

# Licensing Committee

Friday, 25th April, 2014

2.30 - 3.26 pm

<b>Attendees</b>	
<b>Councillors:</b>	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Rob Reid, Charles Stewart, Pat Thornton, Roger Whyborn and Penny Hall (Reserve)
<b>Also in attendance:</b>	Louis Krog, Licensing and Business Support Team Leader and Vikki Fenell, Solicitor

## Minutes

**1. APOLOGIES**

Councillors Regan, Stennett and Walklett

**2. DECLARATIONS OF INTEREST**

None

**3. PUBLIC QUESTIONS**

None

**4. MINUTES OF MEETING HELD ON**

Resolved that the minutes of the meeting held on 7 March 2014 be agreed and signed as a true record.

**5. MINUTES OF SUB COMMITTEE MEETINGS**

None

**6. RENEWAL OF STREET TRADING CONSENT**

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. A renewal application had been received from Mr Raviv Hadad for a street trading consent to sell hot and cold food and drink from a mobile trike on the High Street outside Thomas Cook.

If granted the proposed hours of trade would remain the same as the existing consent, every day between 11:00 and 23:00.

Appendix A of the report provided an image of the trike.

Appendix B of the report showed a location map of where trading would take place.

The Officer referred Members to point 5 of the report which detailed consultee comments. Comments had been received from the following consultees;

- Nigel Overal (Gloucestershire Highways).
- Richard Nichol (Canada Life – Owners of Regent Arcade)

The report provided details of the objections.

Mr Howard Barber (Public Realm Designer, Cheltenham Borough Council) comments stated that he did not object to the application but noted that a new way finding monolith was due to be installed to the edge of the licensed trading area.

The Officer referred Members to appendix D of the report which provided further details of the proposed monolith.

Members asked a couple of questions to the Officer and in responding the Officer:

- Said that once the Highways works had been completed traders may not be allowed to trade in this area ensuring no further damage is done to the paving slabs. This point was unclear at the moment and a consultation on the proposed future use of the area is expected in May from Gloucestershire Highways.
- Confirmed that Licensing Officers would work with Mr Hadad, where appropriate, to locate to an alternative venue during and after the Highways work. Mr Hadad wanted to trade between June and October whilst the works were taking place and returning to the current trading position once the works had been completed was unknown at this point.
- Stated that the concern about the installation of a new monolith and the location of Mr Hadad's trike had been resolved. The trike would be placed 6 feet further up the High Street away from the monolith.

Mr Hadad attended the meeting and spoke in support of his application. Prior to the meeting he had submitted a supporting letter and photographs which were distributed to Members in advance. These documents are attached as supplementary documents to the minutes.

Mr Hadad said his points were made in the letter and felt his licence should be granted for 12 months and to see what happened.

Members asked the following questions to Mr Hadad and in responding;

- Said he had discussed a temporary location with the Town Centre Manager and Licensing Officer to trade outside of TSB bank. TSB bank would be happy for trade to take place there.
- A Member felt the licence should be granted subject to a change of trade venue whilst the works were taking place.

The Officer advised Members that he was unsure what Gloucestershire Highways wanted to do with this space once the work had taken place and a consultation process would be in place sometime in May.

Members were advised that they had the following recommendations to determine;

1. The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable.

2. The application be approved because Members are satisfied that the application does comply with the provision of the Street Scene policy and the location is deemed suitable.

Subject to resolution 2, the application only be granted to the end of June 2014.

Upon a vote it was unanimously

**RESOLVED that the application be approved because Members are satisfied that the application does comply with the provision of the Street Scene policy and the location is deemed suitable.**

**Subject to this the application is granted for 12 months with a condition attached to the licence to state that relocation of trading will take place on the commencement of Gloucestershire Highways works and that officers be given delegated authority to suspend the consent at the appropriate time.**

#### **7. APPLICATION FOR STREET TRADING CONSENT**

The Chairman confirmed the applicant had withdrawn this application.

#### **8. RENEWAL OF STREET TRADING CONSENT**

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. A renewal application had been received from Mr Mark Morris for the renewal of a street trading consent in respect of his flower stall located on the Promenade at the junction of Ormond Place.

If granted the proposed hours of trade would be on Monday to Saturday's 08:30 to 18:00 and 11:00 to 17:00 on Sundays.

Appendix A of the report provided an image of the stall.

Appendix B showed a location map of where trading would take place.

Page 48 of the report provided a photograph showing the Regent Arcades proposed development.

A number of objections had been received in connection with the application and for that reason it had been referred to the Licensing Committee for determination.

The Officer referred Members to point 5 of the report which detailed consultee comments. Objections had been received from the following consultees;

- Mr Alexander Rose (Managing Director – Beards Jewellers)
- Mr Jeremy Williamson (Managing Director – Cheltenham Development Task Force)
- Mr Richard Nichol (Canada Life – Owners of Regent Arcade)
- Mr Martin Quantock (Business Partnership Manager)
- Mr Richard Ralph (DTZ Associate Director)
- Mr John Forward (Regent Arcade Manager)
- Mr Wilf Tomaney (Urban Design Manager, Cheltenham Borough Council)

The report provided details of the objections.

The Officer advised the Committee that prior to the meeting a letter had been received and signed by all of the objectors to the application and the applicant asking for further time so that alternative solutions acceptable to all could be sought.

The letter sought a temporary extension to the street trading licence up to 31 July 2014 in its current location. During this period all parties would seek to trial a compromise solution, which could entail:

- Re-orienting the stall
- Changing the stall layout
- Changing the stall's location within Ormond Place or potentially on to the Promenade.

The letter also asked the Committee to allow any trials to be undertaken through delegated Officer authority without returning to the Licensing Committee.

At the end of this period or before, either

- A revised application would be submitted with the support of all parties
- The original application would be resurrected as the trialled solutions had proved unsuccessful.

The Officer advised the Committee that Mr Morris had provided a revised photograph of his stall which showed a clear line of sight from the Promenade to Ormond Place. A copy of the photograph is provided as a supplementary document to the minutes.

Members asked the following questions of the officer and in responding:

- Confirmed that if the works were delayed Mr Morris could continue to trade as normal. As a result of the proposed mediation meeting a new application may be submitted.
- Stated that there was not a condition on the licence to change the way the stall is anchored to the pavement.

Mr Morris attended the Committee and spoke in support of his application.

He reminded the Committee that Gloucestershire Highways had previously agreed a few years ago to place hooks in the pavement for use with the stall but that this would be done at the same time as the redevelopment works. This would now be a good time to put these in place.

Mr Morris stressed that he had arranged negotiations with all parties himself which had been difficult. Before today's meeting Mr Morris had sought advice from his local Councillor who contacted the Cheltenham Development Task Force Manager to arrange a joint meeting. Previous meetings had been unsuccessful and a compromise could not be met.

Members asked the following questions of Mr Morris and in replying:

- Confirmed he had signed the joint letter enabling him to trade until 31 July 2014 as a good will gesture but that he wanted a 12 month licence.
- Suggested a 12 month licence be granted with a review in 3 months time.
- Stated that he had changed the layout of the stall after a previous meeting with Beards and the Regent Arcade. A shelf had been dropped and Mr Morris was currently arranging for the top of the stall to be reduced down. All of these measures were done when asked and that he was showing willing. This had reduced the stock levels and did not look as nice but he has compromised to keep all parties happy.
- Explained that the suggested relocation of the stall outside Cavendish House would be difficult on Farmers Market days as there are a large number of lorries loading where the stall would be sited and trade would be affected.

A Member proposed the licence is granted for 12 months and that Officers are given delegated authority to relocate the stall when the works are taking place.

Vikki Fennell, Solicitor advised Members that the letter had withdrawn the objections made to the application on the basis that the licence is only granted to the 31 July 2014. Therefore a licence could only be granted until then otherwise the objectors will not have another opportunity to object if the trial period were unsuccessful.

A Member suggested delegated authority is given to Officers to extend this time period if a resolution is agreed with all parties.

The Officer sought clarification about the delegation and stated that if Officers were given delegated authority, all parties and the applicant needed to be in agreement of the trading proposal if the licence was to be extended beyond 31 July 2014.

The existing consent would be revoked under Officer delegation when the works started and Mr Morris would have to submit a new application to trade with a new location. If objections were received against the new application the Licensing Committee would need to determine the consent.

Mr Morris said he was unhappy with this decision.

The Chairman stated that if agreement with all parties is not reached at the mediation meeting before the end of July the application would need to come back to Licensing Committee to understand what had not worked. The letter signed by all parties must be taken as read.

A Member stated that the next Licensing Committee after the 31 July 2014 would be 1 August 2014.

The Officer stated that it would be possible to have a report ready for the August committee if the subsequent application is received by the beginning on July. However, if this was not possible, Mr Morris will be able to trade in the current location until the Council has determined his application which may be as late as September.

In summing up Mr Morris said that he had been driving the mediation meetings himself and wanted to keep everyone happy and to ensure this was dealt with.

Upon a vote it was unanimously

**RESOLVED that the application is granted for permission to trade until 31 July 2014. During this time a mediation meeting would take place with the applicant and objectors to seek alternative solutions acceptable to all.**

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

Louis Krog, Licensing and Business Support Team leader advised Members about proposed amendments to the Local Government (Miscellaneous Provisions) Act 1976 set out in the Deregulation Bill 2013/14.

A draft letter had been circulated to all Councils raising concern with pushing clauses through before the Law Commission review the new legislation in May 2014.

The three clauses causing concern were as follows:

- Section 8 – Private Hire Vehicles: Circumstances in which driver's licence required to drive a licensed private hire vehicle; this clause would allow anyone with an ordinary driving licence to drive a private hire vehicle when it is off duty.
- Section 9 – Taxi and private hire vehicles: Duration of licences; this clause aimed to standardise the 3 year driver licences and remove the option of an annual licence. Operator licences would be standardised to 5 yearly licences.
- Section 10 – Private Hire Vehicles: Sub-contracting between operators. This clause proposed changes to allow private hire operators to sub contract bookings to other operators licensed in a different district (Authority).

The Officer said that these changes would be very difficult to enforce.

The draft letter had been sent out to the trade and if the Committee were minded to do so the Officer would send it to Martin Horwood MP stating that the deregulation changes should be dropped and dealt with as a whole in May 2014.

Members felt that these decisions should be left for locally elected Members to decide and should not be rushed through prior to the Elections.

Members asked the following Officer questions and in reply;

- Explained that presently only the licensed private hire driver can drive the Private Hire Vehicle. Currently spouses and partners of licensed private hire drivers use the vehicle for moon lighting or for social and domestic use.
- Stated that these decisions should be decided by the locally elected Members.

- Confirmed the Law Commission Review report was expected on 23 May 2014.
- Advised that the letter would be sent to Martin Horwood MP from Members on behalf of the Licensing Committee.

Some Members were unhappy with Section 8 being included in the letter.

The Officer said this section could be removed from the letter.

The Chairman confirmed a vote would need to take place to determine if section 8 should be removed from the letter.

Upon a vote it was (3 for 5 against)

That section 8 of the letter is removed.

Upon a vote it was (5 for 3 against)

**RESOLVED that the letter, including Section 8 is sent to Martin Horwood MP on behalf of the Licensing Committee.**

The Chairman reminded Members that this would be Councillor Stewart's last Licensing Committee and thanked him for all he had done on both this and the Licensing Sub Committees. He thanked all Members for everyone's hard work.

**10. DATE OF NEXT MEETING**

13 June 2014

Garth Barnes  
**Chairman**

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To the Councillors,

In response to the objection raised by Canada Life and the Regent Arcade Manager I would like to add to my application:

1. all the points raised in their objections have been addressed on my first application. Not even one proved to be correct. It is clear to all to see that my small operation does not impose on theirs in any way shape or form. My cart/ trike is expensive, small, friendly to the environment and safe.

2. My small operation may have smaller running cost than running a shop at the arcade or the high street but sadly it is packaged with a smaller capacity to earn etc... each business format has its strengths and weakness and to suggest that the High Street is suffering because of my presence and for the council to give permeation to my operation is in any way breaking the rules of fair competition is utterly ludicrous, especially coming from a sizable operation like theirs. Their behaviour in this matter indicates the opposite - they are acting like a bully trying to kill the smallest of fair competition.

It is a shame that their attitude has blinded them to the fact that they can only benefit from my operation at its location as it is creating interest and brings more people, if anything, in front of their renovated property.

3. I have chosen this road to deliver a product that is missing out of the High Street and the visitors very much appreciate it. The product is a quality product delivered in a unique attractive way packaged in a very fair price. All this contributes to the choice available in town and represents a healthier option to what was available before...

4. My contribution to the High Street is clear to the large majority of businesses and visitors alike.

I think the councillors should focus on the support and enthusiasm to my operation and the huge silent majority that enjoy my presence and not on the one vice objecting as loud as it may be (again for no good reason...)

I have attached another small collection of the most interesting comments made by customers.

(All comments are very positive but mostly summarised in one word like - brilliant, good work, tasty, value for money, nice trike, best of luck etc...)

I do hope the councillors can see the positive impact I am making to the town centre and give me permission for the next 12 months (I have been through the wind , rain and hail storms and hope to enjoy the summer on the High Street...). I know the High Street is going through some changes but this does not impact on my location and vice-versa:

- the issue of the new road taking a route next to my location has already been taken into account, as the new road will be where the existing emergency route is, which I already avoid.
- as the location of the monolith is now known, it is clear I will not impact on the monolith when it is built - both access to and viewing of (as agreed by the Council representative).
- in any case the council have the power to terminate or move me at any time (if my location is in the way of any work ...) so why make a problem where it may not occur at all?!

My cart/trike is very manoeuvrable and just like in the case of the Prince of Wales' visit, when I temporarily relocated nearby as I was asked to move to allow for fencing and crowd control, I can do that again without much fuss and to the benefit of all!

Many thanks

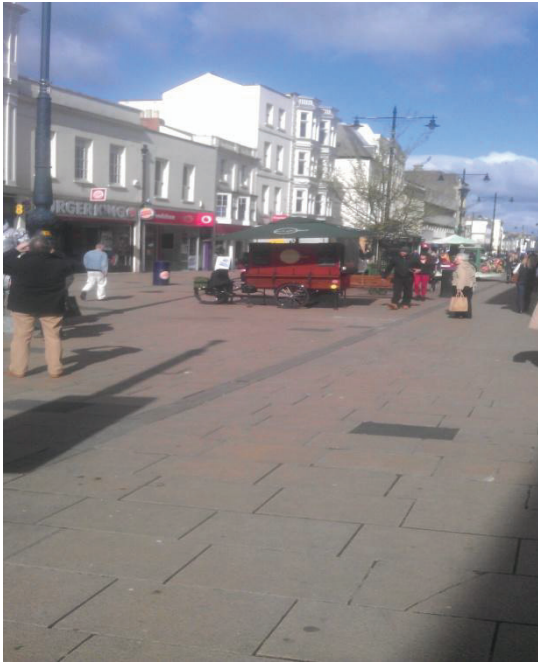
Raviv

Falafeleat by Brosh

SUPERB!!!  
I would travel many  
miles for... another!

I absolutely love this stall...  
the food is wonderful...  
The appearance of the stall  
is great too! - Catherine Fitz

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The Licensing Committee

24 April 2014

Dear Sirs

Re: 14/00620/STA Flower Stand

The applicant (Mark Morris) and main objector to this licence application (Regent Arcade) recognise that, as currently formulated, there can only be a winner and a loser, arising from any determination by the licensing committee. However, both parties perceive the merits of the arguments being rehearsed and neither party would wish to see potential investment to the town jeopardised, nor a trader put at risk.

For these reasons, and through the offices of the Town Centre Manager and the Cheltenham Development Task Force, we the undersigned would ask that an alternative arrangement be put in place with sufficient time for both parties to seek alternative solutions acceptable to all. Essentially we would ask for a temporary extension of the existing street trading licence for the flower stall up to the 31<sup>st</sup> July 2014 in its current location at the junction of Ormond Place and the Promenade.

During this period both parties will seek to trial a compromise solution, which could entail

- (a) re-orienting the stall,
- (b) changing the stall layout, or
- (c) changing its location within Ormond Place or potentially on to the Promenade

and we would seek support from the licensing committee such that any "trials" can be undertaken through delegated authority of the licensing team, without further recourse to the licensing committee.

At the end of this period or before, either

- (i) a revised application will be submitted with the support of all parties or
- (ii) the original application will be resurrected as the trialed solutions had proved unsuccessful

Whilst this approach may be unorthodox, we believe that it could create an opportunity for a win-win situation and would ask that it be given serious consideration.

Yours sincerely

  
 Mark Morris    Regent Arcade    Town Centre Manager    Beards    Cheltenham Task Force

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PLEASE INSERT YOUR AUTHORITY  
ADDRESS AND DETAILS....

Date 24 April 2014

Dear .....

**Deregulation Bill 2013/14- Proposed Clauses 8, 9 and 10 amending the  
Local Government (Miscellaneous Provisions) Act 1976**

I write to you with regards to the proposed amendments to the Local Government (Miscellaneous Provisions) Act 1976 set out in the Deregulation Bill 2013/14. As you may be aware this Bill is currently passing through the Parliamentary process and we are urging you to support us in our opposition to these proposals.

The proposals are of great concern for many Local Authorities across the country. This concern is also echoed by many Taxi Trade Associations and the Police Commissioners in many areas.

The Meeting of Minds Group which includes the National Association of Licensing & Enforcement Officers [NALEO], The National Taxi Association [NTA], The National Private Hire Association [NPHA], Unite the Union, and the GMB held a meeting in Bolton on 15th April 2014. The delegates at that meeting included MP's, The Law Commission, The Local Government Association, the Police Crime Commissioner for Greater Manchester and Elected Members as well as Licensing and Enforcement Officers. *To assist you, a copy of the Minutes of the Meeting held on the 15 April 2014 are attached.*

Local Licensing Authorities are charged with ensuring as far as reasonably practicable "Public Safety". This is a constant thread throughout all threads of licensing legislation such as the Licensing Act 2003, Gambling Act 2005 and also the licensing of Sex Establishments, Street Traders and many others. The proposed amendments referred to are designed to affect hackney carriage and private hire licensees throughout England and Wales.

Licensing Authorities take this role very seriously and impose strict standards, conditions and policies to assist us in carrying out this role. It has taken us



many years to get where we are now and this could all be undone overnight through adopting changes to legislation that take the control / and power to set local standards away from the Local Authorities.

It is my/our opinion that standards / decisions should be left in the hands of those locally elected members (Councillors) who are put in power through a democratic process by the residents of the district, town or city of each area.

In brief terms the three proposals are set out in Clauses (paragraph's) 8, 9 and 10 of the Deregulation Bill;

**Section 8** – Private Hire Vehicles: Circumstances in which driver's licence required to drive a licensed private hire vehicle;

**Section 9** – Taxi and private hire vehicles: Duration of licences;

**Section 10** – Private hire vehicles: Sub-contracting between operators

I have set out below in very brief terms the concerns around the three individual proposals.

**Section 8** – In simple terms this lessening of the legislation will allow **anyone** with an ordinary driving licence to drive a private hire vehicle when it is off duty.

This is seen by all concerned as a real backward step and is one that would cause a huge amount of concern and make enforcement of the legislation extremely difficult if not impossible.

The current situation is that only a licensed driver can drive a licensed vehicle whether that is for hire or reward or social domestic and pleasure purposes, this applies to hackney carriages as well as private hire, and this was upheld in the High Court in the following case *Leslie Benson v Clinton Andrew Boyce* [1997] EWHC Admin 35 (20 January, 1997).

This amendment is nothing short of a charter for drivers to abuse the system. It will be impossible to know when a vehicle is not working, or when the driver is not working, or indeed who is actually driving the vehicle. It will look like a private hire vehicle, so there is no need to state the obvious. You will also note from the attached minutes that all attendees agreed that this leaves the travelling public in a very vulnerable position.

This clause, if enacted as set out, will inevitably create a significant risk to public safety and especially to the users of such services which often include some of the most vulnerable members of our society.

**Section 9** – proposes to amend the standard duration of driver's licences (private hire and hackney carriages) to three years and the standard for



private hire operator's licence to five years.

Again there are significant concerns. This should be left for local determination. We strongly believe that locally elected members should be allowed to determine local conditions / standards etc. including the duration / term of a licence and can see no reason to move away from the current legislative position. If there were to be a perceived need the currently proposed clause appears badly drafted and in need of amendment.

**Section 10** – proposes changes to allow private hire operators to sub contract bookings to other operators licensed in a different district (Authority)

Although it is understood that businesses do cross Authority borders and this amendment may well be intended to aid business growth. The concern is that this will become confusing for the members of the public.

Licensing/Enforcement Officers would have no clear line of enquiry for complaints made against drivers of companies not based in their particular jurisdictions. In the event of complaints and enquiries who is responsible for the work (job) carried out? Would this be the company/person taking the original booking or the company / person who undertook the journey / job? Who would be the legal owner of that work?

We once again ask you to oppose these amendments when the time comes There is a Westminster Debate on 29th April at 2.30 pm. Your support would be very much appreciated not only by we the requestors but also by the majority of your constituents who would, we are sure wish to have confidence in the bona fide licensed trades members.

There is currently legislation in place that covers these areas already, this current legislation has been subject of a comprehensive review by the Law Commission on behalf of the Government and the full report and recommendations are due to be published in May 2014.

There does not see any clear reason why these three clauses are so vitally important that they need to be taken in isolation ahead of the wholesale proposals imminently due from the Law Commission. These clauses appear to have been rushed and at best are ill thought out.

It is strongly felt that they should not be enacted and that the best course of action should be refer these matters for inclusion in the ongoing comprehensive Law Commission Review currently under way and which is due to report in May 2014, less than one month away.

Yours sincerely,

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