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28 February 2017

To: All Councillors

As a Member of the **Licensing & Appeals Committee**, please treat this as your summons to attend the meeting on **Wednesday 8 March 2017 at 6.00 pm in the Council Chamber, Town Hall, 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 Corporate Services

AGENDA

1. APOLOGIES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING.**

3. MINUTES OF LAST MEETING

24 October 2016

4. 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.

5. **APPLICATION FROM ARDEN EXECUTIVE TRAVEL LTD RODSLEY: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES** 4 - 9

This report seeks consideration of 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 wishes 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 provides that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

6. **APPLICATION FROM TRAVONYX LIMITED, BAKEWELL: EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES** 10 - 15

This report seeks consideration of 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 wishes 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 provides that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

7. **EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT - VEHICLE MAXIMUM AGE POLICY** 16 - 19

This report seeks consideration of 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 has been received from Karen McCartin, the proprietor of Dovelin Cars based in Doveridge, for an exemption of this requirement so that she can continue to operate private hire vehicle, plate number PH76 for a further 12 months after it reaches 10 years of age.

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

8. REVIEW OF STREET TRADING LICENSING POLICY AND GUIDANCE 20 - 37

This report proposes minor revisions to the District Council's Street Trading Licensing Policy and Guidance document, first introduced in April 2014.

Although the legislation does 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 will deal with applications and enforcement issues is considered good practice.

9. SECOND PHASE OF LOCAL ALCOHOL ACTION AREAS (LAAA) - PROJECT TO TACKLE ALCOHOL-RELATED CRIME AND HEALTH HARMS 38 - 41

This report informs the Committee that on 27 January 2017 the Home Office launched the second phase of its Local Alcohol Area (LAAA) project. The aim of the programme is 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.

The LAAA programme had been launched, initially, in February 2014, with 20 areas across the Country taking part. The announcement in January this year revealed that 33 new areas are to take part in phase 2, and one of these is Derbyshire.

Derbyshire County Council's Safer Derbyshire team will be co-ordinating Derbyshire partners' involvement in the project.

10. LICENSING SERVICE REVIEW – PROGRESS REPORT 42 - 49

This report provides the Committee with a further update 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.

11. POLICING AND CRIME ACT 2009 (SECTION 27) LICENSING OF SEX ENTERTAINMENT VENUES 50 - 53

This report informs the Committee of the provisions available to the Council for the regulation of sexual entertainment venues and seeks 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.

Members of the Committee: Councillors Jennifer Bower, Tom Donnelly, Graham Elliott, Richard FitzHerbert, Steve Flitter, Helen Froggatt, Alyson Hill, Angus Jenkins (Vice Chair), Tony Millward BEM, Jean Monks (Chairman), Joyce Pawley, John Tibenham.

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

APPLICATION FROM ARDEN EXECUTIVE TRAVEL LTD RODSLEY EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR SIGNAGE AND LICENCE PLATES

PURPOSE OF REPORT

This report seeks consideration of 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 wishes 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 provides that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

RECOMMENDATIONS

- 1) That the Committee considers an application from Andrea Field 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 if the Committee is satisfied that the underlying public safety principles promoted in the Policy will not be undermined by the proposal, the application be 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.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 BACKGROUND

- 1.1 The Council has received an application for an exemption from the requirement to display the Council's signs and licence plates, now required as standard for Private Hire Vehicles (PHVs) and Hackney Carriages (taxis) operating from within the Derbyshire Dales.
- 1.2 The request has been received from Ms Andrea Field, Director and Joint Owner of Arden Exclusive Travel Limited, based in Rodsley, near Ashbourne.

- 1.3 The Company, owned by Ms Field and Mr Chris Colder, aims to provide an executive style travel business, using vehicles of a high standard. The Company is not seeking to carry out regular private hire work and the marketing for the operation is 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, Director of the Company, has submitted a request in writing, supported by snippets from the Company website; this is included in **Appendix 1** for the Committee's consideration. The Company website can be accessed via the following link: <http://www.ardenet.co.uk/>
- 1.4 To operate this type of business it is still necessary for the vehicle to be licensed by the Council as a private hire vehicle. All vehicles licensed as such are expected to comply with the Council's vehicle specification and licensing conditions outlined in the current Taxi Licensing Policy.
- 1.5 The law requires that the driver of a licensed private hire vehicle, the vehicle itself, and the private hire operator must all be licensed by the same Council.
- 1.6 In December 2016, following the receipt of completed applications and satisfactory checks being carried out, a Private Hire Vehicle Operator's Licence was granted to Andrea Field for a period of 5 years; and a Private Hire Vehicle Licence (Plate Number PH103) was granted in respect of vehicle registration FP16 XWY. The licensed vehicle is a 7 month old Volkswagen Caravelle, and is licensed to carry 6 passengers. At the end of November 2016, two employees of the company were granted Combined Taxi/Private Hire Vehicle Driver Licences, after passing the Council's Knowledge Test and satisfying the necessary checks.
- 1.7 Ms Field and Mr Colder wished to progress their business operation as soon as possible, but the next available meeting of this Committee to consider an application for an exemption from the policy requirement was not until March 2017, so the licensed private hire vehicle was fitted with licence plates and the Council's front door signage. This has allowed them to use the licensed vehicle and trial their new venture since December.
- 1.8 The current Policy requires the Council's large self-adhesive signs to be fixed to the front doors of the vehicle. These display the Council's name and the vehicle Licence Number. Any business advertising by the vehicle licence-holder or operator is restricted to the rear doors. The licence plate must be fixed to the rear of the vehicle and a licence disc has to be displayed on the inside of the windscreen facing outwards.
- 1.9 These requirements were introduced with the implementation of the Council's Hackney Carriage/Private Hire Licensing Policy in April 2009. One of the aims being to introduce a uniform image that would enable members of the public to easily identify vehicles licensed as taxis (hackney carriages, that can be flagged down in the street or on a taxi rank) and private hire vehicles (permitted to provide pre-booked journeys only). The door signs for hackney carriages are predominantly yellow and for private hire vehicles, predominantly green.
- 1.10 Officers do not have delegated powers to permit any deviation from the Council's Policy, and this is thought to be entirely proper. The Policy was put in place to improve standards across the entire fleet of licensed vehicles operating in the Derbyshire Dales, to protect public safety and to maintain a consistent and transparent approach to determining applications for licences.

- 1.11** The Committee will be aware that while the Policy binds officers in their decision making it is not binding for Members. It is suggested that the Committee could choose to depart from the Policy if it considers that the private hire vehicle in question is not intended for the standard use associated with the majority of PHVs licensed in the district.
- 1.12** Whilst the Council's Policy does allow requests for exemption from the requirement in the case of limousines and/or executive chauffeured vehicles, it does not generally apply to Hackney Carriage or Private Hire Vehicles that are operating mainly as 'taxi'.
- 1.13** Applications requesting any deviation from the Council's Policy are considered on a case-by-case basis. There have been several similar requests since the introduction of the current Policy in 2009. Only 3 of these private hire vehicles are still licensed to operate without the signage and plates. The proprietors of these businesses are 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 is still applicable.
- 1.14** Applicants seeking an exemption from any Policy requirements are required to provide information/evidence to allow the Committee to consider the application and make an informed decision. Mr Colder intends to make a formal request to attend this committee meeting and make a statement in the public participation timeslot, before the report is considered.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory duty to regulate private hire vehicles (PHVs) and hackney carriages (Taxis) and has discretion in the application of its Policy. The risk is therefore low.

2.2 Financial

There are no financial risks arising from this report.

3 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.

4 CONTACT INFORMATION

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

5 BACKGROUND PAPERS

None

6 ATTACHMENTS

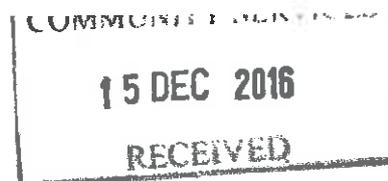
Appendix 1 - Supporting information from the Company Director.

Arden

EXCLUSIVE TRAVEL

15th December, 2016

Mrs E Tierney,
Licensing Manager,
Derbyshire Dales District Council,
Town Hall,
Matlock
DE4 3NN



Dear Mrs Tierney,

Thank you for the information sent to us and the accompanying letter. Please find the attached application documents for a Private Hire Operator's Licence and also a similar document for the licence of our vehicle.

As you discussed with my partner, Chris Colder, we have established Arden Exclusive Travel to meet a personal need for a premium level ground transport service which we intend to market to others also which then brings the business within the remit of Private Hire licensing.

We would like to apply for an Exemption from DDDC to allow us to operate the vehicle without displaying the usual vehicle plate and signage as required by your regulations.

We are establishing an Executive type of travel business operating a high end vehicle and our clients, many of which will be corporate in nature, prefer the anonymity and exclusivity of a non-liveried vehicle. We are not seeking to do 'regular' private hire work and the marketing for the operation will be aimed solely at those looking for a premium service for airport transfers, corporate travel and what we term 'special occasion' work which can take the form of anything from weddings to exclusive days out including sporting events and theatre trips.

I have attached screen shots of our website which I hope indicate the level at which we are aiming. I am aware that the next opportunity for consideration to be given for this type of exemption is in March 2017 but I would be grateful for anything you may be able to do to expedite matters.

Yours sincerely,

ANDREA FIELD
Arden Exclusive Travel Ltd

E : enquiries@ardenet.co.uk
T : +44 (0)333 7000 707

ABOUT

About Arden

They say that necessity is the mother of invention and Arden Exclusive Travel was born from a personal need to have access to a reliable and professional travel service which operates at a premium level... not a 'chauffeur in a hat' but a discreet, smart and completely customer-aware service utilising high-end vehicles enhanced by superb customer service, flexibility and attention to detail.

We don't just drive you from 'A to B'... we transport you there in style, in comfort, with complimentary WiFi and with today's newspaper on an iPad which you can use to browse the web also. There's also peace and quiet if you want it.

Arden Exclusive Travel is fully licensed to do what we do so you can rest assured that you are travelling with a fully compliant company. We use a fully web-based booking system which means you can ask for an exact quote and confirm the booking in less than a minute. It also offers various methods for payment and will also provide you with an invoice prior to travel. Simple, stress-free travel...





Our Fleet

Arden Exclusive Travel operates 2016 VW Caravelle Exec vehicles. We believe that they offer the best in space, luxury and comfort for our discerning clients. They can accommodate up to six passengers and can be configured for maximum cabin room or luggage capability.

They also have sumptuous leather seats, three zone air conditioning, privacy glass and electric entry doors.

We are mindful of our effect on the environment of operating a Travel Company so our vehicles have the latest in Euro 6 BlueMotion with Stop/Start technology engines making them some of the cleanest and most fuel-efficient diesel engine vehicles on the road today.

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

**APPLICATION FROM TRAVONYX LIMITED, BAKEWELL
EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – DOOR
SIGNAGE AND LICENCE PLATES**

PURPOSE OF REPORT

This report seeks consideration of 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 wishes 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 provides that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

RECOMMENDATIONS

- 1) That the Committee considers 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 if 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 be 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.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 BACKGROUND

- 1.1** The Council has received an application for an exemption from the requirement to display the Council's signs and licence plates, now required as standard for Private Hire Vehicles (PHVs) and Hackney Carriages (taxis) operating from within the Derbyshire Dales.
- 1.2** The request has been received from James John Riley, Managing Director of his newly established travel business, Travonyx Limited, (Executive Travel Solutions) based in Bakewell.
- 1.3** Mr Riley aims to provide an executive style travel business, using elite standard vehicles, and chauffeur uniformed drivers. He is not seeking to carry out regular private hire work, but is aiming to provide a premium airport transfers, corporate travel, and door-to-door service for special occasions. Mr Riley has provided information to support the application, and this is included in **Appendix 1** for the Committee's consideration.
- 1.4** To operate this type of business it is still necessary for the vehicle to be licensed by the Council as a private hire vehicle. All vehicles licensed as such are expected to comply with the Council's vehicle specification and licensing conditions outlined in the current Taxi Licensing Policy.
- 1.5** The law requires that the driver of a licensed private hire vehicle, the vehicle itself, and the private hire operator must all be licensed by the same Council.
- 1.6** Mr Riley has recently passed the Council's Knowledge Test and has made an application for a Combined Hackney Carriage/Private Hire Vehicle Driver's Licence. At the time of writing this report, the various checks are being carried out. It is Mr Riley's intention to apply for a Private Hire Operator's Licence and a Private Hire Vehicle Licence, if he is granted a Driver's Licence.
- 1.7** The vehicle he is intending to licence is a Mercedes Benz C250CDI Saloon, first registered on 26 January 2012. This will accommodate 4 passengers and the driver.
- 1.8** Mr Riley is aware that the current Policy requires the Council's large self-adhesive signs to be fixed to the front doors of any vehicle licensed as a taxi or a private hire vehicle, and a licence plate to be fixed to the rear of the vehicle.
- 1.9** These requirements were introduced with the implementation of the Council's Hackney Carriage/Private Hire Licensing Policy in April 2009. One of the aims being to introduce a uniform image that would enable members of the public to easily identify vehicles licensed as taxis (hackney carriages, that can be flagged down in the street or on a taxi rank) and private hire vehicles (permitted to provide pre-booked journeys only). The door signs for hackney carriages are predominantly yellow and for private hire vehicles, predominantly green.
- 1.10** Officers do not have delegated powers to permit any deviation from the Council's Policy, and this is thought to be entirely proper. The Policy was put in place to improve standards across the entire fleet of licensed vehicles operating in the Derbyshire Dales, to protect public safety and to maintain a consistent and transparent approach to determining applications for licences.

- 1.11** The Committee will be aware that while the Policy binds officers in their decision making it is not binding for Members. It is suggested that the Committee could choose to depart from the Policy if it considers that the private hire vehicle in question is not intended for the standard use associated with the majority of PHVs licensed in the district.
- 1.12** Whilst the Council's Policy does allow requests for exemption from the requirement in the case of limousines and/or executive chauffeured vehicles, it does not generally apply to Hackney Carriage or Private Hire Vehicles that are operating mainly as 'taxis'.
- 1.13** Applications requesting any deviation from the Council's Policy are considered on a case-by-case basis. There have been several similar requests since the introduction of the current Policy in 2009. Only 3 of these private hire vehicles are still licensed to operate without the signage and plates. The proprietors of these businesses are 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 is still applicable.
- 1.14** Applicants seeking an exemption from any Policy requirements are required to provide information/evidence to allow the Committee to consider the application and make an informed decision. Mr Riley intends to make a formal request to attend this committee meeting and make a statement in the public participation timeslot, before this report is considered.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory duty to regulate private hire vehicles (PHVs) and hackney carriages (Taxis) and has discretion in the application of its Policy. The risk is therefore low.

2.2 Financial

There are no financial risks arising from this report.

3 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.

4 CONTACT INFORMATION

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

5 BACKGROUND PAPERS

None.

6 ATTACHMENTS

Appendix 1 - Supporting information from James John Riley, Managing Director of Travonyx.

Mr James John Riley
Bakewell
Derbyshire

16th February 2017

Dear Councillors,

**FOR CONSIDERATION BY THE LICENSING AND APPEALS COMMITTEE – 8TH MARCH
APPLICATION FOR EXEMPTION FROM POLICY REQUIREMENT TO DISPLAY DOOR
SIGNS AND REAR LICENCE PLATE ON PROPOSED PRIVATE HIRE VEHICLE**

I am James John Riley of Bakewell, Derbyshire, and am writing to ask that the Derbyshire Dales District Council's Licensing and Appeals Committee consider a request for an exemption to the Council's taxi licensing policy requirement whereby a vehicle licensed as a private hire vehicle must display the Council's Door Signs and Rear Licence Plate.

I am the managing director of a recently formed luxury hire company TRAVONYX LIMITED. The officially registered and trademark pending brand, aims to deliver a 5 star service throughout the Dales, and indeed the UK. I will be the sole driver of an elite vehicle, whilst exploring other travel industry business opportunities in line with the Company's business plan. My vision is bold and bright, and that of becoming a major player with the concierge industry.

On 24th January 2017, I passed the Council's Taxi Licensing Knowledge Test and have recently applied to the Council for a combined Hackney Carriage/Private Hire Vehicle Driver's Licence; this application is currently being processed.

Once I am granted a Combined Hackney Carriage/Private Hire Vehicle Driver's Licence I will apply for a Private Hire Operator's Licence and a Private Hire Vehicle Licence. I understand that as Private Hire Operator licensed by Derbyshire Dales District Council I will be required to operate out of a licensed base located within the Derbyshire Dales. I also understand that a vehicle licensed by the Council to operate as a private hire vehicle is required to display the Council's door signage and a licence plate fixed to the rear of the vehicle, but that there is a provision whereby an application can be made to seek an exemption to the condition if the vehicle is to be used for executive/corporate private hire.

I am therefore requesting the exemption from the requirement to display door and rear licence plates as my company TRAVONYX LIMITED will be investing in a relatively vehicle, which will be used solely for exclusive private hire pre-booked journeys and company promotion.

It is intended that my company, TRAVONYX LIMITED, will empower people to access a safe, secure and luxurious travel experience, executed with precision, professionalism, passion and care. A strict chauffeur grade uniform will always be worn for all pre-booked appointments, representing the high quality service. Public safety is the number one core value of the Company.

I have purchased a 5 year old Mercedes Benz C250CDI Saloon. This should comply with the District Council's Licensed Vehicle Specification for executive private hire vehicles.

I am aware that as a licensed driver and private hire operator that I must comply with any changes in taxi and private hire licensing legislation or the District Council's Policy throughout the duration of my licences.

I am aware that I am permitted to attend the meeting on 8th March 2016 and make a statement during the public participation part of the meeting.

Yours sincerely,

James J Riley
TRAVONYX LIMITED

"Executive Travel Solutions"

Make: Used

Model: Mercedes Benz C250CDI Saloon

Chassis No: WDD2040032A6752238

Warranty: 12 Months by Mercedes Benz

Colour Palladium Silver Metallic

Interior: Liverpool Artico Fabric / leather (Black)

Milage: 34,525

Reg No: LP61OHS

1st Reg Date: 26/01/2012

Example of Model in Photo – not actual vehicle





LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT – VEHICLE MAXIMUM AGE POLICY

PURPOSE OF REPORT

This report seeks consideration of 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 has been received from Karen McCartin, the proprietor of Dovelin Cars based in Doveridge, for an exemption of this requirement so that she can continue to operate private hire vehicle, plate number PH76 for a further 12 months after it reaches 10 years of age.

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

RECOMMENDATIONS

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 £60 being payable for the second test.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 The Application

- 1.1 A request for an exemption to the Council's Taxi Licensing Policy in respect of displaying door signage and vehicle plates has been received from Karen McCartin, licensed Private Hire Operator of Dovelin Cars based in Doveridge, near Ashbourne. The request is produced in **Appendix 1**.
- 1.2 The Council's current Taxi Licensing Policy stipulates a maximum age limit for any vehicle presented for licensing as a hackney carriage or a private hire vehicle.

- 1.3** In 2009 when the Council first introduced the Policy, a vehicle could not be licensed unless it was less than 4 years old; and when that vehicle reached 7 years of age it could no longer be licensed.
- 1.4** From 1st September 2015 this Policy requirement was revised and the Council will now grant a licence for a hackney carriage or private hire vehicle provided that it is less than 10 years old. Licences are granted for one year, after which they can be renewed.
- 1.5** Miss McCartin's private hire vehicle (Licence Plate Number 076 – Registration Number RE07 SVN) is a Chrysler Voyager – a Multi-Purpose Vehicle (MPV), licensed to carry 6 passengers. In her submission Miss McCartin draws attention to the high quality luxury standard of the vehicle and how it has been kept in very good condition during the last 3 years while it has been a licensed private hire vehicle. The vehicle will be 10 years old on 28 March 2017.
- 1.6** She explains that this make of Multi-Purpose Vehicle is built to a commercial rather than domestic specification and it will comfortably accommodate 6 full-sized adult passengers, whereas other makes of Multi-Purpose Vehicles are built on a saloon chassis (regular family car standard) and usually the rear seats will only accommodate a person of smaller build, such as a child/small adult. To replace her vehicle with one of a similar standard would be significantly more expensive than to replace it with a lower standard of MPV.
- 1.7** The Department of Transport's Taxi and Private Hire Vehicle Licensing Best Practice Guidance suggests that it is 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 is to test a vehicle on grant of the first licence and at the 12-month renewal. During each licensed period, a 6-monthly test is also a requirement.
- 1.8** As Officers do not have delegated powers to permit any deviation from the Council's Policy, which is thought to be entirely proper, the matter is reported to this Committee for consideration. The Policy was put in place to improve standards across the entire fleet of licensed vehicles operating in the Derbyshire Dales, to protect public safety and to maintain a consistent and transparent approach to determining applications for licences.
- 1.9** The Committee will be aware that whilst the Policy binds officers in their decision making, it is not binding for Members. It is suggested that the Committee could choose to depart from the Policy if it considers that the private hire vehicle in question should be licensed for a further 12 months until the review of the current Policy has been completed, and a new Policy formally adopted.
- 1.10** There are 6 other licensed vehicles that will be 10 years old during the course of their vehicle licence, this calendar year. As the renewal dates of these licences are all later than the date on which the vehicles reach 10 years of age, the licences have been/will be granted to expire 12 months from the date of grant, not on the date that the vehicle reaches 10 years of age. Miss McCartin's vehicle is 10 years old 5 days before the licence is due for renewal and therefore falls outside the scope of this procedure.
- 1.11** Members are aware that all applications requesting any deviation from the Council's Policy must be considered on a case-by-case basis. In this case, the options open to the Committee are:

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 (eg Two 4-monthly inspections instead of one 6-monthly test), for which there will be a fee of £63 for the additional test).
3. To refuse to renew the licence, letting it expire on 2 April 2017.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory duty to regulate private hire vehicles (PHVs) and hackney carriages (Taxis) and has discretion in the application of its Policy. The risk is therefore low.

2.2 Financial

Any inspection costs will be recharged to the licence holder. There are no financial risks arising from this report.

3 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.

4 CONTACT INFORMATION

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

5 BACKGROUND PAPERS

None.

6 ATTACHMENTS

Appendix 1 – Letter from Miss K McCartin, Private Hire Operator, Dovelin Cars.

The Licensing Manager
Derbyshire Dales District Council
Town Hall
Matlock
Derbyshire
DE4 3NN

3 February 2017

For the attention of the Council's Licensing Committee.

**Private Hire Vehicle Plate Number 076
CHRYSLER VOYAGER – REGISTRATION NUMBER K07 SVN**

I have been a private hire operator, and licensed by Derbyshire Dales District Council to drive taxis and private hire vehicles for many years. My business, Dovelin Cars, is located in Doveridge near Ashbourne.

I am familiar with the Council's Taxi Licensing Policy and in particular the requirement regarding the age of vehicles you will licence as a taxi or a private hire vehicle.

One of my licensed private hire vehicles will be 10 years old at the end of March 2017, and I am due to renew the vehicle licence on 2 April 2017. According to your Policy I will not be able to renew the licence because of the age of the vehicle.

I would like to be able to renew this licence as I consider that the vehicle is of a high enough standard to be still licensed. For me to replace this standard of vehicle (which would cost in the region of £30,000 from new) with similar would be prohibitive to my business, as a 6 seater vehicle is not required on the same frequency as the saloon cars I have licensed but it is an advantage to be able to provide one when asked.

My vehicle is a Chrysler Voyager multi-purpose vehicle. It is a high spec – luxury model. This make of vehicle is the original multi-purpose vehicle and is built on a commercial standard chassis specifically for the purpose of carrying fare-paying passengers, without requiring any modification to the seating layout or any kind of conversion to comply with taxi vehicle specifications. Vehicles introduced later as multi-purpose vehicles such as the Vauxhall Zafira or the Ford Galaxy were really designed more as a family 6 seater car with smaller back seats, which were possibly expected to accommodate children.

The Chrysler has 6 seats that will comfortably accommodate 6 full-sized adults of average/large build. Whilst I could replace the vehicle with a saloon car of lower specification, I find that the Chrysler is particularly popular for airport runs as there is plenty of room for customers and their luggage to travel in comfort and safely.

I would ask that the Committee give consideration to the vehicle licence being renewed for a further 12 months from April 2017.

Yours sincerely

KAREN McCARTIN
DOVELIN CARS, DOVERIDGE

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

REVIEW OF STREET TRADING LICENSING POLICY AND GUIDANCE

PURPOSE OF REPORT

This report proposes minor revisions to the District Council's Street Trading Licensing Policy and Guidance document, first introduced in April 2014.

Although the legislation does 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 will deal with applications and enforcement issues, is considered good practice.

RECOMMENDATIONS

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

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 REVIEW OF POLICY AND GUIDANCE DOCUMENT

- 1.1 Changes are 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.
- 1.2 As the Events Strategy has been developed it has become clear that the District Council's initial attempts at defining events of community benefit require refining. It is proposed that section 4 of the Street Trading Policy and Guidance is 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.

- 1.3 The consultation methodology set out in section 6 of the current Street Trading Policy and Guidance has proved to be cumbersome and unproductive in practice. It has become clear that not all the consultees listed require consultation for all applications for consent. Section 6 has been revised to make it clear that the list of consultees is advisory and that only those that are relevant need be consulted in respect of any particular application. There are 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.
- 1.4 Changes have been proposed to the application form and the proposed new form is shown at Appendix C to the revised Policy and Guidance document.
- 1.5 Administrative changes have been made to Appendix D of the Policy and Guidance document to reflect the proposed changes in respect of commercial and community events. It is still proposed that applications for community events will be processed free of charge. In future fees will be reviewed annually by the Governance and Resources Committee, in line with all other fees and charges.

2 RISK ASSESSMENT

2.1 Legal

The Council's Policy in this matter underpins the decision making process and ensures that our administration of this function has a robust basis. Ensuring that the Policy is up to date enables the Council to manage the risks of delivering this service for the Communities served, for those involved in the trade and for the Council as an organisation. Therefore the legal risk is low.

2.2 Financial

There are no financial risks directly arising from this report other than officer time.

3 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.

4 CONTACT INFORMATION

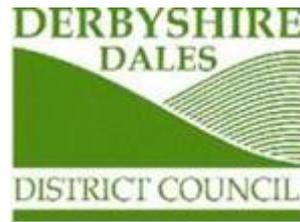
Eileen Tierney, Licensing Manager
Telephone: 01629 761374; Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

None.

6 ATTACHMENTS

Appendix 1 – Draft Revised Policy and Guidance Document



STREET TRADING POLICY AND GUIDANCE

**Proposed revisions highlighted in
yellow**

March 2017
(version 2)

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1 Purpose

- 1.1 The purpose of Derbyshire Dales District Council's street trading policy is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.
- 1.2 Whilst the 2014 amendments to the Street Trading Order represent a significant deregulation of street trading in the main towns of the Derbyshire Dales it is not intended that all forms of street trading will be allowed, or that street trading will be uncontrolled. The purpose of this Policy is to make it clear that street trading will only be facilitated if the activity brings significant benefit to the communities of the Dales.

2 What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article (or living thing) in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.
- 2.2 Derbyshire Dales District Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated the streets listed in **Appendix A** as prohibited and the streets listed in **Appendix B** as consent streets. The most recent amendment to the Street Trading Order was agreed in January 2014 and came into effect from 1st April 2014.
- 2.3 The effect of this designation is that street trading in any consent street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council. Street trading in any prohibited street is completely prohibited subject to the same legal exemptions.

3 Exemptions from the Need to Obtain Consent

- 3.1 Some types of trade are legally exempt from the need to obtain a street trading consent. These are:
 - a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
 - b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant), or acquired or established by virtue of an enactment or order. In the Derbyshire Dales this means the authorised street markets held in Bakewell, Matlock, Wirksworth and Ashbourne;
 - c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
 - d) trading as a news vendor;
 - e) trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
 - f) trading as a roundsman.

4 Street Trading Consents for which Fees are not Payable

4.1 Derbyshire Dales District Council will not require the payment of fees where street trading activities form part of a community event.

4.2 A community event is defined as one that is organised by the community for the community. It will be free to enter/attend and will not be for the purpose of selling or promoting a commercial product. Community events will generally be not for profit, but can still gain a community exemption if they are fundraising through charging entry to an event. These exemptions will only be offered where all money gained through entry charges, traders' fees, caterer's fees and any other means go directly to benefiting the community.

5 Site Assessment

5.1 The District Council has identified the streets listed in **Appendix B** to this Policy as suitable for street trading. It is recognised that some forms of street trading will not be suitable in some authorised locations and therefore each application will be dealt with on its own merits.

5.2 In determining whether to issue a consent the District Council will have regard to:

- a) any effect on road safety, either arising from the proposed trading operation or from customers visiting or leaving;
- b) any loss of amenity caused by noise, traffic or smell;
- c) existing Traffic Orders e.g. waiting restrictions;
- d) any potential obstruction of pedestrian or vehicular access;
- e) any obstruction to the safe passage of pedestrians.

6 Consultation

6.1 Before a new consent is issued the District Council will consult and seek observations from relevant bodies, which might include:

- a) Occupiers of businesses immediately adjacent, opposite;
- b) Derbyshire Constabulary;
- c) Development Management (Derbyshire Dales District Council or the Peak District National Park Authority – Planning Authorities);
- d) Derbyshire County Council Highways;
- e) Derbyshire Dales District Council Environmental Services;
- f) Derbyshire Dales District Council Environmental Health;
- g) Existing holders of street trading consents in the immediate area.

6.2 Any objections from consultees will be assessed against the criteria in paragraph 5.2 above and will be referred to the Head of Regulatory Services for determination.

6.3 District Council Ward Members and relevant Town and Parish Councils will be notified of all Consents issued.

6.4 Any significant proposed changes to the Policy or to Standard Conditions will be subject to consultation with stakeholders.

7 Nature of Goods and Trading Hours

- 7.1 The nature of goods that may be sold by any trader will be specified in the consultation process. Any subsequent substantial change will be subject to the level of consultation in paragraph 6.1 above.
- 7.2 The District Council will not normally grant consent for the sale of goods or services which conflict with those provided by nearby shops.
- 7.3 Goods that may be sold will be considered on a consent by consent basis and particular regard will be had to local needs shopping, product/ service diversity and balance.
- 7.4 Routine street trading hours will normally mirror those of shops in the immediate vicinity. In the case of hot food takeaways trading hours will be determined on a consent-by-consent basis. In the case of special events trading hours must be agreed with the District Council's Licensing Manager.
- 7.5 The design and appearance of the stall, barrow, van or cart etc. used must be agreed by the District Council's Licensing Manager.

8 Issue of Street Trading Consents

- 8.1 Street trading consents will normally be issued for a period of three months. Consents for shorter periods may be issued for the purpose of organised street markets and for mobile street artists.
- 8.2 Applications for Consents must be made no less than 4 weeks before the proposed use. Applicants will be encouraged to submit applications at the earliest possible date to help ensure that full consultation can be undertaken.
- 8.3 Fees for consents must be paid at the time of application.
- 8.4 Failure to maintain payments where a consent requires renewal may result in the consent not being renewed.
- 8.5 Applications will be determined by the Licensing Manager or in her absence the Environmental Health Manager. Any appeal against a decision will be determined by the Head of Regulatory Services.
- 8.6 Consent cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is considered to be unsuitable to hold the consent.

8.7 The application form for a street trading consent is attached as **Appendix C.**

9 Fee Structure

- 9.1 The fee structure will be determined annually by the District Council's Governance and Resources Committee. The current fees are detailed in **Appendix D.**
- 9.2 The Licensing Manager will determine whether any application for consent is exempt from fees. Any appeal against the decision of the Licensing Manager will be determined by the Head of Regulatory Services.

10 Conditions and Enforcement

10.1 The standard conditions detailed in **Appendix E** will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

10.2 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and limitations on the size of the trading area. The decision to apply specific conditions will be made by the Licensing Manager following consultation responses. Any appeal against the decision of the Licensing Manager will be determined by the Head of Regulatory Services.

10.3 Failure to comply with conditions may lead to revocation or non-renewal of consent.

10.4 Persons trading without a consent and who are not exempt (see paragraph 3.1 above for examples) will be the subject of enforcement action in accordance with Derbyshire Dales District Council's Enforcement Policy. This may include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.

11 Social Inclusion

11.1 This policy will be applied in a manner that is consistent with the District Council's equalities policies.

12 General

12.1 The District Council will wherever possible seek opportunities to promote street trading activities.

12.2 This Policy will complement and inform other initiatives of the District Council including those on events and street markets.

12.3 This Policy will be the subject to periodic monitoring and review.

12.4 This Policy will inform the detailed conditions attached to every street trading consent.

LIST OF PROHIBITED STREETS

ASHBOURNE

- Derby Road
- Old Derby Road (from junction with Wyaston Road to junction with Springfield Avenue)
- Station Street
- Sturston Road

BAKEWELL

- Baslow Road from junction with Castle Mount Crescent
- Bridge Street
- Buxton Road
- Coombs Road
- King Street
- Matlock Street

MATLOCK

- Bakewell Road from junction with Dimple Road to Crown Square
- Bank Road to junction with Imperial Road
- Dale Road from Matlock Bridge to Holme Road Matlock Bath

MATLOCK BATH

- Clifton Road from main road
- Dale Road to its junction with Clifton Road
- Holme Road from main road to junction with Brunswood Road
- Temple Road from main road to Hotel
- Waterloo Road from main road to Waterloo Square

LIST OF CONSENT STREETS

<p>ASHBOURNE</p> <ul style="list-style-type: none"> • Church Street • Cokayne Avenue • Compton • Dig Street • Dovehouse Green • Hall Lane • King Edward Street • King Street • Market Place • Park Road • St John Street • Station Road • Union Street • Victoria Square <p>ASHFORD IN THE WATER</p> <ul style="list-style-type: none"> • Buxton Road • Church Street • Court Lane • Fennel Street • Former Mill Lane from A6020 Church Street • Greaves Lane • Hall End Lane • Old Baslow Road (New Road) • Vicarage Lane from Buxton Road to junction with Hill Cross • Watts Green 	<p>BAKEWELL</p> <ul style="list-style-type: none"> • Anchor Square • Bath Street • Castle Street • Church Alley • Granby Croft • Granby Road • Haddon Road • Market Street • New Street • North Church Street from Rutland Square to Sellors Yard (Barrats Yard) • Riverside Walk (Riverside Crescent) • Rutland Square • South Church Street from King Street to junction with Church Alley • Station Road from Bakewell Bridge to junction with Coombs Road • Water Lane • Water Street <p>DARLEY DALE</p> <ul style="list-style-type: none"> • Station Road
<p>HARTINGTON</p> <ul style="list-style-type: none"> • Church Street • Dig Street • Hall Bank • Hyde Lane • Market Place • Mill Lane • Stonewell Lane 	<p>MATLOCK BATH</p> <ul style="list-style-type: none"> • North Parade • South Parade

<p>MATLOCK</p> <ul style="list-style-type: none"> • Causeway Lane from Crown Square to junction with Knowlestone Place • Crown Square • Firs Parade • Imperial Road to junction with Edgefold Road • Knowlestone Place • Matlock Bridge • Olde Englishe Road • Park Head Road • Steep Turnpike from junction with Causeway Lane to junction with New Street 	<p>TIDESWELL</p> <ul style="list-style-type: none"> • Chantry Lane • Cherry Tree Square • Church Street • Commercial Road • Fountain Street (Fountain Square) • High Street • Market Place (Pot Market) • Market Square • Queen Street • Recreation Road • Whitecross Road from St John's Road to Recreation Road
<p>WIRKSWORTH</p> <ul style="list-style-type: none"> • Blind Lane • Chapel Lane • Coldwell Street • Cromford Road • Hammonds Court • Harrison Drive • North End • Old Market Place • St John Street • St Mary's Gate • The Causeway • West End 	



Licensing Team, Town Hall, Matlock, Derbyshire DE4 3NN

EXAMPLE OF APPLICATION FOR THE GRANT OF STREET TRADING CONSENT

Applicant's full name(s)
Please PRINT CLEARLY

(state if on behalf of organisation)

Applicant's full Address:
.....
.....
..... Post Code

Daytime/home telephone number(s):

Mobile telephone number:.....

Email address (essential)

Applicant's date of birth:

Vehicle/Trailer registration number (if applicable)

Trading Name (if applicable)
(A separate list of all traders and vehicle details will be required for Food Fairs and similar events etc.)

.....

Please state where you wish to Trade: (Detailed site plan and a location plan of the area must be provided)

.....

Type of Event/ Goods (A list of the stall holder and types of goods must be provided).

If you are selling Food – you will be required to provide evidence of the Food Hygiene Registration Rating you hold, and provide contact details of the Environmental Health Authority responsible for inspecting your business operation as we may need to contact them.

.....
.....

(Details will be required for each trader if the event is a food fair or similar large event)

State Days of Week and Hours you wish to trade on each day:
(On a regular basis only – eg Weekly Thursday Market)

State Day(s), Dates and times you wish to trade on a single occasion:

(for Specific Occasional Events such as Food Fairs, Xmas Markets, Carnivals, Arts/Music Festivals)

Applicant's Declaration

I have included: please tick box

Certificate of Public Liability (£10 million minimum required)

Photograph or drawing of the intended trading stand/stall or vehicle

Map/plan showing position of vehicle/stand/stall(s)

Evidence of Food Hygiene Rating Score

Full List required for Food Fairs.

Any other supporting documentation/information:
(eg road closure granted, Temporary Event Notice for Sale of Alcohol etc)

Telephone Payment
Ring 01629 761313

Payment of Application Fee.

An administration fee is required when applying for a street trading consent for commercial events. (Please see section 4 of the Policy and Guidance document)

The current fee is detailed in the covering letter with this application form.
This fee is not refundable if the Consent is refused.

Offences:

If you have been convicted of any driving or criminal offences please give full details, with dates, below. If the answer is none, please state 'none'. Please include details of any cautions received.

Signed..... Date.....

Please Print Full Name:

Capacity:

Completed applications should be returned to: The Licensing Team, Regulatory Services, Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire, DE4 3NN

Applications can also be emailed to licensing@derbyshiredales.gov.uk and a telephone payment made by calling: 01629 761313.

STREET TRADING CONSENT FEE STRUCTURE

Application Administration Fee - £50

(set: 2014/2015. Fees to be reviewed annually by the Governance and Resources Committee)

Events considered to comply with the definition of Community Events will be exempt from the administration fee.

**STREET TRADING CONSENT CONDITIONS
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART III SCHEDULE 4 - STREET TRADING**

A “consent street” means a street in which street trading is prohibited without a consent granted by Derbyshire Dales District Council. This includes all streets listed in Appendix B of the District Council’s Street Trading Policy.

“street” includes any road, footway or other area to which the public have access without payment

“street trading” means selling or exposing or offering for sale of any article including a living thing in a street

STANDARD CONDITIONS

Under section 7 of the Local Government (Miscellaneous Provisions) Act 1982 when granting or renewing a street trading consent, the District Council may attach such conditions to it as it considers reasonably necessary.

1. The trader shall not cause any obstruction of the street or any danger to any persons using the street.
2. The trader shall not cause any nuisance or annoyance to any other person whether that person is using the street or otherwise, or to the occupier of any building in proximity to the consent site.
3. A street trading consent cannot be issued to any person under seventeen years of age.
4. The District Council may include in a street trading consent permission for the holder to trade in a consent street from a stationary van, car, barrow other vehicle or portable stall.
5. That consent will specify where the holder of the consent may trade and the times and periods he or she may trade.
6. That a street trading consent may be granted for a period not exceeding a twelve month period.
7. The holder of a street trading consent may employ any other person to assist him in trading without a further consent being required providing that person has attained seventeen years of age.
8. The District Council may at any time vary the conditions of a street trading consent or revoke at any time.
9. There is no right of appeal to the Magistrates’ Court against the variation of a condition or refusal to grant or renew a street trading consent. Any informal appeal will be determined by the Head of Regulatory Services.

ADDITIONAL CONDITIONS

The District Council may require the following additional conditions be attached to a street trading consent.

1. A certificate of insurance covering public liability to a minimum amount of 5 million pounds shall be produced.
2. There shall be no means of attracting attention for the purposes of trading or any stands or signs away from the consent site.
3. Any food trader must comply with the requirements of food safety and health and safety at work legislation.
4. The trader shall display the Council issued street trading consent at all times whilst trading.
5. The location of trading will be dependent upon:
 - a) The closeness of any shop selling similar commodities;
 - b) The closeness of any other street trading consent selling a similar commodity;
 - c) The decision of the licensing authority.
6. The consent holder must provide a receptacle to collect any waste, refuse or litter resulting from trading. All must be removed from the trading location and properly disposed of at the end of each day's trading.
7. Any authorised vehicle must be roadworthy, have current relevant documentation and internal and external appearance including stall shall be maintained in a clean, neat and tidy condition.
8. Any stall, or authorised vehicle used for street trading must be immediately removable at all times in the event of an emergency or at any other time be removed at the request of any officers of the emergency services or officer of the Council.
9. No stall shall remain situated for longer than one hour after the authorised trading times.
10. No consent holder shall trade at his authorised location on dates when road closure directives are in place for special events, otherwise than with permission of the organisation applying for the road closure.
11. The consent holder shall be subject to any additional fees or charges levied by virtue of that area being subject to any market day or other special designated date.
12. The consent holder or assistant shall be clean and tidy and behave in a civil and orderly manner at all times.
13. When requested to do so by an authorised officer of the Council or police officer the trader shall produce the consent for inspection.
14. The consent is not transferable and is personal to the consent holder.

15. The street trading consent does not imply or give any other permission, consent or authorisation to trade in any other products other than those previously granted on application or renewal.
16. Failure to comply with any of these conditions may result in this street trading consent being revoked or refused or the Council may attach further reasonable conditions to the consent which it appears appropriate to meet particular circumstances.
17. The consent must be surrendered to the Council if the consent holder ceases trading.
18. Adequate precautions shall be taken by the consent holder to prevent the risk of an outbreak of fire at his/her stall or vehicle where a power source or heating appliance is present, eg a generator or bottled gas container, in these circumstances appropriate fire extinguisher must be provided

Derbyshire Dales District Council cannot and will not accept any liability for any accident or damage to any person, property or other thing whatsoever arising out of or in connection with the activities of the Licensee or matters relating to a street trading consent.

DDDC/RS/LN/ET/8 March 2017

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

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

PURPOSE OF REPORT

This report informs the Committee that on 27 January 2017 the Home Office launched the second phase of its Local Alcohol Area (LAAA) project. The aim of the programme is 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.

The LAAA programme had been launched, initially, in February 2014, with 20 areas across the Country taking part. The announcement in January this year revealed that 33 new areas are to take part in phase 2, and one of these is Derbyshire.

Derbyshire County Council's Safer Derbyshire team will be co-ordinating Derbyshire partners' involvement in the project.

RECOMMENDATION

That the Committee approves the involvement of the District Council Licensing Team in Phase 2 of the Local Alcohol Action Areas project.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 LOCAL ALCOHOL ACTION AREAS (LAAA)

- 1.1** In 2014, as a commitment to its Modern Crime Prevention Strategy, the Government launched Phase 1 of the Local Alcohol Action Area Programme.
- 1.2** 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.

1.3 The LAAA Programme has 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.

1.4 Phase 1

The first phase of the project ran between February 2014 and March 2015.

20 areas from across England and Wales developed local solutions, plans and strategies to reduce alcohol-related crime and disorder, alcohol-related health harms and promote economic growth by diversifying the night time economy.

1.5 The programme had been considered a success by the Home Office:

- It offered the 20 areas the opportunity to share learning with others and access expert advice to identify the most effective means of addressing alcohol-related harms.
- It also enabled areas to strengthen partnership working, particularly with health, crime, licensing, industry and other partners.
- Participating areas took a forward look at a variety of issues relating to alcohol-related harms, ranging from protecting vulnerable people in the night time economy, to improving treatment pathways for those with alcohol dependency issues.

1.6 The first phase had 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.

1.7 Intoxicated – No Sale Campaign

The prospectus for Phase 2 applications makes reference to some of the Phase 1 initiatives which were seen to be examples of best practice. Derbyshire's Intoxicated Campaign was one of these.

The 'Intoxicated, No Sale' Campaign, (to highlight awareness not to sell alcohol to drunks and not to make or allow underage sales of alcohol) was first launched in the High Peak area through joint working with the Police at Buxton and has also been rolled out in the Derbyshire Dales in relation to licensed premises in Ashbourne and Matlock in particular.

1.8 Phase 2

The second phase of the project is scheduled to take place over the next 2 years, and 33 areas have been selected to participate.

The Phase 2 prospectus (36-page document) can be accessed via the Members' Portal.

1.9 Participating areas in Phase 2 will require local areas applying 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 include:

- 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.

1.10 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 is supporting a County-wide roll out of the Intoxicated Campaign. The Intoxicated Campaign was introduced to tackle the problems associated with alcohol being sold to people who were already drunk and to people who were underage.

1.11 The campaign fits the criteria of core challenges ii and iv in paragraph 1.9 above, which focuses on preventing crime and disorder in the night time economy and working with the police and business to help prevent the sale of alcohol to drunks in both the off and on-licensed trades. With a multi-partner agency approach, the work around Intoxicated and Pubwatch which is already being carried out could be extended to support how these challenges are being tackled

1.12 It is intended that the Derbyshire Project will be co-ordinated by Inspector Gamblin and will be delivered with partner agencies, using the Community Safety VALs (Violence and Alcohol Licensing Groups) as one means of facilitating the project. It is not expected to create new workload for any of the Council's team represented on the VAL (Licensing, Environmental Health and Community Safety), as much of the work required is already being carried out. However, quarterly reports will need to be submitted by Inspector Gamblin, so there should be some statistical information gathering exercises we will need to provide data for, but this should not present any staffing resource implications. The information will not be personalised.

1.13 Although funding is not being made available for the project, 4 support officers from the Home Office, have been assigned to assist participating areas.

2 RISK ASSESSMENT

2.1 Legal

There are no legal risks arising directly from this report, the risk is therefore low.

2.2 Financial

There are no financial risks arising directly from this report, the risk is therefore low.

3 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.

4 CONTACT INFORMATION

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5 BACKGROUND PAPERS

None

6 ATTACHMENTS

None

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

LICENSING SERVICE REVIEW – PROGRESS REPORT

PURPOSE OF REPORT

This report provides the Committee with a further update 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.

RECOMMENDATIONS

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.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 REVIEW PROGRESS

- 1.1 The District Council's review of its Licensing Service commenced in September 2015 with a scoping report to the Community and Environment Committee. The major recommendation identified was to investigate the potential for a shared service across the Derbyshire authorities.
- 1.2 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. At this stage there is no commitment from any authority to move beyond the information gathering stage.
- 1.3 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 are provided.
- 1.4 The data gathering spreadsheet was sent to all Derbyshire licensing authorities in June 2016 and returns were chased up until November 2016, at which point officers considered that sufficient information had been provided by all authorities. The information 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.
- 1.5 A copy of the spreadsheet, along with a commentary was also provided to the Derbyshire Chief Executives' Group. A copy of the commentary is included as Appendix 1 to this 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. This workshop was held on 19 January 2017. Whilst Chief Executives were interested in the findings and principles of the review it seems clear that progressing a shared licensing service is not a top priority at the current time. This is a conclusion that our own Corporate Leadership Team has also drawn, with the project having been rated a medium priority for Derbyshire Dales District Council.
- 1.6 Given these findings officers are now concentrating on the other issues identified by the review. In summary these issues were to complete the modernisation of the service and to reduce the gap between expenditure and income wherever possible.
- 1.7 In terms of modernising the service the key issues have been identified as:
- Completing the migration of all hard copy files to electronic data storage;
 - Improving the website information and interactivity;
 - Enabling online applications, consultations and payments for licences;
 - Enabling an automated online register of licences.
- 1.8 In order to complete the migration of hard copy files an additional, temporary post has been recruited into the Licensing Team for a period of 12 months. This post has been financed from savings in the Licensing salary budget and is intended to act on the principle of 'invest to save.' Completing the data migration exercise will enable other members of the Licensing Team to work more efficiently and will lead to a future review of staffing in that area.
- 1.9 Alongside the data migration project the Licensing Team is also involved in a major upgrade of the database system used by both Licensing and Environmental Health. Currently both teams use a Northgate product called M3PP. Whilst this system works well for both teams, it was originally developed in the 1990s and makes use of a now obsolete programming language. For this reason upgrading the system became a major priority for Northgate themselves. The benefit for the Licensing Team is that this upgrade includes the Licensing functionality in the early releases and is intended to enable online applications, consultations and registers.

The new system, which is called Assure, is being installed in Test on 7th and 8th March 2017 and we have committed to a fairly aggressive implementation timetable. In return we have negotiated free installation and consultancy services from Northgate. We will continue to keep Members informed about the progress of this project through updates to the Committee.

- 1.10 In terms of reducing the funding gap the information gathering spreadsheet identified that whilst our 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 (referred to as EH Licensing in the budget book). Some of the costs associated with these forms of licence are outside of the immediate control of the Licensing Team, such as recharges for Environmental Health time in inspecting animal welfare establishments and general overheads. However, it is hoped that direct costs will be addressed by the future review of staffing mentioned in paragraph 1.8 above.
- 1.11 In addition the Council does have discretion in the level of fee it charges in relation to both taxis and most miscellaneous licences. In order to begin to address the funding gap fees in these areas will be increased by 5% from 1 April 2017 and will be reviewed annually. We are aware from the information gathering exercise that many of the fees charged by Derbyshire Dales District Council are at the lower end of the countywide range and as such we are able to justify these increases.
- 1.12 In addition to the general increase in fees we will also be introducing new fees for first time applications for animal welfare licences. Whilst the adoption of fees for pre-application advice is well established in the area of Planning it is less well accepted in Licensing. However, the adoption of higher fees for first time applications enables the Council to recover its costs in terms of the additional time that is required to assist new applicants through the process. Again, these fees will be reviewed again next year as part of the Fees and Charges process.
- 1.13 At the current time officers are of the opinion that concentrating on those matters that affect our own Licensing service are most likely to be of benefit. However, they will continue to work with others across the County and beyond as opportunities present themselves.

2 RISK ASSESSMENT

2.1 Legal

There are no legal risks arising from this report.

2.2 Financial

The review should free-up a limited amount of officer capacity enabling the service to be more targeted in its approach, and allow development of the licensing software to increase channel shift opportunity. The new fees should assist in closing the funding gap between income and costs. Hence the financial risk is low.

3 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.

4 CONTACT INFORMATION

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5 BACKGROUND PAPERS

None.

6 ATTACHMENTS

Appendix 1 – Report to Derbyshire Chief Executives

LICENSING SERVICE REVIEW – ANALYSIS OF INFORMATION GATHERING

Background

The Derbyshire CX meeting on 29 April 2016 considered a paper submitted by Derbyshire Dales District Council that suggested that options for the future delivery of licensing services across the county should be examined. At that meeting the following actions were agreed:

- That the principle of shared licensing services should be explored to see whether or not they may be beneficial
- That licensing teams would share information on their services by the end of June 2016
- That Derbyshire Dales District Council would collate this information by the end of July 2016

Whilst these were the only actions that were agreed, the accepted principle was that further analysis of this information might be necessary to establish whether there was a business case for developing a shared service model and that if this was the case a bid should be made to the Derbyshire Transformation Challenge Award (TCA) for £50,000.

Progress

Once these actions were agreed officers from Derbyshire Dales District Council began work on a spreadsheet to collect the required information from all licensing authorities. This spreadsheet was completed and sent to all licensing authorities on 10 June 2016, giving a deadline of 1 July 2016 for completion and return. During the same period a bid was submitted to the Derbyshire TCA for £50,000 for further investigation, should this be necessary.

Information was received from some (not all) authorities within that timescale and officers began to populate the master spreadsheet. Officers began to chase the non-responding authorities for their information on 29 July 2016.

In the meantime confirmation that the Derbyshire TCA had approved the bid for £50,000 was received on 8 July 2016.

Further chasing of non-responding authorities was undertaken throughout August 2016. Information has continued to be received in dribs and drabs up to the end of November. There are still gaps in the information provided, notably around financial information, but it is now accepted that some of this cannot be provided.

Given the timescales involved and the near completion of the information it now seems appropriate to review the information gathered.

Information Gathering Exercise

Information was requested from all 9 Derbyshire licensing authorities using a standard Excel spreadsheet template. The template sent to all authorities was pre-populated with the information relating to Derbyshire Dales District Council in order to assist others with the type of information requested. The spreadsheet was divided into 6 tabs, titled:

- Scope – information about the types and numbers of licences processed

- Resources – information about the numbers of staff involved in licensing, their titles and costs, and where they sit within the authorities for governance purposes
- Budgets – information about the overall costs of the licensing services and the income received from licensing activity
- Local Fees – information about the levels of those licencing fees that authorities set for themselves
- ICT – information about the various software systems in use and any peripheral systems
- Support – information about the support services accessed and how those services are provided

As previously stated, the majority of the information requested has now been received and the master copy of the spreadsheet has been populated. At this stage it is possible to analyse the information to some degree to look at areas of similarity and difference and to begin to see if there are any areas of commonality that could be exploited.

Scope

It appears that there is a broadly identifiable core licensing service that can be defined. This consists of licences issued under the Licensing Act 2003 (alcohol and entertainment), the Gambling Act 2005 and taxi licensing. It is also possible to define areas of licensing such as animal welfare, skin piercing and scrap metal that are common to all authorities but may not be administered by a stand-alone licensing team, with these functions sitting outside of Licensing in some authorities and residing in Legal or Environmental Health. There are also some areas of licensing that seem much more applicable to some authorities than others, such as Houses in Multiple Occupation (CBC and DCC), camping and caravanning (DDDC and HPBC) and street collections (DDDC).

Overall it appears that it would be possible to define a core service.

Resources

It is clear that the approach to delivery varies across the authorities. The core licensing service does seem to sit within stand-alone teams but those teams are managed in a variety of sections, such as Legal, Regulatory Services, Environmental Health, Health and Wellbeing and so on. Some of the more peripheral areas of licensing sit outside the core licensing teams, most commonly in Environmental Health, eg HMO Licensing, skin piercing, animal welfare etc.

Staff structures and costs seem to vary slightly. It seems common practice to have a team made up of a Licensing Manager, Licensing Officers, Licensing Assistants (technical admin) and occasionally an Enforcement Officer. The exception appears to be DCC where the service is managed and staffed by Environmental Health Officers.

Structural Costs vary quite considerably

Budgets

This seems to be the area of greatest difference. It is clear that different authorities budget and account in different ways. To try to facilitate comparison the spreadsheet was set out in a way that asked for budgets for Licensed Premises, 'Environmental Health Licensing'

and Taxis, those being the areas of greatest activity. Even with this template in place not all authorities could provide accurate figures, as can be seen on the spreadsheet.

From the figures available it is evident that some authorities make a surplus on licensing whereas others make a loss. Overall 5 claim a surplus and 4 claim a loss. It is possible that this would militate against the easy establishment of a countywide service, with those authorities receiving a surplus likely to be reluctant to subsidise those making a loss. At the extremes the figures are as follows:

- DCC – surplus of £156K
- EBC – loss of £90K

Local Fees

There is a great deal of variation in respect of locally set fees and therefore there is an opportunity for regularisation. A project looking at true cost recovery could be an option here, particularly in respect of animal welfare and taxis.

ICT

There are a number of specialist software systems in operation around the county, as follows:

- Civica
- M3PP
- LalPac
- Uniform

The creation of a single software solution would be a pre-requisite for any shared service and this would be a project in its own right.

Support

All authorities use in-house mainstream support services such as legal and democratic services. DDDC, BDC and NEDDC use a shared ICT support service. Arrangements for Committees and Sub-Committees are also in-house, as required by much of the legislation.

The only area of outsourcing seems to be around taxi testing, where some authorities use private providers. It is worth noting that local authorities are required to provide taxi testing facilities within their areas, so the opportunity for centralisation of this service is limited.

Consultation

As part of the process of undertaking the review officers from Derbyshire Dales District Council met and discussed the issue of greater sharing of services with colleagues from other Licensing Authorities. Generally colleagues were happy to take part in the study but did not consider a shared licensing service a high priority because of the lack of cost savings.

Once the information gathering had been completed the spreadsheet was sent to all Licensing leads and Heads of Service. Only one response has been received, from Derby City Council, which makes the following points:

- Whilst licensing functions are similar it is the various licensing policies, conditions and processes that vary considerably according to local need;
- With the exception of alcohol licensing, where fees are set centrally, all other fees can only be set to recover costs (Hemmings). This means that there are no financial savings to be made from creating a wider licensing service;
- Whatever future arrangements are made there would need to be a considerable continuing involvement for elected Members.

The conclusion that Derby came to was that of all the regulatory functions licensing was the one that was least uniform and which provided the least financial benefit in respect of a shared service.

Conclusions

The information gathering exercise has thrown up some interesting similarities and differences. Whilst there is clearly a theoretical case to be made for a shared service it is possible that the financial and policy differences might create a barrier, as highlighted by Derby City Council's comments.

At this stage it does not seem that there is the appetite to progress a single countywide licensing service. However, in terms of cost savings it would seem to be sensible for authorities to consider the table of locally set fees and think about how these might be used to enable the services to break even as a first step.

Tim Braund, Head of Regulatory Services
Eileen Tierney, Licensing Manager

19 December 2016

LICENSING AND APPEALS COMMITTEE
8 MARCH 2017

Report of the Head of Regulatory Services

POLICING AND CRIME ACT 2009 (SECTION 27) LICENSING OF SEX ENTERTAINMENT VENUES

PURPOSE OF REPORT

The report informs the Committee of the provisions available to the Council for the regulation of sexual entertainment venues and seeks 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.

RECOMMENDATIONS

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.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 LICENSING OF SEX ENTERTAINMENT VENUES

1.1 Licensing Act 2003

1.2 Premises which are licensed under the Licensing Act 2003 ("the 2003 Act") may be used to provide adult entertainment, such as lap dancing, if it is authorised by virtue of a premises licence, club premises certificate or a temporary event notice.

1.3 However, in determining an application for a licence or a certificate, the licensing authority has restricted powers to curtail adult entertainment activities. It can only do so if the likely effect of that activity will undermine any, or all, of the 4 licensing objectives specified in the 2003 Act.

1.4 The licensing objectives are, the prevention of crime and disorder; public safety; the prevention of public nuisance; and the ⁵⁰protection of children from harm.

- 1.5 A licensing authority cannot take into consideration whether there is a need for such a venue, or the number and type of establishments in the area.
- 1.6 An application for a licence cannot be refused unless any of the proposed licensable activities will seriously impact on the licensing objectives. If a licence is granted, the authorised activities can only be controlled by conditions being attached to the licence or certificate.
- 1.7 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.
- 1.8 Changes introduced by section 27 of the Policing and Crime Act 2009
- 1.9 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.
- 1.10 Section 27 of the 2009 Act contains provisions which have reclassified lap dancing clubs and similar premises as sexual entertainment venues. It also amends 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.
- 1.11 These powers are not mandatory and will only apply if they are adopted by local authorities. If a local authority did not make a resolution to adopt the new provisions of schedule 3 of the 1982 Act, within one year of the 2009 Act coming into force (before 6th April 2011), then it is required to consult local people about whether such a resolution should be made. The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.
- 1.12 Where adopted, the revised provisions of the 1982 Act will 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 is inappropriate for such an establishment because the premises are located in a predominantly residential area.
- 1.13 The 1982 Act also provides that if the provisions are adopted the licensing authority can introduce its own standard licence conditions. This provides greater controls, not available under the 2003 Act, whereby licence conditions can only be imposed if they will prevent the licensing objectives from being undermined.
- 1.14 Licence Application Fees can be set by the Council to enable full cost recovery, thereby ensuring that the cost is borne by the applicant and is not subsidised by the council tax payer.
- 1.15 The Home Office produced Guidance for the Licensing of Sex Entertainment Venues. A copy of this is available on the Members' Portal.

- 1.16 Adopting the Provisions of the Local Government (Miscellaneous Provisions) 1982
- 1.17 Although the District Council has already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 of the Police and Crime Act to regulate sex entertainment venues, will apply in Derbyshire Dales.
- 1.18 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 6th 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.
- 1.19 The 2009 Act is not prescriptive about how the Council should consult in order to comply with this duty but any consultation exercise must be fair and meaningful.
- 1.20 If the Committee's decision is to consult and the outcome of the consultation is to recommend that the Council adopts the provisions, then the Council should produce and consult on a sexual entertainment venue/sex establishment licensing policy.
- 1.21 Currently there are no licensed sex establishments, or known sex entertainment venues, in the district.

2 RISK ASSESSMENT

2.1 Legal

Schedule 3 of the 1982 Act is adoptive therefore the provisions are not in force until the Council has resolved that Schedule 3 (as amended by the 2009 Act) will come into force in its area. Failure to adopt the provisions of the 1982 Act will mean that the Council will not be able to utilise legislative provisions to enable the effective regulation of sexual entertainment venues, and will have to rely on the limited provisions contained in the 2003 Act.

2.2 Financial

There are no direct financial implications arising from this report. This process will be incorporated in daily workflows and will not incur additional or direct financial expenditure, hence the financial risk is low

3 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.

4 CONTACT INFORMATION

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5 BACKGROUND PAPERS

Home Office Sexual Entertainment Venues Guidance for England and Wales
<http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

6 ATTACHMENTS

None.

BACK TO AGENDA