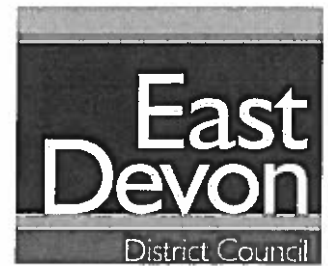


Date: 9 February 2010
Contact number: (01395) 571544
E-mail: clane@eastdevon.gov.uk
Our Reference: Christopher Lane
Your Reference: CL



To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Graham Godbeer, Pat Graham, Jim Knight)
Remaining members of the Licensing and Enforcement Committee
for information)

Senior Licensing Officer
Assistant Solicitor
All parties to the hearing

East Devon District Council
Knowle
Sidmouth
Devon
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Meeting of the Licensing & Enforcement Sub-Committee

Tuesday 16 February 2010 at 9.30 am Council Chamber, Knowle, Sidmouth

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). Visitor car parking is available at the top of the drive outside the main reception area.

Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.

A G E N D A

Page/s

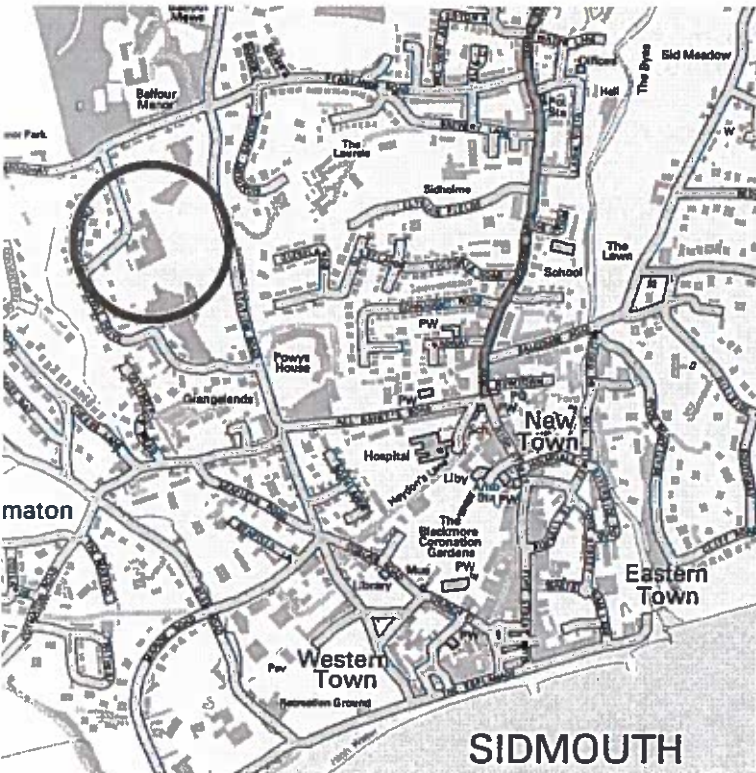
1. To receive the minutes of the meeting held on 2 February 2010. 3 - 4
2. To receive any apologies for absence from Members of the Sub Committee.
3. To receive any declarations of interests relating to items on the agenda.
4. To consider any items which in the opinion of the Chairman should be dealt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

(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).
5. To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way).
6. Hackney Carriage Vehicle Suitability Licensing Officer 5 - 8

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 2 February 2010

Present: Councillors:
Graham Godbeer(Chairman)
Chris Gibbings
Marion Olive

Officers: Ian Carter – Senior Licensing Officer
Chris Lane - Democratic Services Officer
Giles Salter – Assistant Solicitor

The meeting started at 9.30 am and finished at 9.45 am.

*22 Minutes

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 19 January 2010, were confirmed and signed as a true record.

*23 **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 a premises licence	9 Rolle Street, Exmouth	Following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.

		<p>Closing time for the premises to be reduced to 2300 hours.</p> <p>The 'Challenge 21' scheme will be adopted at the premises. Any person who appears to be under the age of 21 will be challenged for identification to prove that they are over the age of 18. The only identification that will be accepted is a photographic driving licence, passport or government approved PASS card.</p> <p>All staff will be trained in the 'Challenge 21' scheme before commencing sales of alcohol.</p> <p>Staff will be trained in their responsibilities before being allowed to make sales of alcohol. The training will be recorded and refresher training will take place at 3 monthly intervals. All training will be signed off by the DPS or Premises Licence Holder.</p> <p>A Refusals Register will be maintained at the premises (including electronic registers) and made available by an officer authorized by the licensing authority on request.</p> <p>When they judge it safe to do so, staff will take reasonable efforts to deter people from congregating outside the premises.</p>
<p>Recommended</p>	<p>Approval of application subject to the amended operating schedule</p>	

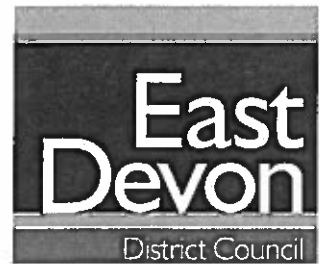
Chairman Date

Agenda Item 6

Licensing and Enforcement Sub-Committee

16 February 2010

DJ



Hackney Carriage Vehicle Suitability

Summary

It is the District Council's policy to require all vehicles to be licensed as a Hackney Carriage 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 6.5 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 licence a hackney carriage 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 licence 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 the taxi fleet licensed with this authority is kept relatively new, thereby helping to ensure 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 Hackney Carriage 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 Crown 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 hackney carriages is the responsibility of the local authority and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 Section 47 Local Government (Miscellaneous Provisions) Act 1976 states that

- (a) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary, and
 - (b) Without prejudice to the generality of the foregoing subsection a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear any distinguishing marks as shall clearly identify it as a hackney carriage.
- 1.3 On 12 September 1991 the Tourism and Transportation Committee agreed that as from 1 November 1991 on initial licensing as a hackney carriage, 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 purpose built hackney carriage vehicles beyond 10 years. Council ratified this on the 23 January 1992.
- 1.4 This policy was subsequently amended to allow licensed hackney carriages 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 hackney carriage vehicles and as long as they remain licensed they can continue in use as hackney carriages 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 29 January 2010 Mr Barry Saxton of 12 Rance Drive, Exmouth made an application to the District Council to licence a Vauxhall Vectra Saloon registration number KT03 FLJ. In support of his application he has also produced a vehicle inspection report dated 26 January 2010, a current MOT Test certificate dated 23 January 2010, and a current Insurance certificate operative from 27 January 2010. The MOT certificate shows the recorded mileage for this vehicle as at the 23 January 2010 when the test was conducted as 231,480 miles.
- 1.6 Mr Saxton is the owner of Swift Cars, a local Exmouth taxi company. He currently has 4 licensed hackney vehicles and four licensed drivers working for him. He has been a hackney carriage driver licence holder for 24 years, (he informs me) as our computer records only go back for 10 years.
- 1.7 The vehicle he has applied to licence registration number KT03 FLJ has a date of first registration of 28 July 2003. This means the vehicle is currently 6 years and 6 months old.
- 1.8 The vehicle has a previous licence history with the District Council. Mr Saxton first licensed the vehicle as a Hackney Carriage when it was 7 months old on the 16 February 2004. Apart for a short period when it is thought the vehicle was taken off the road for repair it was licensed continually until the 31 October 2008 when Mr Saxton allowed the licence to expire. The vehicle has not been licensed since that date and at the time of allowing the licence to expire Mr Saxton made no mention of wishing to re-licence it in the future. It should be noted that the vehicle has been unlicensed as a hackney carriage for 15 months.
- 1.9 Mr Saxton has written a letter in support of his application, which is shown as **Appendix A**. He states that there has been a period of about 6 months when the vehicle was in the garage awaiting repair. During this time the vehicle became unlicensed.
- 1.10 Mr Saxton did attend the Licensing Office some time in late September or early October 2009 when he asked to re-licence the vehicle but was advised that it was too old to re-licence, as it had become over four years old. On the 29 January 2010 he made a formal application to re-licence the vehicle.
- 1.11 The applicant has a reputation amongst members of the Licensing Team as a proprietor who keeps his vehicles "tidy". However whilst he provides all the necessary certificates/inspection reports for his licensed vehicles when renewing his licences the Licensing staff are unable to vouch for the level of maintenance his vehicles receive. In view of this Mr Saxton has been asked to provide the maintenance and service record for

the vehicle he wishes to licence dating from February 2004. It is hoped that these documents will be available for members to inspect when this application is heard.

- 1.12 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.
- 1.13 A side effect of the district maintaining a modern taxi 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 taxis are ambassadors for the district as they travel far and wide and are often the first vehicle a visitor to the area sees and uses. A modern fleet provides a good impression of the district thus helping businesses and the holiday trade.
- 1.14 It is understood that the vehicle Mr Saxton wishes to licence has received a replacement engine. However members are reminded that the vehicle already has a recorded mileage of 231,480 miles and whilst the vehicle has a replacement engine the majority of the vehicle remains a 6 and a half-year-old car having done a very high mileage with all the mechanical stresses that entails.
- 1.15 It is the Licensing Manager's recommendation that only if members are satisfied that there are very exceptional reasons for doing so should this application be granted.
- 1.16 Mr Saxton 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 Saxton in relation to his application dated 27 January 2010

Background Papers

Minutes of Tourism and Transportation Committee dated 12 September 1991

Hackney Carriage application dated 27 January 2010 for Vauxhall Vectra saloon KT03 FLJ

Registration Certificate for KT03 FLJ

Insurance Certificate for KT03 FLJ

Compliance test for KT03 FLJ

MOT Certificate for KT03 FLJ

Mr B T Saxton
SWIFT CARS
12 Rance Drive
Exmouth
Devon
EX8 5RP

27 January 2010

Ref: Re licencing Taxi KTO3FLJ

Dear Sir

I am enclosing this letter with the application form so that the circumstances of my case may become clear.

The said vehicle KTO3FLJ has been a plated taxi since it was bought in 2003 with East Devon District Council.

In 2009 the car developed an engine fault which required a new second-hand engine.

Due to the rarity of these engines the vehicle remained in the Vauxhall Garage in Exeter for a period of six months.

This resulted in a break in its Taxi history which meant that due to lapse in time the car became over four years' old rule and I was unable to re-plate the car.

However the vehicle is now in pristine condition and has passed all the relevant tests MOT AND TAXI tests.

I look forward to the Committee reviewing my situation with a view to being allowed to re-plating the car.

Yours sincerely



B.T.Saxton