



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Licensing Committee

Friday, 1 November 2013

2.30 pm

Council Chamber, Municipal Offices

<b>Membership</b>	
<b>Councillors:</b>	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.	<b>APOLOGIES</b> Councillor Seacome	
2.	<b>DECLARATIONS OF INTEREST</b>	
3.	<b>PUBLIC QUESTIONS</b> None	
4.	<b>MINUTES OF MEETING HELD ON 4 OCTOBER 2013</b>	(Pages 1 - 4)
5.	<b>MINUTES OF SUB COMMITTEE MEETINGS</b> 3 October 2013 – The Ball Room	(Pages 5 - 10)
6.	<b>LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION</b> That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:  Information relating to any individual,  Information which is likely to reveal the identity of an	

		individual,  Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
7.		<b>APPROVAL OF EXEMPT MINUTES OF MEETING HELD ON 4 OCTOBER 2013</b>	(Pages 11 - 14)
8.		<b>SITE VISIT (2PM ON THE HIGH STREET OUTSIDE THOMAS COOK)</b>	
9.		<b>STREET TRADING APPLICATION</b> Mr Raviv Hadad – Falfeleat Mobile Bike	(Pages 15 - 28)
10.		<b>PRIVATE HIRE DRIVER REVIEW</b> Mr Stephen Owens	(Pages 29 - 34)
11.		<b>OBJECT ON THE HIGHWAY</b> Antique and Modern Fireplaces	(Pages 35 - 44)
12.		<b>HACKNEY CARRIAGE DRIVER APPLICATION</b> Mr Giuseppe Maurizio Licata	(Pages 45 - 48)
13.		<b>ALLOCATION OF CHRISTMAS STREET COLLECTION DATES</b>	(Pages 49 - 54)
14.		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION</b>	
15.		<b>DATE OF NEXT MEETING</b> 6 December 2013	

**Contact Officer:** Rachael Sanderson, Democracy Assistant, 01242 264130  
**Email:** [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)

## Licensing Committee

Friday, 4th October, 2013

2.30 - 4.00 pm

<b>Attendees</b>	
<b>Councillors:</b>	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Charles Stewart, Pat Thornton and Helena McCloskey (Reserve)
<b>Also in attendance:</b>	Councillor Penny Hall

## Minutes

**1. APOLOGIES**

Councillors Stennett, Walklett and Whyborn.

**2. DECLARATIONS OF INTEREST**

None

**3. PUBLIC QUESTIONS**

None

**4. MINUTES OF MEETING HELD ON 6 SEPTEMBER 2013**

Councillor Helena McCloskey had attended as an observer at this meeting, and upon this amendment it was resolved that the minutes of the meeting held on 6 September 2013 be agreed and signed as a true record.

**5. MINUTES OF SUB COMMITTEE MEETINGS**

None

**6. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE**

Amelia Byres, Senior Licensing Officer introduced the report as circulated with the agenda. This is a review of Mr Spicer's Hackney Carriage Driver's Licence.

Mr Spicer has convictions on his DVLA driving licence, the details of which are attached to the background report.

Mr Spicer received 6 points on his driving licence for driving without due care and attention. This was as a result of driving through a red light at a railway crossing. Amelia Byres confirmed that Mr Spicer contacted the Licensing Department straight away to advise them of the offence.

Mr Spicer attended the Committee and spoke in support of his licence. He said the offence occurred on a Sunday morning and there was no one else on the road. The railway crossing was manned and he was waved through even though the lights were red. As a result of this offence he had to go to Court and paid a fine of £1000.

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Members asked the following questions:

- A Member stated they were happy that Mr Spicer had followed all of the correct procedures by way of getting in contact with the Licensing Department straight away.
- A Member raised concern about the offence and felt this was very serious and Mr Spicer should not do this again.
- Mr Spicer confirmed he had since been waved through again at the same crossing but had and would not go through the crossing if the lights were red.
- When asked, Mr Spicer said he was driving at 20mph when he drove through the crossing.
- When asked, Mr Spicer confirmed he had a passenger in his vehicle at the time of the offence.
- When asked, Mr Spicer advised that he did not have any other convictions for driving without due care and attention.
- A Member asked if any evidence had been received from the Railway Authority about this situation. The Member asked that if the barrier was not down and Mr Spicer had been waved through, why was he here in front of the Licensing Committee today.
- Mr Spicer confirmed there was no evidence given in Court and he had pleaded guilty.
- Amelia Byres advised the Committee that it is up to the driver to prove they are not guilty. As a result of the Court proceedings Mr Spicer received a fine and 6 penalty points on his DVLA driver's licence. It is now up to the Committee to make a decision about Mr Spicer's Hackney Carriage driver's licence.
- A Member stated that the driver is responsible for their own actions.
- Mr Spicer said the railway crossing had been manned and was waved through as the barriers were still up. For this reason he thought the signalman was letting him through and all was ok.
- A Member stated that when the traffic lights are red the driver should stop.
- A Member asked how Mr Spicer was prosecuted did a camera take a photograph of him crossing the barriers when the light was red?
- Mr Spicer confirmed that he was prosecuted by the British Transport Police.
- A Member suggested if Mr Spicer's Hackney Carriage driver's licence was to continue he should undertake a driver assessment.
- A Member expressed sympathy to Mr Spicer for the situation he was in but had to consider passenger safety.
- A Member reminded Mr Spicer that with 9 penalty points on his DVLA driver's licence he was in a vulnerable position.

Members were advised they had the following recommendations to vote on;

1. Mr Spicer's Hackney Carriage driver's licence be revoked as the Committee considers Mr Spicer not to be a fit and proper person to hold a Hackney Carriage driver's licence.
2. Mr Spicer's Hackney Carriage driver's licence be continued, but that he be required to successfully undertake, at his own expense, a road safety unit driver assessment within three

months of today's date and produce a driver assessment pass certificate to the licensing section.

Upon a vote it was (6 for 2 against)

**RESOLVED, that Mr Spicer's Hackney Carriage driver's licence be continued, but that he be required to successfully undertake, at his own expense, a road safety unit driver assessment within three months of today's date and produce a driver assessment pass certificate to the licensing section.**

**7. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**

Unanimously agreed.

**8. REVIEW OF PRIVATE HIRE DRIVERS LICENCE**

Members were advised they had the following recommendations to vote on.

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

Upon a vote it was (0 for 8 against) that

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

Upon a vote it was unanimously

**RESOLVED, that Mr Waring's private hire driver's licence be revoked with immediate effect, but that if his situation changed with regard to his challenge of his caution he would need to make a new application and come back to this Committee.**

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

That the thanks of the committee to Amelia Byres for her competent and efficient work in connection with licensing be put on record as she leaves the employment of the council to emigrate to Dubai.

**10. DATE OF NEXT MEETING**

1 November 2013

Garth Barnes  
Chairman

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### Licensing Sub-Committee

**Thursday, 3rd October, 2013  
10.00 - 11.20 am**

<b>Attendees</b>	
<b>Councillors:</b>	Andrew Chard, Pat Thornton and Jon Walklett
<b>Also in attendance:</b>	Phil Cooper, Licensing Officer and Vikki Fennell, Solicitor

### Minutes

**1. ELECTION OF CHAIRMAN**

Upon a vote, Councillor Walklett was duly elected as Chairman.

**2. APOLOGIES**

None

**3. DECLARATIONS OF INTEREST**

None

**4. PREMISES LICENCE APPLICATION**

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application for determination for a Premises Licence had been received from Mr Miah in respect of the Ball Room, Bayshill Lodge, Cheltenham. Appendix A of the report showed a copy of the application form.

The applicant has applied for a premises licence for the following licensable activities:

- Sale/supply of alcohol, every day from 08.00 to 01.00
- Provision of late night refreshment, every day from 23.00 to 01.00

Point 2.3 of the report detailed how Mr Miah would take steps to promote the four licensing objectives.

Representations had not been received from the eight responsible authorities but 3 residents had made representations against the application. The residents objected on the grounds of potential noise disturbance and disorder. Copies of the representations were attached to Appendix B of the report.

The location of the residents properties and that of the premises, are show on the location plan attached to Appendix C of the report.

An internal layout plan of the premises is attached at Appendix D of the report.

Phil Cooper advised the Committee that they must have regard to all of the representations made and the evidence it hears. The Committee must take

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such of the following steps as it considers appropriate for the promotion of the licensing objectives with can include:

- Granting the application as requested;
- Modifying the conditions attached to the licence; or
- Rejecting all or part of the application.

Members were referred to point 7.3 of the report and reminded that the Council has a statutory duty to promote the licensing objectives and therefore Members can only give consideration to representations that relate to the likely effect the grant of this licence will have on the promotion of those objectives, these being:

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance; and
- d) The protection of children from harm.

Members asked the following Officer questions:

- When asked, Phil Cooper confirmed the eight responsible authorities who were consulted about this application were: Gloucestershire Police, Fire Service, Environmental Health Officer, Planning, Child Protection, Trading Standards, Local Health Authority and Health & Safety Enforcement.

Mr Miah attended the Committee with a colleague and spoke in support of his application. He advised Members that he had been trading since he was 15 years old in this line of business. He felt he was being judged before he had even started trading and wanted people to make a decision after the business had started. Montpellier was now a different culture and he wanted to add something fantastic to the social culture in this area. He confirmed his main priority was not to cause any problems to local residents.

Ms Mitchell attended the Sub Committee to speak on behalf of Ms Willmet who had submitted a representation against this application. A copy of the representations were attached to Appendix B of the report. Mr Lyons also attended the Sub Committee and had submitted a representation on the grounds of potential noise disturbance.

Mr Lyons said he was worried about the balcony at the top of the premises and that noise disturbance would be caused. In the summer Mr Lyons stated that he had regularly had to close his windows due to noise of talking or smashing glass and felt that 1.00am was too late for this premises to stay open. Mr Lyons said he had lived in his home for 20 years and needed sleep. He felt that closing at 11pm would be more appropriate.

Ms Mitchell asked where customers would smoke outside of the premises and was it intended for customers to use the flat roof balcony.

Mr Miah confirmed customers will smoke outside of the premises like they do at the Montpellier Wine Bar and that the flat roof balcony had been built for use.



The Chairman reminded Ms Mitchell that she must only refer to points made in Mrs Willmetts's representation.

Ms Mitchell stated in agreement with Mrs Wilmett and Mr Lyons that the premises should close at 11pm and felt this was late enough.

Members asked the following questions:

- When asked, Mr Miah stated that he had not applied for the balcony to be used yet but he may do so in the future.
- When asked, Mr Miah confirmed he would place a cigarette bin on the wall of the premises to ensure the pavement did not become littered with cigarettes.
- A Member asked for clarification of where the balcony was on page 39 of the report.
- Mr Miah advised Members that the middle diagram on the plan detailed the balcony and this area would not be for customers' use.
- Sarah Farooqi, Solicitor reminded Members that this area is incorporated with the plan and if the premises licence is granted this area would be authorised for use for the sale of alcohol and late night refreshment. Members should consider this in their deliberations.
- A Member asked for clarification again about where the balcony was and referred to the void section in the first floor plan on page 39 of the report.
- Members felt confused about the plan and after some discussion Mr Miah confirmed the balcony is internal on the first floor and there is an external flat roof space on top of the premises, as shown in the attic floor plan at appendix D of the report. Mr Miah stated that he was not intending to use the internal balcony area (shown as void on the plan) for serving food or alcohol for customer use.
- When asked, Mr Miah stated he was not intending to open seven days a week until 01.00 but wanted the flexibility for customers to have a late meal.
- When asked, Mr Miah said he was unsure if he would be renting out the Ball Room for functions. He stated he wanted to trade like the Montpellier Wine bar and had been in this business for the last 40 years.
- When asked, Phil Cooper confirmed the Montpellier Wine Bar is authorised to sell alcohol from 10.00 to 00.00 every day and the Soho Bar from 10.00 to 00.00 on Monday to Wednesdays, 10.00 to 01.00 on Thursday to Saturdays and 10.00 to 23.00 on Sundays.
- Mr Lyons said that music from these premises woke him up especially during the summer when he had his windows open. Mr Lyons said he was worried about the future.
- The Chairman advised Mr Lyons that these issues must be addressed to Environmental Health and the Licensing Department. This application should be determined on its own merits and other premises should not be discussed today.
- When asked, Ms Mitchell said when the Soho was trading as the Salisbury several complaints were made to Environmental Health but since the change in premises they have reached a compromise with the new owner.
- The Chairman advised the Committee that residents felt that 11.00pm was an appropriate closing time and the applicant had requested until

1.00am. The Chairman asked the Applicant and Interested Parties whether a compromise could be reached with regard to these times.

- Mr Miah said he was happy to trade at the same time as other premises in the area and wanted the opportunity to start trading and then reach a compromise. He asked why his hours of trading should be restricted out of line with other premises in the area.
- When asked, Mr Miah said once he is trading the bins would be stored behind the premises.
- When asked, Mr Miah said he would empty glass into the bins in the morning to reduce noise in the evening. Mr Miah confirmed the bins would be emptied commercially.

In summing up, Mr Miah stated he had been trading in Gloucester in this business for 25 years without any problems. He felt he was being judged before he had started trading. Mr Miah said he wanted the extra hours to enable customers to have a late meal and a drink. He said he would make sure there were no problems to the residents and this was his priority.

When asked, Mr Miah confirmed that air conditioning would be fitted if needed and the builders were currently working on the premises.

Ms Mitchell confirmed Mrs Willmett had suggested a compromise in her representation of the premises opening until 00.00 all week and closing at 11pm on Sundays.

Members retired from the Chamber at 10.45am

Members returned to the Chamber at 11.15am

### **RESOLVED that;**

In respect of the application by Mr Miah for the The Ball Room, Bayshill Lodge, Cheltenham the Sub Committee had read the material presented to it and has listened to all of the evidence and submissions. The Sub Committee in coming to its decision also considered the four licensing objectives, the National Guidance and the Statement of Policy and the decision of the Sub Committee is as follows: -

the application for a premises licence is granted as requested by the applicant in their application subject to the mandatory conditions and conditions consistent with the steps outlined by the Applicant as detailed in the operating schedule which includes CCTV, challenge 21 etc. and to the following conditions:

1. Licensable activities will be restricted as follows: -

Sale/supply of alcohol -  
Sunday 08.00 – 23.00  
Mon – Weds 08.00 - 00.00  
Thursday – Sat – 08.00 – 01.00

Late Night Refreshment –  
Mon – Weds 23.00-00.00

Thurs – Sat – 23.00- 01.00

2. That there will be no licensable activities on the balcony and flat roof area

The Sub Committee placed these conditions on the licence for the purpose of promoting the licensing objective of the prevention of public nuisance and the potential for noise disturbance on local residents.

In all other respects the Sub Committee found that the licensing objectives are satisfied and that the conditions imposed on the licence will ensure the licence meets these objectives.

The Interested Parties were reminded that should the Applicant fail to meet the licensing objectives that they could report matters to the Licensing Authority and the Applicant and that the licence could be the subject of a review.

**Chairman**

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## Cheltenham Borough Council

### Licensing Committee – 1 November 2013

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

**Mr Raviv Hadad**

#### Report of the Licensing & Business Support Team Leader

### 1. Summary and recommendation

- 1.1 An application has been received from Mr Raviv Hadad for a street trading consent to sell Deli items such as breads, traditional pastries, falafel mix, harissa dressing, aubergine dip, tahina sauce and other traditional cooked salad from a mobile trike measuring 190cm x 90cm.
- 1.2 The application is to trade on the High Street between Thomas Cook and USC in two primary locations. Location one is proposed to be used for most of the year on the High Street outside Monsoon and Warehouse. Over the Christmas period only location two is proposed on the High Street outside Thomas Cook on the following days and times:

Monday	11.00 - 16.00
Tuesday	11.00 - 16.00
Wednesday	11.00 - 16.00
Thursday	11.00 - 16.00
Friday	11.00 - 16.00
Saturday	11.00 - 16.00
Sunday	11.00 - 16.00

- 1.2 An image of the proposed trike is attached at **Appendix A** and location maps are attached at **Appendix B**.
- 1.3 **The Committee is recommended to resolve that:**
- 1.3.1 **The application be refused because it does not comply with the Council’s policy in relation to street trading in conservation areas, or**
- 1.3.2 **The application be approved because Members are satisfied that it does comply with the Council’s policy in relation to street trading in conservation areas.**

### 1.4 Implications

- 1.4.1 Financial                      **Contact officer: Sarah Didcote**  
**E-mail: sarah.didcote@cheltenham.gov.uk**  
**Tel no: 01242 26 4125**
- 1.4.2 Legal                              No right of appeal

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

## 2. Consultation and Feedback

- 2.1 Consultation was undertaken in accordance with the Council's normal consultation procedure for street trading applications.
- 2.2 Six objections were received in respect of this application from:
- 2.2.1 Warehouse Clothing Store (166-168 High Street)
  - 2.2.2 John Forward, Regent Arcade Manager
  - 2.2.3 Mr Roberts, Director at Canada Life Investments
  - 2.2.4 Mr Ralph, Associate Director at DTZ (Managing agents of the Regent Arcade)
  - 2.2.5 Martin Quantock, Manager, Cheltenham Business Partnership
  - 2.2.6 Wilf Tomaney, Urban Design Manager
- 2.3 Members' attention is drawn to **Appendix C** which contains copies of the above objections.
- 2.4 Members will note from the objections received that there is a strong objection that the grant of this application will have a detrimental effect on the proposed section of the High Street, particularly due to the significant investment in that part of the High Street. There is also a strong suggestion that future investment in the town could be compromised because itinerant street traders seem to want to capitalise on the increased footfall produced by investment and developments.
- 2.5 Members will note in particular from the Canada Life objection, that they have recently invested £20,000,000 to refurbish and extend Regent Arcade to improve the High Street entrance of the Arcade and are concerned that the grant of this application will obscure the new entrance and the design of the actual stall will not be in keeping with the new enhanced streetscape.
- 2.6 There has been additional concern that the grant of this consent will conflict with proposed work Gloucestershire Highways is due to undertake incorporating the proposed trading location due to start during the next financial year.
- 2.7 One objector has also commented that that section of the High Street has reached saturation point in terms of street trading.

## 3. Considerations

### Policy

- 3.1 The Council's current policy in respect of street trading was implemented on the 1<sup>st</sup> of April 2013.
- 3.2 The current street trading 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.



- 3.3 The proposed trading location is situated in a designated conservation area. The Council has adopted a more restrictive approach to street trading in the conservation areas of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination.
- 3.4 To this end, the Council will normally only permit street trading where an applicant can satisfy the Council that the type of street trading they have applied for will enhance the town's reputation as a tourist and leisure destination and where the type of trading and pitch is in keeping with the streetscape.

### **Licensing Probity Guide**

- 3.5 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 3.6 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 3.7 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
- Be made on the individual merits of a case.
  - Have regard to all relevant national and local guidance.
  - Be made impartially and in good faith.
  - Be made by the body that receives all the relevant information and evidence.
  - Relate to the issue or question placed before the committee.
  - Be based only on consideration of relevant and material matters.
  - Be rational and reasoned.
  - Be made in a way that does not give rise to public suspicion or mistrust.
- 3.8 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 3.9 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 3.10 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 3.11 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

### **Corporate Priorities**

- 3.12 The Council has set out a commitment to ensure Cheltenham's natural and built environment is enhanced & protected and the town has a strong and sustainable economy.

## **5. Licensing Comments**

- 5.1 This application must be determined on individual merits in accordance with the Council's policies and giving due regard to consultation feedback.
- 5.2 The legislation is not very prescriptive in terms of that the Committee can, and cannot, take into account when determining street trading applications therefore it has a very wide discretion to take in to account anything it considers relevant.
- 5.3 The Council's current policy makes it clear that it will adopt a more restrictive approach to street trading in conservation areas of the town. The Committee must seek to promote its own policy and only deviate where there are sufficient and justifiable reasons for doing so.
- 5.4 The committee must satisfy itself that this application conforms to the policy and the onus will be on the applicant to satisfy the committee that the type of street trading they are proposing will enhance the town's reputation as a tourist and leisure destination and that the type of trading and pitch is in keeping with the streetscape.
- 5.5 Particularly in relation to the nature of objections raised, the Committee's attention is drawn to para. 3.8 of this report.
- 5.6 Finally, the Committee should also take into account the wider Council priorities when determining applications. In light of the objections received, the relevant extracts from the Council's current corporate strategy are outlined in paragraph 3.12.

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**Background Papers**

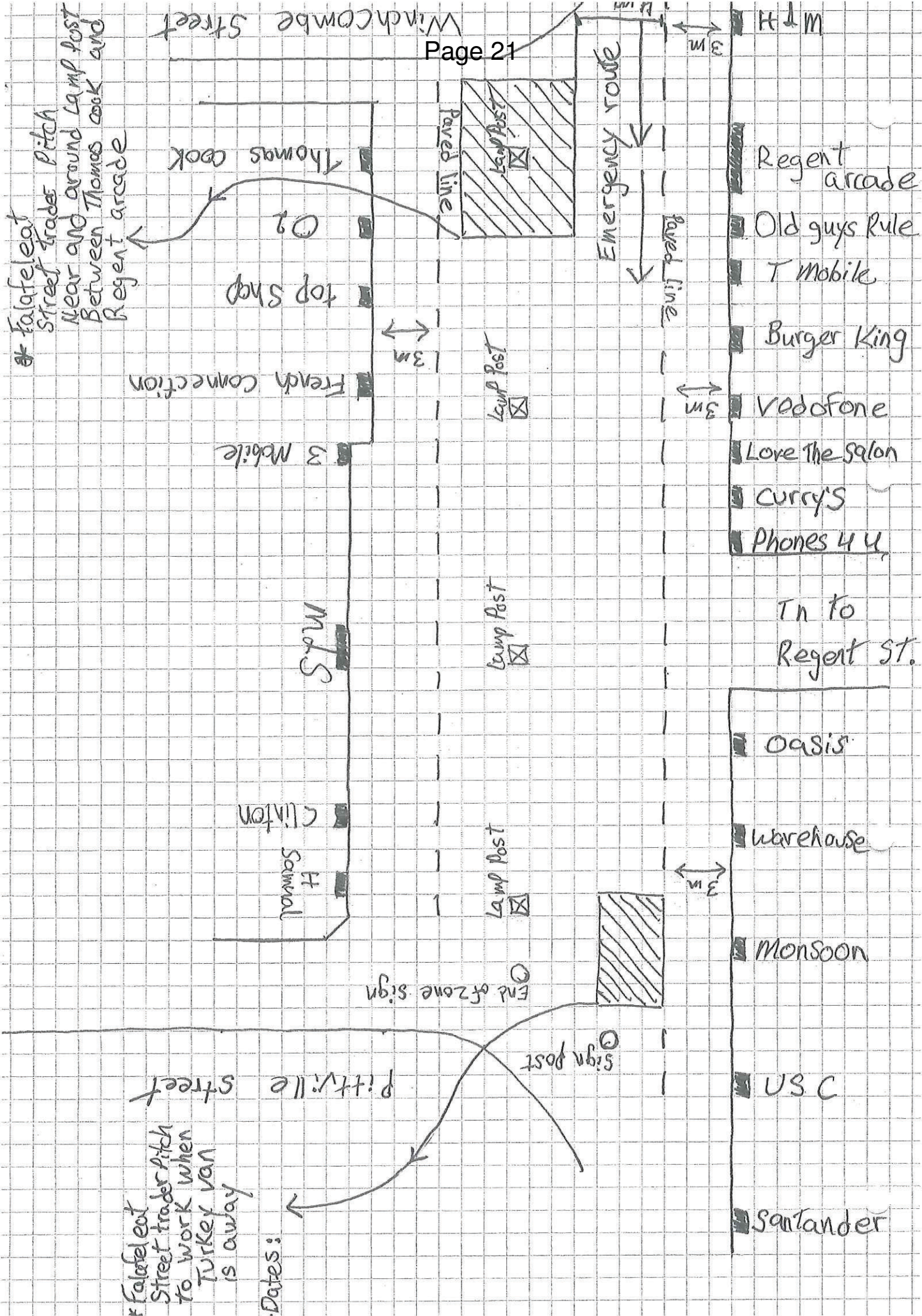
Policy on Measures to Control Street Scene Activities in Cheltenham: Street Trading, Objects on the Highway and Charitable Collections.

**Report Author**

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**Tel no:** 01242 264217



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\* Falafel eat  
Street trader pitch  
Near and around lamp post  
Between Thomas cook and  
Regent arcade

Falafel eat  
Street trader pitch  
to work when  
Turkey van  
is away

Dates:

END of zone sign  
sign post

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**Warehouse Clothing Store (166-168 High Street)**

To Whom it may concern,

I would like to appeal against the license for the food bicycle that would like to trade outside of our store (Warehouse and Oasis). We would like to appeal for a numerous amount of reasons;

- The stool is large, in particular the umbrella, and will block the Warehouse window and branding.
- As international brands alot of money is invested into window schemes
- constant noise from the catering van's generator is heard in our store and the pungent smells emanating from the catering van lingers in the store and becomes ingrained in our clothes and products
- Issues with food trading before - oil being tipped down drain and then trodden into store.
- pedestrian flow diverting from store as situated centrally

I am sure you will understand that Oasis and Warehouse contribute greatly to the local economy, employing 25 members of staff from the local area, pay Business Rates of circa £125,000 2013/2014, not to mention the unquantifiable value of having the brands trading from the town of Cheltenham and the addition revenue this attracts from residents and occasional visitors. Furthermore, as a leaseholder of premises we employ tradesmen and contractors to undertake a whole array of building, cleaning and maintenance works to the store, that all assist in contributing to the local economy in different ways.

Yours Sincerely.

Danielle

**John Forward, Regent Arcade Manager**

To the Licensing Committee.

The location for the street trader to trade between Thomas Cook and the Regent Arcade as per the applicants plan is by far from ideal the area is used for deliveries and for emergency vehicals the space is already restricted due to existing street furniture and the likelihood is that the Street Trader will end up parked directly outside of the entrance to Regent Arcade Shopping Centre.

As you are aware Canada Life who own the centre have spent a considerable amount of time and money in seeking planning consent which came with very detailed conditions as to what materials were to be used and the detailed design to ensure we added to the architectural heritage of the town and not to detract from it. I firmly believed that we have achieved that. In addition we have been able to attract new good quality retailers to the town thus adding to the retail offer and to ensure that Cheltenham maintains its position as unique destination not only for shopping but as cultural and historic town centre.

Retailing in general has been a very difficult sector of our economy with many businesses nationals and in dependants going to the wall due to increased costs, lower sales, internet shopping and unfair competition. That has a major impact on our town centres with vacant shop units many of which are in a poor state of repair.

As a town we are actively endeavoring to attract new businesses and investment, these companies will not invest and spend considerable time and money when there is no guarantee as to what could end up directly outside their front entrance with a hot food store or pop up street trader selling goodness knows what and paying very little for that privilege these businesses will simply go elsewhere.

The existing traders of which we have 65 in the Regent Arcade 6 of which are food offering nearly 10 percent of our total retailers many are finding sales very challenging and over the past few years we have seen a number of closures, it has been very difficult to encourage new business ventures to fill those vacant units.

If you allow Street Traders to open up in direct competition to businesses, who are having to pay many higher operating costs more will close. Landlords are generally working very hard to ease costs for retailers but have no control on utility and business rates. If this trader is prepared to open up a business in one of the many vacant retail units in the town I would be very supportive of it as it would put him on a level playing field with all other retailers.

I am therefore registering my objection to the proposed Falfeleat Mobile Bike Street Trader on the grounds that it does not add value to the shoppers experience in Cheltenham, the design and quality of the equipment is poor, it is unfair competition to existing retail businesses who support both the customers and town throughout the year and does not fit into the strategic plans to improve Cheltenham Town Centre.

Kind regards,  
**John Forward**  
Centre Manager

**Mr Roberts, Director at Canada Life Investments**

Dear Sirs

As a major investor in Cheltenham town centre, I wish to register Canada Life's objection to the above street trading application.

Canada Life owns a considerable amount of property in Cheltenham including Regent Arcade Shopping Centre and Cavendish House. Over the years we have invested heavily in the town's retail provision and only recently completed a £20,000,000 refurbishment and extension of Regent Arcade's High Street façade and main entrance. This has boosted pedestrian footfall to both the Arcade and the High Street. In particular, the recent opening of the new 23,000 sq ft H&M store has helped to raise the profile of Cheltenham as a retail destination attracting more shoppers as well as new retailers to the town that otherwise would be lost to competing retail locations.

Having invested a substantial amount of time, effort and money to create the new Arcade entrance and façade which has visibly improved the appearance of the pedestrianised part of the High Street, we are deeply concerned to note that the licensing section are now considering granting consent to the above application. If approved the applicant's equipment/stall would obscure the main entrance to Regent Arcade, particularly from shoppers on the opposite side of the High Street and those coming down Winchcombe Street. In addition, notwithstanding the poor quality and appearance of the proposed equipment/stall, access would also be obstructed for emergency vehicles and deliveries.



Our principal concern however is the detrimental impact that yet further mobile food stalls would have upon existing hot food/café operators both in the Arcade (of which there are six, the majority of which are local businesses) and within the town centre generally. Established hot food/café operators in traditional shop units who are already overburdened with substantial business rates costs, will be unable to compete fairly with mobile traders who have no significant overheads. The Council's priority in this instance should be to support existing retailers and make sure town centre shop units remain occupied (with business rates being paid), rather than putting established local traders out of business for the sake of comparatively small licensing fees generated by a few mobile traders.

As we see it the Council does not appear to consider what impact such mobile street trading has on existing traditional retailers. Indeed we remain particularly disappointed that despite objections submitted earlier this year by our agents, DTZ, in respect of the mobile flower seller situated on Ormond Place, the licensing section still saw fit to grant a renewal of the trading 'licence in this' location. Bearing in mind that the Council are Canada Life's partners in Regent Arcade, benefiting (as freeholders) from a head rent geared to the rents the Centre itself generates', this decision (to allow the Arcade's second main entrance to continue to remain obscured) 'appears short sighted.

An existing planning consent remains in place for Canada Life to redevelop this entrance which includes pedestrianising Ormond Place down from the Arcade entrance to the Promenade. This would undoubtedly improve the appearance of this part of Cheltenham, albeit at significant cost to ourselves. The decision to renew the flower seller's trading licence has however meant a decision on these works is now on hold. If other mobile traders are granted licences further obscuring visibility to the Arcade, then additional investment in the town will be difficult to justify.

I trust that after due consideration, this application will be rejected.

Yours faithfully

M.G. Roberts  
Director, Asset Management

**Mr Ralph, Associate Director at DTZ (Managing agents of the Regent Arcade)**

To the Licensing Committee.

By way of introduction I am an Associate Director at DTZ – managing agents of the Regent Arcade Shopping Centre, Cheltenham – and I would like to voice my objection to the 'Falfeleat Mobile Bike' application.

Canada Life (owners of the Regent Arcade and a considerable amount of additional property in Cheltenham) have spent substantial sums of money refurbishing, redeveloping and extending Regent Arcade. To place the proposed applicants equipment/stall – which I note is of very poor design and quality – on the High Street in Cheltenham cannot add any sort of value to shopper's experiences.

Cheltenham Borough Council should be looking to provide retailers and landlords with the best possible environment to ensure that the people of Cheltenham continue to benefit from new investment and retailers. If there is no guarantee as to what could end up directly outside their units/shop fronts – such as poorly designed 'take away' food operators – then

these businesses will invest/open in towns and cities elsewhere where they are supported by local government.

We already have six permanent food outlets in Regent Arcade. If Street Traders such as the proposed applicant are allowed to open in direct competition to these businesses then this will have a direct effect on their ability to pay the considerable operating costs that they have to contend with – including large sums in Business Rates to CBC.

This application does not fit into the strategic plans to improve Cheltenham Town Centre and the proposed location for the street trader is in an area used for deliveries and emergency vehicles.

Yours Sincerely

Richard Ralph

**Martin Quantock, Manager, Cheltenham Business Partnership**

I would object to this application for the following reasons:

As you will recall, the retailers adjacent to the DanTERS food unit have already stated that such a unit will have an extremely detrimental effect on their trading at such an important time (Christmas) for both Warehouse/Oasis and Monsoon. Permission was granted to trade despite substantial new investment by both companies in the town and very strong objections from those companies and myself.

It was foreseen that future developments in the town could possibly be compromised in that as soon as an improvement or development is made to premises or areas on the High Street, itinerant traders then want to 'set up shop' adjacent to such developments to capitalise on the increased footfall produced by such developments. This has proven to be the case by the food bike trader wishing to trade adjacent to the Regent Arcade, now that its £22million development has been completed. Why would Beechwood, Brewery, etc want to go ahead with any developments if they were to realise that such trading could be allowed to take place once any developments were completed.

The High Street already has flower sellers, roundabouts, burger vans, ice cream sellers, fruit sellers and crepe sellers trading at various times throughout the year (not to mention the 'Chuggers') - particularly during school holiday periods. Surely there is a tipping point of such trading taking place beyond which we will actually, at the very least, deter investment and, at worse, start losing businesses?

Specifically with the site requested, I would fear that the bike unit would obstruct clear vision of the entrances to the retail shops adjacent to it, the possible smells of cooking would permeate into the shops thus spoiling the merchandise, the precedent would be set for further applications along the length of the High Street, and the High Street will become too 'cluttered' with street traders.

Kind regards

Martin Quantock  
Manager, Cheltenham Business Partnership

**Wilf Tomaney, Urban Design Manager**

Further to this consultation, I share Martin Quantock's concerns.

Additionally, I think there's a problem of conflict with a Glos Highways scheme. In order to avoid the turning movements which have wrecked the surface across this area, GH has a maintenance scheme to repair footway on the M&S stretch of the High Street. This will realign the service route in a straight line, taking out the kink at either end, effectively running through the proposed location at the "Monsoon" end identified in the applications. It's unlikely to take place before Christmas, but I think it's planned for this financial year - probably worth checking with Chris Riley.

As an aside, we're involved in a "light touch" study setting out strategies for the High Street, I think it would be worth incorporating an assessment of capacity for street trading as part of it. I'll discuss with the team and we'll get back to you.

Wilf Tomaney  
Urban Design Manager

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## Cheltenham Borough Council

### Licensing Committee – 1 November 2013

#### Review of a Private Hire Driver’s Licence

#### Mr Stephen Owens - PHD445

#### Report of the Senior Licensing Officer

#### 1. Executive Summary and Recommendation

- 1.1 Mr Stephen Owens holds Private Hire driver’s licence PHD445 which is due for renewal on 1 December 2015.
- 1.2 Mr Owens holds a private hire vehicle licence (PHV049), which is a Citroen Picasso, registration number VO58 BCU.
- 1.3 Mr Owens was subject to a vehicle inspection on 15<sup>th</sup> October 2013 by the enforcement officers from the Integrated Transport Unit, Gloucestershire County Council. Regular inspections are carried out by the Integrated Transport Unit who oversee all school transport providers across Gloucestershire. On inspection the Integrated Transport Unit found that the near side front tyre was worn below legal limit on the outer edge exposing the chord.
- 1.4 Mr Bob Gibbons, Transport Engineering Manager contacted the Licensing Office immediately to advise that the vehicle (PHV049) was inspected outside the school to which Mr Owens was delivering children. Mr Gibbons advised that the vehicle had been removed from all school contracts until the tyre is replaced. Photographs were taken at the time of the inspection and are attached at **Appendix A**.
- 1.5 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the convictions because of:
  - 1.5.1 The nature of the offence; and,
  - 1.5.2 The need to ensure that, Mr Owens is judged to be a fit and proper person to hold a Hackney Carriage driver’s licence.
- 1.6 **The Committee is recommended to resolve that:**
  - 1.6.1 **Mr Owens’ Private Hire driver’s licence be continued with no further action because the Committee is satisfied that Mr Owens is a fit and proper person to hold such a licence, or**
  - 1.4.3 **Mr Owens’ Private Hire driver’s licence be revoked as the Committee considers Mr Owens 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.**

#### 1.5 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.

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](mailto: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 the Integrated Transport Unit on 15<sup>th</sup> October 2013 at 14.26. Mrs Amelia Byres immediately suspended the vehicle and telephoned Mr Owens to advise that the vehicle was suspended. Mr Owens produced the vehicle for inspection at the Licensing Office within two hours of the suspension being issued.

4.2 The vehicle was inspected by Mrs Amelia Byres who confirmed that the vehicle had a new tyre fitted. Mr Owens explained at the time of the incident that he was completely unaware of the state of the tyre and that he had replaced the two front tyres with part worn tyres only three weeks ago. He went on to explain that he would never purchase part worn tyres in the future.

4.3 Since the incident Mr Owens expressed his remorse and explained that he now checks his tyres on a weekly basis. He also added that he has an arrangement in place with his Private Hire Operator who has agreed to pay for any maintenance on the vehicle as and when required.

4.4 Mr Owens 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.

4.5 The Committee must be satisfied that Mr Owens 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.

4.6 The maintenance of all licensed vehicles should be the priority for the vehicle proprietor as the transportation of the public is a position of trust.

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**Background Papers**

Service Records

**Report Author**

**Contact officer:** Mrs Amelia Byres  
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Appendix A



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**Cheltenham Borough Council****Licensing Committee – 1 November 2013****Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982****Application for permission to place an object on the Highway – ‘A’ Board****Report of the Senior Licensing Officer****1. Executive Summary and recommendation**

- 1.1 Mr Martin Canning based at Antique and Modern Fireplaces, 41 - 43 Great Norwood Street, Cheltenham, has made an application to place a straight-sided and straight-bottomed ‘A’ board at the junction of Great Norwood Street and Suffolk Road. The proposed ‘A’ board is 100cm (H) x 60cm (W).
- 1.2 It is intended that the ‘A’ board be displayed:
- |           |               |
|-----------|---------------|
| Monday    | 09.00 - 17.00 |
| Tuesday   | 09.00 - 17.00 |
| Wednesday | 09.00 - 17.00 |
| Thursday  | 09.00 - 17.00 |
| Friday    | 09.00 - 17.00 |
| Saturday  | 09.00 - 17.00 |
| Sunday    | NONE          |
- 1.3 An image of the A Board is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.4 Width of footpath available is min 2m.
- 1.5 The recommendations have regard to the individual merits of this application and the established policy. The policy seeks to avoid a proliferation of ‘A’ boards and objects on the highway whilst having regard to cases where there is a clear commercial need for this form of advertising.
- 1.6 **The Committee is recommended to resolve that:**
- 1.6.1 **The application be approved because Members are satisfied that the complies with the new policy in respect of objects placed on the highway or**
- 1.6.2 **The application be refused because it does not The application be approved because Members are satisfied that the complies with the new policy in respect of objects placed on the highway**
- 1.8 **Summary of implications**

1.8.1 Financial

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

1.8.2 Legal

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

## 2. Background

2.1 The current Policy on Measures to Control Street Scene Activities in Cheltenham covering Street Trading, Objects on the Highway and Charitable Collections was approved on 1<sup>st</sup> 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.

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.

3.2 In setting the policy principles relating to 'A' boards, the Council seeks to strike a balanced approach between promoting the Council's priorities, in particular strengthening the Borough's economy by assisting and promoting local businesses but at the same time ensuring the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.

3.3 To this end the Council will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below. Please note that one 'A' board will be permitted *per premises*, not per business. Premises housing more than one business will therefore, subject to the requirements shown below, be permitted only one 'A' board. In these circumstances the Council will encourage businesses to share the use of the 'A' board.

### 3.4 Conditions of Consent

The Conditions of Consent are subject to the Revised Outdoor Advertising Protocol below.

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.

- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.
- (d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.
- (e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*
- (f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.
- (g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*
- (h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*
- (i) The 'A' board must relate to the trade of the premises.
- (j) The 'A' board must be constructed in such a way that it does not have any moving parts *(i.e. rotating or swinging 'A' boards).*
- (k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

### 3.5 Revised Outdoor Advertising Protocol (Appendix I)

Where a licensing application is made to display an 'A' board within a Conservation Area, the Licensing Section shall provide written notification to the Built Environment Enforcement team. The notification should include an explanation for the signage and the location of the premises to which it refers.

No 'A' board will be approved within Conservation Areas except in the following circumstances;, having regard to the position and location of the premises:

a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,

b) the premises are situated along a side alleyway and / or on private land which is not a public thoroughfare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

Where the premises meet the exceptions in the protocol then the Planning Enforcement and Compliance team will confirm to the Licensing Section that the 'A' board may be licensed.

Where contraventions exist the most appropriate enforcement action will be considered which would normally involve the use of licensing powers or powers contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.

#### 4. Consultee Comments:

##### 4.1 Responsible Authorities

**Highways Enforcement Officer** – “Gloucestershire Highways try to keep the highway free from unnecessary sign clutter. However we do recognise that for business which are located on a 1<sup>st</sup> floor or above (ie not at street level) that the use of A boards directly outside their business is helpful to highlight their existence.

This application however is for a ‘street level’ business which is down a different street to that which the sign is requested to be located. There are also a number of other shops down this same street. Our concerns with this application are several:-

- 1) The location requested for the free standing A board is right on the edge of the footway of a busy through road and could therefore be a potential hazard to road users. To set it back from the edge of the kerb would cause an obstruction to pedestrians using the footway, so that is not possible.
- 2) The location is near to a pedestrian dropped kerb crossing.
- 3) If this application was to be approved and other shops down the same street requested a similar need for A boards at the same location then how could that be managed!

To confirm then on this basis Gloucestershire Highways would **object** to this application due to the proposal being a potential highway safety related hazard to both the road users and pedestrians passing by this location.”

**Environmental Health Officer** – “I raised the following concerns in relation to public safety:

1 - The remaining space where the A board is to be sited, narrower than that area of pavement considerably, such a sudden narrowing next to a busy road is not a good thing, although it is suspected that the pavement is not that busy so it may not be a problem. The location of the telephone junction box on Suffolk road, which is not indicated on the plan, but can be seen on the photograph and Google maps (<https://maps.google.co.uk/maps?hl=en&tab=wj>) means prams, wheelchairs and dog walkers may have to do a slight chicane. *Does its location remain a minimum of 1.8 meters? - consent condition (a) in guidance document.*

2 - The board on the plan looks further into Great Norwood Street than either the photo or Google maps indicates. The location of the board at the corner on the photo and Google maps, could cause an unexpected narrowing of the pavement or object occurrence and may cause an individual walking at speed or being distracted to run into the board. *Obstruction to safe passage of footway users, Consent condition (k) in guidance document.*

3 - The A board could be moved onto the Great Norwood Street pavement more, as in the plan, but the dropped crossing area, not on the plan, will require a distance around it to facilitate the approach of prams and wheel chairs to safely crossing the road (highways may know more about this). This crossing area should have been indicated on the plan (as should the lamp post). *Obstruction to safe passage of footway users Consent condition K in guidance document?*

4- The location of a sign near a crossing point (both across Great Norwood Street and Suffolk Road) may prevent a driver from seeing a child, dog or adult about to cross the road or an oncoming vehicle (bicycle or car). *Consent condition (g)*

5- The sign is a considerable distance from the owners who have put it there, therefore they will be unable to rectify problems or movement of the sign, easily should they arise. *This would not meet consent condition (d) in that A boards must be placed directly outside the premise.”*

**Planning Enforcement Officer** – “I wish to raise an objection to this A board as it falls outside the

street scene policy - appendix I, the Revised Outdoor Advertising Policy.

Further, the A board in question does not comply with standard condition 3, Reg 2 (1) of Schedule 2 to the Town & Country Planning (Control of Advertisements) (England) Regulations 2007, viz:

*"Any advertisement displayed shall be maintained in a condition that does not impair the visual amenity of the site."*

## 5 Licensing Comments

- 5.1 The Committee are minded to note that the 'A' board has previously had consent by the licence holder failed to renew the consent. As a result, a new application has been submitted and the Committee must determine the application on its individual merits as a new application.
- 5.2 On individual merits, this application must be determined taking into account the objections received and in accordance with the Council's current adopted policy in respect of objects placed on the highway.
- 5.3 In relation to the policy, Members are to note that the application does not comply with the current adopted policy in a number of ways:
  - 5.3.1 The premises does have a shop-front at street level contrary to the Revised Outdoor Advertising Protocol (3.5 above)
  - 5.3.2 The premises is not situated along a side alleyway and/or on private land which is not a public thorough fare/right of way (3.5 above)
  - 5.3.3 This application is for a directional A board more than 120 meters (394 yards) away from the premises contrary to condition (d) of the standard conditions attached to A boards (3.4 above)
  - 5.3.4 There is less than 1.8 meters of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary. (3.4 above)
- 5.4 The Committee must seek to promote its own policy and only deviate where there are sufficient and justifiable reasons for doing so.

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### Background Papers

Policy on Measures to Control Street Scene Activities in Cheltenham: Street Trading, Objects on the Highway and Charitable Collections.

### Report Author

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**Tel no:** 01242 264217

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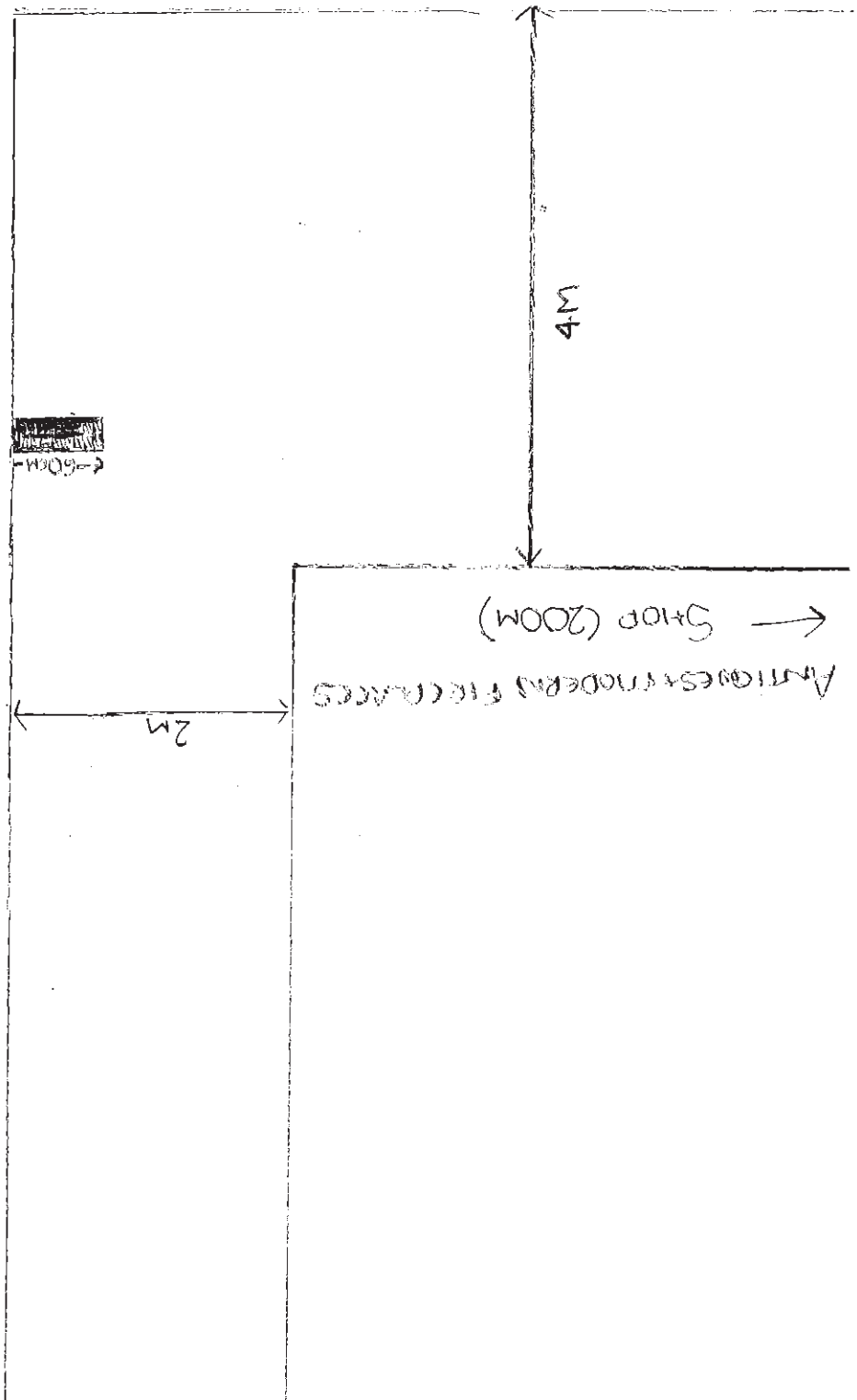




km = 2cm

GREEN WOODS ST (ROAD)

SUFFOLK ROAD (ROAD)



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## Cheltenham Borough Council

### Licensing Committee – 1 November 2013

#### Application for a Hackney Carriage Driver’s Licence

#### Mr Giuseppe Maurizio Licata

#### Report of the Senior Licensing Officer

### 1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Giuseppe Maurizio Licata for a Hackney Carriage driver’s licence.
- 1.2 Mr Licata has a number of convictions. 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 offence; and,
  - 1.3.2 The need to ensure that Mr Licata 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 Giuseppe Maurizio Licata’s application:**
  - 1.4.1 **be granted as Mr Licata is a fit and proper person, or**
  - 1.4.3 **be refused on the grounds that Mr Licata 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.

#### **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. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.
- 3.7 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

#### **Minor Traffic Offences**

- 3.8 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.
- 3.9 In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

**Drunkenness**

**With a motor vehicle (Disqualification)**

- 3.10 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

**Drugs**

- 3.11 An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 3.12 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 years will require careful consideration of the facts.

**4. Licensing Comments**

- 4.1 Members are to refer to the enclosed background papers for a full list of convictions and an explanation of how the Council's Policy applies to each type of offence.
- 4.2 The Committee must seek to promote its own adopted policy and only deviate from it where there are strong and defensible reasons.
- 4.3 Members may wish to note that Mr Licata previously applied for a hackney carriage driver's licence on two occasions. On both occasions his application was referred to the Licensing Committee: on 8<sup>th</sup> April 2011 and 2<sup>nd</sup> March 2012. Members refused both applications however on 8<sup>th</sup> April 2011 the Licensing Committee suggested that Mr Licata submit another application two years from the date of the Licensing Committee for consideration.
- 4.4 Mr Licata 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.
- 4.5 The Committee must be satisfied that Mr Licata 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.

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**Background Papers**

**Service Records**

**Report Author**

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## Cheltenham Borough Council

### Licensing Committee – 1<sup>st</sup> November 2013

#### Approval of Christmas Street Collection Schedule for the Town Centre

#### Report of the Senior Licensing Officer

#### 1. Summary and recommendation

1.1 There is a high demand for collection dates in the town centre for the period leading up to Christmas. Attached at **Appendix A** is a schedule of street collection applications for the town centre for the months of November and December.

1.2 **The Committee is recommended to:**

1.2.1 **Approve the proposed allocation of street collection dates attached at Appendix A; or**

1.2.2 **Make amendments to the proposed allocation of street collection dates as it considers necessary.**

#### 1.3 Implications

1.3.1 Financial

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1.3.2 Legal

No right of appeal.

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#### 2. Background

2.1 The current Policy on Measures to Control Street Scene Activities in Cheltenham covering Street Trading, Objects on the Highway and Charitable Collections was approved on 1<sup>st</sup> 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

3.1 The policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Council to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

#### **Christmas Town Centre Street Collections**

- 3.2 In addition to the requirements set out above, the Council will specify additional requirements for collection applications for the months of November (from the 15<sup>th</sup> onwards) and December (“Christmas collections”) in the town centre.
- 3.3 The Council will not accept applications for Christmas collections until the first week of September every year.
- 3.4 In order to permit as many Christmas collections as possible, the Council will allocate applicants either a morning slot (8am to 1pm) or an afternoon slot (1pm to 5pm).
- 3.5 Officers will submit a report to the Council’s Licensing Committee with proposed allocation for Christmas collections in November every year. The Committee may approve the proposed allocation of dates or make any amendments it considers necessary.
- 3.6 Applicants will be notified of the Committee’s decision within 5 working days and issued with a collection permit if they were successful.
- 3.7 Where an applicant’s preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.
- 3.8 Collection applications for other areas in the borough over December, away from the town centre, will be considered on merits and at the Council’s discretion.

#### 4. Applications

- 4.1 Applications were received from the following charities:
  - 1. Cheltenham Animal Shelter (One date requested and allocated)
  - 2. Well Child (One date requested and allocated)
  - 3. County Community Projects (Two dates requested and allocated)
  - 4. Dancing Ken Hanks on behalf of Cheltenham Animal Shelter (Two dates requested and allocated)
  - 5. England’s Glory Ladies Morris on behalf of Maggie’s Centres (One date requested and allocated)
  - 6. Mayor of Cheltenham Charity Appeal (One date requested and allocated)
  - 7. The Salvation Army (Two dates requested and allocated)
  - 8. The Lions Club of Cheltenham (Five dates requested, three allocated)
  - 9. Animal Defenders International (One date requested and allocated)

#### 5. Officer Comments

- 5.1 As listed above some charities have requested more dates than allocated however the Licensing Section has discussed directly with the charities the dates that have been allocated to them and all of the above charities are happy with the dates they have been allocated as shown in **Appendix A**.
- 5.2 The Council must determine the applications with the view of promoting the principles and objectives contained within its adopted policy.
- 5.3 The Committee can deviate from its own policy but this should only be done where the Committee feels there are exceptional circumstances to justify such a deviation. The Council’s Policy provides guidance for the consideration of applications such as this and should be followed unless there are very good reasons why it is not to be. Reasons for the decisions need to be given. There is no formal right of appeal.

**Report Author**

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**Appendix A**

November

<b>Mon</b>	<b>Tue</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30 08.00 – 13.00 Salvation Army	

December

Mon	Tue	Wed	Thu	Fri	Sat	Sun
						1 10.00 – 16.00 Concern Universal
2	3	4	5	6	7 08.00 – 13.00 (High Street) Salvation Army 08.00 – 17.00 (Promenade) Mayor of Chelt Appeal	8
9	10	11	12 09.00 – 20.30 Well Child	13 10.00 – 17.00 Lions Club of Chelt	14 08.00 – 13.00 Maggie's Centres	15 09.00 – 17.00 Animal Defenders International
16	17	18 10.00 – 17.00 County Community Projects	19 10.00 – 20.00 County Community Projects	20 10.00 – 17.00 Lions Club of Chelt.	21 10.00 – 17.00 Chelt. Animal Shelter	22
23	24 08.00 – 13.00 Lions Club of Chelt. 13.00 – 17.00 Chelt. Animal Shelter (Dancing Ken Hanks)	25	26	27	28	29
30	31					