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12 April 2017

To: All Councillors

As a Member or Substitute of the **Licensing and Appeals Sub-Committee**, please treat this as your summons to attend a meeting on **Monday 24 April 2017 at 11.00am in the Council Chamber, Town Hall, Matlock DE4 3NN.**

Yours sincerely

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

Sandra Lamb
Head of Democratic Services

AGENDA

1. APOLOGIES/SUBSTITUTES

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

2. ELECTION OF A CHAIRMAN

Proposal that a Member of the Committee be elected Chairman.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

4. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press in order to consider its decision in private in accordance with the hearing procedure.

5. TAXI / PRIVATE HIRE VEHICLE DRIVER LICENSING

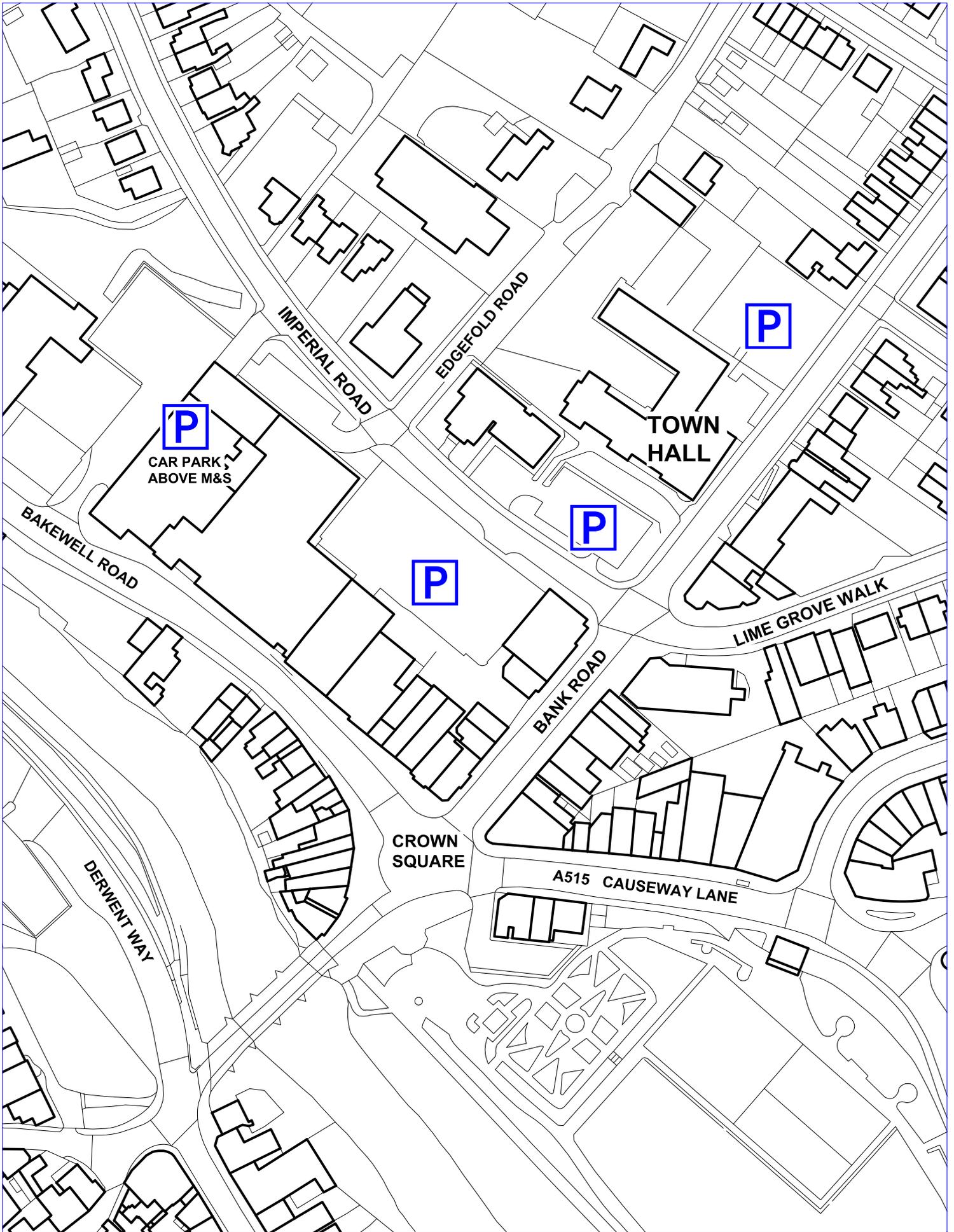
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To determine whether Applicant B is a fit and proper person to hold a Licence to drive a Hackney Carriage/Private Hire Vehicle in Derbyshire Dales.

Members of the Committee Nominated to hear this Appeal:

Councillors: Graham Elliott, Richard FitzHerbert and John Tibenham

Substitute: Councillor Helen Froggatt



LICENSING AND APPEALS COMMITTEE
24 APRIL 2017

Report of Head of Regulatory Services

TAXI/PRIVATE HIRE VEHICLE DRIVER LICENSING

PURPOSE OF REPORT

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

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

RECOMMENDATION

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

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

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the core values and key aims set out in the Council's Corporate Plan, in particular, the priority that focuses on delivering safer communities, thereby protecting the safety of residents and visitors.

1 BACKGROUND

1.1 The Applicant

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

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

Applicant B passed the Council's Knowledge Test on 21 February 2017. He passed the test on the second attempt, answering 39 out of 40 questions correctly. He has submitted a complete driver licence application. A satisfactory medical certificate has been provided and the following checks have also been carried out: an enhanced criminal record check, driving history check (DVLA); and the right to work in the UK..

1.2 Immigration Status

The provisions of the Immigration Act 2016 mean that taxi/PHV driver licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding a taxi driver licence.

The Act requires that any licence issued must not exceed the applicant's remaining period of lawful leave to remain in the UK.

Applicant B currently has leave to remain in the UK under the five year partner route. He applied to the Home Office for a Residence Card in September 2014, and he was issued with a certificate of application on 9 October 2014. A copy of this will be made available to the Committee. His application is the subject of an appeal which he lodged on 29 March 2016.

He is permitted to accept offers of employment, or to continue in employment in the United Kingdom, whilst his application is under consideration, and until either he is issued with a residence document or if his application is refused, until all appeal rights are exhausted.

So whilst **Applicant B** does have a right to work in the UK, and this has been confirmed with the Home Office Evidence and Enquiry Office, an expiry date is not stipulated.

It is recommended that if **Applicant B** is granted a taxi driver licence, it should be for a period of 6 months initially, and further immigration checks should be carried out at 6-monthly intervals before

1.3 Duration of a Combined Hackney Carriage/Private Hire Vehicle Driver's Licence

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

In particular circumstances (case-by-case basis) a driver's licence can be issued for a lesser time period if the District Council thinks it appropriate in the circumstances of the case.

2 **OPTIONS**

The Committee has the following options:

1. To grant the application for a licence for a reduced period, to reflect **Applicant B's** remaining period of lawful leave to remain in the UK, or for a maximum of 6 months, whichever is the shorter period;

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

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

3 PROCEDURE

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

4 RISK ASSESSMENT

4.1 Legal

The Committee must exercise their discretion reasonably.

Section 52 of the Local Government (Miscellaneous Provisions) Act 1976 states that any person aggrieved by:

- I. The refusal of the District Council to grant a licence under Section 51 of the Act, or
- II. Any conditions attached to the grant of a driver's licence may appeal to a Magistrates Court.

Any appeal must be made to the Magistrates' Court within 21 days of notification of such a decision.

4.2 Financial

There are no financial risks arising from this report.

4.3 Corporate Risk

These decisions are one of the functions in which the Council acts in a quasi-judicial function. It is important that these decisions are robust to protect the reputation the District Council has for sound decision making that stands up to scrutiny.

5 OTHER CONSIDERATIONS

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

6 CONTACT INFORMATION

For further information contact:

Eileen Tierney, Licensing Manager

Tel: 01629 761374

Email: eileen.tierney@derbyshiredales.gov.uk

7 BACKGROUND PAPERS

None.

8 ATTACHMENTS

Appendix 1 - Committee Hearings Procedure

LICENSING AND APPEALS COMMITTEE PROCEDURE (Taxi Licensing)

1. Introduction by the Chair explaining that the process is not an adversarial one and all comments should be directed through the Chair
2. Report of the Licensing Officer
3. Any questions for the Licensing Officer from Councillors
4. Any questions for the Licensing Officer from the Applicant/Licence Holder (or representative)
5. Statement from Licence Holder/Applicant (or representative)
6. Any questions from Councillors
7. Any questions from the Licensing Officer
8. Summing up by the Licensing Officer
9. Summing up by the Applicant/Licence Holder (or representative)
10. Clarifications required by any party.
11. Councillors retire in order to consider whether the Licensee is/remains a fit and proper person to hold the relevant Licence, whether or not to impose a sanction and if so what it should be.
12. The Chairman will announce the Committee's decision.