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14 January 2014

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 **Wednesday 22nd January 2014 at 10.30am in the Council Chamber, Town Hall, Bank Road, Matlock.**

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 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. SCRAP METAL DEALERS ACT 2013 - APPLICATION FOR A COLLECTOR'S LICENCE 4 - 8

To consider whether Dale Archer should be licensed to collect scrap metal in the District Council's area.

5. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press from the meeting for the remaining items of business for the reasons shown in italics. The

Chairman will adjourn the meeting briefly to enable members of the public to speak to Councillors.

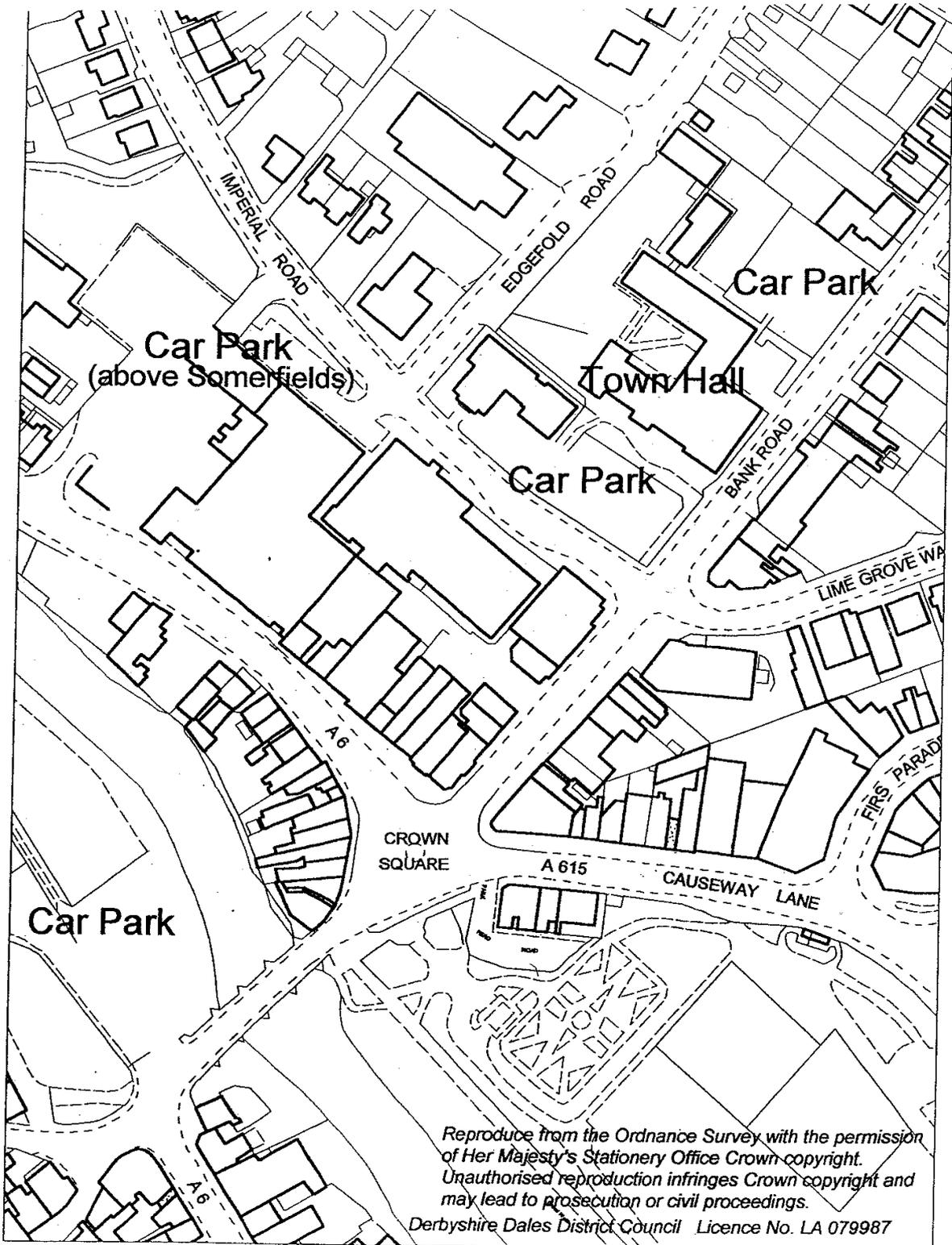
6. SCRAP METAL DEALERS ACT 2013 - APPLICATION FOR A COLLECTOR'S LICENCE **9 - 18**

To determine whether Dale Archer should be licensed to collect scrap metal in the District Council's area.

(The report contains information relating to an individual)

Members of the Committee Nominated to hear this Appeal:

Councillors Mrs Jean Monks, Tony Millward and Mike Ratcliffe. Councillor David Frederickson will be attending as substitute.



**LICENSING AND APPEALS COMMITTEE
22 JANUARY 2014**

Report of the Corporate Director

**SCRAP METAL DEALERS ACT 2013
APPLICATION FOR A COLLECTOR'S LICENCE**

SUMMARY

In accordance with the District Council's Licensing Policy Guidance, where an applicant for a scrap metal dealer's licence (site or collector's) discloses any relevant convictions, the matter shall be referred to a meeting of the Council's Licensing and Appeals Committee to be determined.

RECOMMENDATION

That the Committee determines whether Dale Archer should be granted a licence to collect Scrap Metal in the District Council's area.

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.

1 REPORT

1.1 Background

On 1st October 2013 the Scrap Metal Dealers Act 2013 came into force. The new legislation repeals the 1964 Scrap Metal Dealers Act, and Part 1 of the Vehicle (Crime) Act 2001 which dealt with motor salvage operators. It is now unlawful for any person to carry on a business as a scrap metal dealer, (including motor salvage), unless licensed under the provisions of the 2013 Act.

1.2 A person carries on a business of a scrap metal dealer if:

- a) He/she carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- b) He/she carries on a business as a motor salvage operator.

- 1.3 There are 2 types of licence available; a site licence and a collector's licence.
- a) Site Licence – a site is defined as any premises used in the course of carrying on a business as a scrap metal dealer, whether or not metal is stored there.
 - b) Collector's Licence – a collector's licence is needed if a person buys or sells any scrap metal collected; even if the items are provided free of charge by the owner, a licence is required by the collector to sell it on. A separate licence is needed for each Council area in which the person wishes to collect.
- 1.4 Mobile Collector's and site licence holders need to ensure they comply with relevant environmental legislation and regulations when carrying out their business.
- 1.5 Suitability of Applicant
- The District Council must not issue or renew a scrap metal licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.
- 1.6 Where the Council is satisfied that an applicant is suitable, a licence must be issued.
- 1.7 If the Council is minded to refuse an application, the applicant must be given a period in which to make representation. If representations are received then the application will be referred to the Council's Licensing and Appeals Committee to be determined.
- 1.8 If the application is refused, revoked or varied the applicant will be notified of the decision and provided with details of the procedure for appeal at the Magistrates' Court.
- 1.9 If granted both types of licences are renewable every 3 years.
- 1.10 Application for a Collector's Licence
- On 15 October 2013 an application for a scrap metal dealer collector's licence was received from Dale Archer.
- 1.11 As part of the application process, the applicant is required to obtain a basic criminal record certificate from Disclosure Scotland, to assist the Council in determining his/her suitability to hold a scrap metal dealer's licence.
- 1.12 Mr Archer's certificate dated 14 October 2013, disclosed a number of convictions between June 2003 and October 2010. As the disclosure certificate contains sensitive personal information relating to an individual, it will be treated as exempt information.
- 1.13 Mr Archer was informed by the Licensing and Administration Manager that the Council was minded to refuse his application and invited him to make representation within 14 days.
- 1.14 Mr Archer has submitted a letter of representation and 5 character witness statements in support of his application. As these contain personal information they will also be included in the Exempt Report next on this agenda.

1.15 Issues for Consideration

In determining whether the applicant is a suitable person, the authority may have regard to any information considered to be relevant, including in particular:

- (1) Whether the applicant has been convicted of any relevant offence.
- (2) Whether the applicant has been the subject of any relevant enforcement action.
- (3) Any previous refusal of an application for the issue or renewal of a Scrap Metal Licence, (and the reasons for the refusal).
- (4) Any previous refusal of an application for a relevant Environmental Permit or Registration, (and the reasons for the refusal).
- (5) Any previous revocation of a Scrap Metal (and the reasons for the revocation).
- (6) Whether the applicant has demonstrated that there will be in place, adequate procedures to ensure that the provisions of the 2013 Act are complied with.
- (7) The authority must have regard to any Guidance issued from time to time by the Secretary of State on determining suitability of applicants.

1.16 The Sub-Committee may:

- Grant the licence as applied for;
- Refuse the application;
- Grant the licence and include one or both of the conditions set out in section 3(8) of the Scrap Metal Dealers Act 2013.

2. **PROCEDURE**

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

3. **RISK ASSESSMENT**

3.1 Legal

The Committee must exercise their discretion reasonably.

Paragraph 9 of Schedule 1 to the Scrap Metal Dealers Act 2013 provides -

- (1) An applicant may appeal to a magistrates' court against the refusal of an application made under paragraph 2 or 3 of the Act.
- (2) A licensee may appeal to a magistrates' court against –
 - (a) the inclusion in a licence of a condition under section 3(8), or
 - (b) the revocation or variation of a licence under section 4.

Any appeal must be made to the Magistrates' Court within a period of 21 days of beginning with the day on which notice of the decision to refuse the application, to include the condition(s), or to revoke or vary the licence under section 4 was given.

3.2 Financial

A successful appeal against the decision could incur costs for the Authority.

4. OTHER CONSIDERATIONS

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

5. CONTACT INFORMATION

For further information contact:

Eileen Tierney, Licensing and Administration Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

6. BACKGROUND PAPERS

Description	Date	File
Application Form	15.10.2013	CMS/SMD/Lic
Home Office Guidance	Oct 2013	CMS/SMD

7. ATTACHMENTS

Appendix 1 – Hearings Procedure.

LICENSING AND APPEALS COMMITTEE PROCEDURE (Except Employment)

- (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) Questions for the Licensing Officer from the Committee.
- (4) Any questions for the Licensing Officer from the applicant
- (5) Statement from the applicant, including any witnesses.
- (8) Questions to the applicant or his/her witnesses by the Committee.
- (9) Questions to the applicant or his/her witnesses by the Licensing Officer
- (10) Any further questions by the Committee, its Clerk, the applicant or the Licensing Officer.
- (12) Summing up by the Licensing Officer.
- (13) Summing up by the applicant.
- (14) The Chair will ask all parties whether they need clarification of any points.
- (15) The Committee will withdraw to make its decision.
- (16) The Committee will deliberate in private, only recalling the Council's representative and the applicant or their representative to clarify evidence already given. If recall is necessary, both parties must be given the opportunity to return, even though only one party is concerned with the point giving rise to doubt.
- (17) The Advisor may be called upon during the private deliberation to advise the Appeals Committee Members.
- (18) At the end of the proceedings, the Chair of the Appeals Committee will inform the parties of the decision. This will be confirmed, in writing within seven days.