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## LICENSING AND APPEALS COMMITTEE

**Minutes of a Meeting held on Wednesday 8 March 2017 in the Council Chamber, Town Hall, Matlock at 6.00pm**

### PRESENT

Councillor Angus Jenkins - In the Chair

Councillors Graham Elliott, Steve Flitter, Tony Millward BEM and John Tibenham.

Tim Braund (Head of Regulatory Services), Eileen Tierney (Licensing Manager), Gina Slack (Licensing Assistant) and Jackie Cullen (Committee Assistant).

3 members of the public.

### APOLOGIES

Apologies for absence were received from Councillors Richard FitzHerbert, Jean Monks and Joyce Pawley.

### 390/16 – PUBLIC PARTICIPATION

In accordance with the procedure for public participation, Mr Chris Colder (Arden Executive Travel Ltd) made a statement on the application regarding Item 5 on the Agenda - APPLICATION FROM ARDEN EXECUTIVE TRAVEL LTD, RODSLEY: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES. Mr Colder outlined the new business proposition of a discreet and bespoke premium level transport service.

Mr James John Riley (MD, Travonyx Ltd) made a statement on the application regarding Item 6 on the Agenda - APPLICATION FROM TRAVONYX LIMITED, BAKEWELL: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES. Mr Riley advised that he had recently passed the Council's Knowledge test and was initially proposing to use a high specification Mercedes for his executive travel company.

### 391/16 – MINUTES

It was moved by Councillor Tony Millward BEM, seconded by Councillor John Tibenham, and

**RESOLVED** That the Minutes of the meeting of the Licensing and Appeals  
(unanimously) Committee meeting held on 24 October 2016 be approved as a correct record.

The Minutes were signed by the Chairman.

**392/16 – APPLICATION FROM ARDEN EXECUTIVE TRAVEL LTD RODSLEY: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES**

The Committee considered a report on an application for an exemption from the District Council's Taxi Licensing Policy requirements, in respect of displaying the Council's door signage and licence plates on a vehicle which the private hire operator wished to use for executive/business travel, corporate functions, weddings etc. and not as a traditional private hire vehicle.

Section 29 of the Council's Policy provided that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

An application had been received from Ms Andrea Field, Director and Joint Owner of Arden Exclusive Travel Limited, based in Rodsley, near Ashbourne, whose aims were to provide an executive style travel business, using vehicles of a high standard. The Company was not seeking to carry out regular private hire work and the marketing for the operation was designed for those looking for a premium service for airport transfers, corporate travel, and door-to-door service for special occasions to include sporting events, theatre trips, etc. Ms Field's written request, together with supporting extracts from the Company website, was attached as Appendix 1 to the report. A link to the Company website was provided in the report.

To operate this type of business it was still necessary for the vehicle to be licensed by the Council as a private hire vehicle. All vehicles licensed as such were expected to comply with the Council's vehicle specification and licensing conditions outlined in the current Taxi Licensing Policy. The current Policy regarding signage and licence plates was set out in the report.

Applications requesting any deviation from the Council's Policy were considered on a case-by-case basis. There had been several similar requests since the introduction of the current Policy in 2009; however only 3 of these private hire vehicles were still licensed to operate without the signage and plates visible. The proprietors of these businesses were required to carry the licence plates in the boot of the vehicle and to provide evidence of bookings to the Licensing Manager, usually annually, to ensure that the exemption was still applicable.

It was moved by Councillor Steve Flitter, seconded by Councillor Tony Millward BEM and

- RESOLVED** 1) That the Committee considered an application from Andrea Field  
(unanimously) of Arden Exclusive Travel Ltd, based in Rodsley near Ashbourne, for an exemption from the Policy requirements to display the Council's door signage and licence plates on vehicle registration number FP16 XWY, currently licensed as private hire vehicle plate number 103.
- 2) That as the Committee is satisfied that the underlying public

safety principles promoted in the Policy will not be undermined by the proposal, the application is approved.

- 3) That in the event that this private hire vehicle has to be replaced during the licensed period, a new licence is granted with the same exemption, provided that the replacement vehicle meets the Council's specification for an executive-style private hire vehicle.

### **393/16 – APPLICATION FROM TRAVONYX LIMITED, BAKEWELL: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES**

The Committee considered an application for an exemption from the District Council's Taxi Licensing Policy requirements, in respect of displaying the Council's door signage and licence plates on a vehicle which a prospective private hire operator wished to use for a chauffeur-style, executive and corporate travel business, and not as a traditional private hire vehicle.

Section 29 of the Council's Policy provided that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

An application had been received from James John Riley, Managing Director of his newly established travel business, Travonyx Limited, (Executive Travel Solutions) based in Bakewell. Mr Riley aimed to provide an executive style travel business, using elite standard vehicles, and chauffeur uniformed drivers. He was not seeking to carry out regular private hire work, but was proposing to provide a premium airport transfer, corporate travel, and door-to-door service for special occasions. Mr Riley had provided information to support the application, attached as Appendix 1 to the report.

To operate this type of business it was still necessary for the vehicle to be licensed by the Council as a private hire vehicle. All vehicles licensed as such were expected to comply with the Council's vehicle specification and licensing conditions outlined in the current Taxi Licensing Policy. The current Policy regarding signage and licence plates was set out in the report.

Applications requesting any deviation from the Council's Policy were considered on a case-by-case basis. There had been several similar requests since the introduction of the current Policy in 2009; however only 3 of these private hire vehicles were still licensed to operate without the signage and plates visible. The proprietors of these businesses were required to carry the licence plates in the boot of the vehicle and to provide evidence of bookings to the Licensing Manager, usually annually, to ensure that the exemption was still applicable.

It was moved by Councillor Tony Millward BEM, seconded by Councillor Graham Elliott and

**RESOLVED**  
(unanimously)

- 1) That the Committee considered the application from James John Riley, Managing Director of Travonyx Limited based in Bakewell, for an exemption from the Policy requirements to display the Council's door signage and licence plates on vehicle registration number LP61 OHS, if an application is made to

licence the vehicle as a private hire vehicle.

- 2) That as the Committee is satisfied that the underlying public safety principles the Taxi Licensing Policy was introduced to promote will not be undermined by approving the application, the Licensing Manager is authorised to grant the private hire vehicle licence with the exemption, subject to a formal vehicle licence application being received from Mr Riley, and a satisfactory vehicle inspection report being received from the Council's Testing Station.
- 3) That once a private hire vehicle licence has been granted, in the event that the vehicle has to be replaced during the licensed period, a new licence is granted with the same exemption provided that the replacement vehicle meets the Council's specification for an executive-style private hire vehicle.

### **394/16 - EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT - VEHICLE MAXIMUM AGE POLICY**

The Committee considered an application for an exemption from the District Council's Taxi Licensing Policy requirements, in respect of the Council's 10 year age limit for vehicles to be licensed as hackney carriages (taxis) or private hire vehicles.

A request had been received from Karen McCartin, the proprietor of Dovelin Cars based in Doveridge, for an exemption of this requirement so that she could continue to operate private hire vehicle, plate number PH76 for a further 12 months after it reached 10 years of age. A copy of the application was attached as Appendix 1 to the report.

Section 29 of the Council's Policy provided that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

The Committee was reminded that the Council's current Taxi Licensing Policy states that the Council will grant a licence for a hackney carriage or private hire vehicle provided that it is less than 10 years old.

Miss McCartin's private hire vehicle was licensed to carry 6 passengers and in her submission, Miss McCartin indicated the high quality luxury standard of the vehicle and how it had been kept in very good condition during the last 3 years while it had been a licensed private hire vehicle. The vehicle would be 10 years old on 28 March 2017.

The Department of Transport's Taxi and Private Hire Vehicle Licensing Best Practice Guidance suggested that it was perfectly possible for an older vehicle to be in good condition but a greater frequency of testing may be appropriate. The Council's current policy was to test a vehicle on grant of the first licence and at the 12-month renewal. During each licensed period, a 6-monthly test was also a requirement.

It was noted that a further 6 licensed vehicles would be 10 years old during the course of their vehicle licence, this calendar year, and the vehicle licences would be granted for the full 12 months. As Miss McCartin's vehicle was 10 years old 5 days before the vehicle licence was due for renewal it would fall outside the scope of this procedure.

It was suggested that the Committee could choose to depart from the current Policy if it considered that the private hire vehicle in question should be licensed for a further 12 months, until a revised Policy has been formally adopted.

In this particular case, the options open to the Committee were as follows:

1. To grant an exemption from the Policy requirement, and to allow the vehicle to be licensed for the full 12-month period to expire on 2 April 2018.
2. To grant an exemption from the Policy requirement, and to allow the vehicle to be licensed for the full 12-month period to expire on 2 April 2018, but to require an additional inspection during the 12 month period (e.g. two 4-monthly inspections instead of one 6-monthly test), for which there would be a fee of £63 for the additional test).
3. To refuse to renew the licence, letting it expire on 2 April 2017.

It was moved by Councillor Steve Flitter, seconded by Councillor Tony Millward BEM and

**RESOLVED**  
(unanimously)

1. That the Committee approves the exemption to the Council's maximum age limit for Private Hire Vehicle, Plate Number PH76, Vehicle Registration Number RE07 SVN, so it can continue to be licensed from 3 April 2017 until 2 April 2018, subject to a satisfactory inspection report from the District Council's testing station on renewal.
2. That if the exemption is approved, this is subject to the vehicle having 2 further inspections: one after 4 months and the other after 8 months, with an additional fee of £63 being payable for the second test.

### **395/16 – REVIEW OF STREET TRADING LICENSING POLICY AND GUIDANCE**

The Committee considered a report that proposed minor revisions to the District Council's Street Trading Licensing Policy and Guidance document, first introduced in April 2014.

Although the legislation did not require a Policy to be formally adopted, the publication of a simple document outlining the requirements of the legislation and offering clear guidance to anyone wanting to trade on how the District Council would deal with applications and enforcement issues was considered good practice.

Members were advised that changes were proposed to the current policy and guidance document, to bring it in line with the Council's emerging Events Strategy in respect of what constitutes a community event, the consultation methodology and the application form detail. It was noted that as the Events Strategy had been developed it had become clear that the District Council's initial attempts at defining events of community benefit required refining. It was proposed that section 4 of the Street Trading Policy and Guidance was amended to bring the definition of community and commercial events into line with the overall Events Strategy to be considered at the Community and Environment Committee on 16 March 2017. The Draft Revised Policy and Guidance Document was attached as Appendix 1 to the report.

In it, Section 6 of the current Street Trading Policy had been revised to make it clear that the list of consultees was advisory and that only those that were relevant needed be consulted in respect of any particular application. There were also cases where some consultees may be a consultee in respect of a road closure application, or a temporary event notice, and this duplication could be avoided or minimised.

Changes had also been proposed to the application form and the proposed new form was shown at Appendix C to the revised Policy and Guidance document.

Administrative changes had been made to Appendix D of the Policy and Guidance document to reflect the proposed changes in respect of commercial and community events. It was still proposed that applications for community events would be processed free of charge. In future, fees would be reviewed annually by the Governance and Resources Committee, in line with all other fees and charges.

It was moved by Councillor Steve Flitter, seconded by Councillor Graham Elliott and

**RESOLVED**  
(unanimously)

- 1) That the proposed revisions to the Street Trading Licensing Policy and Guidance document are approved with effect from 1<sup>st</sup> April 2017.
- 2) That the approved Policy document is made available on the District Council's website.

### **396/16 – SECOND PHASE OF LOCAL ALCOHOL ACTION AREAS (LAAA) - PROJECT TO TACKLE ALCOHOL-RELATED CRIME AND HEALTH HARMS**

The Committee considered a report that informed Members that on 27 January 2017 the Home Office launched the second phase of its Local Alcohol Action Areas (LAAA) project. The aim of the programme was to tackle alcohol-related crime and health harms through closer partnership working by statutory agencies and businesses, with the aim of creating a more diverse late night-time economy.

Phase I of the LAAA programme had initially been launched in February 2014, with 20 areas across the Country taking part. The announcement in January this year revealed that 33 new areas were to take part in phase 2, including Derbyshire.

Derbyshire County Council's Safer Derbyshire team would be co-ordinating Derbyshire partners' involvement in the project, as the Strategy called for the police, local authority and health partners to work alongside local businesses and devise local solutions and strategies for preventing alcohol-related crime and health harms, with the following 3 core aims:

- preventing alcohol-related crime and disorder;
- reducing alcohol-related health harms; and
- generating economic growth by creating a vibrant and diverse night time economy.

Phase 1 of the programme had been considered a success by the Home Office, for reasons outlined in the report. It had also identified three key points crucial to ensuring the success of local solutions:

- i. partnership working enabled areas to share resources, pool ideas, skills and assets to sustain activity. Collaboration was not limited to public sector partners. Improved working with private sector partners also enabled areas to achieve more;
- ii. senior level support gave initiatives greater priority, brought new partners on board and made resources available to support new initiatives; and
- iii. sharing and analysing better quality data provided local areas with a clearer picture of where and when problems existed and enabled them to deploy their resources more effectively.

The prospectus for Phase 2 applications made reference to some of the Phase 1 initiatives which were seen to be examples of best practice. Derbyshire's 'Intoxicated, No Sale' Campaign was one of these, which aimed to highlight awareness not to sell alcohol to drunks and not to make or allow underage sales of alcohol. The second phase of the project was scheduled to take place over the next 2 years, which would require local areas to apply the principles of 'tackle one or more of a core set of challenges focused on preventing crime and disorder in the night time economy' that included:

- i. How can local areas improve the collection, sharing and use of data between A&E Departments, local authorities and the police?
- ii. How can local authorities, the police and businesses ensure the safe movement of people in the night time economy?
- iii. How can local areas expand their use of safe spaces?
- iv. How can local authorities, the police and business work together to help prevent the sale of alcohol to drunks in both the off- and on-trades?
- v. How can local authorities, the police and business work together to help design out crime?

At least one of these must be addressed for an area to be allowed to take part. Areas were asked to identify local solutions to locally identified problems, put in place plans and strategies to tackle those problems and to monitor their effectiveness.

At the last meeting of the High Peak/Derbyshire Dales VAL (Violence, Alcohol and Licensing), Inspector Nick Gamblin, the County Partnerships Liaison Officer at Derbyshire County Council, reported that the Police & Crime Commissioner was supporting a County-wide roll out of the Intoxicated Campaign, which fit the criteria of core challenges ii and iv above. It was intended that the Derbyshire Project would be co-ordinated by Inspector Gamblin and would be delivered with partner agencies, with quarterly reports being submitted to Inspector Gamblin providing statistical information. It was noted that funding was not being made available for the project, however 4 support officers from the Home Office had been assigned to assist participating areas.

It was moved by Councillor Tony Millward BEM, seconded by Councillor Graham Elliott and

**RESOLVED** That the Committee approves the involvement of the District Council  
(unanimously) Licensing Team in Phase 2 of the Local Alcohol Action Areas project.

### **397/16 – LICENSING SERVICE REVIEW – PROGRESS REPORT**

The Committee considered a report on the progress of the Licensing Service Review, and specifically on discussions with other Derbyshire Licensing Authorities in relation to the potential for a shared service.

In April 2016 a report was presented to the Derbyshire Chief Executives' Group where it was agreed that all of the licensing authorities would participate in an information gathering exercise to look at similarities and differences between the authorities. To progress the project we produced a standardised spreadsheet and circulated it to all the authorities to obtain information about:

- the types and numbers of licence applications processed;
- staffing structures;
- service costs including supplies and services and support costs;
- licence application fees and associated fees;
- details of ICT software and hardware; and
- ways in which some support services such as legal, ICT, accountancy, taxi testing, etc were provided.

The information received was collated and distributed to Heads of Service and Licensing leads at each of the other authorities. In reply, comments were received from Derby City Council, who explained that they did not feel that they would have a role to play in any future shared service due to the difficulties of aligning policy priorities and political interest with other authorities.

A copy of the spreadsheet, along with a commentary, was also provided to the Derbyshire Chief Executives' Group. A copy of the commentary was attached as Appendix 1 to the report. In response, the Head of Regulatory Services and the Licensing Manager were asked to attend a Chief Executives' workshop on shared services to present their findings, on 19 January 2017, following which it seemed clear that progressing a shared licensing service was not a top priority at the current time. This was a conclusion that the Council's own Corporate Leadership Team had also drawn, with the project having been rated a medium priority for Derbyshire Dales District Council. In light of this outcome, Officers were now concentrating on the other issues identified by the review: in summary, to complete the modernisation of the service and to reduce the gap between expenditure and income wherever possible, as detailed in the report.

It was noted that in order to complete the migration of hard copy files, an additional, temporary post had been recruited into the Licensing Team for a period of 12 months, financed from savings in the Licensing salary budget and intended to act on the principle of 'invest to save.' Completing the data migration exercise would enable other members of the Licensing Team to work more efficiently and would lead to a future review of staffing in that area.

The Licensing Team was also involved in a major upgrade of the database system used by both Licensing and Environmental Health. The new system, 'Assure', was due to be installed in Test on 7<sup>th</sup> and 8<sup>th</sup> March 2017, and due to committing to a fairly aggressive implementation timetable free installation and consultancy services from Northgate were negotiated. Members would be kept informed about the progress of this project through updates to the Committee.

In terms of reducing the funding gap the information gathering spreadsheet identified that whilst the Council's licensing service made a small surplus in relation to Licensing Act and Gambling Act activities, it made a significant loss in relation to Taxi Licensing and Miscellaneous Licences. However, it was hoped that direct costs would be addressed by the future review of staffing mentioned in paragraph 1.8 of the report.

In addition, it was noted that the Council did have discretion in the level of fee it charged in relation to both taxis and most miscellaneous licences. In order to begin to address the funding gap, the Committee was informed that fees in these areas would be increased by 5% from 1 April 2017 and would be reviewed annually. Furthermore, new fees for first time applications for animal welfare licences would be introduced. Whilst the adoption of fees for pre-application advice was well established in the area of Planning it was less well accepted in Licensing, however, it was considered that the adoption of higher fees for first time applications would enable the Council to recover its costs in terms of the additional time that was required to assist new applicants through the process. Again, these fees would be reviewed again next year as part of the Fees and Charges process.

It was moved by Councillor Steve Flitter, seconded by Councillor Graham Elliott and

**RESOLVED**  
(unanimously)

1. That the Head of Regulatory Services and Licensing Manager continue with the implementation of the Assure software;
2. That the impact of the new fees and charges from 1 April 2017 is evaluated and reviewed as part of the annual Fees and Charges process.

### **398/16 – POLICING AND CRIME ACT 2009 (SECTION 27) LICENSING OF SEX ENTERTAINMENT VENUES**

The Committee considered a report on the provisions available to the Council for the regulation of sexual entertainment venues and that sought approval to conduct a public consultation to determine whether the Council should regulate these venues under the provisions of The Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009.

Premises which were licensed under the Licensing Act 2003 ("the 2003 Act") may be used to provide adult entertainment, such as lap dancing, if authorised by virtue of a premises licence, club premises certificate or a temporary event notice. However, in determining an application for a licence or a certificate, the licensing authority had restricted powers to curtail adult entertainment activities; it could only do so if the likely effect of that activity would undermine any, or all, of the 4 licensing objectives specified in the 2003 Act, as set out in the report. In fact, an application for a licence could not be refused unless any of the proposed licensable activities would seriously impact on the licensing objectives. If a licence were granted, the authorised activities could only be controlled by conditions being attached to the licence or certificate.

During a consultation exercise carried out in 2008, local authorities had expressed concern at these limited powers, and the Government announced its intention to introduce additional legislation to allow greater control over the number and location of lap dancing clubs and similar venues - these powers were introduced with the implementation of the Policing and Crime Act 2009, ("the 2009 Act"), which came into force on 6 April 2010.

Section 27 of the 2009 Act contained provisions which had reclassified lap dancing clubs and similar premises as sexual entertainment venues. It also amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, (“the 1982 Act”) relating to sex establishments, by providing local authorities with greater regulatory powers. However, these powers were not mandatory and would only apply if they were adopted by local authorities within one year of the 2009 Act coming into force (before 6th April 2011). Failing this, it was required to consult local people about whether such a resolution should be made.

Where adopted, the revised provisions of the 1982 Act would allow the Council to refuse an application for a licence on wider grounds than those permitted under the 2003 Act - for example, on grounds that the location was inappropriate for such an establishment because the premises were located in a predominantly residential area. The 1982 Act also provided that if the provisions were adopted the licensing authority could introduce its own standard licence conditions, thus providing greater controls, not available under the 2003 Act, whereby licence conditions could only be imposed if they would prevent the licensing objectives from being undermined.

Licence Application Fees could be set by the Council to enable full cost recovery, thereby ensuring that the cost was borne by the applicant and was not subsidised by the council tax payer. The Home Office produced Guidance for the Licensing of Sex Entertainment Venues - a copy of this was available on the Members’ Portal.

Although the District Council had already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution was necessary before the provisions introduced by Section 27 of the Police and Crime Act to regulate sex entertainment venues would apply in Derbyshire Dales. A report was considered by this Committee in December 2010 outlining the above requirements, but it was not possible to report the recommendation to adopt the revised provisions to the full Council before 6<sup>th</sup> April 2011. As the District Council did not make a resolution it must now consult local people about whether it should adopt these wider powers. If the Committee’s decision was to consult and the outcome of the consultation was to recommend that the Council adopted the provisions, then the Council should produce and consult on a sexual entertainment venue/sex establishment licensing policy. It was noted that currently there were no licensed sex establishments, or known sex entertainment venues, in the district.

It was moved by Councillor Tony Millward BEM, seconded by Councillor Graham Elliott and

**RESOLVED**  
(unanimously)

1. That the Committee approve a public consultation to determine whether the Council should make a resolution to regulate sexual entertainment venues under the provisions of The Local Government (Miscellaneous Provisions) Act 1982, as amended.
2. That the consultation should be conducted over a 12-week period and any responses be reported to a future meeting of this Committee.

**MEETING CLOSED 7.23PM**

**CHAIRMAN**