6. Any questions from Councillors
7. Any questions from the Licensing Officer
8. Summing up by the Licensing Officer
9. Summing up by the Applicant/Licence Holder (or representative)
10. Clarifications required by any party.
11. Councillors retire in order to consider whether the Licensee is/remains a fit and proper person to hold the relevant Licence, whether or not to impose a sanction and if so what it should be.
12. The Chairman will announce the Committee's decision.