



CHEL TENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 6 September 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, Jon Walklett and Roger Whyborn

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 26 JULY 2013 26 July 2013	(Pages 1 - 8)
5.	MINUTES OF SUB COMMITTEE MEETINGS None	
6.	APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLES AND CHAIRS O'Neills, 23 Montpellier Walk	(Pages 9 - 20)
7.	APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLES AND CHAIRS Soho Bar, 2 Rotunda Terrace	(Pages 21 - 26)
8.	HACKNEY CARRIAGE DRIVER APPLICATION Mr Shamsuz Zaman	(Pages 27 - 30)
9.	HACKNEY CARRIAGE DRIVER REVIEW Mr Samir Jamshidi	(Pages 31 - 34)

10.		STREET TRADING APPLICATION Grenchurch Market Ltd Farmers Markets	(Pages 35 - 46)
11.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
12.		DATE OF NEXT MEETING 4 October 2013	

Contact Officer: Rachael Sanderson, Democracy Assistant, 01242 264130
Email: democratic.services@cheltenham.gov.uk

Licensing Committee

Friday, 26th July, 2013

2.30 - 4.10 pm

Attendees	
Councillors:	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Charles Stewart and Jon Walklett

Minutes

1. APOLOGIES

Apologies were received from Councillors Stennett, Thornton and Whyborn

2. DECLARATIONS OF INTEREST

Councillor Chard declared a personal and prejudicial interest in agenda item 9 as a licence holder and owner of a licensed premise.

3. PUBLIC QUESTIONS

None received.

4. MINUTES OF MEETING HELD ON 5 JULY 2013

Resolved that the minutes of the meeting held on 7 June 2013 be agreed and signed as an accurate record.

5. MINUTES OF SUB COMMITTEE MEETINGS

None.

6. STREET TRADING APPLICATION

Amelia Byres, Senior Licensing Officer, introduced the report as circulated with the agenda. An application had been received from Mr Brabin for street trading consent to sell hot and cold food and drink from a mobile catering bicycle . The proposed trading location of the mobile catering bicycle was between the High Street junction meeting Berkeley Street and the full length of the Promenade including Montpellier Street and Montpellier Walk. The requested trading period is for 6 days per week between 10 am and 5 pm. The Senior Licensing Officer reported that the consultation had raised objections and reminded Members that the application should comply with the provision of the Street Scene policy.

Mr Brabin was invited to address the committee. He said that his service would add to the Cheltenham street scene in a new and innovative way. It would provide good quality food on the run. Similar street traders were operating in Worcester, Stratford and Bristol and were proving to be popular. Having been brought up in the area he had a good understanding of Cheltenham and recognised the importance of tourism to the economy. He did not believe that his catering bicycle would be an eyesore and it would not have any advertising on it. He made reference to the Green Coffee Machine which, whilst initially

receiving a lot of criticism, was now very much part of the town's street scene and he hoped that his bicycle could add to the street scene in the same innovative way.

Members raised the following issues:

- Whether the liquid in the containers he would be carrying would be hot or cold and whether it would be dependent on a power supply; in response Mr Brabin confirmed that only cold drinks would be sold but hot locally sourced organic gourmet wraps would be offered, an example given was hot duck wrap with soy and wasabi mayonnaise
- Confirmation was sought as to whether a safety check was required by a registered person to ensure the gas canisters on the catering bicycle would be used to heat 2 gas stoves, were safe. In response Mr Brabin confirmed that he would ensure that the gas canisters were all properly tested and certified and that they were secure. Members remained slightly uncomfortable that there would be lit gas ranges in view. They asked whether environmental health had commented on this. The Senior Licensing officer confirmed that environmental health had been consulted but they had not submitted any comments. Mr Brabin stated that many traders were using the same system and confirmed that he had had his public liability insurance for £5 million approved
- In response to concerns about the appearance of the bicycle which in some Members views could potentially detract from the street scene, he assured members that this would be of a high aesthetic standard. He explained that the photograph shown in the appendix to the report was of the bicycle when it was purchased from eBay. He explained the bicycle still required more renovation but he was reluctant to do this prior to gaining the consent to trade
- In response to concerns conveyed in the objections regarding the mobility of the proposed service, Mr Brabin explained that he was very open to using certain fixed pitches where trading would be acceptable; he did not intend to park his bicycle directly outside a business selling similar products but his idea was to sell quick food "on the run". He did however say that competition was good for business. In terms of objections relating to slowing down traffic he said he would not cause problems. Members believed that the traffic flow could be affected up to the Queens Hotel due to the incline.
- Members felt that the selection of sites should be suitable for the public and not in any way impede the pedestrian flow and not be located next to a premise selling similar products. In response Mr Brabin reiterated that he would be happy to negotiate a number of static fixed pitches; it was never his intention to just park anywhere undesignated. The Senior Licensing Officer advised the members that should static fixed pitches be a preferred option Mr Brabin would be required to submit a new application in which a full consultation would take place, The new application would be referred to the Licensing Committee to be determined.
- In response to a question on hygiene Mr Brabin confirmed that he had a hand washing system and had been advised that alcoholic wash wipes were appropriate. He also confirmed that he would wear gloves when serving food. In response to a question with regard to waste disposal to

avoid littering, Mr Brabin confirmed that he had a waste bin attached to the front of his bicycle and he would encourage his customers to use it

- Members welcomed his enterprising spirit and asked what experience he had in the catering business. In response he stated that he had 7 years experience having worked as a chef and in and around the food environment. He also had his food handling certificate. In response to a question on his current employment, Mr Brabin confirmed that he was currently a bar manager in the town.

A member proposed an adjournment to consider the application. Upon a vote Members adjourned at 3 pm.

The meeting was reconvened at 3.30 pm.

An amended proposal was brought to the Committee. The Committee was recommended to approve the application subject to a limited area of operation from Boots corner to the Queens Hotel. If approved this consent would be reviewed in March 2014. The design should be submitted to officers before trading and be accepted by officers.

Members voted on this amended proposal.

Voting for : 4

Voting against: 3

RESOLVED that the application for a street trading consent be granted subject to a limited area of operation from Boots corner to the Queens Hotel.

7. PRIVATE HIRE DRIVER REVIEW

The Senior Licensing Officer introduced the report as circulated with the agenda. This was a review of Mr John James Carr's Private Hire Driver's Licence. She explained that Mr Carr was subject to a vehicle inspection on 4 July 2013 by Gloucestershire Constabulary. The vehicle had been stopped due to the officer witnessing the driver using his mobile phone whilst driving. On inspection of the private hire vehicle, the officer found that three tyres were worn below the legal limit and photographs of these were attached at Appendix A of the report. Mr Carr's vehicle licence was immediately suspended but Mr Carr replaced his tyres on 5 July and following the inspection of the vehicle by Licensing Officers, the suspension notice was lifted. Members were being asked to ascertain whether they judged Mr Carr to be a fit and proper person to continue to hold a Private Hire driver's licence.

Mr Carr was invited to address the committee. He explained that he was new to taxi driving. He had replaced his previous set of tyres with part-worn tyres as at the time he was saving up to fund his son's trip to Kenya and therefore could not afford brand new tyres. He believed these part-worn tyres would tide him over until his MOT in July. He was however surprised that the tyres had deteriorated extremely quickly. He highlighted to the Licensing Committee that he had worked for GCHQ for 26 years and had held the position of team leader in that employment. He had brought up three children on his own following the death of his wife. This was his first mistake he had made in the 40 years he had been driving and he regretted this. He had not recognised that tyres would wear

more quickly now that he was driving more than 1000 miles a week compared to under 100 miles week prior to taking up taxi driving. He had looked at the car a few days previous to the inspection but they did not appear to be in such a bad condition. He later revealed that this was not a close inspection since his car had been parked across the road from his house and he had only looked at them from this distance. He proposed to the Licensing Committee that he report to the police once or twice a week to ensure his current tyres were within the legal limits. Mr Carr added that he worked unsocial hours every night and in undesirable areas of the town.

When asked about his mobile phone offence he explained that he had not heard anything further. The Senior Licensing Officer explained that it did take time for the offence to be referred to the court and Mr Carr would receive a summons in due course and may receive penalty points on his DVLA licence.

Members questioned why Mr Carr, having known that his tyres were not perfect, and having received comments from other drivers in the business, had not acted and change the tyres. He reiterated the fact that he did not expect the part-worn tyres to deteriorate so quickly. Members were also concerned that Mr Carr had not noticed the extreme deterioration in the 3 tyres which would have been obvious even at a distance. Mr Carr replied that he was a new taxi driver and had not appreciated the rate of tyre wear. It was apparent to Members that it was likely that the part worn tyres were only just over the legal limit when purchased and asked whether Mr Carr had contacted the supplier. In response Mr Carr said he knew he had made a mistake and would not purchase from the same supplier again and as such had not made contact with them since the incident.

Further to receiving legal advice about Mr Carr's proposal to get the police to check the condition of his tyres on a weekly basis, the Chair confirmed that this was not a feasible proposal and that it is the responsibility of the driver to check that their tyres were safe.

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

1. that Mr Carr's private hire driver's licence be continued with no further action because the Committee was satisfied that Mr Carr was a fit and proper person to hold such a licence; or
2. that Mr Carr's private hire driver's licence be revoked as the Committee considered Mr Carr not to be a fit and proper person to hold a private hire driver's licence because he failed to maintain his vehicle in a roadworthy condition

Members voted for these two options:

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

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

The Committee also considered whether in accordance with section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976 the decision to revoke should take immediate effect.

RESOLVED that Mr Carr's private hire driver's licence be revoked as the Committee considered Mr Carr no longer to be a fit and proper person to

hold a private hire driver's licence because, despite warnings from other drivers, he failed to maintain his vehicle in a roadworthy condition. In the interests of public safety the licence should also be revoked with immediate effect because of failure of Mr Carr to maintain his vehicle in a roadworthy condition and the potential implications of this on public safety.

8. PRIVATE HIRE DRIVER REVIEW

The Senior Licensing Officer introduced the report which had been circulated with the agenda. This was a review of Mr Tohur Uddin's Private Hire driver's licence. Mr Uddin was subject to a vehicle inspection on 7 July by Gloucestershire Constabulary his vehicle was found to have two tyres worn below the legal limit. Mr Uddin's vehicle was immediately suspended but Mr Uddin replaced his tyres on 8 July and following the inspection of the vehicle by Licensing Officers, the suspension notice was lifted. She explained that the vehicle was licensed to Mr Graham Foley who owned a number of licensed private hire and hackney carriage vehicles. Mr Uddin was contractually obliged to ensure that the tyres and brakes were maintained in a roadworthy condition at all times. Members were asked to determine whether they judged Mr Uddin to be a fit and proper person.

Mr Uddin was invited to address the committee. He explained that he had leased the car from Mr Foley two months before the incident happened. He fully accepted responsibility for the tyres and admitted that he should have inspected them more thoroughly. When asked whether the tyres were extremely worn when he had taken over the car from Mr Foley, Mr Uddin admitted that he hadn't checked them. He subsequently also realised that tyres do not wear like that within two months. In response to a question Mr Uddin replied that he had been driving this car for 2 months and his mileage was 500-700 miles per week. Members noted that a minimum tread depth of 3mm was specified in the rental agreement and the tyres were the responsibility of the driver. Mr Uddin confirmed that he had a good relationship with Mr Foley.

When asked whether at the time of the vehicle inspection Mr Uddin had passengers on board, Mr Uddin confirmed that the police had advised him to take the passengers home and then to stop work. He confirmed that the tyres had been very bald but he was not aware by how much under the limit they were. He also informed members that he may get 6 points on his licence for the offence.

Some members were of the view that it was Mr Foley who should bear responsibility for the condition of the tyres as they appeared to be defective at the point when Mr Uddin took on the lease of the car. It was suggested that Mr Foley be written to as it would appear that the tyres had not been checked for their roadworthiness.

The Principal Solicitor noted the comments regarding Mr Foley but explained that the driver was responsible for the condition of the car.

When members discussed the possibility of requiring Mr Uddin to undertake a road safety awareness test, the Principal Solicitor explained that this test generally related to the rules of the road, i.e. speeding and perhaps was not

relevant in this case, although members could add the assessment as a requirement.

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

1. Mr Uddin's Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Uddin is a fit and proper person to hold such a licence, or

2. Mr Uddin's Private Hire driver's licence be revoked as the Committee considers Mr Uddin 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.

Members voted for these two options:

Option 1 : Voting for: 4, Against 2, Abstentions 1

Option 2: Voting for: 2, Against 4, Abstentions 1

RESOLVED that

Mr Uddin's Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Uddin is a fit and proper person to hold such a licence

9. CONSULTATION RESPONSE TO THE PROPOSAL TO ADOPT THE LATE NIGHT LEVY IN CHELTENHAM

Councillor Chard retired from the Chamber at 16:05 due to his personal and prejudicial interest in this item.

The Principal Solicitor introduced the report on behalf of the Senior Licensing Officer who had to withdraw to deal with a previous applicant. This report outlined the Committee's response to the proposal to adopt the late night levy in Cheltenham.

Members voting : In favour-5;Against-0; Abstentions:1

RESOLVED

- 1. That the response be approved; and**
- 2. It be agreed that the response be submitted as part of the consultation**

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

None.

11. DATE OF NEXT MEETING

6 September 2013

Garth Barnes

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Cheltenham Borough Council
Licensing Committee – 6th September 2013
Highways Act 1980
Local Government (Miscellaneous Provisions) Act 1982
Application for Permission to Place Tables and Chairs on the
Highway
O'Neill's 23 Montpellier Walk
Report of Senior Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been received from Mitchells & Butlers Leisure Retail in respect of O'Neill's, 23 Montpellier Walk, Cheltenham. The premises currently has two public entrances, one on Montpellier Street and the other on Montpellier Walk, therefore the applicant wishes to place tables and chairs on both Montpellier Street and Montpellier Walk.
- 1.2 Members may wish to note that the application is not to increase the number of tables and chairs on the highway but to extend the timings of the current consent and allow for the tables and chairs to remain on the highway overnight, chained securely. The current consent allows the tables and chairs to be placed on the highway between 11.00 and 23.00.
- 1.3 The proposed application is as follows:
- 1.4 **Montpellier Street**
- 1.5 The applicant wishes to place 4 tables and 16 chairs on Montpellier Street for customer use between 10.00 and 00.00. Between 00.00 and 10.00 the applicant wishes to leave the tables and chairs on the highway by securely chaining them as per the photograph attached at **Appendix A**. The tables and chairs would therefore remain on the highway 24 hours per day.
- 1.6 **Montpellier Walk**
- 1.7 The applicant wishes to place 7 tables and 28 chairs on Montpellier Walk for customer use between 10.00 and 00.00. Between 00.00 and 10.00 the applicant wishes to leave the tables and chairs on the highway by securely chaining them as per the photograph attached at **Appendix B**. The tables and chairs would therefore remain on the highway 24 hours per day.
- 1.8 Although the application does not seek to increase the number of tables and chairs, it does now seek to include the addition of flower pots on Montpellier Walk, in addition to the canvas barriers which already form part of the current consent issued for the premises.
- 1.9 A scale plan of the layout is attached at **Appendix C**.

1.10 **The Committee is recommended to resolve that:**

1.10.1 The application be approved because Members feel the application is compatible with the current Street Scene Policy, or

1.10.2 The application be refused as the application falls outside the provisions of the current Street Scene Policy.

1.11 Summary of implications

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

1.11.2 Legal No right of appeal.

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 and Objectives

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

3.2 In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officer - No Comments

Environmental Health Officer - The main reason we are not objecting to this application from environmental protection perspective is that the last noise related complaint we have received [for these premises] in relation to environmental health was in July 2007 and this was relating to noise from music inside and not from the noise of people using the outside space. The premises history has been reviewed back to 2000 and there are no recorded complaints relating to the use of the outside area.

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – No Comments

Waste & Recycling Manager – No Comments

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties

Paul O'Neill (Local Resident – Rotunda Terrace) - .I am a resident of Montpellier Street and fear that we will suffer from extra noise pollution if this application is successful. My objection to the extension to the hours of allowing tables and chairs at O'Neill's pub. We feel 00.00 is late enough for people to be sitting across the road from my house drinking. We find that they usually make enough noise to disturb our sleep and peaceful enjoyment. Extending this to 01.00, we fear will make matters worse.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 This report has been brought to Members' attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.3 Members must determine this application in respect of the location plan as shown at **Appendix C**. A full consultation has taken place based on this location plan and layout only.
- 5.4 Mitchells & Butlers Leisure Retail have submitted the application to extend the hours of the existing tables and chairs consent following a recent enforcement visit during which it was identified that the tables and chairs were being displayed past the time stated on the consent. Mitchells & Butlers Leisure Retail immediately submitted an application to rectify the situation.
- 5.5 In accordance with the current Street Scene Policy Members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

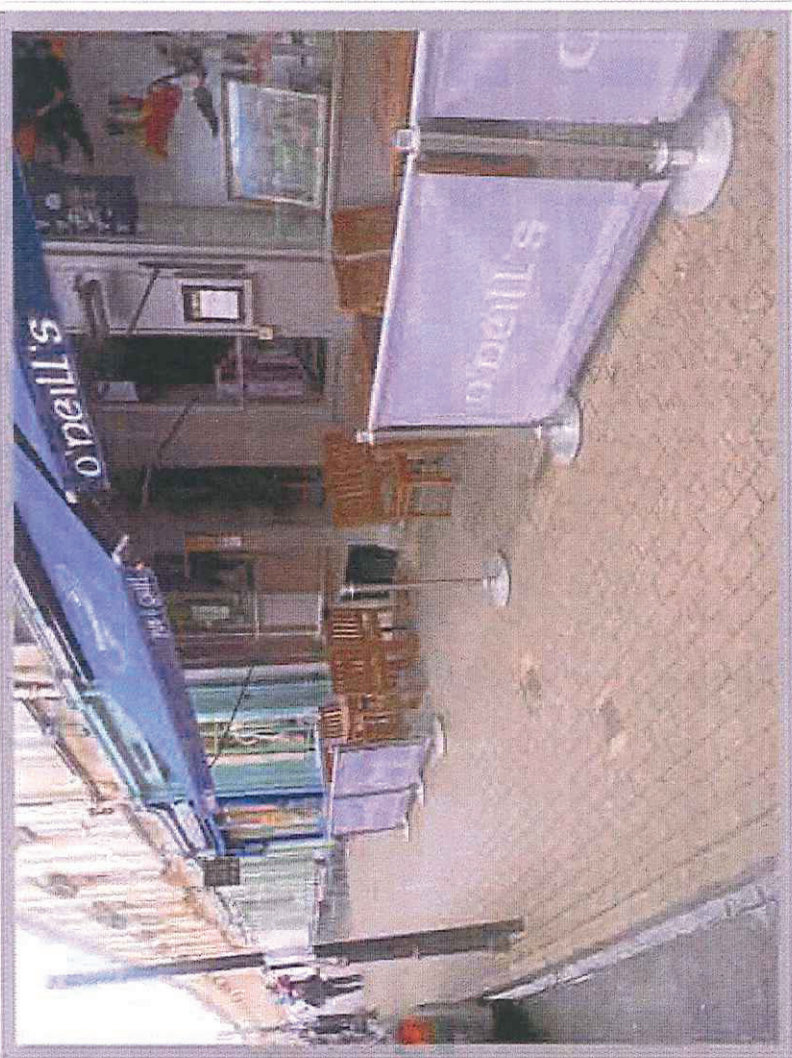
Background Papers

Service Records

Report Author

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

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Photographs of external furniture, planters and barriers as positioned during the day on Montpellier Street pavement



DAY



NIGHT

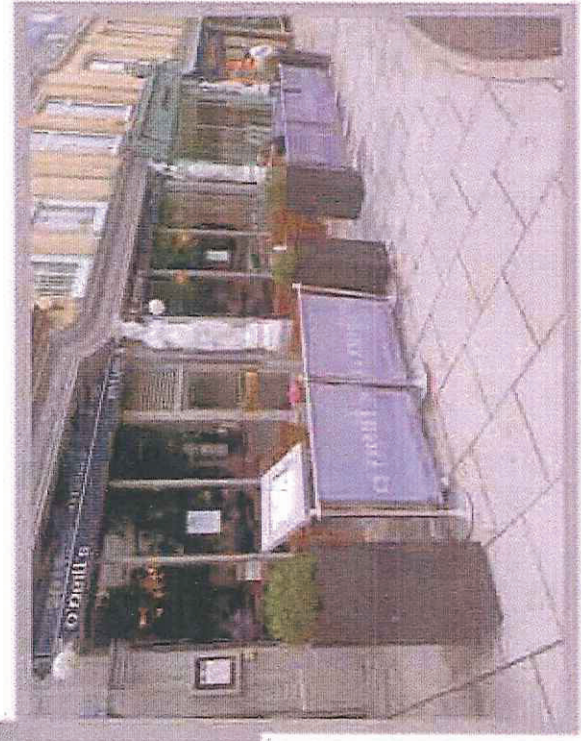
Photographs of external furniture and planters as positioned at night on Montpellier Street pavement



Furniture chained together in sets



Photographs of external furniture, planters and barriers as positioned during the day on Montpellier Walk pavement



DAY

NIGHT



Photographs of external furniture and planters as positioned at night on Montpellier Walk pavement



Furniture chained together in sets



REV A: 02.07.13. TIMES OMITTED

Link

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Client

**MITCHELLS & BUTLERS
O'NEILL'S**

Project

O'NEILL'S CHELTENHAM

Drawing Title

**PROPOSED EXTERNAL
FURNITURE LAYOUT**

Date

07.12 1:1000EA2

Scale

Drawn By

Project No

893

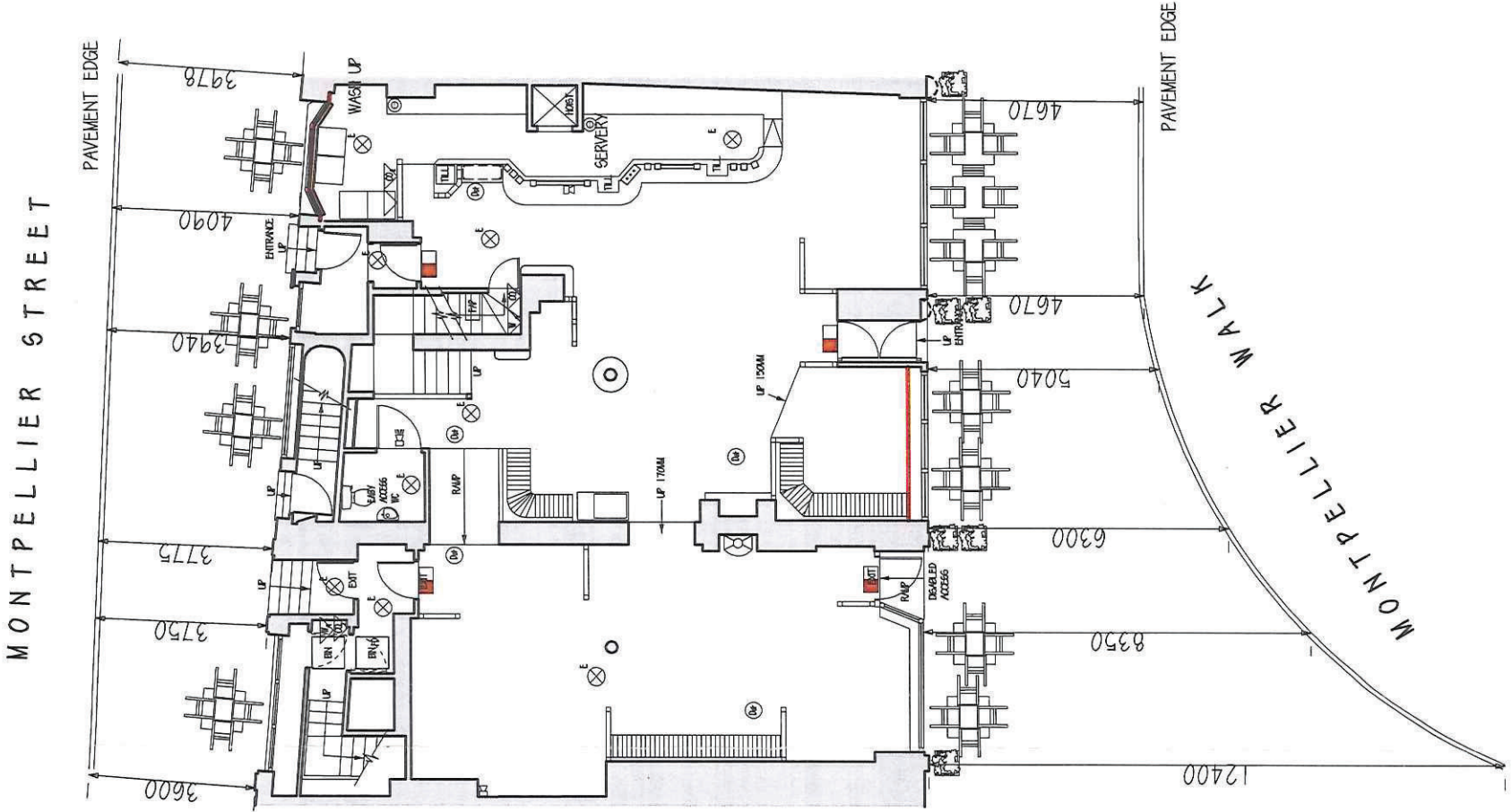
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01

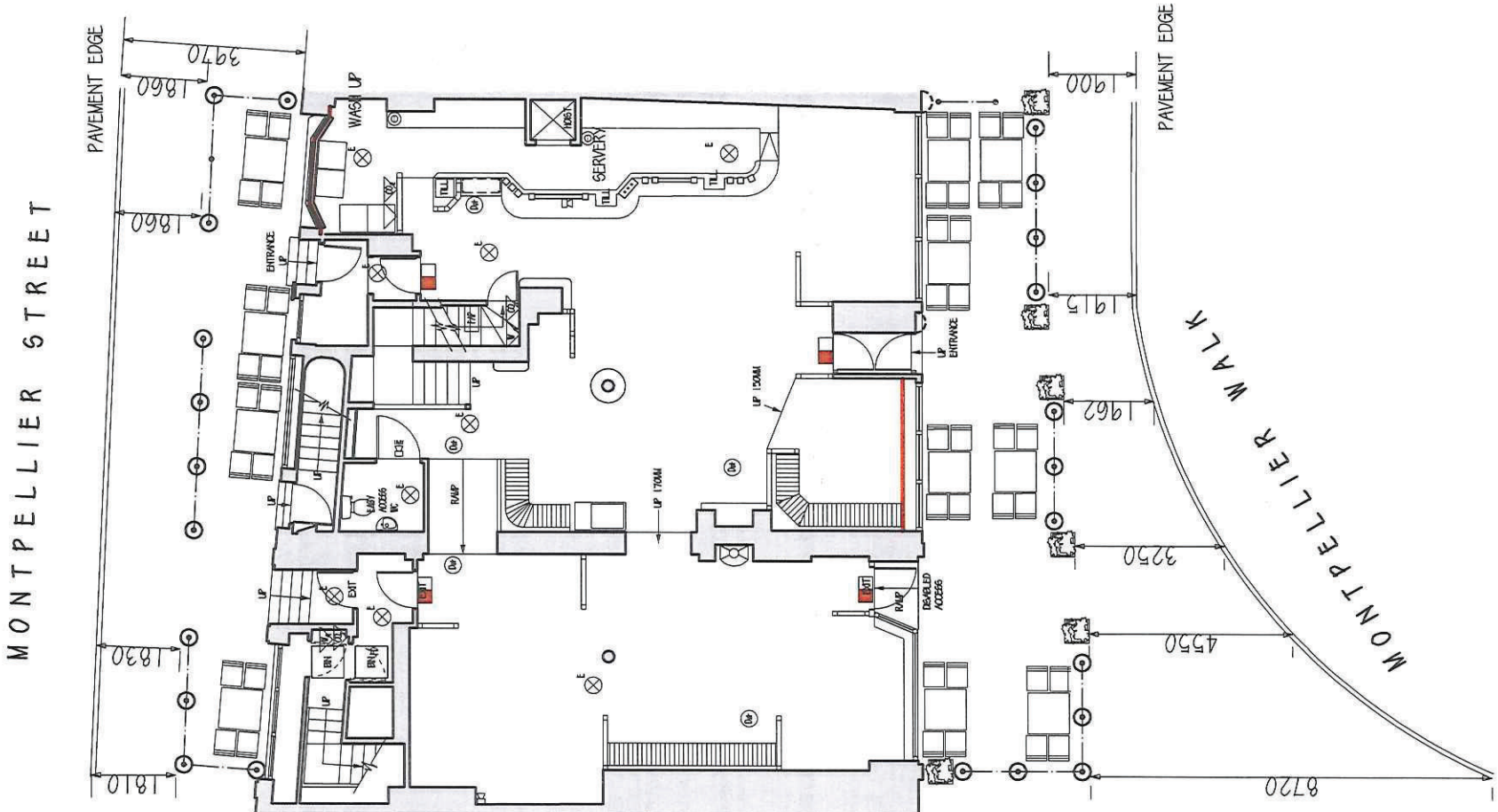
Revision

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NIGHT TIME



DAY TIME

Cheltenham Borough Council
Licensing Committee – 6 September 2013
Highways Act 1980
Local Government (Miscellaneous Provisions) Act 1982
Application for Permission to Place Tables and Chairs on the
Highway
Soho Bar, 2 Rotunda Terrace, Montpellier Street
Report of Senior Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been received from Mr Ansar Ali in respect of Soho Bar, 2 Rotunda Terrace, Montpellier Street, Cheltenham. The applicant wishes to place 12 chairs and 6 tables on the pavement outside 2 Rotunda Terrace.
- 1.2 Members may wish to note that the application is not to increase the number of tables and chairs on the highway but to extend the timings of the current consent. The current consent allows the tables and chairs to be placed on the highway between 08.00 and 00.00.
- 1.3 It is intended that the tables and chairs be put out:

Monday	10.00 - 00.30
Tuesday	10.00 - 00.30
Wednesday	10.00 - 00.30
Thursday	10.00 - 01.30
Friday	10.00 - 01.30
Saturday	10.00 - 01.30
Sunday	10.00 - 23.30

- 1.4 A picture of the proposed structure(s) and location plan is attached at **Appendix A**.
- 1.5 **The Committee is recommended to resolve that:**
- 1.5.1 **The application be approved because Members feel the application is compatible with the current Street Scene Policy, or**
- 1.5.2 **The application be refused as the application falls outside the provisions of the current Street Scene Policy.**
- 1.6 **Summary of implications**

1.6.1 Financial

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

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 and Objectives

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

3.2 In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officer - No Comments

Environmental Health Officer - From an environmental protection perspective, we would wish to register an objection on the grounds that there has been a noise complaint made which stated noise as the route cause of the complaint (the issue was being caused outside of the licensable times, but noise was the main subject of the complaint). As there has been a complaint regarding the use of this area and it was from a residential property within a close vicinity to this area I feel that if this were to be granted it would have a detrimental effect on people being able to live as they normal would in the near by residential properties

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – No Comments

Waste & Recycling Manager – No Comments

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties

Paul O'Neill (Local Resident – Rotunda Terrace) - I am a resident of Montpellier Street and fear that we will suffer from extra noise pollution if this application is successful. I wish to object to Bar Soho Rotunda Terrace Montpellier St. Cheltenham application to place tables and chairs until 1.30 am. We fear this will lead to further Street noise which will disturb our sleep and quiet enjoyment.

5. Licensing Comments

5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.

5.2 This report has been brought to Members' attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.

5.3 Members must determine this application in respect of the location plan as shown at **Appendix A**. A full consultation has taken place based on this location plan and layout only.

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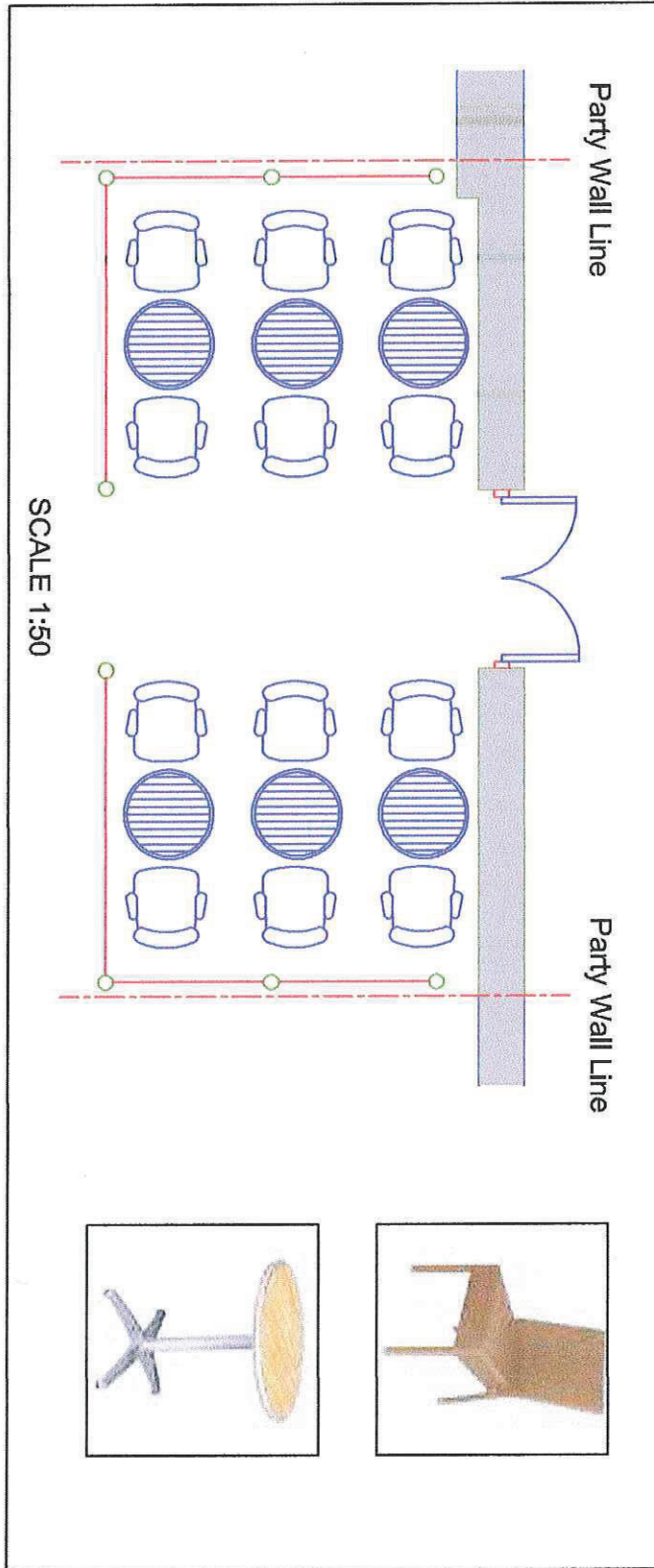
- 5.4 Mr Ali has submitted the application to extend the hours of the existing tables and chairs consent following a recent enforcement visit during which it was identified that the tables and chairs were being displayed past the time stated on the consent. Mr Ali immediately submitted an application to rectify the situation.
- 5.5 In accordance with the current Street Scene Policy Members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

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Cheltenham Borough Council

Licensing Committee – 6 September 2013

Application for a Hackney Carriage Driver's Licence

Mr Shamsuz Zaman

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Shamsuz Zaman for a Hackney Carriage driver's licence.
- 1.2 Mr Zaman has convictions on his driving licence. The details of these are contained in the enclosed background papers.
- 1.3 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the convictions because of:
- 1.3.1 The nature of the offences; and
- 1.3.2 The need to ensure that Mr Zaman is judged to be a fit and proper person to hold a Hackney Carriage Driver's Licence.
- 1.4 The Committee is recommended to resolve that Mr Zaman's application:**
- 1.4.1 be granted as Mr Zaman is a fit and proper person, or**
- 1.4.2 be refused on the grounds that Mr Zaman is deemed not to be a fit and proper person.**

1.5 Implications

- 1.5.1 Financial
- Contact officer: Sarah Didcote**
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125
- 1.5.2 Legal
- There is a right of appeal against a refusal to grant 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 driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).
- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the offence, the applicant is a fit and proper person to hold a licence.

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 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.3 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.4 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.
- 3.5 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.

3.6 Major Traffic Offences

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused. More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

3.7 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.

4. Licensing Comments

- 4.1 Members are to note that Mr Zaman's conviction for driving whilst uninsured is treated as a Major Traffic Offence, and his conviction for using a mobile phone while driving a motor vehicle is treated as a Minor Traffic Offence. Policy guidelines on how to view each type of offence are shown above at paragraphs 3.6 and 3.7.
- 4.2 Members are to note that Mr Zaman previously applied to the Council for a Private Hire driver's licence in 2011. Mr Zaman appeared before the Licensing Committee on 6 January 2012, at which time the Committee resolved to refuse to grant a licence. This was because the Committee decided that Mr Zaman was not a fit and proper person to hold such a licence because of the convictions on his DVLA driving licence. Members are advised that no new convictions have been added since that date.

- 4.3 Members will note that in the interview notes (see background papers) Mr Zaman explained that the conviction for driving whilst uninsured came about as a result of his use of a Trade Licence whilst he was occupied in the car trade. Officers have researched this and established that people engaged in the car trade can register a Trade Licence with DVLA which enables them to drive any car in their possession as long as they register it within 14 days. However, Members are also to note that DVLA guidance notes show that vehicles covered under such a Trade Licence may only be driven by the trader for the purposes of carrying out his trade. Those DVLA guidelines make it clear that using such a vehicle for other non-business purposes, including travelling to an airport to go on holiday, is an offence.
- 4.4 Mr Zaman has applied for a 3 year Hackney Carriage driver's licence. Members should note that, if they are minded to grant the licence, they have the option of granting a 1 year or a 3 year licence.
- 4.5 Members will note that in the interview notes, Mr Zaman has observed that he is currently licensed as a taxi driver by Gloucester City Council. Members are advised that this fact is not relevant to whether Mr Zaman should be licensed in Cheltenham, as each Licensing Authority has its own Policy and its own method of establishing an applicant's fitness and propriety for being licensed.
- 4.6 Mr Zaman 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.
- 4.7 The Committee must be satisfied that Mr Zaman 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

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Cheltenham Borough Council

Licensing Committee – 6 September 2013

Review of a Hackney Carriage Driver’s Licence

Mr Samir Jamshidi - HCD076

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Samir Jamshidi holds Hackney Carriage driver’s licence HCD076 which is due for renewal on 20 January 2015.
- 1.2 Mr Jamshidi has recently been convicted of a driving offence. The details of this conviction are contained in the enclosed background papers.
- 1.3 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the conviction because of:
 - 1.3.1 The nature of the offence; and,
 - 1.3.2 The need to ensure that Mr Jamshidi is judged to be a fit and proper person to hold a Hackney Carriage driver’s licence.
- 1.4 **The Committee is recommended to resolve that Mr Jamshidi’s Hackney Carriage driver’s licence be:**
 - 1.4.1 continued with no further action because Mr Jamshidi is judged to be a fit and proper person to hold a Hackney Carriage driver’s licence, or
 - 1.4.3 revoked as the Committee considers Mr Jamshidi is not a fit and proper person to hold a Hackney Carriage driver’s licence.

1.5 Implications

- 1.5.1 Financial **Contact officer: Sarah Didcote**
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125
- 1.5.2 Legal There is a right of appeal against a decision to revoke 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).
- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

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 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.3 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.4 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.
- 3.5 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.

Major traffic offences

- 3.6 An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers.

4. Licensing Comments

- 4.1 Members are to note that the driving offence of which Mr Jamshidi has been convicted (Exceeding speed limit on a motorway) is defined as a 'hybrid traffic offence' in the Council's Policy. Hybrid traffic offences are treated as major traffic offences if, as in this case, more than 4 penalty points were issued by the Court. The Policy guidelines on how to treat such offences are shown above at paragraph 3.6.
- 4.2 If Members are minded to allow Mr Jamshidi's licence to continue, they have the option of adding a requirement that Mr Jamshidi must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision.
- 4.3 Mr Jamshidi 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.
- 4.4 The Committee must be satisfied that Mr Jamshidi 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.

Report Author

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Tel no: 01242 775200

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Cheltenham Borough Council

Licensing Committee – 6th September 2013

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

Farmers’ Markets and Arts & Crafts Markets relocation

Report of the Senior Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Gill Morris on behalf of Cheltenham Borough Council to relocate the Farmers’ Markets and a separate application to relocate the Arts and Crafts Markets to the pedestrianised area of the Promenade outside Cavendish House.
- 1.2 Both markets are run and operated by Grenchurch Markets Ltd. The markets are held at the following times:
- 1.3 Farmers Markets – Fortnightly every second Friday of each month (09.00 – 15.00)
Arts and Crafts Markets – One Saturday per month (09.00 – 17.00)
- 1.4 Each individual stall measures approximately 10ft x 5ft. It is proposed to display up to 40 individual stalls on the pedestrian area of the Promenade.
- 1.5 A location map outlining the proposed layout of the markets stalls is attached at **Appendix A** and details of the proposed generator are attached at **Appendix B**.
- 1.6 **The Committee is recommended to resolve that:**
 - 1.6.1 **The application be approved because Members are satisfied that the location is suitable, or**
 - 1.6.2 **The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location(s) are deemed unsuitable.**
- 1.7 **Implications**
 - 1.7.1 Financial **Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125**

1.7.2 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.

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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 ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- 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.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - I have now visited all the businesses fronting on to the area where the markets will be trading. **There are no objections**. Indeed, many are very positive as the increased footfall helps the business in the area.

There have been some concerns raised though:

It would appear that the gaps between the stalls, allowing people to get from one side of the Promenade to the other, are not always being made so this requires more careful management during the erection of the stalls. It would help if the 'walk throughs' were clearly indicated (and were not obstructed with merchandise 'spreading' into the gaps) so that the public could more clearly see how they can get from one side to the other. There was also a concern that emergency vehicles may not readily be able to get to the Waterstones side of the Promenade from the Cavendish House side.

The set up and take down of the stalls is carried out to the detriment of some of the businesses in that it is done untidily and very noisily (poles being 'thrown' on the ground, etc.). It was felt this does affect business as the market take down happens mid afternoon when the shops and cafes are still trading. It would help if more consideration was made by the market operators. This also requires closer supervision from the management.

I'd be grateful if this could be passed on to the market operators.

Highways Enforcement Officer - Gloucestershire Highways would not have any highway related objections to this application. However the following should be noted:-

- 1) Generator exhaust outlets should not be anywhere near the existing Highway trees /tree canopy.
- 2) No stalls, vehicles, boards or the like should be placed over any existing tree pit areas.

Environmental Health Officer - I notice on the details for the generator supplied they state: *"In the longer term, the proposed redesign of the space will include the provision of an electricity supply and so use of the generator is a temporary measure until a permanent supply is in place."* This is going to be the best option and most environmentally friendly one for the market, especially as this move is to be permanent, it would be good to know when they think there will be a permanent supply in place for them to use?

In relation to conditions can I add:

- 1) No mobile generators shall be used without the express permission of the Council. Where permission is granted generators shall be so positioned that: - they do not present a danger to the public do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not cause any noise or fume nuisance.
- 2) A competent person must install all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
- 3) Market organisers shall only use the generator as specified with the street trading application, or one of an exact or lesser specification. Only one generator as described in the application can be used at once during each market.

The option of using a generator is not the most environmentally friendly option for the market and other options I believe have been explored by the organisers, but a workable solution has not been found. I would encourage and add my support to having a permanent supply available and used at the very earliest opportunity.

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – No Comments

Waste & Recycling Manager – I have some concerns about this in terms of trade refuse collection.

We make collections (separately) of trade waste and trade recycling on a Tuesday and a Friday every week. The collections take place from exactly where the stalls are planned to be. The shops have a choice - they can either leave their waste / recycling out early which we collect first thing (before 7) or they can put them out when they arrive at work around 9am, so we then visit for a second time after 9am. We collect both refuse and recycling on each occasion, so two trucks each time.

The vehicle (a 26 tonne HGV) must be able to gain access up the centre of this area. When the Christmas Market is in situ we are very careful to make sure we look out for the safety of the pedestrians/stallholders etc, and we take extra care. This is fine for the special duration of this market. The positioning of the Christmas Market Stalls means that they sit between the benches and do not protrude further forward than the bollards, and this suits us OK and we can adapt accordingly. However increasing the frequency of having such stalls in this area to twice a month increases the safety risks to both the stall holders and their customers/ the public. We have no choice but to visit twice (four vehicle passes) and with the times that we go there a high chance of

our visits coinciding with either stall holders setting up, and their vans/trailers etc being in the way too, and then later in the day it will coincide with the public visiting the stalls.

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties – No Comments

5. Licensing Comments

5.1 The following statement has been provided by Gill Morris in support of the Farmers' Market application -

Cheltenham farmers' market has been running since May 2002 and is a partnership arrangement between the council and Grenchurch Markets Ltd, who are responsible for the day-to-day operation of the market. The council originally established the market to support local sustainable development and deliver social, economic and environmental benefits:

- Reinforcing the appeal of local produce and encouraging more healthy eating
- Raising awareness of environmental issues
- Adding to the attraction of Cheltenham town centre
- Providing opportunities for producers to meet customers and explain how the food is produced
- Supporting the local economy

These benefits remain valid ten years later and, since it was established, the market has been a popular and well patronised event. Until April this year the market was held in front of the Long Gardens, but it was temporarily relocated to the pedestrianised area of the Promenade to accommodate the redesign of the Long Gardens pavement.

Although originally a temporary relocation, the move has been very positively received by customers, other businesses trading in that area, market traders and the market operator. The overwhelming feeling is that it enhances the area, creating a vibrant 'social' atmosphere and bringing greater footfall, which benefits everyone. This has prompted the application for a more permanent move to this space.

It should also be noted that, although the market will need to move back to the Long Gardens to accommodate the annual Christmas market, there are significant issues with moving back to that location on a permanent basis.

- The redesign of the Long Gardens does not lend itself to being an events location. The installation of bollards hinders loading and unloading and the extended tree pits greatly interfere with the positioning of market stalls.
- The decision late last year to extend the taxi rank up as far as the war memorial has created a major obstacle for the effective operation of the market, reducing space for loading and unloading the market stalls and produce.
- There has always been an agreement for the operator to cone off parking spaces in front of the Long Gardens to enable unloading in the morning and loading in the afternoon. These parking spaces are now the responsibility of the county's private contractor and, whilst a waiver is in place at present to allow coning off at no charge, this is not guaranteed long term.

These issues have created additional health and safety problems for the operation of the market in this area.

Members may also be aware that there is a planned redesign of the pedestrianised area of the Promenade, which is being led by the council's Townscape team. A discussion has taken place to ensure that the planned changes will support market events in the area. Of particular note is the plan to install an electricity supply. This will mean the markets will not need to use a generator in the long term. This was an initial concern of the temporary relocation, although a generator has since been used without any issues.

The additional health and safety issues of operating the market in front of the Long Gardens, together with the positive benefits demonstrated by the temporary relocation and the planned changes to the pedestrianised area of the Promenade, all support the application to move on a permanent basis to the pedestrianised area. We would therefore request committee members look favourably on this application and that of the arts & crafts market.

- 5.2 Douglas Cotton on behalf of Grenchurch Markets Ltd has submitted the following comments in relation to the Waste and Recycling Managers comments - Although I was not at the Farmers Market event last Friday, I am aware of the fact that some of the stalls were erroneously placed too far forward on the frontage facing Cavendish House.....this will not happen again.

I have however attended the majority of markets since the relocation and have witnessed a variety of vehicles.....fire engines, ambulances, police, municipal vehicles and many others.....negotiate the bollarded route - from both directions - at high speeds and slower, visibly without any difficulty whatsoever. I am not conscious of the stalls ever overhanging the bollards. In my opinion, given the constant presence of pedestrian traffic outside Cavendish House, it would be difficult for any vehicle - other than the emergency services - to knowingly contemplate proceeding other than at steady speeds.

I can assure everyone that we have not been knowingly inching forward, the trade waste crew's comments are however valuable because they serve to remind us that the market activity is akin to a living and moving entity.....we have been operating on the pedestrianised area for some five months without problems and with an emphasis on avoiding obstruction of the bollarded path - all feedback is relevant to us of course and the exact placement of the stalls and thence their overhangs will be an imperative ongoingly.

I should simply like to emphasise that we have given the highest possible operational priority to ensuring that the status of the bollarded path - as an emergency route - has not been compromised by the Farmers/Arts & Crafts activities on any occasion during the period of the relocation.....with particular focus, of course, upon the periods of unloading and loading when the market is assembled and then at the conclusion of trading dissolves away.

I have seen Gill's submission and consider that all of the relevant aspects have been admirably covered.....my only addition would be to point out that the contribution made by these events, as facets of the attraction of Cheltenham town centre, is not of a momentary, seasonal or passing nature but rather that these markets provide a motivation to visit the Town for the most weeks of the year.

- 5.3 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.4 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) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.5 Members must determine this application in respect of the location plan as shown at **Appendix A**. A full consultation has taken place based on this location plan and layout only.

- 5.6 The applicant has submitted the application to permanently relocate the markets however they do not wish to use the pedestrianised area of the Promenade during December when the Christmas Market is trading within Cheltenham. During the Christmas Market the applicant proposes to hold the market on the pavement adjacent to the Long Gardens outside the Municipal Offices.
- 5.7 Members will note that the pedestrianised area of the Promenade is subject to a number of changes in the near future, mainly to the street furniture layout which is currently being finalised with the planning department. Plans of the proposed changes are due to be available in October/November. The market organisers have met with the planning department and despite plans not yet being finalised have concluded that the new designs should not affect the market being positioned on the Promenade outside Cavendish House. As and when plans are available a slightly different plan will be submitted for approval.
- 5.8 The addition of an electricity supply is also planned for the pedestrianised area of the Promenade. The exact dates of the installation cannot be confirmed however the plans are proposed for early 2014.
- 5.9 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

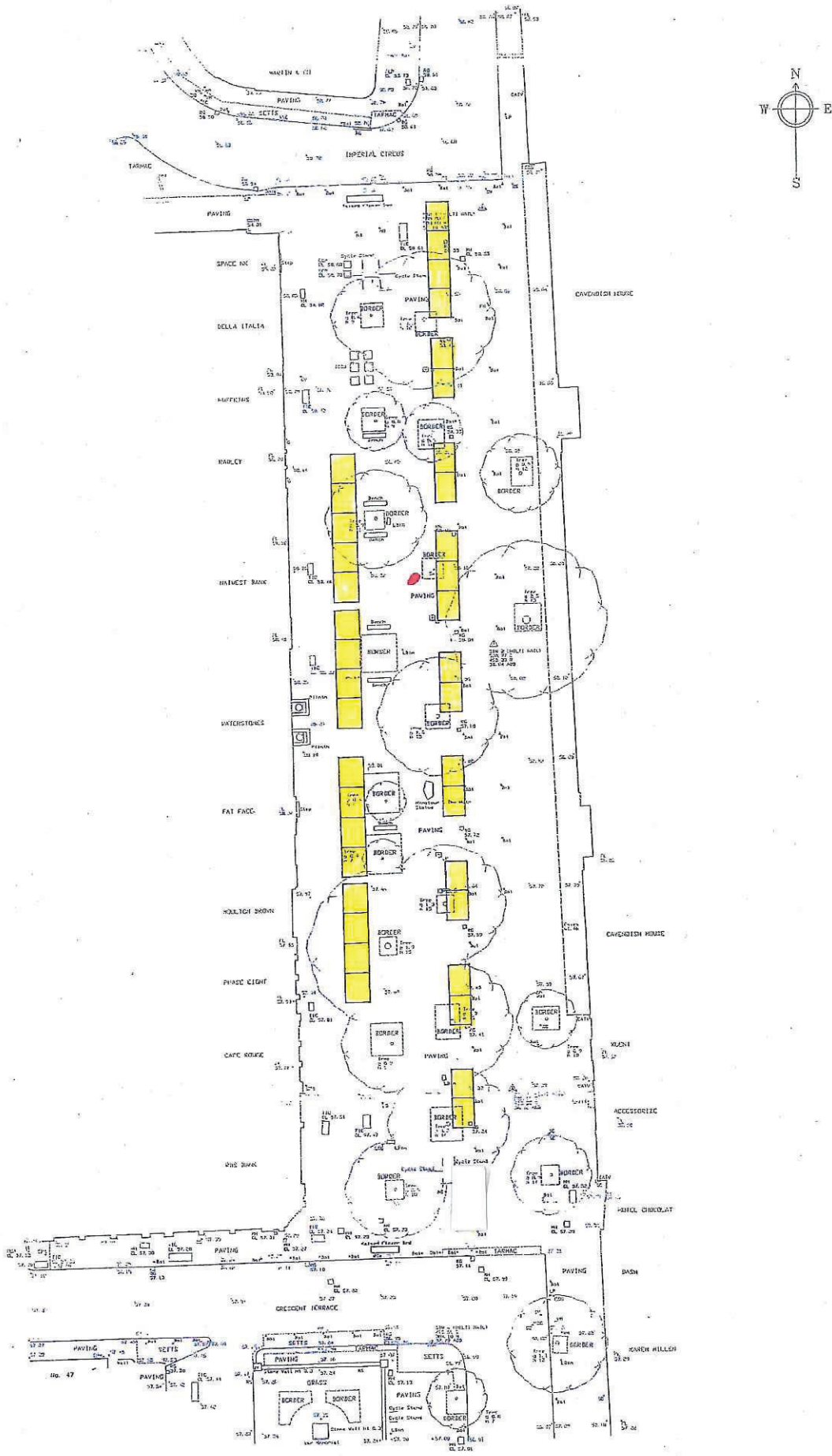
Background Papers

Service Records

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Promenade - Imperial Circus to Crescent Terrace
Scale 1:200

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Details of generator

The generator will be the same as that used during the temporary relocation of the market to this site. A full discussion was had at the time with Bev Kershaw-Cole (health & safety business partner, now left) and Louise Boyle, senior environmental health officer. Louise Boyle inspected the generator and subsequently visited the market to ensure there were no issues.

The generator is hired in but brought to the market by the market operator, so will always be in situ before the markets start. Should the generator fail, the supplier is located only half an hour away. However, in the event that the generator cannot be repaired or replaced quickly enough, and it was likely to cause a food safety issue, food producers (farmers' market only) requiring an electricity supply would cease trading. The generator, which complies with the EU level III emissions requirements, remains on the trailer when it is in use; it is located behind the stalls and is screened off from the public. A picture of the generator and the socket/cabling unit, are below.

In the longer term, the proposed redesign of the space will include the provision of an electricity supply and so use of the generator is a temporary measure until a permanent supply is in place.



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