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12 April 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 **Monday 24 April 2017 at 10.30am in the Council Chamber, Town Hall, Matlock DE4 3NN.**

Yours sincerely

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

Sandra Lamb  
Head of Democratic Services

## **AGENDA**

### **1. APOLOGIES/SUBSTITUTES**

Please advise Democratic Services on 01629 761133 or e-mail [committee@derbyshiredales.gov.uk](mailto: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**

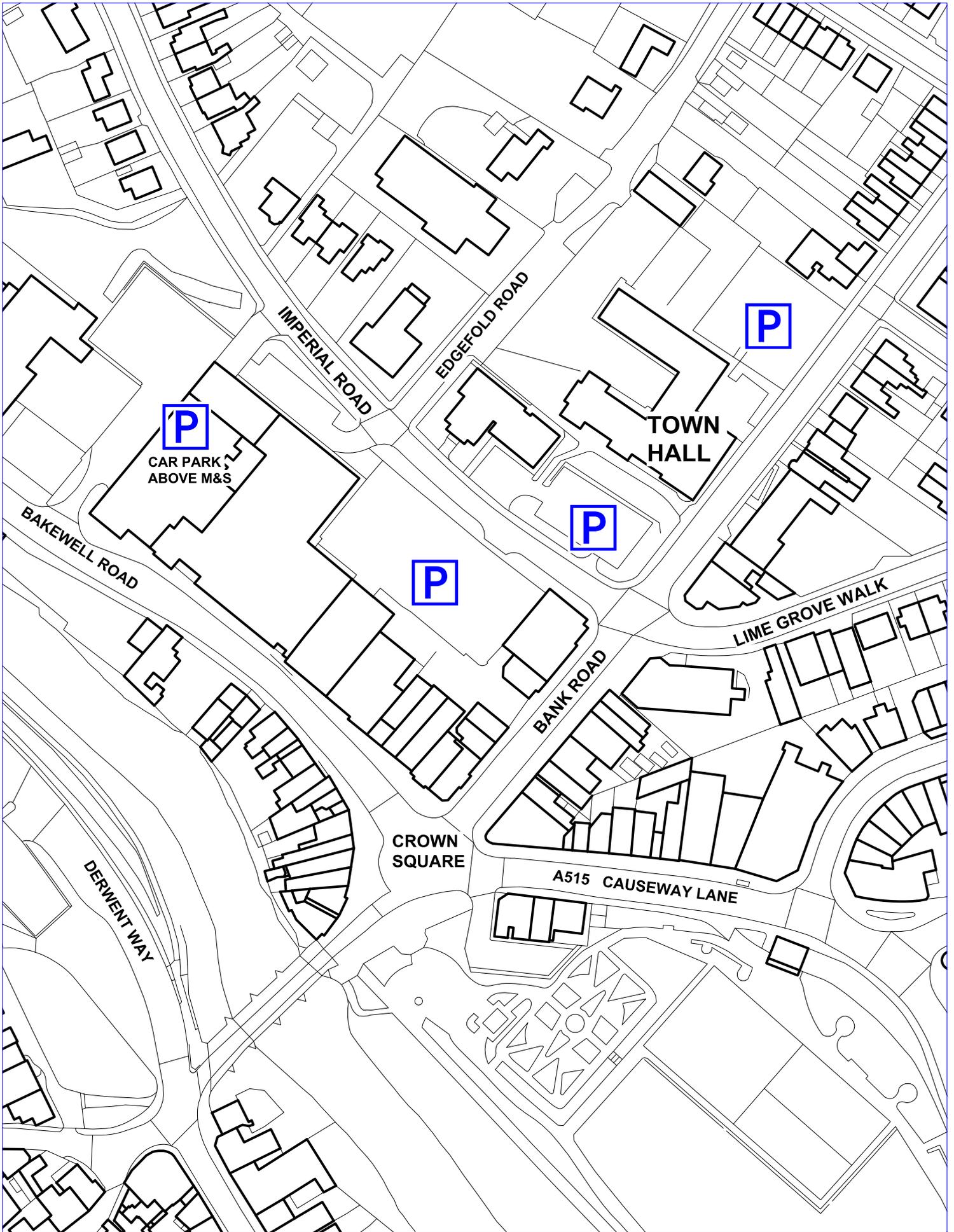
**4 - 7**

To determine whether Applicant A 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: Graham Elliott, Richard FitzHerbert and John Tibenham

Substitute: Councillor Helen Froggatt



LICENSING AND APPEALS COMMITTEE

24 APRIL 2017

Report of the Head of Regulatory Services

**TAXI/PRIVATE HIRE VEHICLE DRIVER LICENSING**

**PURPOSE OF THE REPORT**

This report informs the Committee of a situation where a driver's taxi licence was allowed to expire last year, and asks for an exemption from the District Council's Policy requirement to sit the Council's Knowledge Test to be considered, when **Applicant A** applies for a new taxi driver licence.

**Applicant A** was a licensed driver with the District Council from March 2008 until March 2016.

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.

**RECOMMENDATION**

That the Committee determines whether **Applicant A** is a fit and proper person to continue 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 District Council's Corporate Plan, in particular the vision of a safe Peak District.

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**1 BACKGROUND**

**1.1 The Driver**

**Applicant A** was a licensed taxi/private hire vehicle driver with the District Council from 17 March 2008 until 16 March 2016. In order for his licence to remain valid he needed to renew the licence before the expiry date.

1.2 At the beginning of February 2016, the Applicant started the renewal process by completing the application form and paying the application fee. He provided a satisfactory DVLA Check, but at the time he was not required to provide a Medical Certificate or a Criminal Disclosure Certificate (Enhanced), as these were only needed every 3 years and his were still current.

1.3 However, he did visit his doctor regarding a change in his health and was referred to a consultant. The consultant advised that he should not drive. As the applicant was not sure how long it would be before he could drive again, he surrendered his taxi driver's licence and his hackney carriage vehicle licence.

- 1.4 In March 2017, the Applicant contacted the Licensing Manager to confirm that his health has improved and he is now allowed to drive and is ready to re-apply for his taxi driver and hackney carriage vehicle licences. He will need to submit a satisfactory medical report as part of the application for a new driver's licence, which he is in the process of making. The medical results will be reported at the meeting.
- 1.5 It is the District Council's current Policy that all applicants for a new Taxi/PHV Driver Licence must first pass the Council's Knowledge Test in addition to providing satisfactory reports from the DVLA, the Disclosure & Barring Service, and a medical doctor.
- 1.6 In 2009, when the new Policy was introduced, all existing licence holders were granted 'grandfather rights' which meant that they did not have to sit the Council's Taxi Knowledge Test.
- 1.7 When applying for (or renewing) a combined Hackney Carriage/Private Hire Vehicle Driver's Licence, an applicant is asked to declare all convictions or cautions. **Applicant A** has declared that he does not have any convictions or cautions, including driving offences.
- 1.8 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.

1.9 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:

- 1.10 "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?"
- 1.11 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.

1.12 Duration of a Combined Hackney Carriage/Private Hire Vehicle Driver's Badge

The Committee will be aware that since 1<sup>st</sup> October 2015 the District Council has been required to grant a combined Hackney Carriage/Private Hire Driver's Licence for a three-year period.

- 1.13 The legislative change did provide that in particular circumstances (case-by-case basis) a driver's licence can be issued for a lesser time period if the District Council thinks it appropriate. This decision has not been delegated to officer level.

## 2 OPTIONS

Members have the following options:

1. To resolve that **Applicant A** is to be exempt from the Policy requirement to sit the District Council's Knowledge Test, as this was not required of him previously, as he was granted 'grandfather rights' in 2009 when the District Council's Policy first introduced the Knowledge Test.
2. To resolve that **Applicant A** continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, and that when a completed application for a new licence is received this should be granted for a period of 3 years, subject to satisfactory checks and exempting the requirement for the applicant to sit the Council's Knowledge Test.
3. To resolve that **Applicant A** cannot be considered a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, until the Council's Knowledge Test has been undertaken and the required Pass mark achieved.
4. To refuse an application for a new licence on the grounds that the applicant is not a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

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](mailto: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.