



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 10 January 2014
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 6 December 2013	(Pages 1 - 8)
5.	MINUTES OF SUB COMMITTEE MEETINGS None	
6.	LOCAL GOVERNMENT ACT 1972-EXEMPT INFORMATION 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.		APPROVAL OF EXEMPT MINUTES OF MEETING HELD ON 6 DECEMBER 2013	(Pages 9 - 14)
8.		PRIVATE HIRE DRIVER APPLICATION Mr Masud	(Pages 15 - 18)
9.		APPLICATION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY The Ball Room, Bayshill Lodge, Montpellier Street, Cheltenham	(Pages 19 - 28)
10.		STREET TRADING APPLICATION Mr Danter	(Pages 29 - 34)
11.		STREET TRADING APPLICATION Mr Ford	(Pages 35 - 40)
12.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
13.		DATE OF NEXT MEETING 7 February 2014	

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

Licensing Committee

Friday, 6th December, 2013

2.30 - 4.42 pm

Attendees	
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

Minutes

- 1. APOLOGIES**
None

- 2. DECLARATIONS OF INTEREST**
Councillor Walklett declared a personal interest as he was a friend of the deceased family.

- 3. PUBLIC QUESTIONS**
None

- 4. MINUTES OF MEETING HELD ON 1 NOVEMBER 2013**
Resolved that the minutes of the meeting held on 1 November 2013 be agreed and signed as a true record.

- 5. MINUTES OF SUB COMMITTEE MEETINGS**
Resolved that the minutes of the sub committee meeting on 25 October 2013 be agreed and signed as an accurate record.

- 6. PRIVATE HIRE DRIVER APPLICATION**
Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Gareth James for a Private Hire Driver's Licence.

Mr James has a number of convictions, the details of which are shown in the background papers.

Mr James' Disclosure and Barring Service showed a conviction for driving with excess alcohol in 2006 and a conviction for making a false statement representation to obtain benefit in 2010.

Louis Krog referred members to the policy considerations and stated that enough time has lapsed for the drink driving offence but the policy requirement of 4 years had not passed from the date of the conviction in 2010.

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The background papers noted that Mr James had not disclosed the conviction in 2010 on his private hire driver's licence application form; this was an oversight on his part for which he apologised.

Mr James attended the Committee and spoke in support of his application. He stated that the first offence in 2006 was silly and irresponsible. Mr James said he had paid the full price for this conviction; he had lost his job and his home. After the offence he had fully rehabilitated himself and got a new job. He reapplied for his DVLA drivers licence and got his old job back after 24 months.

Mr James explained about the offence in 2010 and said he thought he was claiming benefits fairly. Mr James said he did not want to claim benefits at all but lost his job in 2006/7 and had to do so to save his home. He started working 12 hours a week in a part time job and thought he had been claiming benefits correctly. Mr James stated that he was unsure of how the benefit system worked and had not claimed any benefit prior to or after the offence.

Members asked the following questions:

- When asked, Mr James stated that he was working on a temporary contract at present that would end before Christmas. He wanted the opportunity to work full time as a private hire driver.
- When asked, Mr James said that he did not disclose the benefit offence on his private hire driver application form as he did not have all of the information, dates or description about the offence. Mr James confirmed that later he discussed this offence with a Licensing Officer.
- When asked, Mr James confirmed that he had not worked as a private hire driver before.
- When asked, Mr James said that he had a car and had worked really hard to pass his driving test. He was willing to put everything in to getting this private hire licence.
- When asked, Mr James confirmed that Starline were happy to employ him subject to this private hire drivers licence be granted today.
- When asked, Mr James said he had held a DVLA drivers licence since 2000-2001.
- When asked, Mr James stated that he could not remember how long or how much the extra benefit had been or gone on for.
- When asked, Mr James confirmed all other tests for the application had been taken.
- When asked, Mr James said he had repaid the housing benefit that he had incorrectly claimed.
- When asked, Louis Krog said he was unable to disclose how many weeks the incorrect benefit had been paid due to data protection rules.

In summing up, Mr James said that he had moved into the area a year ago with his 2 young children. He would like to be the bread winner and wanted the opportunity to do so. His current temporary contract would end on 23 December so he would be out of work before Christmas. Mr James said he wanted the opportunity to support his partner and children.

Members discussed granting the licence for 12 months with a condition that his private hire driver's licence is reviewed at the end of the 12 months.

Upon a vote Members (5 for 5 against) and using the Chairman's casting vote; Did not approve the condition that Mr James private hire drivers licence be granted for 12 months with a condition that his private hire driver's licence is reviewed at the end of the 12 months.

Members were advised they had the following recommendations;

1. Resolved that Mr James' application be granted as Mr James is a fit and proper person.
2. Resolved that Mr James' application be refused on the grounds that Mr James is deemed not to be a fit and proper person.

Upon a vote it was (8 for, 1 against, and 1 abstention)

RESOLVED that Mr James' application be granted as Mr James is a fit and proper person.

7. PRIVATE HIRE DRIVER APPLICATION

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Keith Lewis for a Private Hire Driver's Licence.

Mr Lewis has a number of convictions, details of which are shown in the background papers.

Louis Krog advised the Committee that the following convictions were as follows:

1972 – using threatening, abusive, insulting words or behaviour and assault on Police.

1997 – Using disorderly behaviour likely to cause distress.

1999 – Destroy/damage property.

1999 – Assault occasioning actual bodily harm.

Louis Krog referred Members to the interview notes in the background papers, Mr Lewis had explained in his interview that the offence in 1972 was more than 40 years ago and was not clear on the details.

Louis Krog advised Members that sufficient time had lapsed since Mr Lewis' convictions with regard to the policy considerations.

Mr Lewis and Mr Whitam attended the meeting and Mr Lewis spoke in support of this application. He stated to the Committee that he was currently unemployed, his previous job was a heavy mechanical job and he was unable to continue with this role.

Mr Lewis stated that subject to his licence being granted today, he had been offered a job with Spa Taxis. His convictions were in the past now and they had happened 40 years ago. Mr Lewis said he had been clear from convictions since then and felt it would be unfair if his previous convictions were taken into consideration today. He had cleaned up his act and had not been in any trouble since then.

Members asked the following questions:

- A Member advised Mr Lewis that despite his offences being in the past they were relevant and indicated a pattern of behaviour. The Member asked Mr Lewis how he had changed and why the Committee should grant his licence today.
- Mr Lewis referred to his offence in 1999 and stated that this had occurred due to a dispute with his neighbour. He said that his neighbour had been verbally abusing his wife and son and had made false allegations against his son resulting in his son being arrested. Mr Lewis confronted his neighbour which turned into an argument which got out of hand.
- A Member asked if Mr Lewis had thought of other ways to deal with this incident.
- Mr Lewis said he had tried to speak to the neighbour about his 14 year old son being arrested but had seen a red mist.
- The Members referred to Mr Lewis seeing the red mist and advised him that there may be issues as a private hire driver and he may come across things like this, the Member asked how Mr Lewis would deal with these situations now.
- Mr Lewis said he had changed now and would walk away from any incidents and let the Police deal with them. Mr Lewis referred to a previous conviction and said that he was a passenger in a car which the Police stopped as they thought the driver had been drinking. Mr Lewis was arrested for arguing with the Police not his friend.
- The Member stated that these offences occurred when Mr Lewis became upset.
- Mr Lewis advised the Committee that his previous convictions were behind him now.
- When asked, Mr Lewis stated that he used to drive heavy vehicles in various different countries. His job was as a professional driver and a mechanic and he also drove for school runs.
- A Member stated that it appeared Mr Lewis managed to deal with members of the public in his previous job in a good manner.

In summing up, Mr Lewis said he wanted to continue his working life and his previous heavy mechanic job was too much now. Mr Lewis stated that he was unemployed at the moment and wanted the chance of a job and to be given this opportunity.

Members were advised they had the following recommendations;

3. Resolved that Mr Lewis application be granted as Mr Lewis is a fit and proper person.
4. Resolved that Mr Lewis application be refused on the grounds that Mr James is deemed not to be a fit and proper person.

Upon a vote it was (7 for, 0 against, 3 abstentions)

RESOLVED that Mr Lewis' application be granted as Mr Lewis is a fit and proper person.

8. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - A BOARD

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been made to renew the existing consent to place a straight sided and straight bottomed 'A' board outside 13-17 Promenade.

Louis Krog advised the Committee that this 'A' board had previously had consent. On renewal of the consent it was considered necessary to refer the application to Committee because the Council's policy had changed and the application does not comply with the newly adopted policy as detailed in 5.1.1 and 5.1.2 of the report.

It is intended that the 'A' board be displayed for the following times;

Monday	08.30-17.30
Tuesday	08.30-17.30
Wednesday	08.30-17.30
Thursday	08.30-19.30
Friday	08.30-17.30
Saturday	08.30-17.30
Sunday	11.00-16.00

Appendix A of the report showed an image of the 'A' board.

Appendix B of the report detailed a location map.

Members asked the following Officer questions;

- A Member said they felt this was controversial. The Member said they thought if the premises were trading on the ground floor and had shop frontage this would not comply with the current policy. The Member advised the Committee that this store trades upstairs on the first floor with one boxed window.
- Louis Krog referred Members to point 3.5 of the revised outdoor advertising policy and confirmed that although the store trades on the first floor the premises still had shop frontage. Louis Krog advised Members that this store had had the 'A' board since 2003.
- When asked, Mr Krog said that only the change in policy had brought this application to Committee today, no complaints had been received about the 'A' board which had been there since 2003. It was for Members to decide today if the application should be approved or not.

Mr Gardner, store manager attended the meeting and spoke in support of his application. He referred Members to 1.2 of the report which detailed the times that the 'A' board would be displayed. On Thursdays the 'A' board would be displayed between 8.30 and 17.30 not 8.30 to 19.30 as indicated in the report.

Mr Gardner said that the store had first opened in 2003 and the store front window had always been used. The premises trades on the 2nd floor over 10,000 square metres. There is a very small entrance to the store with one window at the front of the premises just big enough to display a mannequin in it. The 'A' board has been there for 10 years with no problems at all.

Members asked the following questions;

- Two Members stated that they had previously visited premises and had had to ask where the premises was. The 'A' board added direction to the premises.
- When asked, Mr Gardner said a lot of trade would be lost without the 'A' board. There were 20 Slaters stores nationwide and 18 of the premises had 'A' boards due to the location of the premises. This 'A' board would help people when they were looking for the store and help people find the store.
- A Member stated that they supported this application and the 'A' board was needed for this type of premises trading on the 2nd floor and it enhanced the location.

In summing up, Mr Gardner said that all other premises in that area had 5 times the size of shop frontage to Slaters and even with illuminating the small front window they were still at a disadvantage.

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

1. The application be approved because Members are satisfied there are sufficient reasons to deviate from the new policy in respect of objects placed on the highway.
2. The application be refused because Members are not satisfied that the A board complies with the Council's new policy in respect of objects placed on the highway.

Upon a vote it was (6 for, 2 against, 2 abstentions)

RESOLVED that the application be approved because Members are satisfied there are sufficient reasons to deviate from the new policy in respect of objects placed on the highway.

9. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

Upon a vote it was unanimously agreed that the following exempt items would be heard in a closed session.

10. PRIVATE HIRE DRIVER APPLICATION

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

1. Mr Harding's application for a Private Hire driver's licence be granted as Mr Harding is a fit and proper person
2. Mr Harding's application for a Private Hire driver's licence be revoked as the Committee considers Mr Harding is not deemed to be a fit and proper person to hold a Private Hire driver's licence.

Upon a vote it was (8 for 1 against and 1 abstention)

RESOLVED, that

Mr Harding's application be granted, subject to additional conditions as required by Officers, as Mr Harding is a fit and proper person.

11. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

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

3. Mr Hepworth's Hackney Carriage driver's licence be continued with no further action because the Committee is satisfied that he is a fit and proper person to hold such a licence;
4. Mr Hepworth's Hackney Carriage driver's licence be revoked as the Committee considers Mr Hepworth is no longer deemed to be a fit and proper person to hold such a licence in accordance with section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Upon a vote it was (8 for 1 against)

RESOLVED, that

Mr Hepworth's Hackney Carriage driver's licence continues to be suspended as an interim measure pending him being assessed by a medical practitioner to ensure he is fit to drive. Upon receipt of satisfactory confirmation as to fitness, the Licensing Officer be authorised to lift the suspension of the Hackney Carriage driver's licence.

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

The Chairman advised Members that the next Licensing Committee would take place on Friday 10 January 2014 not Friday 6 January 2014.

13. DATE OF NEXT MEETING

10 January 2014

Garth Barnes
Chairman

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Cheltenham Borough Council

Licensing Committee – 10 January 2014

Application for a Private Hire Driver’s Licence

Mr Nadeem Masud

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Nadeem Masud for a Private Hire driver’s licence.
- 1.2 Mr Masud has a number of convictions. The details of these are contained in the enclosed background papers.
- 1.3 In light of this Members of the 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 Masud is judged to be a fit and proper person to hold a Private Hire Driver’s Licence.
- 1.4 **The Committee is recommended to resolve that Mr Masud’s application:**
 - 1.4.1 **be granted as Mr Masud is a fit and proper person, or**
 - 1.4.2 **be refused on the grounds that Mr Masud 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 Private Hire Drivers 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 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.

Violence

- 3.6 Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. (Cheltenham Borough Council's adopted policy - appendix K, para 3.1)
- 3.7 It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. (Para 3.2)
- 3.8 The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons. (Para 3.3)
- 3.9 Where the commission of an offence involved loss of life a licence will normally be refused. In other cases a period of 5 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will generally be required before an application is likely to be considered favourably. (Para 3.4)
- 3.10 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

Common assault

- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Possession of offensive weapon
- Criminal damage

(Para 3.9)

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 Mr Masud 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 Masud is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

Background Papers

Service Records

Report Author

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

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Cheltenham Borough Council

Licensing Committee – 10 January 2014

Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Application for Permission to Place Tables and Chairs on the Highway

The Ball Room, Bayshill Lodge, Montpellier Street, Cheltenham

Report of Senior Licensing Officer

1. Executive Summary and Recommendation

1.1 An application has been received from Mr Raja Miah in respect of The Ball Room, Bayshill Lodge Montpellier Street, Cheltenham. The applicant wishes to place 21 chairs and 7 tables on the pavement directly outside the premises.

1.2 It is intended that the tables and chairs be put out:

Monday	08.00 - 00.00
Tuesday	08.00 - 00.00
Wednesday	08.00 - 01.00
Thursday	08.00 - 01.00
Friday	08.00 - 01.00
Saturday	08.00 - 01.00
Sunday	10.00 - 23.00

1.3 A picture of the proposed tables and chairs is attached at **Appendix A** and a location plan is attached at **Appendix B**.

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

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

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

1.5 Summary of implications

1.5.1 Financial

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

1.5.2 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. Consultation and Feedback

- 3.1 Consultation was undertaken in accordance with the Council's normal consultation procedure for tables and chairs applications.
- 3.2 Four objections were received in respect of this application from:
- 3.2.1 C Lyons, local resident
 - 3.2.2 Elizabeth Willmetts, local resident
 - 3.2.3 Nigel Overall, Gloucestershire Highways
 - 3.2.4 Martin Levick, Senior Enforcement & Compliance Officer
- 3.3 Members' attention is drawn to **Appendix C** which contains copies of the above objections.

4. Policy Principles, Aims and Objectives

- 4.1 This section outlines the policies the council will apply when making decisions on applications for consents.
- 4.2 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.

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 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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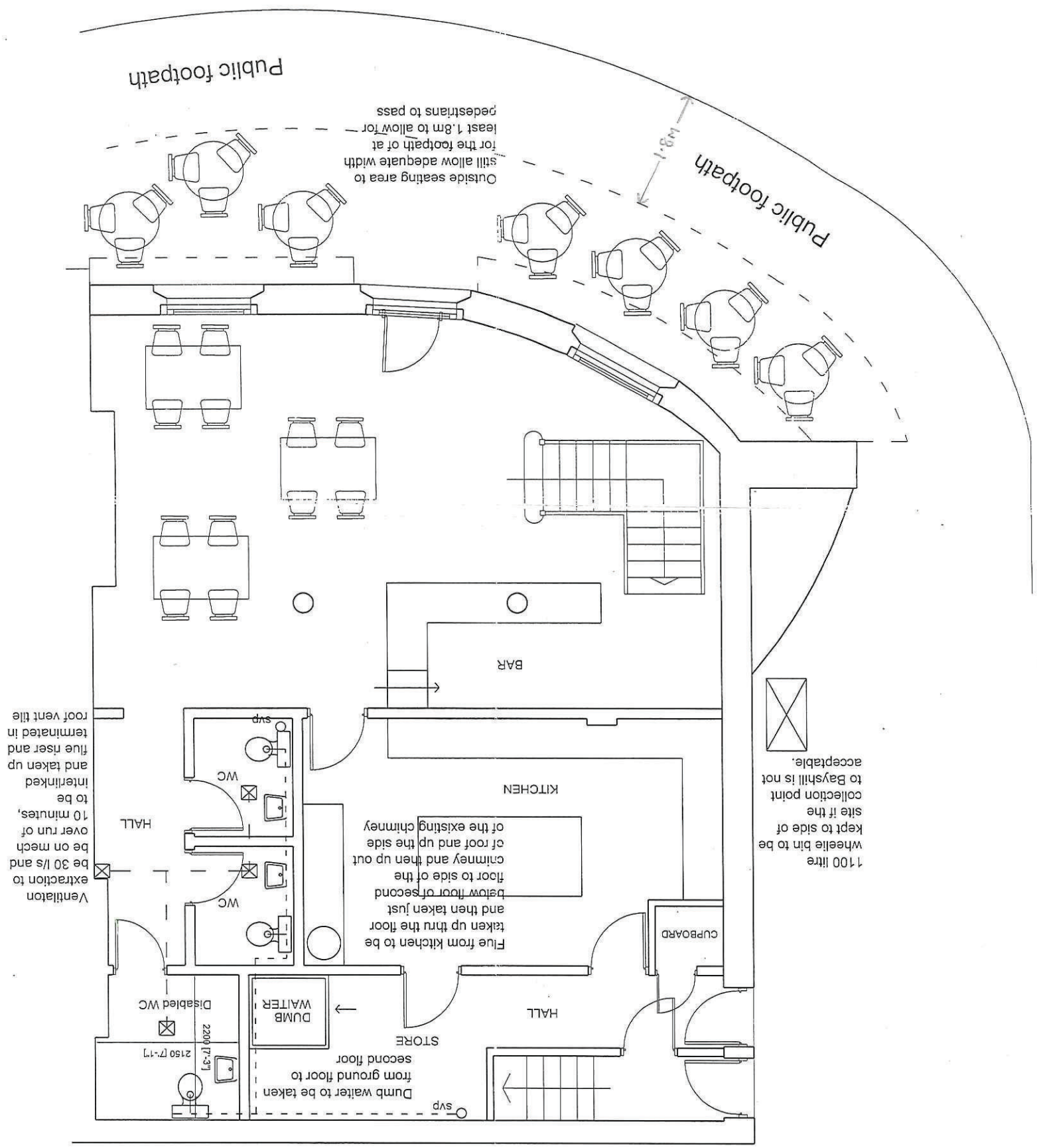
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©

Project:- Change of Use at The Ballroom, Montpellier, Cheltenham, Glos	Client:- Mr & Mrs Hartlew	Date:- March 13	Revision:- -
Drawing Title:- Proposed Plans	Scale:- 1:75 @ A3	Project No:- RM-010	Drawing No:- 04-1
<p>ELEVATION ONE BUILDING DESIGN LTD 25 NILEY ROAD, BOWLEIGH GLOS, GL11 7NJ TEL: 01452 549252 M06 07515 019224 EMAIL: elevationone@bt.com WWW: WWW.ELEVATIONONE.CO.UK</p>			

PROPOSED
GROUND FLOOR PLAN



Appendix C

C Lyons, local resident

Dear Sir,

It has come to my notice that the above premises has applied for 9 tables and 21 chairs to be placed on the pavement outside. This is not on, there is just not enough room for this, and the public need space to pass. The owners have already been granted late night drinking hours and this will surely affect local people if this is allowed to happen outside. Noise is my main concern, as my premises is only 100 yards from the end of Bayshill Mews. I strongly recommend this be turned down.

Yours Faithfully

C Lyons

Elizabeth Willmetts, local resident

Dear Sirs

I refer to an application made By Mr. Raja Miah regarding the above mentioned premises. In this application he asked for 9 tablets and 21 chairs to be presumably placed on the pavement outside his premises. I would like to object to part of this application. Firstly I and others have to wheel a wheelchair down that pavement which is currently a problem with space further down passing the Montpelier Wine Bar.

I would therefore request that if you agree to this application you take into consideration those who need the use of the pavement for use with a wheel chair and restrict the amount of space that can be used.

I would also request that you restrict the late night hours that drinking can take place outside as we the residents find it very noisy and have difficult sleeping with late night drinkers.

I would request that you restrict the outside drinking hours to no later than 10.00pm as I believe we, the residents, are entitled to the quiet enjoyment of our homes.

Thank you for your consideration.

Yours,

Elizabeth Willmetts

Nigel Overall, Gloucestershire Highways

Gloucestershire Highways have concerns re this application as we do not feel that the submitted plan accurately reflects the actual site conditions.

When observing the current Google map image (see image below) the submitted application does not show:-

- 1) 2 existing steel bollards are located on the corner.
- 2) That the corner radii of the existing f/w running round into Royal Parade Mews is not as wide or as shown on the submitted plan (ie it runs into the corner of the arch where it meets the real iron railings!
- 3) There is a pedestrian crossing located opposite this proposed seating area.

We do not feel that the proposed arrangement of tables/chairs, even when not in use as shown in the submitted plan can be located without causing a compromise to pedestrian movements using the crossing and passing by this property. When the tables/seating is in actually in use we feel this will cause even more of a restriction to the footway.

For the above reasons Gloucestershire Highways would have objections to this application.

Regards

Nigel Overall



Martin Levick, Senior Enforcement & Compliance Officer

No objection in principle. I would however like to make the observation that the number of tables and chairs applied for appear somewhat cramped and that this together with the furniture proposed does nothing to respect the setting, character and appearance of this Grade II* Listed Building.

Cheltenham Borough Council

Licensing Committee – 10 January 2014

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

Mr William Danter

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Mr William Danter, for a street trading consent to sell hot & cold food and cold drinks from a Traditional English Barrow measuring 3.4m long x 2.14m. Mr Danter is applying to trade on the High Street adjacent to Next and the Carphone Warehouse.
- 1.2 Mr Danter has applied to trade on the following dates and times:

Dates

- Saturday 14 Feb to Tuesday 4 March 2014 (ending on Pancake Day)
- Saturday 5 April until Monday 21 April 2014
- Saturday 24 May until Sunday 1 June 2014
- Saturday 19 July until Saturday 23 August 2014
- Saturday 25 Oct until Saturday 1 November 2014

Times

Monday	09.30 - 17.30
Tuesday	09.30 - 17.30
Wednesday	09.30 - 17.30
Thursday	09.30 - 20.00
Friday	09.30 - 17.30
Saturday	09.00 - 18.00
Sunday	10.00 - 17.00

- 1.2 An image of the trading unit is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.3 **The Committee is recommended to resolve that:**
 - 1.3.1 **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; or**
 - 1.3.2 **The application be refused because it does not 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

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

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

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

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

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.
- 2.2 The above policy stipulates that all new applications for street trading consent will be referred to the Licensing Committee for determination.

3. Policy Considerations

- 3.1 The Council's current policy in respect of street trading was implemented on the 1st 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.

4. Licensing Probity Guide

- 4.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.

- 4.2 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.
- 4.3 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 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.

5. Corporate Priorities

- 5.1 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.

6. Consultee Comments

- 6.1 No objections were received during the consultation period.

7. Licensing Comments

- 7.1 This is a new application for street trading consent in as much as Mr Danter has never been licensed for the dates & times sought and the goods he is proposing to sell is different from his previous consents. In accordance, Members are asked to consider whether the application should be granted taking into account the Council's policy on street trading in conservation areas.
- 7.2 The said policy states that 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.* (Emphasis added)

7.3 Members are therefore to determine of the trading proposed by Mr Danter is such that it would “positively enhance the enjoyment of the town as a tourist and leisure destination”.

Background Papers

Service Records

Report Author

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200



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Cheltenham Borough Council

Licensing Committee – 10 January 2014

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

Mr Glen Ford

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

1.1 An application has been received from Mr Glen Ford, for street trading consent to sell ice-cream from an Ice Cream Van. Mr Ford has applied for an annual consent to trade 12:00 to 20:00 everyday.

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

1.2.1 **The application be approved because Members are satisfied that grant of this application will comply with the provision of the Street Scene policy and will not cause a nuisance, or**

1.2.2 **The application be refused because it does not comply with the provision of the Street Scene policy and will cause a nuisance.**

1.3 Implications

1.3.1 Financial

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

1.3.2 Legal

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

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

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

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

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.
- 2.2 The above policy stipulates that all new applications for street trading consent will be referred to the Licensing Committee for determination.

3. Consultee Comments

- 3.1 An objection has been received from Mrs Louise Metcalfe, Senior Environmental Health Officer on behalf of the Environmental Protection Team.

The basis of her objection is that Mr Ford has persistently breached his licence conditions in relation to controlling noise. Consents are issued with the relevant conditions stipulating that the trader must comply with the "Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2005".

Mr Ford has persistently breached the above mentioned code of practice by playing his chimes longer than the permitted 12 seconds. This has led to a number of noise complaints to the Council and resulted in an abatement notice served on Mr Ford for likely occurrence of a statutory nuisance which included the requirement to comply with the Chimes Etc. code of practice.

- 3.2 A copy of Mrs Metcalfe's objection is attached **Appendix A**.

4. Policy Considerations

- 4.1 The Council's current policy in respect of street trading was implemented on the 1st of April 2013.
- 4.2 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.

5. Licensing Probity Guide

- 5.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 5.2 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.

5.3 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.

5.4 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.

5.5 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.

5.6 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.

5.7 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.

6. Corporate Priorities

6.1 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.

7. Licensing Comments

7.1 This application must be determined on individual merits in accordance with the Council's policies and giving due regard to consultation feedback.

7.2 The legislation is not very prescriptive in terms of what 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.

7.3 In accordance with the above, the Committee can take into account any nuisance that may be caused by granting the consent including noise nuisance.

7.4 The committee must satisfy itself that the granting of this application will not cause a nuisance and the onus will be on the applicant to satisfy the committee of this.

7.5 If the Committee is minded to grant the application, it will be subject to the standard conditions outlined in the Council's current street trading policy.

7.6 Members are also to note, that the Council is empowered by paragraph 7(5)(a) of schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to grant an application subject to any condition to prevent, amongst others, nuisance or annoyance whether to persons using the street or otherwise.

Members are therefore able to grant the consent subject to any conditions considered reasonable to prevent, nuisance or annoyance whether to persons using the street or otherwise.

Background Papers

Service Records

Report Author

Contact officer: Mr Louis Krog

E-mail: licensing@cheltenham.gov.uk

Tel no: 01242 775200

Dear Louis,

In relation to street trading application 13/02226/STA for Mr Glen Ford I wish to register an objection from the environmental protection team.

Since April 2010 we have received repeated complaints about this operator and as a consequence of a lengthy investigation (begun as a result of further complaints received in April and May 2012) an abatement notice was served on Glen Ford on for likely occurrence of a statutory nuisance. This included the requirement to comply with the "Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2005" as issued by Defra.

In October 2013 a new code of practice was produced which included lengthening the time of chiming from 4 seconds to 12 seconds, but again we have evidence that confirms non compliance of these requirements also.

Given this individuals disregard to all informal avenues we have pursued with him we now have no alternative than to object to any future consent.

Regards,

Louise Metcalfe

Appendix 1: (as attached to this email) - Dates of all monitoring undertaken

Overall monitoring results for “Mr Whippi” vehicles:

CX05 RZA
CX05 RZY

<u>CX05 RZA</u> (abatement notice for likely occurrence of a statutory nuisance served on the operator running this vehicle)	<u>CX05 RZY</u>
31/08/2012 – seen by LKM – multiple chimes heard and breach of CoP	18/10/2013 – seen by YH - breach of CoP
	19/10/2013 – seen by LKM - breach of CoP
	20/10/2013 – seen by YH - breach of CoP
	25/10/2013 – seen by SE - breach of CoP
	26/10/2013 – seen by CF - breach of CoP
	27/10/2013 – seen by LKM - breach of CoP

Monitoring completed over the following dates:

22nd August 2012
 28th August 2012
 29th August 2012
 30th August 2012
 31st August 2012

13th September 2012
 19th September 2012

18th – 27th October 2013