



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 5 September 2014
2.00 pm
Council Chamber - Municipal Offices

Membership	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett

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

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF MEETING HELD ON 1 August 2014	(Pages 1 - 4)
5.	MINUTES OF SUB COMMITTEE MEETINGS <ul style="list-style-type: none">• 23 July 2014 – Cheltenham Town Training Ground, Quat Goose Lane, Cheltenham, GL51 9RX• 6 August 2014 – Mamma's Kitchen, 10 Bennington Street, Cheltenham, GL50 4ED	(Pages 5 - 14)
6.	APPLICATION FOR A STREET TRADING CONSENT Mrs Marie Fullwood	(Pages 15 - 22)
7.	APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE Mr Aditya Rai	(Pages 23 - 28)
8.	REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE Mr Lance Stuart Hepworth	(Pages 29 - 30)

9.		SEXUAL ENTERTAINMENT VENUES IN CHELTENHAM	(Pages 31 - 36)
10.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
11.		DATE OF NEXT MEETING 3 October 2014	

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

Licensing Committee

**Friday, 1st August, 2014
2.30 - 3.25 pm**

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Anne Regan, Rob Reid, Pat Thornton and Helena McCloskey (Reserve)

Minutes

- 1. APOLOGIES**
Apologies were received from Councillor Flynn and Councillor Walklett. Councillor McCloskey was in attendance as substitute for Councillor Walklett.
- 2. DECLARATIONS OF INTEREST**
There were no declarations of interest.
- 3. PUBLIC QUESTIONS**
There were no public questions.
- 4. MINUTES OF MEETING HELD ON**
The minutes of the Licensing Committee meeting held on 4 July 2014 were approved and signed as a correct record.
- 5. MINUTES OF SUB COMMITTEE MEETINGS**
The minutes of the Licensing Sub Committee meeting held on 2 July 2014 were approved and signed as a correct record. As the Licensing Sub Committee minutes of 23 July had been circulated subsequent to the publication of the agenda and members had not had time to consider them it was agreed to postpone their approval until the September meeting of Licensing Committee.
- 6. RENEWAL OF PRIVATE HIRE DRIVER'S LICENCE**
The Licensing Officer introduced the report which had been circulated to Members. He advised that an application had been received from Mr Akekur Rahman for a renewal of his Private Hire driver's licence. Mr Rahman had a number of convictions and two new endorsements which meant that he now had 9 points on his DVLA driver's licence. When interviewed by officers on 8 July 2014 he was asked why he had not informed the authority of any points he had received for the offences. Members were asked to consider whether Mr Akekur Babu Rahman was a fit and proper person to hold a private hire driver's licence.

In response to a point of clarification the Licensing Officer explained that Mr Akekur Babu Rahman had 3 points on his licence in addition to those listed on the background papers. These points related to offences in 2011 which the Committee dealt with in 2012. The Licensing Officer undertook to include all

previous offences and points on the licence on the background papers in the future.

In response to other questions the following responses were given:

- With reference to the Committee's requirement from its hearing in June 2012 Mr Akekur Babu Rahman had successfully completed the road safety unit driver assessment
- It was noted that the information regarding the date of the offences within the report differed from the details of offences on the background papers. The details within the report were direct notes from the interview held with Mr Rahman
- Details of exact speeds driven over the speed limit were not available to officers. A Committee Member pointed out that if the speed was very excessive this would be reflected in the sentence
- The points Mr Rahman had received for the earliest offence shown on his licence in November 2011 will cease to have effect in a few months' time.

When invited to address the Committee Mr Rahman explained that the first offence, SP30-exceeding statutory speed limit on a public road came as a complete surprise to him and he could not remember any details. In terms of the second offence, SP50-exceeding speed limit on a motorway he explained that due to roadworks, there were speed restrictions in operation. He had attempted to slow down when approaching the speed restriction but was still over the limit.

In response to questions from Members Mr Rahman said the following :

- He was not carrying any passengers at the time of the motorway offence as he had just dropped off customers in Stroud and was returning to Cheltenham. Mr Rahman imagined that he had been travelling at about 70 mph.
- He was very surprised to receive a letter with regard to exceeding the speed limit on a public road and apologised that this offence had occurred. He was not sure of the exact time this had happened but thought it was likely to have been in the afternoon.
- Mr Rahman had no recollection of receiving any details of the public road offence in terms of the date, time and speed of the offence but acknowledged that he should have known more. He said that this offence was a long time ago and he was a bit disorganised. All he could do was apologise.
- Taxi driving was not Mr Rahman's sole income. He also had a part-time position in the mornings.
- Mr Rahman regretted what had happened and would ensure that this would not happen again.

Members discussed the issue. Some believed a decision should be deferred, possibly for two months, until they had received all the relevant evidence about the public highway offence in front of them. This would enable them to assess the case properly. Others believed they should focus on the information presented to them. Officers confirmed that granting a licence for two months was not a possibility; it would have to be a 12 month licence. Members were concerned that Mr Rahman had been asked on a number of occasions to

provide an explanation as to the details behind the two offences but had no recollection at all of one offence and was weak on his recollection of the other and that this was not the first time he had forgotten to inform the authority of points on his licence and had already been asked once before to complete the road safety unit driver assessment.

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

1. The application be granted with no further action taken as the committee considers Mr Rahman to be a fit and proper person to hold a private driver's licence, or
2. The application be refused as the committee considers Mr Rahman to no longer be a fit and proper person to hold a private hire driver's licence

Upon a vote it was

Resolved that the application be refused as the Committee considers Mr Rahman to no longer be a fit and proper person to hold a private hire driver's licence

Voting : Unanimous

7. BRIEFING NOTE

The Licensing Officer introduced the Briefing Note. He advised that this concerned the following forthcoming changes in law:

1. Law Commission Report and Draft Taxi and Private Hire Services Bill and recommendations - this was not expected to be introduced for at least 18-24 months
2. Government Deregulation Bill - this was currently making its way through the Parliamentary process
3. Changes to mandatory licensing conditions on the Sale/Supply of alcohol - these will come into force in October 2014
4. The deregulation of certain forms of entertainment under a Legislative Reform Order, due to come into force in April 2015.

Members discussed the briefing note. The following comments were made with regard to the Law Commission Report and Draft Taxi and Private Hire Services Bill:

- Rickshaws would be covered under Recommendation 26 or Recommendation 21 although there was no mention of design safety which was the main concern of Cabinet.
- The briefing was purely for information at this stage, there was no formal consultation
- There was an apparent contradiction in the wording in Recommendation 37 and Recommendation 46 although officers explained that there is a difference between licensing authorities having the ability to set *conditions* and having the ability to set *standards*,

- The issue of flagging down a taxi was discussed. A member of the public may flag down a hackney carriage but not a private hire vehicle. It is recommended (Recommendation 12) that licensing authorities be given the power to determine that taxis hailed in such a way be under a duty to stop and that it would be an offence to fail to stop in such circumstances. There is also a recommendation (Recommendation 11) that councils could set their own distance limit for that rule to apply
- There are differences with regard to the way vehicles can be hired- if a hackney carriage refuses to take a passenger without a reasonable cause this is an offence; a private hire vehicle must always be pre-booked and is not compelled in the same way.
- The Licensing Officer undertook to further examine some sections of the full Law Commission Report and email members clarification of Recommendations 17 (operator licensing and dispatch functions) and 72 (a new offence in relation to touting).

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

9. REVIEW OF LICENSING PROTOCOL

Vikki Fennell, One Legal referred to the report which had been circulated and which sought the agreement of the Committee to the methodology and timescale for the review of the “Probity in Licensing” Protocol which was adopted by the Council in October 2006. She explained that the Standards Committee had agreed the terms of reference at their meeting on 11 July as follows:

To review “Probity in Licensing” and prepare a revised version for consideration by the Standards Committee. The review would include consideration of any recent best practice and guidance from the Home Office and other relevant professional and public bodies. The review would include consultation, as appropriate, with Members and Officers.

The Standards Committee had nominated Councillors Fisher, Regan and Mr Martin Jauch. Three members were now sought from the Licensing committee.

Councillors Chard, Seacome and Whyborn indicated their willingness to participate in this group.

Resolved

To establish a task and finish working group of members (Councillors Chard, Seacome and Whyborn from Licensing Committee) and officers to review “Probity in Licensing”, the composition and terms of reference of the working group being set out at paragraph 2.3 of the report.

**10. DATE OF NEXT MEETING
FRIDAY 5TH SEPTEMBER AT 2:00 P.M.**

Roger Whyborn
Chairman

Licensing Sub-Committee

**Wednesday, 23rd July, 2014
10.00 - 11.20 am**

Attendees	
Councillors:	Pat Thornton (Reserve), Roger Whyborn and John Payne
Officers:	Vikki Fennell and Phil Cooper
Also in attendance:	Paul Godfrey and John Murphy (Cheltenham Football Club), Gerald Ford and Councillor Bernard Fisher (on behalf of the objectors)

Minutes

1. ELECTION OF CHAIRMAN

Councillor Whyborn was duly elected as Chairman.

2. APOLOGIES

Mr Kevin Boote, objector, had given his apologies.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. DETERMINATION OF AN APPLICATION FOR A PREMISES LICENCE

Phil Cooper, Licensing Officer, introduced the report as circulated with the agenda. An application had been received for a premises licence at Cheltenham Town Training Ground, Quat Goose Lane, Cheltenham, Gloucestershire, GL51 9RX.

The application sought authorisation for the following licensable activities from 9am to 11pm every day:

- The sale/supply of alcohol for consumption on the premises
- The performance of live music indoors only
- The playing of recorded music indoors only

The Licensing Officer referred Members to page 2 of the report which listed the applicants' steps to promote the licensing objectives;

- Alcohol consumption and entertainment would be restricted to organised events for employees and relatives, or those held in the function room.
- Event organisers and staff would be required to ensure that people leave the premises quietly and do not congregate unnecessarily.
- Adoption of the Challenge 25 scheme (or equivalent).

The Licensing Officer confirmed that none of the eight responsible authorities had objected to the application. Representations had been received from 18 people, 5 of which were withdrawn subsequent to the applicants having made changes to their original application. The end-time for licensable activities was revised, from 01:00 hours to 23:00 hours, music (live or recorded) would be

played indoors only and late night refreshment no longer formed part of the application. The 13 remaining representations were summarised at Paragraph 4.1 of the report and attached at Appendix D.

Before inviting representatives of the applicants to address the committee, the Chairman confirmed that members of the Sub Committee had been in receipt of the papers some days before the meeting and had undertaken a site visit to view the premises.

The applicants were represented at the Sub Committee by company directors Paul Godfrey and John Murphy, who spoke in support of the application.

John Murphy advised the Sub Committee that the premises at Quat Goose Lane had been rented by Cheltenham Football Club last year. The high rental costs had necessitated sharing of the premises with three others and the application aimed to further maximise income and alleviate financial pressure. He explained that the primary reason for the application in its original form was that it matched the licence granted to Zurich in the past. Unlike Zurich, however, which was holding approximately 80 events a year, the applicants estimated that they would hold approximately 3 events per month, with only 7 provisional bookings for the ensuing 12 months. He hastened to add that event organisers would be referred to the Whaddon Road facility in the first instance, which was better equipped to host events. He reiterated some of the measures that would be taken to avoid alienating neighbours; one full time cleaner with responsibility for maintaining the exterior of the facility, a security professional on standby for each event, professional bar staff from the Whaddon Road site, closure of the left-hand car park and removal of the skips. He also noted that no advertising would be undertaken, but instead there would be a reliance on word of mouth, resident liaison meetings could be arranged on a regular or ad-hoc basis and residents could be provided with a list of upcoming events if they so wished.

Paul Godfrey reassured members and residents that Cheltenham Football Club was a community club and did not want to create conflict. In fact, living close to the site himself, he had been central in arranging access to the car park for parents of children at the School during drop off/pick up times. He highlighted that the events market in Cheltenham was very competitive and the application did not constitute an attempt to compete for business with large hotels or venues including the racecourse. He felt it was far more likely that the premises would be used for internal presentations, corporate events, children's parties, etc, with the income being used towards upkeep of the site. There had been queries regarding Temporary Events Notices (TENs) and why the club could not simply use TENs to hold events, but these were limited to 12 per year, required 10 days notice and as such, did not offer the flexibility of a licence.

John Murphy gave the following responses to member questions;

- The financial burden of the rental costs had been eased by sharing the site with three others. The site was already used so extensively that the applicants did not envisage raising more than £5k per year, which would be considered a nice addition to the budget.
- The three others sharing the site were a masseuse, a gym and an engineering architect, all of whom sub let from Zurich and for whom events did not form part of their rental agreement.

- The bar staff would come from the Whaddon Road facility where they were employed full time. No additional full time staff would be employed at the Quat Goose Lane site.

Once members had concluded their questioning of the applicants, the Chairman invited representatives of the objectors to address the committee.

Councillor Bernie Fisher spoke as the relevant Ward Member. The principle concern of residents was the resulting noise of those leaving the premises late at night. He asked that taxi's be encouraged to drop off and pick up from the site itself rather than on the corner of Quat Goose Lane.

Gerald Ford addressed the committee on behalf of this daughter and other residents of Sumner Court, who had objected to the application. Given the proximity of Sumner Court to the left-hand car park, residents overarching concerns was that noise would be an issue, especially given the number of residents with children under the age of seven. Whilst the site was being well run by the club, the application seemed to indicate an apparent change of use from sports to events. He asked that members consider making the following conditions of the licence; security guard, only using the right-hand car park, the use of a noise limiter, contact numbers for neighbours and perhaps a review of the licence in 12 months time. These were sincerely held concerns of the residents and it was hoped that the sub committee would give them due consideration.

In response to a question from a member of the sub committee, Gerald Ford accepted that concerns about noise were based on past experiences with those that previously occupied the site.

Members of the Sub Committee did not dispute that residents had genuine concerns about noise resulting from any late night events and the Solicitor reassured members that should the application be granted, objectors would have 21 days right of appeal to the Magistrates Court and should their fears come to fruition they could request a review of the licence at any time.

The applicants gave the following responses to questions from members;

- It would be surprising for a taxi not to enter the site to drop off/pick up given that there was a turning circle.
- Events would be a small operation with no full time staff, with income being used to maintain the facility.
- Each event raised approximately £150. After having paid bar staff and the security professional, events would no longer be financially viable if a car park attendant also had to be employed. The left-hand car park would be blocked with bollards and signs would be displayed.
- Clear up of an evening event would take place the following day. Bottles would be put behind the bar at the end of an evening and then taken to the Whaddon Road facility the following day, ready for collection by Carlsberg. There was no provision for Carlsberg to visit the Quat Goose Lane site.
- A security guard would be tasked with preventing people from congregating and consuming alcohol in the car park.

Following a query raised by the Chairman, Gerald Ford confirmed that the site had been built some 35 years ago, with the addition of Sumner Court, 7 years ago.

In summing up, John Murphy said the facility had been designed as a sport and social club and it would therefore be remiss of them not to use it as such and benefit from any associated income. He assured members and residents that minimising disruption was of the utmost importance to the applicants.

The Sub Committee adjourned to deliberate their decision at 10:48am.

The Sub Committee reconvened at 11:20am and the Chairman read the following statement;

In respect of the application from Cheltenham Town Association Football Club Limited of the Football Club's training and function facility at Quat Goose Lane, Cheltenham;

The sub committee has read the material presented to it and has listened to all of the evidence and submissions. The sub committee in coming to its decision has also considered the four licensing objectives, the national guidance and the council's statement of policy.

The decision of the sub committee is as follows:-

The application for determination of a premises licence be granted.

There will be the following conditions added to the licence:-

1. All of the steps outlined in 2.3 on page 2 of the report will be incorporated in to conditions of the licence; this included implementing a challenge 25 scheme.
2. There will be no alcohol consumption to take place in the car park.
3. There will be a security guard present at each event.
4. All members of the public to vacate the premises by midnight.

The sub committee recommends the following:-

1. There be a residents liaison meeting when required. The applicant to provide contact numbers/email addresses to residents.
2. The applicant to take steps to ensure that taxi's use the car park not the road.
3. The applicant to take steps to encourage the use of the right hand side car park and not the left.

The sub committee has placed these conditions on the licence for the purpose of promoting all four of the licensing objectives and the potential noise disturbance on local residents.

In all other respects the sub committee has found that the licensing objectives are satisfied and the conditions imposed on the licence will ensure that the licence meets those objectives.

The interested parties are reminded that should the applicant fail to meet the licensing objectives, that they can report matters to the licensing authority and the applicant and that licence can be subject to a review.

He explained that no conditions had been set in relation to the car park as members of the Sub Committee were concerned that on occasions when the right-hand car park was full, people would instead use the road, which members considered to be a worse scenario than use of the left-hand car park.

Members considered it acceptable for Councillor Fisher to assist in the arrangement of any resident liaison meetings.

Upon a vote it was unanimously;

RESOLVED that the application is granted as requested, with the relevant conditions.

Chairman
Councillor Whyborn

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Licensing Sub-Committee

**Wednesday, 6th August, 2014
2.00 - 2.40 pm**

Attendees	
Councillors:	Roger Whyborn (Chair), Andrew Chard and Anne Regan
Officers:	Phil Cooper and Vikki Fennell
Also in attendance:	Adam West, objector

Minutes

1. ELECTION OF CHAIRMAN

Councillor Whyborn was duly elected as chairman.

2. APOLOGIES

Sarah Muukua, applicant, had given her apologies.

In the absence of the applicant, the Chair asked the committee if they wished to adjourn the meeting. Members were happy to continue with the meeting on the basis that they were satisfied that they had everything they needed on which to make an informed decision.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. DETERMINATION OF AN APPLICATION FOR A PREMISES LICENCE

Phil Cooper, Licensing Officer, introduced the report as circulated with the agenda. An application had been received for a premises licence at Mamma's Kitchen, 10 Bennington Street, Cheltenham, Gloucestershire, GL50 4ED.

The application sought authorisation for the following licensable activities:

- The sale/supply of alcohol for consumption on the premises 8am to 11pm Sun – Weds and 8am to midnight Thurs – Sat
- The performance of live music indoors only 8am to 11pm Sun – Weds and 8am to midnight Thurs – Sat
- The performance of recorded music indoors only 8am to 11pm Sun – Weds and 8am to midnight Thurs – Sat
- The provision of late night refreshment indoors and outdoors 11pm to 1am Thurs – Sat.

The Licensing Officer stated that the opening times of the premises were 8am to 11.30pm Sunday to Wednesday and 8am to 1am Thursday to Saturday.

The Licensing Officer referred members to the report which listed the applicants' steps to promote the licensing objectives:

- A CCTV system would be operational
- A 30 minute drinking up time would be provided
- Suitable notices would be posted inside and outside requesting patrons to leave the premises quietly and respect the neighbours
- The designated premises supervisor would monitor noise levels outside the premises of live and recorded entertainment
- That all windows and doors would be kept shut after 10pm to prevent noise from regulated entertainment
- An incident/complaints book would be made available to police and authorised council officers
- A Challenge 21 (or equivalent) scheme would be adopted.

The Licensing Officer confirmed that none of the eight responsible authorities had objected to the application and that Gloucestershire Police were satisfied with the steps taken by the applicant in the voluntary conditions put forward that they would promote the licensing objectives. One representation had been received from a resident Mr Adam West of 13 Bennington Street, on the grounds of prevention of public nuisance and crime and disorder and his letter of objection was attached at Appendix D.

The chair asked members if they had any questions or queries.

A member asked whether there would be adequate ventilation of the premises and whether air conditioning would be available if all windows and doors were closed after 10pm. The Licensing Officer stated that the applicant had volunteered the condition of closing the windows and doors after 10 pm if there was any regulated entertainment taking place at the premises and it would be a breach of their licence if they did not adhere to it. He added that it would be up to the applicant what facilities she put in place inside the premises.

Members raised queries about the provision of outdoor refreshment from 11pm to 1 am Thursday to Saturday and whether there was a specific outdoor area and if so for how many people and where it was located. A member asked whether there could be a health and safety risk to people using the outdoor seating area with delivery vehicles delivering to nearby major retailers. The Licensing Officer replied that there was no provision for an outdoor eating area on the plan submitted. In response to any vehicle delivery hazards, the Licensing Officer advised that there had been no objections from the responsible authorities and Gloucestershire Highways was not a responsible authority under the Licensing Act.

The Chair asked if Bennington Street was classed as a residential area, to which the Licensing Officer said this was up to the members to determine.

As the applicant was not present, the Chair asked the objector if he would like to expand on his reasons for objection.

Adam West, objector, made the following points. He was concerned:

- If the premises were open until 1am Thursday to Saturday that there would not be a 30 minute drinking up time and he felt the late opening would lead to vandalism, urinating and more rubbish.
- That the outside space would create pollution from cigarette smoke and again lead to more litter both in his property and in the street.
- That the noise levels, especially on Thursday to Saturdays, on a regular basis, would lead to sleep deprivation for him and his partner who had to get up early for work. This was his main concern.

In reply to further questions by members of the committee, the Licensing Officer informed members that the application was for a restaurant and bar, as stated on page 14 of the application, indicating that alcohol could be sold on its own as well as with meals. He was not aware of the number of people allowed in the premises but this could not form part of any licensing condition. He advised that the Fire and Rescue Service had been consulted and no objection had been received.

A member asked the objector directly, whether at present anyone ate or drank outside, to which he replied that to his knowledge there was no defined outside area.

The sub committee adjourned to deliberate their decision at 2.20pm.

The sub committee reconvened at 2.35pm and the Chairman read the following statement:

In respect of the application from Mamma's Kitchen, 10 Bennington Street, Cheltenham, Gloucestershire, GL50 4ED;

The sub committee has read the material presented to it and has listened to all of the evidence and submissions. The sub committee in coming to its decision has also considered the four licensing objectives, the national guidance and the council's statement of policy.

The decision of the sub committee is as follows:-

The application for determination of a premises licence be granted.

There will be the following conditions added to the licence:-

1. All of the steps outlined in 2.3 on page 2 of the report will be incorporated in to conditions of the licence; this included implementing a challenge 21 scheme, CCTV and a 30 minute drinking up time.
2. There be no outside consumption of food / drink / alcohol / late night refreshment at any time

The sub committee has placed these conditions on the licence for the purpose of promoting all four of the licensing objectives and the potential noise disturbance on local residents.

The sub committee recommends the following:-

1. That there be suitable ventilation and/or cooling system inside the property to cover instances when all doors and windows need to be closed after 22.00.

In all other respects the sub committee has found that the licensing objectives are satisfied and the conditions imposed on the licence will ensure that the licence meets those objectives.

The interested party is reminded that should the applicant fail to meet the licensing objectives, that they can report matters to the licensing authority and the applicant and that licence can be subject to a review.

The chair pointed out that the applicant had volunteered that the windows and doors would be closed after 22.00 hours whenever any regulated entertainment occurred, but highlighted that this would become a condition of the licence which would then be enforceable.

Upon a vote it was unanimously;

RESOLVED that the application is granted as requested, with the relevant conditions.

Roger Whyborn
Chairman

Cheltenham Borough Council

Licensing Committee – 5 September 2014

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

Mrs Marie Fullwood

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

- 1.1 An application has been received from Mrs Marie Fullwood, for a street trading consent. Mrs Fullwood is proposing to sell specialist coffees, chilled drinks, cakes and biscuits from a mobile unit measuring 2.5m x 2.1m (8ft x 6.8ft) on the High Street (facing East) adjacent to French Connection and Burger King.
- 1.2 Mrs Fullwood has applied to trade Monday to Saturday 08:00 to 18:00 and Sunday 09:00 to 18:00. She has also applied for extended hours (08:00 to 21:00) during late night shopping over Christmas.
- 1.3 An image of the mobile unit is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.4 **The Committee is recommended to resolve that:**
 - 1.4.1 **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; or**
 - 1.4.2 **The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable.**

1.5 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

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

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

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

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

2. Background

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

3. Policy Principles, Aims & Objectives

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

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

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

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

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

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

3.3 Conservation Areas

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

3.4 Town Centre & Conservation Area

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

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

4. Probity in Licensing

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.

4.4 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.

4.5 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.

4.6 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.

4.7 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.

5. Objections

Objections have been received from:

Howard Barber (Public Realm Designer) - This application is in direct competition with several businesses nearby but does not add any value for the visitor to the town.

This section of the High Street, despite its large width, is extremely congested at busy times and has no space for new obstructions.

Martin Quantock (Manager, Cheltenham Business Partnership) - I would like to register my strong objection to this application for the following reasons:

- The site is directly outside a retail premise selling exactly the same beverages and in close proximity to other retailers selling the same beverages and food stuff (Burger King, M&S, several units in the Regent Arcade, etc)
- The High Street improvement works will include 'pull-ins' for delivery vehicles to come off the route on which they drive to allow them to deliver and to let other vehicles through whilst they are doing so - this unit may be on the site of one of the 'pull-ins'.
- Although this is subjective, it is my opinion that the unit proposed by the applicant is possibly the most unattractive unit that has been submitted to trade in the town centre - it would be more suited in a field at a fairground, rather than at a leading regional shopping destination.
- We already have up to four generators at any one time running in the High Street used by street traders that have been licensed to trade there - an additional one is surely beyond the tipping point and will start turning the public away from the area through the noise, fumes and irritation caused by the generators.
- The High Street is presently very cluttered with all the licensed traders, charity workers and peddlars that have started to make a reappearance - this substantially sized unit would only add to the problem of clutter.
- The size of the unit would block the site lines of the shops adjacent to it from the other side of the street.
- The goods that are proposed to be sold from the unit are non-seasonal and can be obtained at many of the established retailers in close proximity.
- Much work and investment is carried out in attempting to make the Cheltenham town centre an attractive shopping destination and a place attractive for businesses to invest in - units such as this undermine these efforts and are actually detrimental to the town.

I do hope, for the sake of the success of the Cheltenham town centre, that this application is refused by the Licensing Committee.

Martin Levick (Senior Enforcement & Compliance Officer) - Not conducive to character and appearance of the Strand.

Mr William Danter - I think this application is unacceptable, being so close to our Roundabout. There is quite a bit of Street furniture in this area. The Roundabout used to use the proposed position before the benches were placed there. Another thing to take into account, is that the shops place their bins in this area a few times a week to be collected It would just jam the area up!

If passed, this unit would block the site lines to the our Roundabout & some shops. I do not see what benefit this application would bring to the High Street.

6. Officer Comments

- 6.1 The Council's current policy in relation to street trading in the town centre states that the Council will permit a "...modest amount of street trading ... of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape."
- 6.2 In accordance with the above policy position, Members must be satisfied that the proposed street trading is such that "it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape".

- 6.3 Furthermore, the relevant legislation given the Council a very wide discretion to grant, or refuse, a street trading consent. Schedule 4 paragraph 7(2) of the Local Government (Miscellaneous Provisions) Act 1982 states “...*the council may grant a consent if they think fit.*” The wide discretion allows the council to take into account any matters considered relevant which could include the suitability of the proposed trading position or type of street trading. [Emphasis added].
- 6.4 The policy states that the Council will permit a “modest amount of street trading” in the town centre and other conservation areas. Members will note from the comments made by a number of objectors that there is concern over the overprovision of street traders in that area and that the type of trading is out of character for the location. Licensing officers share the same concern. The map at **appendix C** illustrates the current street trading consent in place in the vicinity of this application.
- 6.5 Members must also have regards to the adopted Probity in Licensing guide.
- 6.6 Mrs Fullwood has been invited to attend the hearing.

Background Papers

Service Records

Report Author

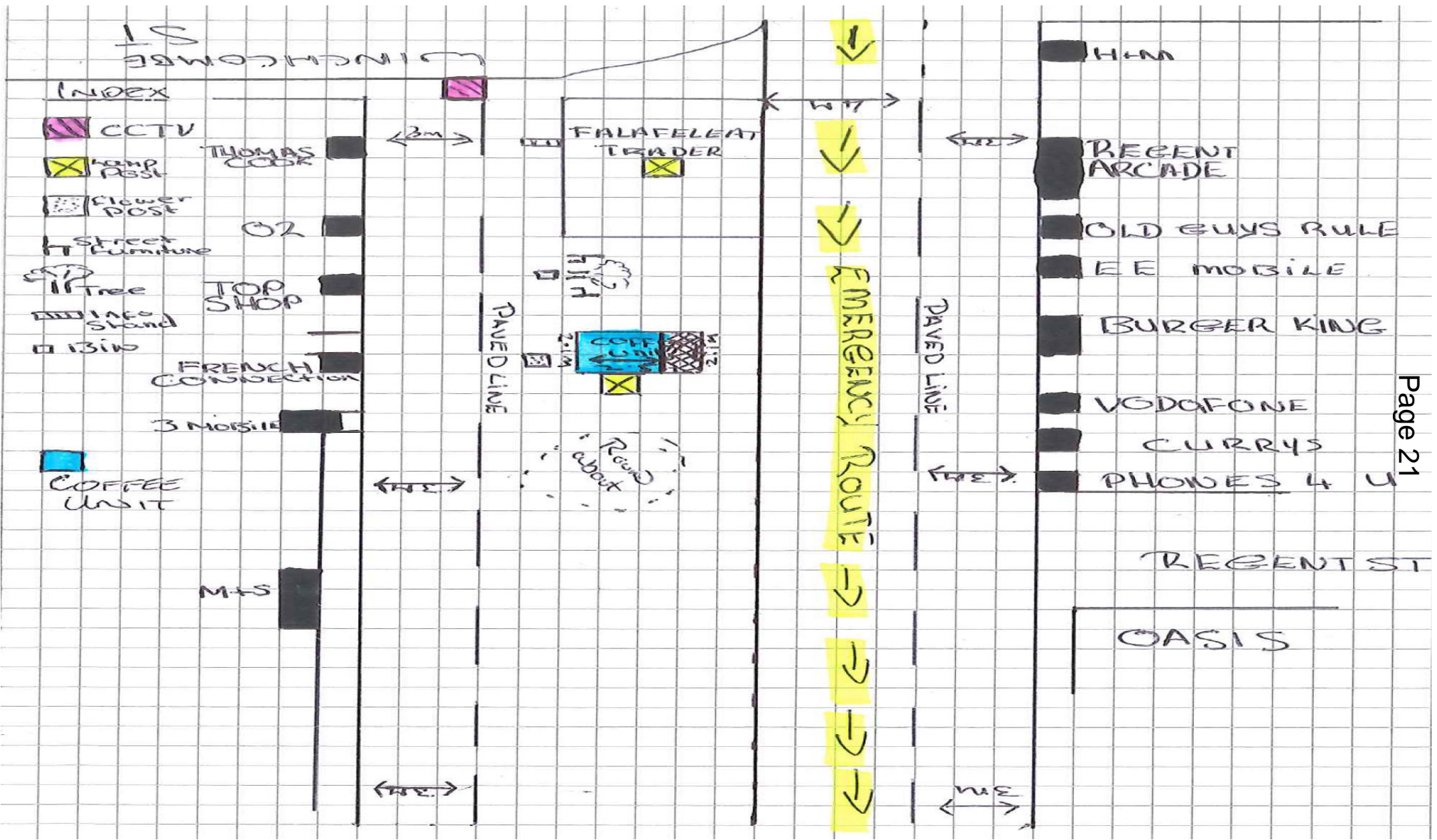
Contact officer: Mr Louis Krog

E-mail: licensing@cheltenham.gov.uk

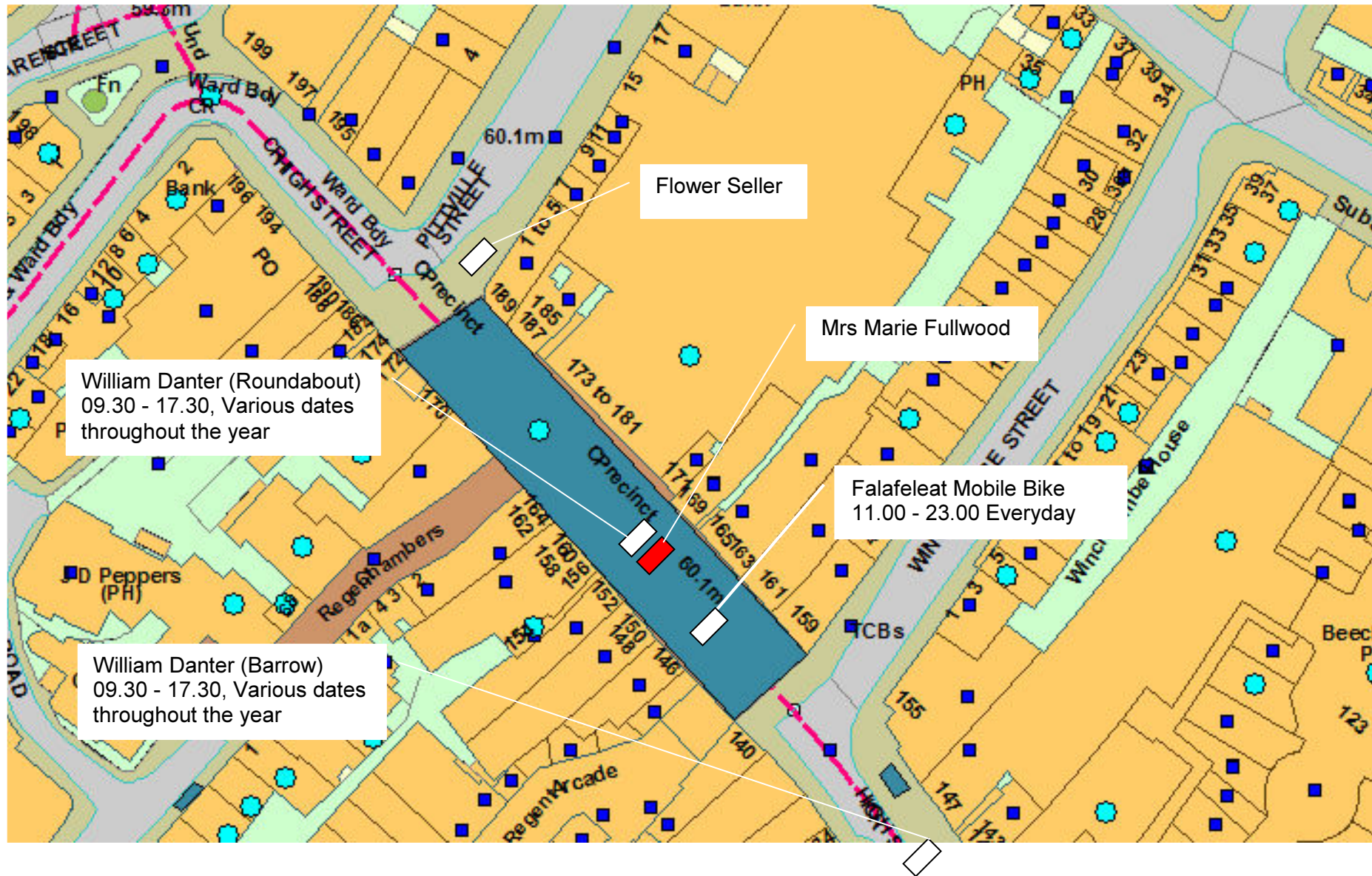
Tel no: 01242775200



Appendix B



Appendix C



Cheltenham Borough Council

Licensing Committee – 5 September 2014

Application for a Hackney Carriage Vehicle Licence

Mr Aditya Rai

Report of Licensing & Business Support Team Leader

1. Summary and Recommendation

- 1.1 An application for a Hackney Carriage vehicle licence was submitted by Mr Aditya Rai on the 14 August 2014.
- 1.2 The application is to license a Peugeot E7 with registration SC57 UJF.
- 1.3 Mr Rai failed to renew his vehicle licence on time and he has now made a new application to licence the vehicle. The vehicle is older than the maximum permitted age limit of 5 years from date of manufacture and as a consequence the application is being referred to the Licensing Committee to determine.

1.4 The Committee is recommended to resolve that:

- 1.4.1 The application be granted because the Committee considers there to be sufficient grounds to deviate from the adopted policy; or**
- 1.4.2 The application be refused because the vehicle does not comply with the Council's adopted 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 The Council has an agreed and adopted a policy that details the standards that are required in respect of new and existing Hackney Carriage Vehicles. The Council can depart from its own policy where there are reasonable grounds to do so.

Contact officer: Vikki Fennell
E-mail: vikki.fennell@tewkesbury.gov.uk
Tel no: 01684 27 2015

2. Background

- 2.1 Mr Rai's vehicle has previously been licenced (HCV207). The licence expired on 8 August 2014 and Mr Rai failed to submit his renewal application before the expiry date.

- 2.2 In law, the Council has very limited discretion to agree to the renewal of a licence that has already expired. Direction in this matter was given in the case of *Exeter City Council v Sandle* [2011] EWHC 1403 (Admin) where the High Court stated, in essence, that local authorities could renew an expired licence but only where there were exceptional circumstances applicable and where there has not been a significant amount of time that has elapsed since the expiry of the licence.
- 2.3 In Mr Rai's case, the Licensing & Business Support Team Leader, having considered the facts, decided not to renew his expired licence. Mr Rai was notified of the decision in writing and the reasons for the decision. A copy of the aforementioned is attached at **Appendix A** for the Committee's information.

3. Policy Considerations

- 3.1 The Council's adopted Licensing Policy, Guidance and Conditions for Private Hire and Taxis Operating within the Borough of Cheltenham was adopted on the 3rd of September 2010 and came into effect on the 1st of December 2010. Sections of that policy were amended and the amendments were adopted on the 13th May 2011.
- 3.2 The aim of the licensing process, in the context of the policy, is to regulate the Hackney Carriage and Private Hire trade in order to promote the below objectives.
- 3.3 In setting out its policy, the Council seeks to promote the following objectives:-
- a) The protection of the public;
 - b) The establishment of a professional and respected Hackney Carriage and Private Hire trade;
 - c) Access to an efficient and effective public transport service;
 - d) The protection of the environment.
- 3.4 The Policy will apply in respect of applications, renewals, reviews and transfers in relation to the following licences:-
- a) Private Hire vehicle;
 - b) Private Hire driver;
 - c) Private Hire operator;
 - d) Hackney Carriage driver; and
 - e) Hackney Carriage proprietor.

Vehicles

3.5 Vehicle standards for all new licences issued for Private Hire Vehicles

- a) *Maximum age limit of 5 years old at date of manufacture;*
- b) Minimum interior dimensions to ensure ease and comfort of passengers.

4. Licensing Comments

- 4.1 This application must be determined on its merits as a new licence application regardless of the fact that the vehicle was licenced previously.
- 4.2 Members are to note that the vehicle has passed all the relevant assessments and is a disabled access vehicle.
- 4.3 Mr Aditya Rai 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 Although the Committee can deviate from its own adopted policy, it should only do so where there are strong and defensible reasons for doing so

Background Papers

Service Records

Contact Officer

Louis Krog
01242 775004
licensing@cheltenham.gov.uk

Appendix A (Email sent Friday 08/08/2014)

Mr Rai,

Thank you for your email.

I have reviewed your case and the circumstances relating to your failure to renew your licence in time.

For the avoidance of doubt, the Council has discretion to renew an expired licence but only in cases where 1) there are extraordinary circumstances and 2) where a short time has elapsed since the expiry of the licence.

In your case, I have taken into account the following in coming to a decision:

1. The time that has elapsed between the expiry of the licence and the request to renew.
2. The explanation you provided in your email dated 08/08/2014.
3. The fact that each request is reviewed on its individual merits.
4. The fact that you were reminded in writing to renew your licence in a letter dated 26/06/2014 and in particular the fact that the said letter stated "If you do not renew your licence by the expiry date we cannot renew it and you will have to make an application for the grant of a new licence. Any new application will be dealt with according to this Authority's Licensing policy".

I acknowledge that you claim to not have received the renewal documents but notwithstanding this, it remains entirely your responsibility to renew your licence on time.

5. The fact that you did not take any action to notify the council of the fact that you may not be able to renew your licence in time.

You claim that Cathy Barnfield advised you that you cannot renew your licence until the vehicle has passed the MOT and on that advice you took no action with regards to the renewal of your licence.

Officers have sought clarification from the testing station and they deny the allegation. On this basis it is not clear to me what actually transpired at the depot in terms of the advice, if in fact any, that was given to you, and I therefore added limited weight to this.

6. The fact that officers from Cheltenham Borough Council have been attempting to contact you during the course of this week to discuss the renewal of your licence but the last number you supplied the Council with was unobtainable.
7. You claim the delay in renewing your licence was as a result of a MOT failure. However, I understand from the Council's testing station that you presented your vehicle twice this week (Monday and Thursday) with the fault to the vehicle not having been rectified. You may have been able to renew your licence on time had you properly done the work to your vehicle.

Given the above, I have concluded that the circumstances were not extraordinary and as a result I am unable to renew the expired licence on this occasion.

I do not consider the circumstances to be extraordinary primarily because you had sufficient opportunity to contact the council prior to the expiry of the licence to advise us of the difficulties you were experiencing with the vehicle and to make arrangements to ensure the licence did not expire.

For your information, you are able to apply to re-licence the vehicle at any time. It will be treated as a new application and determined on individual merits as such. Due to the fact that the vehicle is older

than the permitted 5 years from the date of manufacture, any new application will be referred to the council's licensing committee for determination because the application will be contrary to the current adopted policy.

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Licensing Committee – 5 September 2014

Review of a Hackney Carriage Driver's Licence

Mr Lance Stuart Hepworth - HCD263

Report of the Licensing & Business Support Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr Lance Stuart Hepworth holds Hackney Carriage driver's licence HCD263 which is due for renewal on 19 January 2015.
- 1.2 On the 15th of September 2013 Katie Clutterbuck was knocked over on the Bath Road by a Cheltenham licensed Hackney Carriage and subsequently passed away as a result of the accident. Mr Hepworth was charged on 22 November 2013 with causing her death by careless/inconsiderate driving.
- 1.3 On the 11th of August 2014, Mr Hepworth pleaded guilty to causing death by careless/inconsiderate driving and is currently awaiting sentencing.
- 1.4 In light of the above, Mr Hepworth's Hackney Carriage driver's licence was suspended, with immediate effect, on the 14th of August 2014 under delegated authority.
- 1.5 Part 3(C) of the Council's constitution delegates authority to the Licensing Committee to revoke a driver's licence if a relevant representation is made to the Council. As a result, the decision to suspend Mr Hepworth's licence is being referred to the Committee to decide whether it should be revoked or no further action taken.
- 1.6 **The Committee is recommended to resolve that;**
 - 1.7.1 **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; or**
 - 1.7.2 **Mr Hepworth's Hackney Carriage driver's licence be revoked as the Committee considers him to no longer 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.**
 - 1.7.3 **Subject to the resolutions above, the Committee must also determine whether Mr Hepworth's Hackney Carriage driver's licence should be revoked with immediate effect in the interests of public safety in accordance with section 2B of the Local Government (Miscellaneous Provisions) Act 1976.**

1.8 Implications

- 1.8.1 Financial **Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125**

1.8.2 Legal

There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates' Court.

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

2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).
- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

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

3. Licensing Comments

- 3.1 Members are to refer to the enclosed papers, details of the charge and the explanation given by Mr Hepworth.
- 3.2 The Committee must seek to promote its own adopted policy bearing in mind particularly that the Council's overriding consideration is the safety of the public.
- 3.3 Mr Lance Stuart Hepworth 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.
- 3.4 The Committee must be satisfied that Mr Lance Stuart Hepworth is a fit and proper person.

Background Papers

Service Records

Report Author

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775004

Cheltenham Borough Council

Licensing Committee – 5 September 2014

Sexual Entertainment Venues in Cheltenham

Report of the Licensing & Business Support Team Leader

1. Executive Summary

- 1.1 Cheltenham Borough Council is consulting on whether it should limit the number of Sexual Entertainment Venues (“SEV”) it will license in the borough.
- 1.2 Under the council’s constitutional arrangements, the Licensing Committee acts as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of the licensing policy.
- 1.3 In this capacity, the Committee should consider the relevant facts and put forward a view for consideration by Cabinet.

2. Recommendation

- 2.1 **The Committee is recommended to:**
 - 2.1.2 **Note the contents of this report; and**
 - 2.1.2 **Formulate a response for consideration by Cabinet.**

Implications

How does the Decision contribute to the Council’s Corporate Priorities?	Communities feel safe and are safe.
	Our residents enjoy a strong sense of community and involved in resolving local issues.

Financial

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

Legal

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

3. Statutory Context

- 3.1 Section 27 of the Police and Crime Act 2009 (“2009 Act”) amended schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“1982 Act”) to introduce a new type of sex establishment known as a sexual entertainment venue.
- 3.2 Any premises that want to offer “relevant entertainment” can only do so by obtaining a SEV licence.
- 3.3 Relevant entertainment is defined as any live performance or any live display of nudity which is of

such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 3.4 Under the 2009 Act, a premises can provide relevant entertainment on an infrequent basis without the need for a SEV licence. Infrequent relevant entertainment is defined as relevant entertainment offered for no longer than 24 hours on no more than 11 occasions a year. Any premises that want to offer relevant entertainment more frequently is required to apply for a SEV licence.
- 3.5 This report and the council's policy are concerned with the regulation of frequent sexual entertainment.
- 3.6 The relevant legislation does not require the council to adopt a policy in relation to SEVs but it is considered good practice because it sets out guidance to potential applicants, the public and Members in terms of how the Council intends to discharge its functions under the relevant legislation.

4. Policy – Current Position

- 4.1 The council's current policy statement was adopted on the 4th of February 2011.
- 4.2 The current policy does not set a limit on the number of SEVs the council will license in the borough. Instead, it deals with each application on a case to case basis. The rationale for this is that, up to recently, there have been no SEVs licensed in Cheltenham to warrant a limit.

Policy – Consultation

- 4.3 Following the recent grant of a SEV licence that attracted significant local opposition, the Council deemed it appropriate to undertake consultation on whether it would be appropriate to limit the number of licensed SEVs in the borough.
- 4.4 A public consultation has already been undertaken to gather the views of mainly the town's local residents. Attached at **appendix A** is a summary breakdown of the responses for the information of the committee.

Petition

- 4.5 Members must also be mindful of the petition that was submitted to the council calling for it to adopt a zero limit. The petitioner has requested that the petition be submitted as their, and the signatories', response to the consultation. The petition was debated in Council on the 21st of July 2014 where Members resolved to refer the matter to Cabinet for consideration.
- 4.6 The petitioner submitted a number of points to Council and it may be helpful for the Committee to consider these. A copy of the submission is attached for Members' information.
- 4.7 Whilst the points raised are generally relevant, officers urge caution in attaching too much weight to them. This is primarily because there is no evidence that the points raised are relevant locally but also there are a lot of external factors that have an influence on their prevalence elsewhere which may not be relevant to Cheltenham.
- 4.8 Against the background of the policy review and the points raised by the petitioner, officers have sought feedback from Gloucestershire Constabulary on the subject. Jaine Simner, Force Licensing Manager, said:

"I don't believe we or any other force have statistics that suggest that SEVs are responsible for or increase the likelihood of sexual offences. It is my opinion that SEVs if well run like any other licensed premises cause us very little problem and are not known for crime and disorder."

- 4.9 Reference the comments relating to Westminster's policy, Members are to note that it relates to the Licensing Act 2003. At the time, it was the primary legislation for regulating sexual entertainment. However, it was widely accepted that the Licensing Act was unable to properly regulate this form of entertainment and consequently in 2009 the Government enacted changes in law to regulate and control sexual entertainment under different legislation. The Licensing Act is no longer used to license sexual entertainment and as a consequence officers do not consider this point to be relevant.
- 4.10 Also relevant to the point above, it clearly relates to issues in London which is vastly different from Cheltenham.

Policy – Setting a Limit & Relevant Locality

- 4.11 The Council is empowered by schedule 3 paragraph 12(4) of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to set a limit on the number of licensed SEVs permitted in the relevant locality, with zero being an option.
- 4.12 It is important to note that the power to set a limit relates to the relevant locality and it is therefore necessary for the council to decide how it defines the relevant locality.
- 4.13 For information, relevant locality is defined in the current policy as the ward in which an application for a SEV licence has been made.
- 4.14 The Committee may recommend that continuing to define the relevant locality by ward is unsustainable and it should be redefined.
- 4.15 The relevant legislation does not define "relevant locality" apart from saying that it is the locality in which premises are based. It leaves it to local authorities to define because they have the appropriate local knowledge to properly define where it would be appropriate to licence SEVs.
- 4.16 The lack of a statutory definition and/or guidance implies that a relevant locality does not necessarily have to be a predefined area. Notwithstanding, any adopted "relevant locality" should be an area that is clearly defined so to avoid confusion.
- 4.17 Finally, the borough as a whole is too large to be defined as the relevant locality (R v Cheltenham Borough Council, ex parte Quietlynn Ltd (1985) 83 LGR 461).

5. Options

- 5.1 There are several policy options for the committee to consider.
- 5.1.1 **No change to the current policy** – The committee can form a view that the current policy is adequate and should remain unchanged.
- 5.1.2 **Change policy** – The committee can form a view that it would be appropriate to set a limit on the number of permitted SEVs in the borough. If the committee is minded to form a view that the policy should be changed, it must also consider:
- What the appropriate limit should be; and
 - Where a limit should apply (i.e. continue to define it by ward and set a limit for each ward or propose to redefine "relevant locality" and set the limit in accordance with this.)
- 5.2 The committee should also put forward comprehensive reasons for its conclusions.

6. Process

- 6.1 Members may wish to follow the following process in formulating a view.
 - 6.1.1 The Committee should have a discussion taking into account all the relevant information and facts.
 - 6.1.2 The Committee should then decide whether it will recommend to Cabinet 1) that the policy should remain unchanged or 2) that the policy should be changed.
 - 6.1.3 If the recommendation is the latter (i.e. the policy should be changed), the Committee should then decide whether they recommend that 1) “relevant locality” should continue to be defined by ward or 2) whether it should be redefined (bearing in mind that it cannot simply be the borough).
 - 6.1.4 If the Committee recommends that the “relevant locality” should continue to be defined by ward, it must make a recommendation on the limit for each ward taking into account the nature and character of each ward taking into account the points raised in paragraphs 4.11 – 4.17 above.
 - 6.1.5 If however, the Committee recommends to redefine “relevant locality”, it must decide how it should be redefined and, in accordance with the new definition, what the appropriate limit should be taking into account the points raised in paragraphs 4.11 – 4.17 above.
 - 6.1.6 Any recommendation put forward for consideration should be properly reasoned.

Background Papers

Service records.

Contact Officer

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

Summary: SEV Consultation Responses

Questionnaire Responses: 174¹

1. We asked which types of areas it would not be suitable to licence a SEV:

Type of area	% of people who <u>strongly agreed</u> that it would not be suitable to licence a SEV in these areas
The town centre	82.86%
A mixed use area (mixed residential/commercial)	84.06%
A busy late night economy area	80.29%
A residential area	86.33%
An industrial area	76.26%
A deprived area	83.45%
A conservation area	84.06%
It would not be acceptable to have a lap dancing club in any locality	82.86%

2. We asked which wards it would not be suitable to licence a SEV:

Ward	% of people who <u>strongly agreed</u> that it would not be suitable to licence a SEV in these wards
All Saints	89.40%
Battledown	89.66%
Benhall & Reddings	88.51%
Charlton Kings	89.73%
Charlton Park	88.89%
College	89.66%
Hesters Way	89.04%
Lansdown	90.34%
Leckhampton	90.41%
Oakley	88.97%
Park	90.28%
Pittville	90.48%
Prestbury	88.97%
Springbank	89.73%
St. Marks	88.97%
St. Pauls	87.84%
St. Peters	88.36%
Swindon Village	88.97%
Up Hatherley	88.67%
Warden Hill	89.80%

¹ Summary relates to only those people that have completed the questionnaire. It does not include the petition or people who made general comments that were too non-specific to include in the questionnaire summary. These are included as background papers.

3. We asked what, if any, the number of permitted SEVs should be for types of areas:

Type of area	0	1	2	3	4	5
The town centre	94.37%	4.23%	1.41%			
A mixed use area (mixed residential/commercial)	97.87%	1.42%	0.71%			
A busy late night economy area	95.04%	4.26%	0.71%			
A residential area	99.30%	0.70%	0.00%			
An industrial area	90.14%	7.75%	1.41%	0.70%		
A deprived area	98.58%	1.42%	0.00%			
A conservation area	99.30%	0.70%	0.00%			
It would not be acceptable to have a lap dancing club in any locality	94.37%	4.23%	1.41%			

4. We asked what, if any, the number of permitted SEVs should be for each ward:

Ward	0	1	2	3	4	5
All Saints	98.68%	0.66%				
Battledown	98.68%	0.66%		0.66%		
Benhall & Reddings	99.34%	0.66%				
Charlton Kings	99.34%	0.66%				
Charlton Park	98.68%	0.66%		0.66%		
College	99.34%	0.66%				
Hesters Way	99.34%	0.66%				
Lansdown	99.34%	0.66%				
Leckhampton	99.34%	0.66%				
Oakley	99.34%	0.66%				
Park	98.68%	0.66%		0.66%		
Pittville	99.34%	0.66%				
Prestbury	98.68%	1.32%				
Springbank	99.34%	0.66%				
St. Marks	99.34%	0.66%				
St. Pauls	98.68%	1.32%				
St. Peters	98.68%	1.32%				
Swindon Village	99.34%	0.66%				
Up Hatherley	99.34%	0.66%				
Warden Hill	99.33%	0.67%				

5. We asked whether the Council should limit the number of SEVs:

89.83% of respondents said yes.