



This information is available free of charge in electronic, audio, Braille and large print versions on request.

For assistance in understanding or reading this document please call Democratic Services on 01629 761133 or e-mail [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk)

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 10.30am in the Committee Room, 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](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**

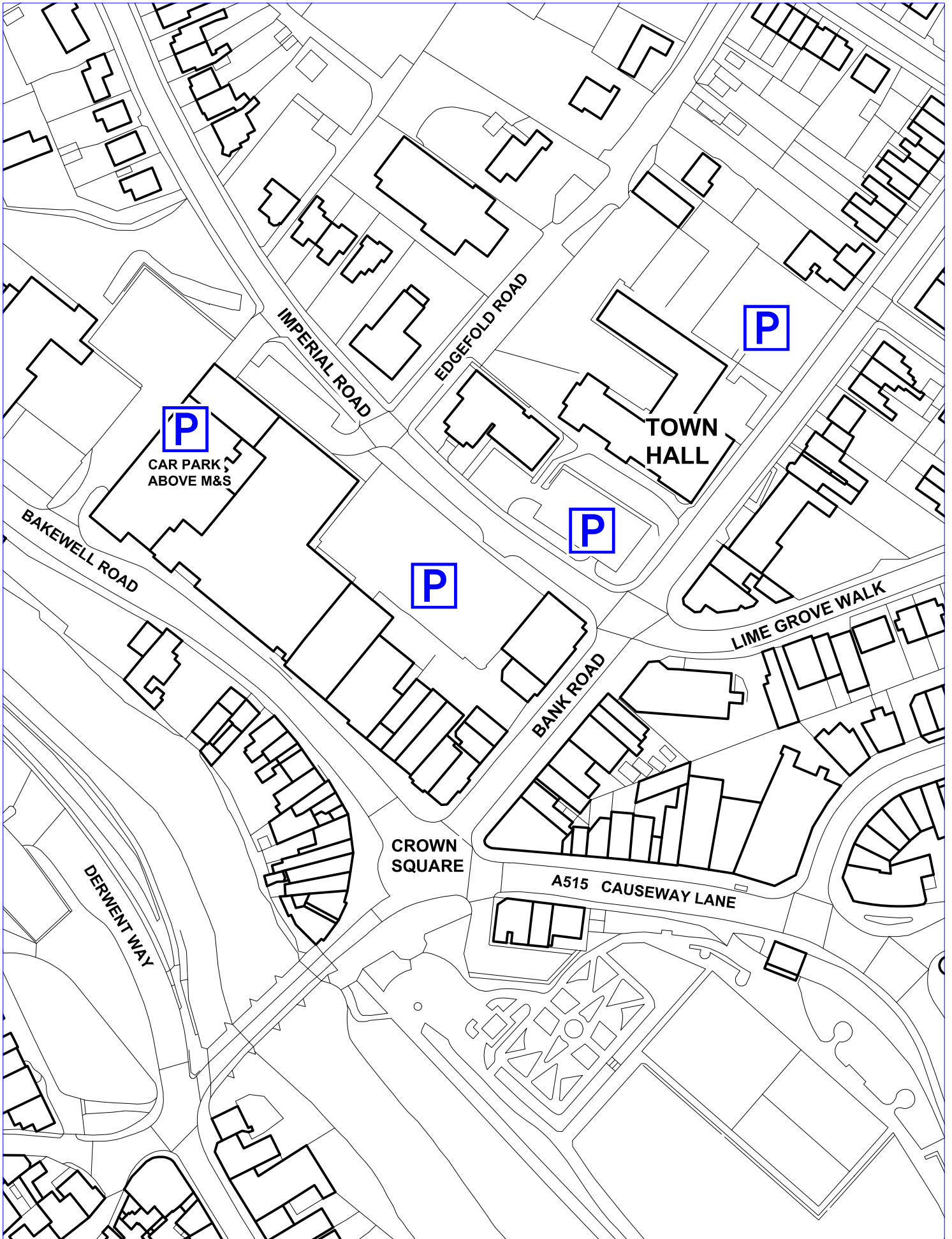
**4 - 7**

To determine whether Applicant C 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 Head of Regulatory Services

## TAXI/PRIVATE HIRE VEHICLE DRIVER LICENSING

### PURPOSE OF REPORT

This report considers an application for a Hackney Carriage/Private Hire Vehicle Driver's Licence from **Applicant C** whose immigration status is governed by the Immigration Act 2016. The purpose of the Act is to seek to prevent illegal working in the private hire vehicle and taxi sector. From 1<sup>st</sup> December 2016 the Act prohibits all licensing authorities from issuing licences to anyone who is disqualified by reason of their immigration status. Licensing authorities are required to discharge this duty by conducting immigration checks.

The legal issue to be determined by the Committee is whether **Applicant C** should be granted a licence to drive a Hackney Carriage/Private Hire Vehicle for a period less than the standard 3 years.

### RECOMMENDATION

That the Committee determine whether **Applicant C** should be granted a licence to drive a Hackney Carriage/Private Hire Vehicle.

That the Committee determine the period of time for which **Applicant C** should be granted a licence, if at all.

### 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 BACKGROUND

### 1.1 The Applicant

An application has been received for a new combined Hackney Carriage/Private Hire Vehicle Driver's Licence (Taxi Driver's Badge).

In accordance with the District Council's procedure, **Applicant C** was required to pass the Council's Driver Knowledge Test, before an application for a licence could be granted. A completed application form, a satisfactory medical certificate, driver record information from the DVLA, and an enhanced criminal record check from the Disclosure & Barring Service (DBS) were also required as part of the application process.

**Applicant C** passed the Council's Knowledge Test on 24 January 2017 and has provided all of the licence application information required. All of the checks undertaken were satisfactory.

## 1.2 Immigration Status

**Applicant C** currently has leave to remain in the UK under the ten year partner route. A copy of the Home Office letter confirming the status will be made available to the Committee. A copy of **Applicant C's** Residence Card will also be made available to the Committee. Residence Cards are included on the approved list of acceptable documents provided by the Home Office/UK Border Agency to evidence an individual's right to work in the UK.

**Applicant C's** Residence Card expires on 18 August 2017 and this has been confirmed with the Home Office Evidence and Enquiry Office.

The provisions of the Immigration Act 2016 mean that taxi/PHV driver licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence. **Applicant C** is entitled to work in the UK but this entitlement expires on 18 August 2017, along with his Residence Card. The Act requires that any licence issued must not exceed the applicant's remaining period of lawful leave to remain in the UK. **Applicant C** has informed the Licensing Authority that he intends to apply to extend his entitlement as soon as he is allowed. He is not allowed to do this until 28 days before his current expiry date.

## 1.3 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 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.

## 2 **OPTIONS**

The Committee has the following options:

1. To grant the application for a licence for a reduced period, to reflect **Applicant C's** remaining period of lawful leave to remain in the UK;
2. To delegate authority to the Licensing Manager in consultation with the Head of Regulatory Services to extend the period of any licence granted to reflect any extension granted to **Applicant C's** period of lawful leave to remain in the UK, provided that the total period does not exceed 3 years.
3. To refuse the application for a licence on the grounds that the applicant is not a fit and proper person to hold such a licence.

Members are reminded that the applicant has the right of appeal to the Magistrates' Court, on refusal.

### **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 District 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.