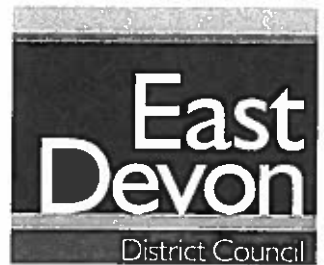


Date: 25 October 2010
Contact number: (01395) 517544
E-mail: clane@eastdevon.gov.uk
Our Reference: Chris Lane
Your Reference: -



East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Chris Gibbings, Steve Hall, John Humphreys & Ken Potter)

Licensing Officer

Dear Sir/Madam

Licensing & Enforcement Sub-Committee, Tuesday 2 November 2010 at 9.30am

The Licensing & Enforcement Sub Committee meeting will take place in the Council Chamber, Knowle, Sidmouth, to consider the matters detailed on this agenda.

Yours faithfully

MARK WILLIAMS

Chief Executive

Members of the public are welcome to attend this meeting. A hearing loop system will be in operation in the Council Chamber. Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate).

AGENDA

1. To confirm the minutes of the meetings of the Licensing and Enforcement Sub Committee held on 7 September 2010.
2. To receive any apologies for absence from Members of the Sub Committee.
3. To receive any declarations of interests relating to items on the agenda.
4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances.

Page/s
4 - 5

(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).



PART A

MATTERS FOR DECISION

Pages

5. To agree any items to be dealt with after the public (including the press) have been excluded. (Items which the Officers recommend should be dealt with in this way are shown under Part B of the agenda).

PART A

MATTERS FOR DECISION

- | | | | |
|----|--|-------------------|--------|
| 6. | Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary. | Licensing Officer | 6 - 8 |
| 7. | Private Hire Vehicle Suitability | Licensing Officer | 9 - 12 |
| 8. | The Vice Chairman of the Sub Committee to move the following:-

"that under Section 100(A) (4) of the Local Government Act 1972, the public (including the press) be excluded from the meeting as exempt information of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part B)". | | 12 |

PART B

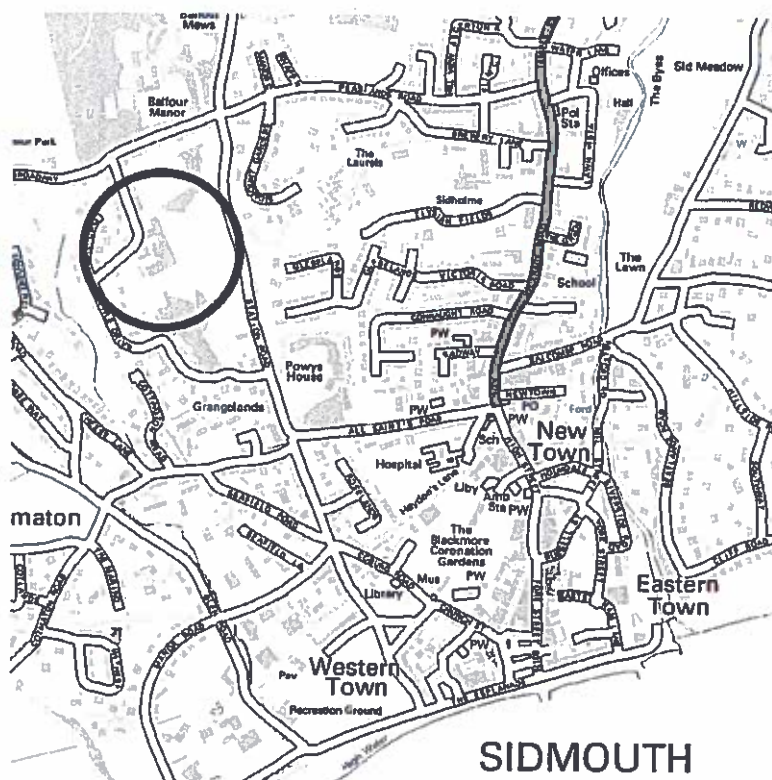
MATTERS FOR DECISION – EXEMPT INFORMATION

- | | | | | |
|----|----------------------------------|---|-------------------|---------|
| 9. | Hackney Carriage Drivers Licence | Para 3, Schedule 12A
Information relating to the financial or business affairs of any particular person. | Licensing Officer | 13 - 17 |
|----|----------------------------------|---|-------------------|---------|

Members Remember!

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following bus service stops outside the Council Offices on Station Road:
From Exmouth, Budleigh, Otterton and Newton Poppleford – 157

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).
From Exeter – 52A, 52B
From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 7 September 2010

Present: Councillors:
Chris Gibbings (Chairman)
Steve Hall (Vice Chairman)

Officers: Neil Mc Donald – Licensing Officer
Chris Lane - Democratic Services Officer
Giles Salter – Assistant Solicitor

The meeting started at 11.30 am and finished at 11.45 am.

***17 Minutes**

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 2 August 2010, were confirmed and signed as a true record.

***18 Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary**

Consideration was given to the report of the Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

The Senior Licensing Officer explained the background of the application and the negotiations carried out.

RESOLVED that the application be granted as below, subject to the agreed positions set out in the schedule and any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the grant of a time limited Premises Licence (11-12/09/10)	Whimble Cricket Club, Knowle Cross Recreation Ground,	Following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed conditions are approved.

	<p>Knowle Cross, Whimple EX5 2NU</p>	<ol style="list-style-type: none"> 1. 7 SIA registered door-staff must be employed half an hour prior to the commencement of the event to half an hour after licensable activities cease. 2. Stewards when on duty must wear Hi-viz jackets or similar which will be removed when off duty. 3. No glass bottles must be permitted within the licensable area 4. Plastic or toughened containers must be used 5. All bottles must be decanted 6. A challenge 21 policy must be adopted 7. Stewards must ensure the access lane to the ground is kept clear and free for use by emergency vehicles 8. Persons under 16 must be supervised by an adult.
<p>Recommendation</p>	<p>Recommend approval of application subject to the amended operating schedule</p>	

Chairman

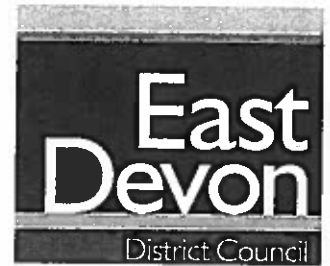
Date

Agenda Item 6

Licensing Sub Committee

2 November 2010

NMcD



Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary.

Summary

The report details these applications.

Recommendation

That these applications be granted as applied for subject to the agreed positions set out in the schedule below, any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

a) Reasons for Recommendation

To ensure full compliance with statutory processes.

b) Alternative Options

The Licensing Authority must grant these applications as all parties have agreed a position which they consider makes a hearing unnecessary.

c) Risk Considerations

Applications must be dealt with within the statutory time limits.

d) Policy and Budgetary Considerations

Officers have taken into account the Council's Licensing Policy in making the recommendation.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1. Legislation Background

- 1.1 Under the Licensing Act 2003 it is unclear whether applications where an agreed position has been reached and the parties do not consider a hearing to be necessary,

require to be formally determined by a licensing sub committee, as opposed to relying on determination powers delegated to officers. To put the matter beyond doubt, these applications are reported to members for their approval of the agreed position. This process also enables members to be advised of the success of the informal mediation in advance of hearings, which is facilitated by Licensing Officers or sometimes by other Responsible Authorities.

2. Schedule of Applications

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for a premises licence to be granted	Royal British Legion (Honiton) Club Ltd, 51 Dowell Street, Honiton, Devon EX14 1NB.	<p>Following mediation the applicant and the Councils Environmental Health service have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to:</p> <ol style="list-style-type: none"> 1. All internal and external doors and windows must be kept closed at all times during regulated entertainment except where being used for access and egress. Only the doors into the main entrance foyer shall be used for access and egress into the building during such entertainment. 2. A senior member of staff must assess the noise level at the facade of the nearest residential premises at the start of regulated entertainment and periodically during the event to establish whether music or bass noise is audible. If music or bass noise is audible then steps must be taken to reduce the level accordingly, and to maintain the lower level throughout the event.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	
Application for the Variation of a premises licence to be granted	The Grapevine 2 Victoria Road, Exmouth EX8 1DL	<p>Following mediation the applicant and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to:</p> <ol style="list-style-type: none"> 1. The non-standard timings for all licensable activities and opening hours to be amended to "From the end of permitted hours on New

		Year's Eve to the start of permitted hours on New Year's Day."
Recommendation	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

Background Papers

- The relevant licensing applications
- Representations received from Responsible Authorities
- Guidance issued under Section 182 of the Licensing Act 2003
- The District Council's Statement of Licensing Policy

Neil McDonald Ext.2079

Licensing Officer

Licensing Sub Committee

2 November 2010

Agenda Item 7

Licensing and Enforcement Sub-Committee

2 November 2010

DJ



Private Hire Vehicle Suitability

Summary

It is the District Council's policy to require all vehicles to be licensed as a Private Hire vehicle to be not more than four years old when initially licensed by the Council. An application has been made to licence a vehicle which is 12.5 years old. The Committee is asked to determine whether to make an exception to their policy and agree to licence the vehicle or refuse the application.

Recommendation

To consider the application to license a private hire vehicle that falls outside of the criteria as required by the East Devon District Council and determine whether to make an exception to the District Council's policy and agree to license the vehicle or refuse the application.

a) Reasons for Recommendation

To ensure that vehicles licensed with this authority meet an acceptable level thus ensuring that passenger safety, comfort and vehicle appearance is maintained as high as possible.

b) Alternative Options

To refuse the application or to make an exception to the policy and grant the application to licence the vehicle as a Private Hire vehicle.

c) Risk Considerations

If this application is refused, an applicant whose application is refused has a right to appeal within 21 days to a Magistrates Court.

d) Policy and Budgetary Considerations

The Policy implications are set out in the report. As far as budgetary considerations are concerned if there is an appeal and the Council loses, there may be a financial implication as to costs/compensation etc to be paid by the Council.

e) Date for Review of Decision

None.

Main Body of the Report

- 1.1 The licensing of private hire vehicles, drivers and operators, is the responsibility of the Local Authority and is governed mainly by legislation under the Local Government (Miscellaneous Provisions) Act 1976.



1.2 Section 48 Licensing of private hire vehicles.

- (1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied

- (a) that the vehicle is
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe and
 - (v) comfortable;
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security that complies with the requirements of Part VI of the Road Traffic Act 1988 and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.

1.3 On 12 September 1991 the Tourism and Transportation Committee agreed that as from 1 November 1991 on initial licensing as a private hire vehicle, a vehicle shall not be more than 4 years old and shall not be licensed in the case of ordinary cars beyond 8 years and that applications for initial licensing of older specialist classic cars, of a type approved by the Chief executive in consultation with the Chairman or Vice chairman of the District Councils Committee or sub Committee responsible for the licensing of private hire vehicles at the time may be granted for private hire purposes only

1.4 The Council ratified this on the 23 January 1992. This policy was subsequently amended to allow licensed private hire vehicles that are over 8 years old to continue in use subject to a satisfactory test certificate being obtained every 6 months. This means that vehicles that are no older than 4 years can be licensed for the first time as private hire vehicles and as long as they remain licensed they can continue in use as private hire vehicles up to 8 years. Thereafter as long as the vehicle proprietor provides an MOT test certificate twice a year the vehicle can still remain licensed.

1.5 On the 27 September 2010, an application was received at the Council offices to license a Jaguar XJ8 saloon regd number R60 NET. The applicant is a Mr Nicholas Clark 15 Cheriswood Avenue Exmouth. In support of his application he has also produced a vehicle inspection report dated 13 August 2010, a current MOT Test certificate dated 13 August 2010 The MOT certificate shows the recorded mileage for this vehicle as at 13 August 2010 when the test was conducted as 130306 miles.

1.6 Mr Clark has pending applications for a private hire drivers licence, a private hire operators licence and a further application for another vehicle to be licensed with this authority, to operate from his home address in Cheriswood Avenue Exmouth.

1.7 The vehicle he has applied to licence a Jaguar XJ8 registration number R60 NET has a date of first registration of 1 April 1998, as shown on the vehicle registration document. This means the vehicle is currently 12 years and 6 months old.

1.8 This is an initial application to license this vehicle, and in all other respects fits the criteria to licence except for exceeding the age policy, and that it is currently not insured as a private hire vehicle. The insurance situation is easily rectified if the Committee decide to licence the vehicle for private hire purposes.





- 1.9 Mr Clark has written a letter in support of his application, which is shown as Appendix A. He states that the vehicle has undergone a full restoration and is now virtually a new vehicle. He has produced 20 invoices in relation to work completed on the car, all of which will be available on the day of the Committee hearing for inspection
- 1.10 The condition that vehicles should be less than four years old on initial licensing was made to ensure that the taxi fleet licensed with this authority is kept relatively new, thereby helping to ensure that passenger safety, comfort and appearance is maintained as high as possible. In the majority of cases the older a vehicle becomes the harder life they have had with increased stress on the vehicle and more damage to the bodywork which although may have been repaired could have a long-term detrimental effect. Certainly older cars tend to have a higher mileage than normal vehicles leading to more mechanical problems, which may put the fare paying public at risk from mechanical failure
- 1.11 A side effect of the district maintaining a modern private hire fleet is that it is helping to lower the carbon footprint, as older vehicles in general are less fuel-efficient and their emissions levels are far worse. In addition private hire vehicles are ambassadors for the district as they travel far and wide. A modern fleet provides a good impression of the district thus helping businesses and the holiday trade.
- 1.12 Mr Clark seems to have spent a lot of time and money on the vehicle he wishes to licence and appears to adopt a very professional approach to the licensing of the private hire vehicle.
- 1.13 Mr Clark will produce the vehicle he seeks to licence at the Council Offices on the day of the hearing to enable Members to inspect the vehicle if they wish to do so.

Legal Implications

The Legal implications are set out within this report.

Financial Implications

The financial implications are contained in the report.

Appendices

Appendix A - Letter from Mr Clark in relation to his application dated 22 September 2010

Background Papers

Minutes of Tourism and Transportation Committee dated 12 September 1991

Private Hire Vehicle application dated 17 September 2010 for Jaguar Saloon R60 NET

Registration Certificate for R60 NET

MOT Test certificate for vehicle R60 NET

Compliance test for R60 NET

20 invoices in relation to expenditure for the Jaguar Saloon R60 NET

Douglas Jackson
Licensing Officer
Ext. 2611

Licensing and Enforcement Sub Committee
2 November 2010



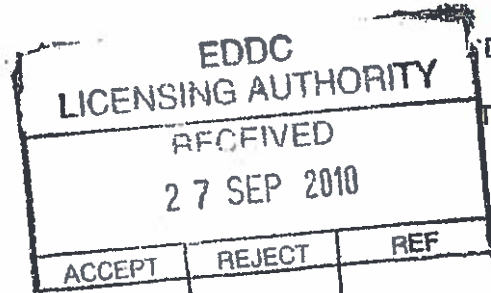
Letter in support my application.

15 Cheriswrod ave

Exmouth

Devon ex8 4hg.

Tel 07816 520225.



22/9/2010

Dear Mr Jackson,

Please see enclosed application for Private car hire vehicle licence. I understand due to the age of the vehicle (beyond 8years) that I need approval of the distinct council committee.

The vehicle in question for this application is a 1998 Jaguar XJ8 (as used by the prime minister and other heads of state.)

All be it that the car was built in 1998 it has over the last 6mths undergone a full restoration (invoices included) and to all purposes is now virtually a new vehicle.

The purpose of choosing this vehicle is to offer customers the experience of travelling in a truly British car.

I would like to use this vehicle for weddings, proms, airport transfers, business meetings and other private car hire transport.

I trust the committee will give this application full consideration; this vehicle is available at any time for inspection if required.

Yours faithfully

Nick Clark.

8 Exclusion of the Public

The Vice Chairman of the Board to move the following:-

“that under Section 100(A) (4) of the Local Government Act 1972, the public (including the press) be excluded from the meeting as exempt information, of the description(s) set out on the agenda is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part B)”