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11 November 2015

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 18 November 2015 at 10.30am in the Council Chamber, Town Hall, Matlock DE4 3NN.**

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb', written in a cursive style.

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

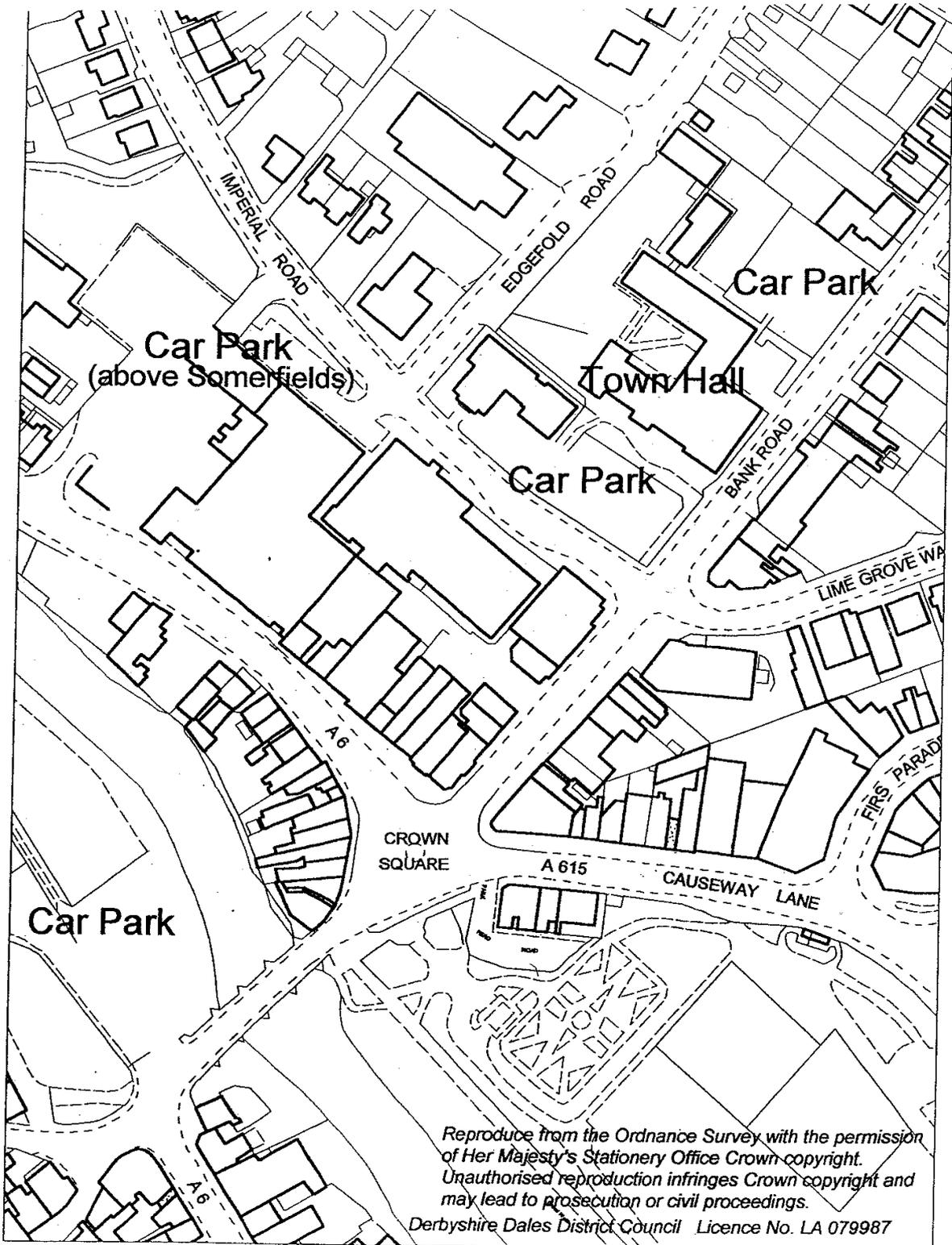
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To determine whether the applicant is a fit and proper person to hold a Licence to drive a Hackney Carriage/Private Hire Vehicle in Derbyshire Dales.

Members of the Committee Nominated to hear this Appeal:

Councillors Jean Monks, Joyce Pawley and Tony Millward BEM.

Substitute Councillor Steve Flitter.



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LICENSING AND APPEALS COMMITTEE

18 NOVEMBER 2015

Report of the Head of Regulatory Services

TAXI/PRIVATE HIRE VEHICLE DRIVER LICENSING

SUMMARY

The Council's Taxi Licensing Policy requires new applicants for a combined Hackney Carriage/Private Hire Driver's Licence to undertake a written Knowledge Test before they can be granted a licence. A provision is made for the applicant to make a fast-track application, which allows him/her to submit the application form for a Driver's Licence at the same time as sitting the knowledge test, to save time waiting for other checks to be carried out before the licence can be granted; provided that he/she does pass the test.

The current process requires the applicant to achieve an 80% pass rate in each of the 3 separate parts of a knowledge test. The applicant is allowed to sit 3 different tests, before the matter is referred to a meeting of this Committee for consideration. This report informs the Committee of a case where a person has failed to pass 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 determines whether the applicant 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 vision of a safe Peak District.

1 BACKGROUND

- 1.1 The Council's Taxi Licensing Policy requires new applicants for a Hackney Carriage/Private Hire Driver's Licence to undertake a written Driver's Knowledge Test before proceeding to the second stage of the application process. This is to satisfy the Council that he/she is a suitable person to hold a licence. (See Appendix 1 for Appendix G of the Policy).
- 1.2 Applicants have the option to make a fast track application for the Driver's Licence, at the same time he/she makes an application to sit the Knowledge Test, to speed up the overall process, if the pass rate is achieved first time.

This is done on the understanding that if he/she does not pass the Knowledge Test the application will be put on hold until a pass has been achieved, even if all the other checks (such as DVLA and Criminal Record) carried out are satisfactory.

- 1.3 On 4th August 2015, the applicant sat a first Knowledge Test; but did not submit an application for Hackney Carriage/Private Hire Driver's Licence at the same time, to take advantage of the fast-track process. However on sitting a third knowledge test the applicant did submit an application form for the licence and both the DVLA and Criminal Record checks have been carried out, with satisfactory results.
- 1.4 The Council has three separate tests, allowing a candidate to sit a different one if they do not pass one. This is to give them every chance of passing a test provided that they have studied sufficiently. Applicants are asked if they need any assistance, for example larger size text, reading/understanding the questions etc.
- 1.5 The written test is split into three sections and consists of the following:

Highway Code: In section one of the test, applicants are asked to answer a number of questions on driving skills, road information and etiquette as set out in the Highway Code. There are 10 questions in total and applicants are expected to get 8 correct.

Local Geography: In section two of the test, applicants are tested on their knowledge of the Derbyshire Dales District Council's area's geography by identifying streets and names of given premises/locations. There are 20 questions in total and applicants are expected to get 16 correct.

The Hackney Carriage and Private Hire Vehicle Licensing Law and Council Rules and Policy: In section three of the test, applicants are tested on their knowledge and understanding of the law in respect of Hackney Carriage and Private Hire Licensing. There are 10 questions in total and applicants are expected to get 8 correct.

- 1.6 The applicant sat all three tests but did not pass all 3 sections in any one test. The test results are shown in the following tables:

First Test Result – 4 August 2015

TEST PAPER 1	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
Section Score	7/10 = 70%	2/20 =	8/10 = 80%	17/40
Did not achieve 80% in each of the 3 sections			RE-SIT REQUIRED	

Second Test Result – 10 September 2015

TEST PAPER 2	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
Section Score	5/10 = 50%	11.5/20 =	8/10 = 80%	24½/40
Did not achieve 80% in each of the 3 sections			RE-SIT REQUIRED	

Third Test Result – 8 October 2015

TEST PAPER 3	Section 1 Highway Code	Section 2 Locations	Section 3 Law/Policy	Overall Score
Section Score	7/10 = 70%	7/20 = 35%	7/10 = 70%	21/40
Did not achieve 80% in each of the 3 sections			Refer to Licensing and Appeals Sub-Committee	

1.7 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?”

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 Licence

From 1st October 2015 a combined Hackney Carriage/Private Hire Driver’s Licence (‘Badge’) granted by the District Council is now renewable every three years. This change was introduced with the enactment of section 10 of the Deregulation Act 2015 which amended the Local Government (Miscellaneous Provisions) Act 1976.

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 in the circumstances of the case. See following extract from the legislation.

Deregulation Act 2015 – section 10

Taxis and private hire vehicles: duration of licences

(1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.

(2) In section 53 (drivers’ licences for hackney carriages and private hire vehicles) —

(a) in subsection (1)(a), for “for such lesser period as the district council may specify in such licence” substitute “for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”;

(b) in subsection (1)(b), for “for such lesser period as they may specify in such licence” substitute “for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”.

2 OPTIONS

Members have the following options:

1. To resolve that the applicant is a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence without the requirement to sit any further tests, for a period of 3 years, or for such lesser period as the Members think appropriate in the circumstances of the case; and whether the Hackney Carriage/Private Hire Driver's Licence shall be subject to the conditions set out in Appendix H of the Policy, or any additional conditions which Members consider reasonably necessary.
2. To allow the applicant to sit a fourth test or (a) specified part(s) of a fourth test within a given timescale.
3. To refuse the application for a licence on the grounds that the applicant is not a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, as she has not satisfactorily passed the knowledge test.

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 2**.

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 – District Council's Policy Reference – Knowledge Test (Appendix G)

Appendix 2 - Committee Hearings Procedure

APPENDIX G OF DDDC TAXI LICENSING POLICY

THE TESTING OF APPLICANTS FOR DRIVER'S LICENCE

New Driver Knowledge Tests

1. Introduction

- 1.1 In order to maintain the high standards that the Council expects of its drivers operating within the District a review may take place of how the suitability of new drivers' knowledge of locations and conditions is assessed.
- 1.2 Complaints are received from time to time by the Council, from members of the public regarding the driver's ability to find destinations and read A to Z maps.
- 1.3 From 1st April 2009, applicants for a new hackney carriage and private hire vehicle driver's licence will be required to undergo a written test as part of the process of satisfying the Council that they are suitable persons to hold such a licence. The written test which must be taken before a Driver's Licence is issued will consist of:

Local Geography

Applicants will be tested on their knowledge of the Derbyshire Dales District Council area's geography. Identifying street names of given premises/locations.

Highway Code

Applicants will be asked to answer a number of questions on driving skills, road information and etiquette as set out in the Highway Code.

The Hackney Carriage and Private Hire Vehicle licensing law and Council Rules and Policy

Applicants will be tested on their knowledge and understanding of the law in respect of Hackney Carriage and Private Hire Vehicle Licensing.

Basic English Test

Applicants will be tested on their English Language Skills; (this will be done through the above testing process).

2. Driver Test Failure

- 2.1 Applicants who fail to achieve an 80% pass rate in any part of the tests shall be invited to take a different test on another occasion. They shall not be considered fit and proper to hold a licence unless or until they have achieved the required pass rate.



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.