



Agenda for Licensing and Enforcement Sub Committee
Wednesday, 18th September, 2019, 11.30 am

Members of Licensing and Enforcement Sub Committee

Councillors: K Bloxham, S Jackson and P Jarvis

Venue: Blackdown House, Honiton

Contact: Christopher Lane;

01395 517544; email: clane@eastdevon.gov.uk

(or group number 01395 517546)

Wednesday, 11 September 2019

East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

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Tel: 01404 515616

www.eastdevon.gov.uk

- 1 Minutes of the meeting held on 28th August 2019 (Pages 3 - 6)
- 2 Apologies
- 3 Declarations of interest
Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)
- 4 Matters of urgency
Information on [matters of urgency](#) is available online
- 5 Confidential/exempt items
To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.
- 6 Determination of an application to licence a Private Hire vehicle which does not conform with the Council's vehicle specifications policy with regard to engine capacity (Pages 7 - 16)

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).

[Decision making and equalities](#)

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

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Licensing and Enforcement Sub Committee held at Exmouth Town Hall, Exmouth on 28 August 2019

Attendance list at end of document

The meeting started at 10.30 am and ended at 2.15pm.

59 Minutes of the previous meeting

The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 10 April 2019, were confirmed and signed as a true record.

60 Declarations of interest

There were no declarations of interest.

61 Matters of urgency

There were no matters of urgency.

62 Confidential/exempt items

There were no confidential items.

63 To consider an application for the grant of a time limited premises licence to allow the provision of recorded music, live music and the sale of alcohol for consumption ON the premises at H fest, Halsdon Farm, Mudbank Lane, Exmouth, EX8 3EG. The application is to cover the period 30 August - 31 August 2019

The Sub Committee gave consideration to an application for the grant of a time limited premises licence to allow the provision of recorded music, live music and the sale of alcohol for consumption ON the premises at H fest, Halsdon Farm, Mudbank Lane, Exmouth EX8 3EG.

The Sub Committee carefully considered the application with the amendments the applicant had now offered for the licensable activities and the extension of proposed hours of operation with a view to deciding whether the application promoted the licensing objectives as required by the Licensing Act 2003. They also took into account Government Guidance and the Council's own licensing policy and the Human Rights Act 1998 in making this decision.

The Sub Committee considered the relevant representations that all parties had made and the written representations and other documentation put before the Sub Committee. They also considered the particular locality of the premises on the edge of Exmouth close to residential housing, and it was noted that some of this was sheltered housing.

The Sub Committee considered it relevant the police mediated with the applicant in relation to the Licensing Act objectives, which were – public safety, public

nuisance and crime and disorder and as result an agreed position was reached in relation to the hours of operation relating to the sale of alcohol, drinking up time and premises closure.

The applicant's case was on paper that an Event Management Plan version 5 had been submitted with the papers prior to the hearing which set out the organisation of the event in detail, this included a Risk Management Plan.

At the hearing, Mr George Nightingale stated that he had run community events for 4-5 years which included a TEN for an event held on the site in 2018. This event had raised £15,000 for RMA charities relating to the rehabilitation of wounded and sick marines.

An Event Management Plan version 5 had been submitted with the papers prior to the hearing which set out the organisation of the event in detail, this included a Risk Management Plan.

Cpt Paul Fleet RM stated H Fest was aimed at being a family event for the Exmouth community with a specific focus on the RM families who have historical links with the town. This was an event that would grow the work of RMA charities.

Andrew Lamont, National trust leaseholder at Lower Halsdon Farm also confirmed the benefits he had seen from the family event, he also referred to the covenant on the land to provide community activities for the community. He commented on the security of the site, the event site was protected by stock fencing and hedging around the perimeter, and this would prevent unwanted incursions from non-ticket holding attendees.

Current ticket sales as at the hearing were 236 for the two day event, but this was expected to double to 500-600 attendees, people arriving on the day.

Environmental Health commented on the requirements for noise monitoring on the site throughout the event and requested digital recording information to be sent to EDDC by close of business on 2nd September.

The interested parties' case was on paper, firstly in relation to the prevention of crime and disorder, a festival going on for 12 hours with loud non-stop music and alcohol available all day leading to rowdy festival goers causing vandalism to property/vehicles, and people being sick in the street.

Regarding public safety, lots of properties' rear gardens backed onto the festival site. Residents feel unsafe when strangers can gain access to their properties and could force entry.

Regarding the prevention of public nuisance, loud music until midnight and a great number of people talking loudly, shouting until well after midnight in a residential area was unacceptable. The event should finish by 10pm. Residents would still suffer loud noisy drunken people leaving the venue. Not all will camp for 2 days.

At the hearing they added that they were concerned about the appropriateness of the location, the concerns about noise nuisance, parking in Halsdon Avenue/Mudbank Lane, the late hour of the sale of alcohol, glass bottles being left on site, the access and egress on and off the site for vehicles and the lateness the

event would finish on each day. The effect on the long term health of vulnerable local residents.

The Sub Committee had carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence members heard regarding the premises, it was considered that the event would be well managed and controlled with appropriate policies in place and adequate supervision from line management. The had gained confidence during the hearing that the applicant had listened to the interested parties' concerns and had been flexible and accommodating in making compromises to alleviate perceived and undue concerns.

The Sub Committee did note accept that there was evidence of a significant public nuisance, risk to crime and disorder and risk to public safety arising from the proposed operation of the premises. They had however, taken into account the concerns of local residents about the operation of the event by ensuring that suitable conditions were imposed and that the operating hours were not unreasonably late.

All parties were reminded of the closure and review powers which the government brought into force once the new licences were operational from 24th November 2005. Premises which do not operate in an acceptable way in terms of the licensing objectives may in extreme cases be closed down by police action or have their scope of operation reduced by the licensing authority.

Whilst acknowledging the concerns expressed by the interested parties before the Sub Committee, they believed that the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions imposed which had been tailored to the size, characteristics and activities on the premises, which were believed to be necessary and proportionate.

RESOLVED 1.that the premises licence be granted as follows:

- a) The extent of the areas within which the various licensable activities will be permitted is as indicated on Plan 4 of version 5 of the Event Management Plan, dated 19th August 2019.
- b) Permitted hours for the various licensable activities will be: Friday
Gates open to the public at 3.00pm. Amplified music from 3.00pm to 10.00pm with 30 minutes of respite between each act, no music between each act.

Alcohol sales from 3.00pm to 11.00pm, 30 minute drinking up time until 11.30pm, event closes at midnight.

Saturday Gates open to the public at 10.00am, amplified music from 12.00 to 10.30pm with 30 minutes of respite between each act, no music between each act.

Alcohol sales from 11.00am to 11.00pm, 30 minute drinking up time until 11.30pm, event closes at midnight.

- c) Appendix H conditions offered and de-rigging event debriefing of site to commence from 9.30am on Sunday 1st September.
- d) Festoon lighting to be switched off by 1.00am
- e) Sound measuring locations with sound level readings set at 65dba. 15 minute LAeq and measurements to be sent to Environmental Health the next working day, readings to be taken until 30 minutes at the end of the event on each night. No music allowed on the camp site overnight.
- f) All details of the 9 SIA staff to be supplied to the Licensing Authority no later than 9.00am on Friday 30th August.

2. The Designated Premises Supervisor would be George Nightingale of 43 The Strand, Exmouth, EX8 1AL.

Attendance List

Councillors present:

K Bloxham (Vice-Chairman)
P Jarvis (Vice-Chairman)
Jack Rowland

Councillors also present (for some or all the meeting)

Maddy Chapman

Officers in attendance:

Giles Salter, Solicitor
Steve Saunders, Licensing Manager
Jill Wheller, Environmental Health Officer
Lucy Maxwell, Licensing Officer
Chris Lane, Democratic Services Officer

Chairman

Date:



Report to: **Licensing and Enforcement Sub Committee**

Date of Meeting: 18 September 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 6

Subject: **Determination of an application to licence a Private Hire vehicle which does not conform with the Council's vehicle specifications policy with regard to engine capacity**

Purpose of report: It is the district council's current policy that on initial licensing as a private hire, a vehicle must not be less than 1000cc. The policy recognises the positive impact that low and zero emission vehicles have on the environment.

Recommendation: That the Sub Committee considers the application to licence a black Nissan Leaf vehicle registration number, WJ19 MHF as a private hire vehicle and determine whether to refuse the application or make an exception to the Council's present policy and agree to licence the vehicle. Being a hybrid electric vehicle it falls outside of the criteria in the policy agreed by Council being below 1000cc engine capacity.

Reason for recommendation: To ensure that vehicles licensed with this authority meet a high standard of passenger safety and comfort and are fit to carry out the work that is required as a private hire vehicle.

Officer: Lucy Maxwell, Licensing Officer

Financial implications: There are no financial implications in this report. If the applicant appeals against the decision made there may be a possibility of court costs.

Legal implications: The legal implications are contained within the report.

Equalities impact: Low Impact

Risk: Low Risk

- Links to background information:**
- Appendix A - Application for the Grant of a Private Hire Vehicle Licence for vehicle registration WJ19 MHF
 - Appendix B - GOV.UK status for vehicle registration WJ19 MHF showing Zero Emissions
 - Appendix C - GOV.UK MOT status for vehicle registration WJ19 MHF

Background Papers

Minutes of Tourism and Transportation Committee, March 1994

[East Devon Taxi & Private Hire Policy](#)

Link to Council Plan: Living in, working in and enjoying this outstanding place

Main Body of the Report

1.1 The licensing of hackney carriages and private hire vehicles is the responsibility of the council and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

1.2 **Section 48 Local Government (Miscellaneous Provisions) Act 1976 states that:**

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 as 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 In support of this application the following documentation has been produced:

- Appendix A - Application for the Grant of a Private Hire Vehicle Licence
- Appendix B - GOV.UK status for vehicle WJ19 MHF showing Zero Emissions

- 1.4 The vehicle is described in the registration document produced at **Appendix A** as a black Nissan Leaf registration number WJ19 MHF. The body type is described as a four door saloon this being an electric vehicle rather than diesel or petrol fuel therefore having an engine cylinder capacity of 0cc. The first registration is shown in the registration document as being March 2019.
- 1.5 A check has been carried out on the DVLA website which shows that the vehicle does not require vehicle excise licence (tax) as it has an emission output of zero.
- 1.6 The applicant Mr Bakos intends to obtain licences for PH driver, vehicle and operator with this authority and has not previously held a licence.
- 1.7 The vehicle has been shown to East Devon Licensing Officers prior to the application being received and upon examination the vehicle appeared to be in excellent condition and being almost new in condition and age.
- 1.8 The vehicle's configuration is: driver's seat and one passenger seat in the front. In the rear compartment there are three forward facing seats.
- 1.9 If members see fit to licence the vehicle Mr Bakos asks that the vehicle is licensed for 4 passengers.
- 1.10 The vehicle will be produced by the applicant at the Council Offices on the day of the hearing to enable Members the opportunity to inspect it.
- 1.11 The online emissions and tax status of this vehicle is provided at **Appendix B** and the MOT status at **Appendix C**.

2 Background Information

- 2.1 In July 2017 the Council's Taxi and Private Hire Vehicle policy specifies that on initial licensing as a private hire vehicle a vehicle shall not be less than 1000cc. The engine capacity was specified in relation to petrol and diesel powered vehicles. This is a policy agreed by members following, as in all cases of policy, consultation with the trade.
- 2.2 The licensing authority also reviews the Council's Taxi and Private Hire Vehicle policy and where appropriate revisions are considered. The continuing requirement that all vehicles meet a minimum engine capacity requirement of 1000c will automatically bar vehicles that electrically powered with ultra-low or zero carbon emissions. Whilst the current policy specifies the Council will give "special consideration" to such vehicles, it is necessary to refer this application to the Licensing and Enforcement Sub-Committee as the engine specification does not allow determination by officers until further revision to the policy.
- 2.3 The policy acknowledges that "low emission vehicles such as hybrids and electric vehicles can have a positive impact on the environment and these will be given special consideration if they do not meet the Council's criteria in respect of the minimum engine size." That aside until such time that the current policy is revised, it does not provide officers with the power to depart from it and therefore this application is referred to the members.
- 2.4 Since implementation of the Council's Taxi and Private Hire Vehicle policy, the take up and popularity of ultra-low and zero emission vehicles has increased significantly.

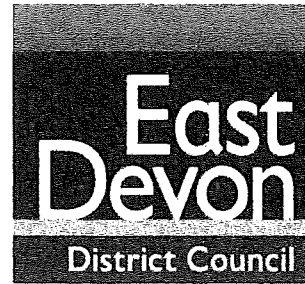
- 2.5 The new Council at East Devon has identified climate change as being a priority and will be reflected in the new Council Plan in conjunction with delivering greener policies as a priority. The intention to licence taxi and private hire vehicles with low or zero emissions is driven by central Government with further changes imminent to include collection of data regarding emissions for all taxis and private hire vehicles.
- 2.6 Of the existing 24 private hire vehicles licensed at present, none are under the engine capacity requirement of 1000c and if this application is granted, this would be the first electrically powered vehicle licensed by East Devon. The Licensing Enforcement Committee expressed at its last meeting an intention to promote carbon neutrality. The introduction of licensed ultra-low and zero emission vehicles as taxi or private hire vehicles is considered as beneficial to the environment and the residents of East Devon.

3 Conclusion

- 3.1 The vehicle subject of this application supports the priorities of the Council as a potential licensed private hire vehicle. It is only the matter of the current engine specifications in the Council's Taxi and Private Hire Vehicle policy requiring a minimum of 1000cc that prevents officers from determining and issuing the licence.
- 3.2 Members will have the opportunity to hear from the applicant and to inspect the vehicle.
- 3.3 The vehicle appears in excellent condition and is less than six month from registration.
- 3.4 Should members be minded to grant this application it is requested that the decision should include a requirement for the applicant to provide, before the vehicle is licensed, a current insurance certificate specifying that the vehicle is insured for '*use by authorised persons for the carriage of passengers or goods for hire or reward by prior arrangement/booking only*' or similar. The cost of obtaining insurance is high and not usually obtained by applicants until being granted a licence.
- 3.5 If this application is refused the applicant has the right of appeal the decision to a Crown Court within 21 days.

East Devon District Council
Knowle, Sidmouth, Devon, EX10 8HL

Tel: 01395 517411
Fax: 01395 517507
www.eastdevon.gov.uk
DX 48705 Sidmouth



Application for Private Hire Vehicle Licence

Proprietor's Name and Address

Mr Seitarid Bakas

Post Code: _____ Telephone No: _____

Company/Operator's Name and Address

Mr Seitarid Bakas Sole trader

Post Code: _____ Telephone No: _____

IMPORTANT NOTE:

The Council's policy is that on initial licensing as a private hire, a vehicle shall be not more than **four years old** from the date of first registration as shown on the vehicle registration document.

This means that if you apply to licence a vehicle which is more than 4 years old, the application cannot be automatically granted by a Licensing Officer and will have to be considered by the Licensing Sub Committee who may either grant or refuse the application. The purchase of any vehicle is at your own risk.

Vehicle details: - Please complete one form per vehicle

Make/Model Colour	Registration No.	Passenger Seating Capacity	c.c. Petrol/ Diesel	Date of First Registration
Nissan Leaf Black	WJ19NHF	4 WHEELCHAIR ACCESS YES <input checked="" type="radio"/> NO	Full electric	28. Marc 2019

Has the vehicle to your knowledge been declared a 'write off' or 'potential write off' by the police or an insurance company and forms to that effect sent to DVLA? YES/NO

Please be aware that any vehicle which has been categorised as a category A or B write off will not normally be accepted for a licence. Any vehicle categorised as a category C or D write off cannot be automatically granted by a Licensing Officer and will have to be considered by the Licensing Sub Committee who may either grant or refuse the application. If any vehicle licensed with this authority as a private hire vehicle is subsequently categorised as a category A, B, C or D write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage this must be declared to the Licensing Authority.

Are the details as shown on the vehicle registration document correct and to your knowledge relate to the vehicle which you now apply to licence?

YES/NO

Please note – if any of the information provided in this form changes during the licence term, you **MUST** notify the licensing service as soon as possible, either by emailing licensing@eastdevon.gov.uk or writing to the Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL.

Data Protection

Any personal information which you provide will be held and used by East Devon District Council for the purpose of the Licensing Service to process your private hire licence application(s) and administer any licence(s) which are granted. Your information may also be shared within East Devon District Council for the purposes of carrying out our lawful functions. Otherwise your personal information will not be disclosed to anybody outside East Devon District Council without your permission, unless there is a lawful reason to do so, for example disclosure is necessary for crime prevention or detection purposes. Your information will be held securely and will not be retained for any longer than is necessary. There are a number of rights available to you in relation to our use of your personal information, depending on the reason for processing. Further detail about our use of your personal information can be found in the relevant Privacy Notice which can be accessed online at <http://eastdevon.gov.uk/privacy>

We may lawfully disclose information to other public sector agencies to:

- prevent or detect fraud and any other crime;
- support national fraud initiatives;
- protect public funds;
- progress your request for service.

We may additionally disclosure information to other public agencies for the purpose of protecting public safety and we may also use basic information about you, e.g. name and address, in other areas of service provision at East Devon District Council if this: -

- helps you to access our services more easily;
- promotes the more efficient and cost-effective delivery of services;
- helps us to recover monies that you owe us.

East Devon District Council are required under Section 6 of the Audit Commission Act 1998 to participate in the National Fraud initiative (NFI) data matching exercise. This means that taxi and private hire licence data will be provided to the Audit Commission for NFI and will be used for cross-system and cross authority comparison purposes for the prevention and detection of fraud.

We will not use your personal information in a way that may cause you unwarranted detriment.

Your licence application will be valid for three months only from the date the Licensing Office receive the application. By signing the declaration below you confirm that you are aware that, if your application is not completed within three months (which must include payment of the application fee), your paperwork may be destroyed and you will need to make a new application and supply a new vehicle compliance test form.

Declaration of applicant:

I declare that the information provided in this form is true, complete and correct and that I have no objection to the same being verified and I understand that I may be liable to legal proceedings being taken against me or the revocation of any Hackney Carriage or Private Hire vehicle Licence which may be issued to me (or both) if my disclosures are found to be inaccurate or untrue

Signed:

Date:

26/07/2019

We may lawfully disclose information to other public sector agencies to:

- prevent or detect fraud and any other crime;
- support national fraud initiatives;
- protect public funds;
- progress your request for service.

We may additionally disclosure information to other public agencies for the purpose of protecting public safety and we may also use basic information about you, e.g. name and address, in other areas of service provision at East Devon District Council if this: -

- helps you to access our services more easily;
- promotes the more efficient and cost-effective delivery of services;
- helps us to recover monies that you owe us.

East Devon District Council are required under Section 6 of the Audit Commission Act 1998 to participate in the National Fraud Initiative (NFI) data matching exercise. This means that taxi and private hire licence data will be provided to the Audit Commission for NFI and will be used for cross-system and cross authority comparison purposes for the prevention and detection of fraud.

We will not use your personal information in a way that may cause you unwarranted detriment.

By signing the declaration at number 16 you confirm that your signature authorises East Devon District Council to carry out checks with the Disclosure and Barring Service and/or MG Care Executive (Trading as uCheck) via their on-line system until further notice. The purpose of gaining a copy of your DBS Certificate is solely to ascertain whether you are a fit and proper person for the purpose of granting and renewing a licence to drive a hackney/carrriage private hire vehicle. The copy of your DBS Disclosure Certificate will not be used for any other purpose.

Your licence application will be valid for three months only from the date the Licensing Office receive the application. By signing the declaration at number 16 you confirm that you are aware that, if your application is not completed within three months (which must include payment of the application fee), your paperwork may be destroyed and you will be will be treated as a new applicant from there onwards.

When submitting an application for a licence to drive a hackney carriage or private hire vehicle you are required to declare any convictions or cautions you may have, **EVEN IF** they are regarded as "spent" under the Rehabilitation of Offenders Act 1974. The information you give will be treated in confidence and will only be taken into account in relation to your application.

16. Declaration of applicant:	
I declare that the information provided in this form is true, complete and I understand that I may be liable to legal proceedings being taken against me or the revocation of any Hackney Carriage or Private Hire Licences which may be issued to me (or both) if my disclosures are found to be inaccurate or untrue.	
Signed:	Date: 28/07/2019

GOV.UK

Check if a vehicle is taxed and has an MOT

WJ19 MHF

✓ Taxed

Tax due:

01 April 2020

► Incorrect tax status?

MOT

No results returned

► Incorrect MOT status?

If you've just bought this vehicle the **tax** (<https://www.gov.uk/vehicletax>) or **SORN** (<https://www.gov.uk/make-a-sorn>) doesn't come with it. You'll need to **tax** (<https://www.gov.uk/vehicletax>) it before driving it.

Vehicle details

- Vehicle make: **NISSAN**
- Date of first registration: **March 2019**
- Year of manufacture: **2019**
- Cylinder capacity (cc): **0 cc**
- CO₂Emissions: **0 g/km**
- Fuel type: **ELECTRICITY**
- Euro Status: **Not available**
- Export marker: **No**
- Vehicle status: **Tax not due**
- Vehicle colour: **BLACK**
- Vehicle type approval: **M1**
- Wheelplan: **2-AXLE-RIGID BODY**
- Revenue weight: **Not available**
- Tax rates:

[View tax rates](#)



Check MOT history (<https://www.gov.uk/check-mot-history>)

WJ19MHF

NISSAN LEAF

Colour	Fuel type	Date registered
Black	Electric	31 March 2019

First MOT due
30 March 2022

MOT history

Check mileage recorded at test, MOT expiry date, defects and advisories, and view test certificate

This vehicle hasn't had its first MOT.

The MOT test changed on 20 May 2018

Defects are now categorised according to their severity – dangerous, major, and minor.

Outstanding vehicle recalls

Check if NISSAN LEAF WJ19MHF has outstanding recalls

No outstanding safety recalls found

There are no outstanding manufacturer's safety recalls for **NISSAN LEAF WJ19MHF**.

There can be a delay before we receive information about safety recalls. If you are concerned, contact your vehicle manufacturer's dealership.

Was this vehicle recall information useful to you? so we can improve the service.