



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 7 June 2013

2.30 pm

Council Chamber, Municipal Offices

Membership	
Councillors:	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Roger Whyborn and Jon Walklett

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF MEETING HELD ON 3 MAY 2013	(Pages 1 - 6)
5.	MINUTES OF SUB COMMITTEE MEETINGS None	
6.	STREET TRADING APPLICATION Mr Martin Hayes	(Pages 7 - 14)
7.	PRIVATE HIRE DRIVER REVIEW Mr Michael Rodgers	(Pages 15 - 26)
8.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
9.	DATE OF NEXT MEETING 5 July 2013	

Contact Officer: Rachael Sanderson, Democracy Assistant, 01242 264130

Email: democratic.services@cheltenham.gov.uk

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Licensing Committee

Friday, 3rd May, 2013

2.30 - 3.16 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Charles Stewart, Pat Thornton, Roger Whyborn and Jon Walklett
Also in attendance:	Amelia Byres, Sarah Farooqi and Phil Cooper

Minutes

- 1. ELECTION OF VICE CHAIR PERSON**
 In the absence of the committee chair, the vice-chair, Councillor Seacome, took the chair for this meeting and the solicitor advised that it was not necessary to elect a vice-chair.
- 2. APOLOGIES**
 Councillors Barnes, Regan and Stennett.
- 3. DECLARATIONS OF INTEREST**
 None declared.
- 4. PUBLIC QUESTIONS**
 No public questions had been received.
- 5. MINUTES OF MEETING HELD ON 1 MARCH 2013 AND 5 APRIL 2013**
 Resolved that the minutes of the meetings held on 5 April 2013 and 1 March 2013 be agreed and signed as an accurate record.
- 6. MINUTES OF SUB COMMITTEE MEETINGS**
 Resolved that the minutes of the sub committee meeting held on 4 April 2013 be agreed and signed as an accurate record.
- 7. STREET TRADING APPLICATION**
 Amelia Byres, Senior Licensing Officer, introduced the report which had been circulated with the agenda. An application had been received from Mrs Ellen Danter for a street trading consent to sell hot turkey and pork rolls, Gloucester and German sausages, mince pies, hot and cold drinks from a hot food unit. The unit would be placed in the pedestrianised area of the High Street outside Monsoon and Warehouse/Oasis, opposite H Samuels and Clinton Cards.

The requested trading times were 09.00 – 18.00 Monday, Tuesday, Wednesday, Friday, Saturday, Sunday and 09.00 – 21.00 pm Thursdays.

Appendix A of the report showed an image of the hot food unit and Appendix B provided a map of its location.

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Paragraph 4 of the report set out the comments from consultees. Objections had been received from the Cheltenham Business Partnership Manager for the reasons set out in paragraph 4.1.

Paragraph 4.2 of the report detailed objections from Aurora Fashions – Oasis/Warehouse and Monsoon.

Members were asked to determine the application based on the Street Scene Policy approved on 1 April 2013.

In response to questions from members, the Senior Licensing Officer confirmed that the requested trading periods had changed from the previous year, this trading period was 3 weeks shorter than 2012. She was not in a position to provide members with the dimensions of the stall in feet and inches but Mrs Danter confirmed that the dimensions were the same as the previous year.

Mrs Danter attended the Committee and spoke in support of her application. She advised the committee that she had been trading in Cheltenham for 29 years and had purchased her hot turkey stall from new 11 years ago and had been trading for 10 years with no problems. She had been disappointed that two objections had been made against her application and she highlighted that these were from clothes retailers and there had been no opposition from food shops. She explained that when Monsoon had moved out of the Regent Arcade 18 months ago, they no longer wished to provide an electricity supply to the stall which had been the arrangement with the previous retailer. She had tried unsuccessfully to apply for her own electric point and felt it was a shame that she had had to install a generator since Monsoon had moved to this location. The generator was supplied by a good established firm, Power Electrics, and she pointed out that they currently had 14 generators on site at the Jazz Festival in Cheltenham. She assured members that there were no vibrations or fumes from the generators and they met all legal requirements. With the agreement of the chair she circulated four photographs to members which in her view clearly demonstrated the size of the stall and left clear ways to the shops. She concluded that she was a well-established business and she was well known in the town. She indicated that she had a file of positive comments from customers, shops and local cafes which included 500 signatures including those from food retailers.

Members were invited to ask questions of the applicant:

- Asked under what authority Monsoon had taken away the power supply from the stall, the Senior Licensing Officer advised that the previous shop had a contract with Mrs Danter for the supply of electricity which the new owners did not wish to continue.
- Asked whether the generator was different to last year, Mrs Danter advised that it was very similar but was quieter so would produce no noise and would not damage the pavements. She added that she had supplied a letter to officers from the company supplying the generator giving details.
- Asked how many complaints she had received in the last 18 months, Mrs Danter advised that she had only received two complaints from shops. Environmental Health had visited her stall in December 2012 in

response to these complaints and they were quite happy with its operation.

- Asked whether the retailers who had complained had talked to Mrs Danter or her staff, she advised that last year she had been given permission to set up her stall on the Friday to start trading on Saturday. She was aware that Monsoon was unhappy with the generator and therefore she knocked on their door and approached the staff inviting them to speak to her about any problems. The response of the manager at Oasis was that the generator would have to be moved straight away. At that point Mrs Danter had contacted the council, and licensing officers had confirmed that her licence to trade had been granted and therefore she had permission to stay.
- A member referred to the reference in the report that the clothes retailers had to dryclean some of their stock because of the smell and asked how many complaints had been received. The Senior Licensing Officer advised that Environmental Health had been consulted and they had no issue with the smell.
- Asked whether the shielding of the generator could be improved, Mrs Danter said she had spoken to Environmental Health and there would now be a lid on the generator box to absorb the sound.
- A member asked whether the stall could be moved closer to Marks and Spencers. The Senior Licensing Officer advised that this was not possible as the area was an emergency vehicle route which must remain clear.

Councillor Whyborn advised that in his other capacity on the council, he was aware that the company supplying the generators to the Festivals were working hard to minimise the noise. He added that the generator at the turkey stall would not be operating at night.

In the discussion that followed, a member was of the opinion that businesses should pull together in the recession and it was very sad that these big brand retailers had made these complaints against Mrs Danter who paid a fee for her pitch. Another member highlighted that the shop that was now complaining about the generator noise, had been the one that had cut off the electricity supply.

Members were advised that they had two options as set out in the report:-

1. The application be approved because Members are satisfied that the location is suitable, or
2. The application be refused because it does not comply with the provision of the town centre policy as the proposed location be deemed unsuitable.

Members voted for these two options:

Option 1: Voting For: 7, Against 0, Abstentions 0

Option 2: Voting For: 0, Against 7, Abstentions 0

RESOLVED that the application be approved because Members are satisfied that the location is suitable.

8. PRIVATE HIRE DRIVER APPLICATION

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application had been received from Mr Simon Palmer for a Private Hire Driver's Licence.

Mr Palmer has a number of convictions and cautions details of which are enclosed in the background papers. All of the convictions had been at least 15 years ago with only one more recent caution. The committee were now asked to determine whether Mr Palmer was judged to be a fit and proper person to hold this licence.

In response to a question from a member, the Licensing Officer, advised that he did not have information on the quantity of drugs involved in the caution.

Mr Palmer attended the committee and spoke in support of his application. He explained that all the convictions happened when he was young and naive and in respect of the recent caution he had been trying to protect his son.

A member questioned Mr Palmer on when he had last been personally involved with the use of cannabis. Mr Palmer replied that he had not touched it for 16 years. The chair asked Mr Palmer whether he intended to give up his current job and move to driving full-time. Mr Palmer confirmed that that was his intention and he planned to do more airport runs.

Members were advised that they had two options as set out in the report:-

1. The application be granted, subject to Mr Palmer successfully completing all other assessments, as Mr Palmer is deemed to be a fit and proper person, or
2. The application be refused on the grounds that Mr Palmer is deemed not to be a fit and proper person because of his conviction history.

Members voted for these two options:

Option 1: Voting For: 7, Against 0, Abstentions 0

Option 2: Voting For: 0, Against 7, Abstentions 0

RESOLVED that Mr Palmer's application be granted, subject to Mr Palmer successfully completing all other assessments, as Mr Palmer is deemed to be a fit and proper person.

9. HACKNEY CARRIAGE DRIVER APPLICATION

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application had been received from Mr Andrew Charalambous for a Hackney Carriage Driver's Licence.

Mr Charalambous was previously a licensed Hackney Carriage driver for 20 years until 5 April 2013 when the Licensing Committee revoked his licence with immediate effect because of two recent driving offences which led the Licensing Committee to determine that he was no longer a fit and proper person to hold such a licence. The Licensing Officer advised members that the applicant had not attended the last meeting and was not in attendance today. Officers advised

that they had interviewed the applicant twice and once since the last meeting when he had indicated that he would be in attendance at this meeting. The Senior Licensing Officer advised that she had tried to contact Mr Charalambous by phone at his home and via his previous operator in the last few minutes and there had been no response.

In response to a question from a member, the Senior Licensing Officer confirmed that Mr Charalambous's driver licence had expired and the vehicle plate had now been transferred to another driver.

The solicitor clarified that this was a new application and the committee must consider it as such taking into account the additional information set out in the report. The solicitor advised that in the absence of the applicant, the committee must first determine whether they are going to consider the application or defer it to a future meeting when the applicant would again be invited to attend. The Committee was advised could in theory continue to adjourn any decision until the applicant appears at committee.

Councillor Whyborn, seconded by Councillor Walklett, proposed that the application should be determined at this meeting.

Upon a vote this was agreed unanimously.

The committee then went on to determine the application.

The solicitor advised that if the committee refused the application, the applicant would have 21 days to appeal to the Magistrate's Court. The applicant would also have the option of applying for a new licence for which a new fee would be payable. The committee was advised that it was for an applicant to satisfy the committee with suitable evidence that he was a fit and proper person to hold a licence.

In the discussion that followed, members concluded that in light of the convictions and the absence of any new information to the contrary that they were not satisfied that the applicant was a fit and proper person to whom they could grant a licence.

Members were advised that they had two options as set out in the report:-

1. The application be granted as Mr Charalambous is deemed to be a fit and proper person, or
2. The application be refused on the grounds that Mr Charalambous is deemed not to be a fit and proper person due to the nature of his convictions listed on the background papers.

Members voted for these two options:

Option 1: Voting For: 0, Against 7, Abstentions 0

Option 2: Voting For: 7, Against 0, Abstentions 0

RESOLVED that Mr Charalambous' application be refused on the grounds that Mr Charalambous is deemed not to be a fit and proper person due to the nature of his convictions listed on the background papers

10. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRE A DECISION

No urgent business.

11. DATE OF NEXT MEETING

The day to the next meeting was confirmed for 7 June 2013.

Members were advised that the subcommittee that had been arranged for May 2013 had now been cancelled.

Chairman

Cheltenham Borough Council

Licensing Committee – 7 June 2013

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Mr Martin Paul Hayes

Report of the Senior Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Martin Hayes for street trading consent to sell local fruit, jam and preserves from a traditional market barrow on the High Street outside Beechwood Shopping Centre.
- 1.2 The barrow measures 185cm (L) x 84cm (W) x 210cm (H). The requested trading period and days are :-

Monday	10.00 - 16.00
Tuesday	10.00 - 16.00
Wednesday	10.00 - 16.00
Thursday	10.00 - 16.00
Friday	10.00 - 16.00
Saturday	10.00 - 16.00
Sunday	NONE

- 1.2 An image of the proposed market barrow is attached at **Appendix A**. Members may wish to note that the market barrow has not yet been made and therefore Appendix A is an illustration of the type of unit proposed.
- 1.3 A location map is attached at **Appendix B**.
- 1.4 Mr Hayes wishes to make an application to trade from 24th June to 14th August and 2nd September to 7th October 2013.
- 1.4 The Committee is recommended to resolve that:**
- 1.4.1 The application be approved because Members are satisfied that the location is suitable, or**
- 1.4.2 The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location be deemed unsuitable.**

1.3 Implications

1.3.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.3.2 Legal

The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Consent can be revoked at any time. An existing trader or a trader who has previously traded from a location does not have a legal right to any consent being automatically renewed or granted.

Any application should be considered in line with the Council's policy on Street Trading.

Contact officer: Vikki Fennell
E-mail: vikki.fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,

- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

3. Consultee Comments:

3.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officers - No Comments

Environmental Health and Cleansing - No Comments

Gloucestershire Constabulary - No Comments

Built Environment Division - No Comments

3.2 Interested Parties

No Comments

4. Licensing Comments

4.1 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6). Despite the application receiving no comments from the consultees during the 14 day consultation period, all new street trading applications are referred to the Licensing Committee as prescribed in the scheme of delegation in the Street Scene Policy adopted on 1st April 2013.

4.2 In accordance with the current Street Scene Policy members must determine and consider if the application of this type positively enhances the enjoyment of the town as a tourist and leisure

destination by enhancing the town's reputation as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

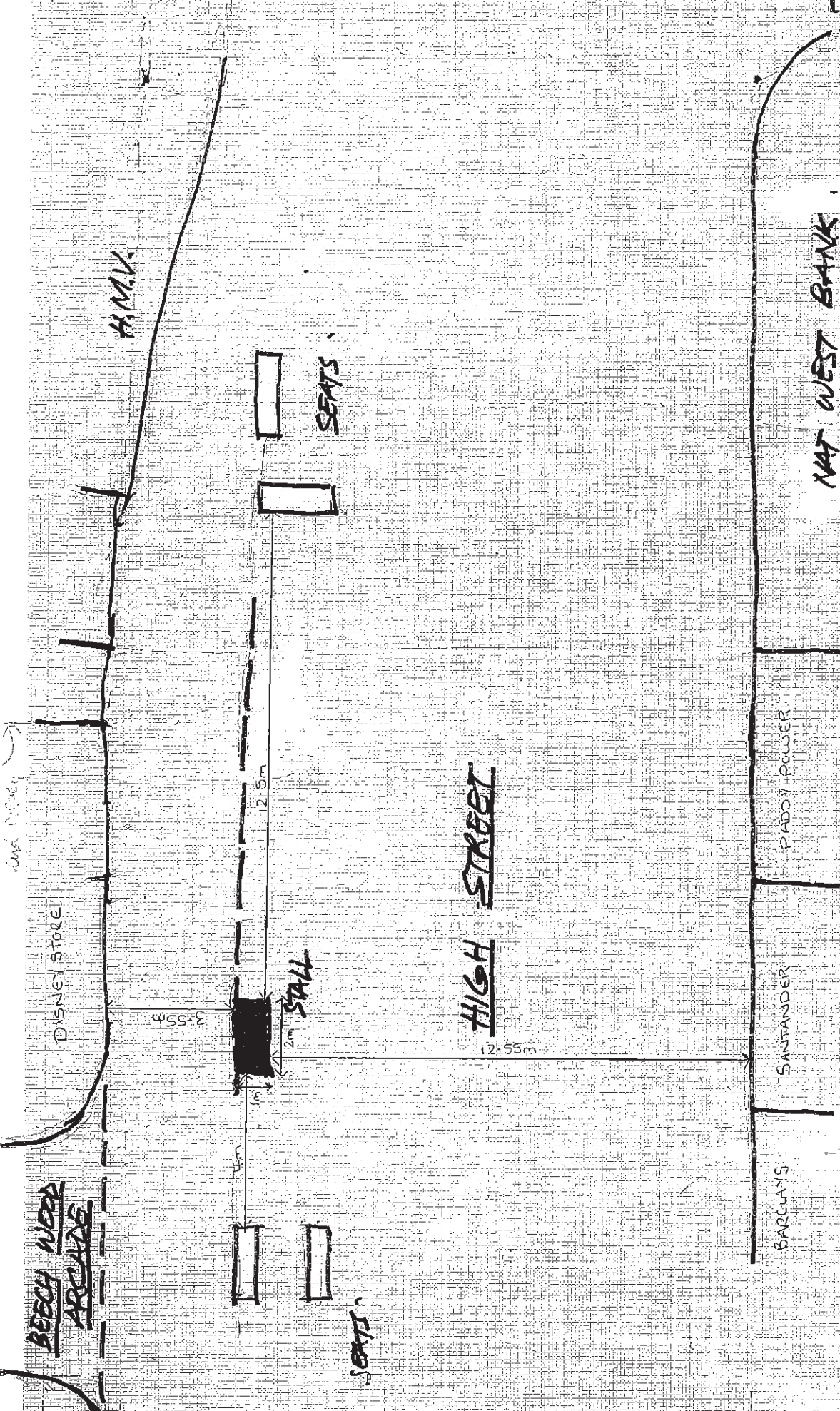
Contact officer: Mrs Amelia Byres
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264217



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CAMBRAY PLACE

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Cheltenham Borough Council

Licensing Committee – 7 June 2013

Review of a Private Hire Driver’s Licence

Mr Michael Rodgers - PHD055

Report of the Senior Licensing Officer

1 Executive Summary and Recommendation

- 1.1 Mr Michael Rodgers holds Private Hire driver’s licence PHD055 which is due for renewal on 14 December 2013.
- 1.2 Mr Rodgers drives a private hire vehicle licence (PHV071), which is a Renault Laguna, registration number LL58 BCO.
- 1.3 Mr Rodgers was subject to a vehicle inspection on Thursday 18th April 2013 by Police Constable J Tranter currently stationed at the Roads Policing Unit at Bamfurlong, Gloucestershire Constabulary.
- 1.4 Police Constable J Tranter, contacted the Licensing Office immediately to advise that the vehicle (PHV071) had been inspected at 23.45 hours on the A40 London Road, Cheltenham. PC Tranter advised that the vehicle had been stopped due to an inoperable headlamp and bald rear nearside tyre.
- 1.5 PC Tranter advised that the rear nearside tyre was worn below the legal limit, the measurement in the groove of the tyre was 75mm on the inside edge of the tyre, the full circumference of the tyre measured 100mm. The tyre was a UNIROYAL RAINEXPERT 205/60 R16H. A diagram of the tyre measurements submitted by PC Tranter is attached at **Appendix A**.
- 1.6 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the incident because of:
 - 1.6.1 The nature of the offence; and,
 - 1.6.2 The need to ensure that, Mr Rodgers is judged to be a fit and proper person to hold a Private Hire driver’s licence.
- 1.7 **The Committee is recommended to resolve that:**
 - 1.7.1 **Mr Rodgers’ Private Hire driver’s licence be continued with no further action because the Committee is satisfied that Mr Rodgers is a fit and proper person to hold such a licence, or**
 - 1.7.2 **Mr Rodgers’ Private Hire driver’s licence be revoked as the Committee considers Mr Rodgers is not a fit and proper person to hold a Private Hire driver’s licence because he failed to maintain his vehicle in a roadworthy condition.**

1.8 Implications

- 1.8.1 Financial **Contact officer: Sarah Didcote**
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125
- 1.8.2 Legal The Borough Council has the ability to suspend or revoke a private hire driver's licence with immediate effect if necessary in the interests of safety. There is a right of appeal against a suspension or revocation of a licence which, in the first instance, is to the Magistrates' Court.
- Contact officer: Vikki Fennell**
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

Maintenance of Vehicle

- 3.5 The vehicle, all of its fittings and any attached equipment shall at all times when the vehicle is in use or available for hire, be kept in a clean, safe, tidy and efficient state, and must also comply with all relevant statutory provisions including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986.

Tyres

- 3.6 All tyres fitted to the vehicle or carried as a spare must comply with the Motor Vehicles (Construction and Use) Regulations 1986 and Motor Vehicle (Tests) Regulations 1981.
- 3.7 The carrying and use of Space saver tyres and tyre sealant kits will only be approved with the support of a method statement. The method statement will detail the drivers' and vehicle owners' responsibility with regard to the maximum permitted speed and restrictions of use and highlight that they are ONLY a temporary measure to complete the journey in which the puncture occurred. An approved repair to BS AU159 or a replacement tyre must be undertaken before any further fares are carried.

3.8 Run flat tyres fitted to any vehicle by the manufacturer will not be replaced by any other type or make, either individually or all of them. The use of these tyres must be supported by a method statement (such as the manufacturer's handbook for the vehicle) specifying the capability and restrictions of use following a puncture. In all cases the Tyre Pressure Monitoring System (TPMS) must be working correctly and if required, be reset when a tyre(s) are renewed or replaced. Worn or damaged run flat tyres must be replaced by the same make and size.

4. Licensing Comments

4.1 The Licensing Section was informed by PC Tranter on 18 April 2013 at 4.49am. The email was opened and read by Mrs Amelia Byres at approximately 08.30am. Mrs Byres immediately suspended the vehicle.

4.2 The vehicle licence is currently issued to Mr Graham Foley who owns a number of licensed private hire and hackney carriage vehicles that he rents to licensed drivers within Cheltenham Borough. Mr Foley explained that the vehicle was rented to Mr Michael Rodgers and that he would contact Mr Rodgers to advise that the vehicle had been suspended until the vehicle was produced for inspection by the Licensing Section.

4.3 Mr Foley also explained that licensed drivers who rent a licensed private hire or hackney carriage vehicle from him are contractually obliged to ensure that the tyres and brakes are maintained in a roadworthy condition at all times. A copy of the contract between Mr Foley and Mr Rodgers is attached at **Appendix C**.

4.4 Mr Rodgers produced the vehicle for inspection at the Licensing Office at 11am, less than 3 hours after the suspension notice had been issued by the Licensing Section.

4.5 The vehicle was inspected by Mrs Amelia Byres who confirmed that the vehicle's headlight was in full working order and that the tyre had been replaced. Mr Rodgers explained that he had gone straight home following the vehicle being stopped by the police and informed his Private Hire Operator, Starline that he could not accept any further jobs until further notice.

4.6 Since the incident Mr Rodgers was interviewed by Mrs Amelia Byres and explained that he began work that evening at 19.00 hours on Thursday 18th April. He explained that he was travelling through Charlton Kings at approximately 23.45 when the Police Officer pulled his vehicle over. The Officer explained that he had initially pulled over the vehicle due to an inoperable headlight.

4.7 Mr Rogers explained that in Charlton Kings the street lighting is extremely bright and that he had not noticed that the headlight was inoperable however he did add that he was in no doubt that the headlight was most definitely working when he began working at 19.00 hours. He added that had he known that the headlamp was not working he would not have continued to work and would have replaced the bulb immediately.

4.8 The Police Officer inspected the vehicle and found that the rear nearside tyre was below the legal limit. Mr Rodgers explained that he checks his tyres on a regular basis before he starts work however he fully accepts responsibility for the tyre and explained that he must have missed how low the tyre was whilst inspecting the vehicle. He went on to explain that he was carrying a passenger at the time he was stopped by the police. The Police Officer advised Mr Rodgers that he could take the passenger to their destination and stop work immediately afterwards, which Mr Rodgers confirmed he did.

4.9 The Licensing Office has confirmed that Mr Rodgers logged off Starline's system at 00.17 hours and did not carry out any more work until the vehicle had been repaired and inspected by Mrs Amelia Byres at 11am on Friday 19th April.

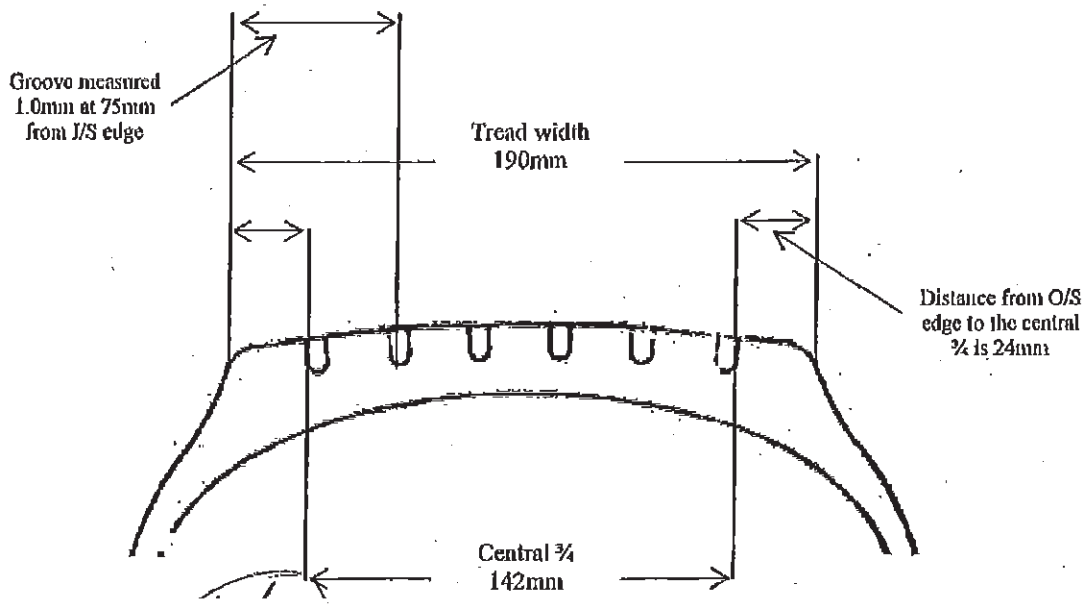
- 4.10 Mr Rodgers explained that he has been a licensed driver with Cheltenham Borough Council for 25 years on and off, in that time he has not received any complaints and explained that he enjoyed his work. He went on to say that he is extremely sorry for not recognising that the tyre needed replacing and now checks them every day before starting work. He immediately went out and bought a tyre depth gauge and uses it daily to prevent this from happening again.
- 4.11 A reference from Mr Foley is attached at **Appendix B**.
- 4.12 Mr Rodgers has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.13 The Committee must be satisfied that Mr Rodgers is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

Background Papers

Service Records

Report Author

Contact officer: Mrs Amelia Byres
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264217



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7 BRAMLEY ROAD
CHELTENHAM
GL51 7LL
21st May 2013.

To Whom It May Concern:

Re:- Michael Rodgers.

I run a small, private hire vehicle rental business in Cheltenham, licensing and renting saloon vehicles for a weekly rental. I have carried out this business for almost four years.

My business success or failure is based on the standard of vehicles provided, the aftercare support that I give to the drivers and the relationship forged between us.

A considerable number of drivers have recognized that, in difficult economic circumstances, it is a better and more manageable option to rent a vehicle at a fixed price, backed up by the maintenance support that I offer, than to own their own vehicle.

One such driver is Michael Rodgers of 'Sunnycroft' Hermitage Street, Cheltenham, GL53 7NX.

I have known Michael for almost twenty four years, so, when he approached me about renting a vehicle, I did not hesitate in assisting him. Within a few short weeks I was confident enough in Michael's driving and his recognition of his role in taking care of my vehicle as though it were his own, to give him what was at the time my newest and best vehicle, the Renault Laguna LL58 BCO, CBC PHV 071.

Michael has been driving that vehicle since it's test date of 14/05/2012. During this period of time the vehicle has been serviced and inspected every 10,000, having covered 43,000 miles between it's 2012 and 2013 MOTs. Also, the vehicles are inspected by myself on a weekly basis during rent collections. This inspection is just a brief walk round the vehicle where I ask the driver if they have any problems or issues with the car.

Services are carried out by Cheltenham Renault on Tewkesbury Road in Cheltenham. I personally oversee every inspection, the head

mechanic, Mr. Andrew Elliott will walk me round the underside of the vehicle, pointing out any wearing items, defects and, in the case of some vehicles signs of driver abuse.

In the case of Michael Rodger's vehicle, in the full twelve months, there had never been any cause for concern. Indeed, until April 2013, the only 'extra' items required by this vehicle had been front brake pads in August 2012 and rear brake pads in November 2012. The cost of these wear and tear item's replacement was covered by Mr. Rodgers, as per his rental agreement (attached)

In early April 2013, during a weekly inspection of the vehicle, Michael pointed out to me that the driver side headlight had discoloured on the inside of the lens. Having sent Michael a text message on 25/03/2013 informing him that the vehicle's MOT date was 01/05/2013, he was aware that there might be an issue with the light that needed to be sorted before that test. He also mentioned to me during this inspection that he had replaced the headlamp bulb in the same headlamp twice in the last month.

I asked Michael to take the car to Cheltenham Renault for inspection, which he did the following morning. Mr Elliott called me to say that the headlamp had a wiring fault that had caused it's socket to burn, hence the smoked appearance to the inside of the lens. He recommended that it be replaced as soon as possible.

I sourced a second hand headlamp which was fitted to the car during it's service and pre-MOT inspection on 23/04/2013.

During the 7-10 days between inspecting the car and getting the headlight replaced Michael was stopped by the police for having a defective headlight. As I understand it, the police officer walked around the car with a torch and inspected the tyres. He found that one of the rear tyres was 0.3mm below the legal limit on it's inside edge.

Michael called me the next day to explain what had happened. He was understandably upset, recognizing the fact that if the bulb hadn't blown for the third time, the police would not have stopped him and the tyre would have been spotted during it's pre-MOT inspection the following Tuesday and replaced.

Whilst we both recognize that a tyre worn below the legal limit is illegal, we would also ask committee members to recognize that a tyre that is fitted to the rear of the car with an uneven tread wear on it's inside edge of 0.3mm would be almost impossible to spot by any motorist.

Michael had the worn tyre replaced the next morning. Unfortunately, the worn tyre was left at the garage for disposal.

The tyre wear regulations for a standard car state that they should have a minimum tread of 1.6mm across 75% of the width of the tyre. I therefore wonder whether a policeman with a torch was able to gauge precisely the percentage tread depth and the exact tread depth across the entire tyre's circumference.

Hindsight is a wonderful thing and, had I seen Michael's ticket from the police earlier I would have suggested that he challenge their findings.

Michael is a good taxi driver who takes care of my vehicle well. I understand from Mr Leon Jackson at Starline Taxis that they have never received a complaint against Michael in the 16 months he has been working there.

I also recognize that had I arranged for the headlight to be replaced immediately instead of waiting until the vehicle's pre-MOT inspection Michael would not have been in this predicament and therefore feel equally responsible.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Graham Foley', with a long horizontal stroke extending to the right.

Graham Foley

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7 Bramley Road
Cheltenham
GL51 7LL

PRIVATE HIRE VEHICLE RENTAL AGREEMENT

This rental agreement, dated 15/05/2012 is between Mr Graham Michael Foley of 7 Bramley Rd Cheltenham GL51 7LL, trading as Loyal Cabs of Cheltenham and Michael Rodgers of Sunnycroft, Hermitage street, Cheltenham GL53 7NX

From this agreement date Mr Rodgers agrees to hire Renault Laguna Expression 150, LL58 BCO 5 DOOR HATCHBACK, listed by DVLA as BLACK. V.I.N. No. VF1BT0K0639632334.

The hire term is rolling week to week with no minimum or maximum duration but requires ONE WEEKS NOTICE by either party to terminate the agreement. The agreement may be terminated without notice if the terms of this agreement are broken.

The rental rate is set at £105.00 per week, defined as from 0001hrs Monday to 2359hrs Sunday. Part-week rental will be charged at £20.00 per day Sun-Fri and £30.00 Saturday. Rent is paid in arrears on the first Monday after the agreement date. Rent may be paid in cash or by bank transfer. Cheques are not acceptable.

The rent includes all servicing and maintenance as required, excluding tyres, brake discs, brake pads and brake shoes. The vehicle will be supplied with part-worn tyres with a minimum tread depth of 3mm and will require the same minimum tread depth to be present on all tyres at the end of the rental term. A charge of £56.00 per tyre that does not comply will be added to the final rental, including the spare tyre.

The rental includes road fund licence and C.B.C. Licensing costs.

The rental includes the replacement of defective bulbs. These must be replaced replaced at Cheltenham Renault, Tewkesbury Rd. If you need to replace bulbs out of garage hours you will be expected to bear the cost yourselves.

The correct oil is always available at Cheltenham Renault, Tewkesbury Rd

Mr Rodgers agrees to check all fluid levels on a regular basis and make available the vehicle for spot-checks and servicing having been given a reasonable period of notice.

The rental does not include breakdown cover. Mr Foley will provide assistance with recovery within a 10 mile radius of Cheltenham between the hours of 9am and 5.30pm. IT IS STRONGLY RECOMMENDED THAT MR RODGERS TAKES OUT HIS OWN BREAKDOWN COVER.

Mr Rodgers provides appropriate FULLY COMPREHENSIVE INSURANCE for the full term of the hire, a copy of which will be held by Mr Foley, and agrees to bear the cost of insurance changes as required if the hire

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vehicle is off the road due to mechanical breakdown.

Mr Rodgers agrees to not take the vehicle outside of the United Kingdom at any time during the rental period.

Mr Rodgers agrees to keep and treat the vehicle as though it were his own, e.g. driving it with care, keeping it, within reason, clean and tidy inside and out.

Mr Rodgers agrees to report any damage or fault to Mr Foley immediately. If low-level damage is done to the vehicle, below the value of insurance excess and no other vehicle or property is involved, Mr Rodgers agrees to negotiate repairs with Mr Foley.

Mr Rodgers agrees to make the vehicle available for a period of seven days prior to it's Cheltenham Borough Council annual inspection. A replacement vehicle will be made available for this period and Mr Rodgers agrees to bear the cost of insurance on the replacement vehicle during the period of seven days.

Mr Rodgers agrees to return the vehicle at the end of the agreement with sufficient fuel to keep the gauge above the red zone. If the vehicle is returned empty a charge for nine litres of fuel will be added to the final rental.

Mr Foley agrees to allow Mr Rodgers full use of the vehicle at all times during the rental period.

I agree to the terms and conditions set out above

Michael Rodgers

I agree to the terms and conditions set out above

Graham Foley. Loyal Cabs