



CHEL TENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 5 December 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 3 October 2014	(Pages 1 - 6)
5.	APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE Mr Giuseppe Maurizio Licata	(Pages 7 - 10)
6.	REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE Mr Mozir Choudhury – HCD404	(Pages 11 - 14)
7.	APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - A BOARD Mr Joseph Hall, 24 Rodney Road	(Pages 15 - 22)
8.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
9.	DATE OF NEXT MEETING 9 January 2015	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130
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Licensing Committee

Friday, 3rd October, 2014

2.00 - 3.00 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair, in the Chair), Andrew Chard, Garth Barnes, Adam Lillywhite, Anne Regan, Rob Reid and Jon Walklett
Also in attendance:	Vikki Fennell and Andy Fox

Minutes

1. APOLOGIES

Apologies were received from Councillors Roger Whyborn and Pat Thornton.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. PUBLIC QUESTIONS

There were no public questions.

4. MINUTES OF MEETING HELD ON 5 SEPTEMBER 2014

The minutes of the Licensing Committee held on 5 September 2014 were approved and signed as a true record.

5. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Kirit Jaientilal's Hackney Carriage driver's licence which was due for renewal on 28 February 2015. He informed Members that Mr Jaientilal was subject to a vehicle inspection on 5 September 2014 by Licensing Officers and officers from Gloucestershire Constabulary and that on inspection it was found that the vehicle had three tyres worn below the legal limit. The vehicle was immediately suspended by the Licensing Officer.

Appendix A showed photographs of the tyres and Appendix B was a copy of the inspection report.

Mr Jaientilal produced the vehicle for re-inspection at the Licensing Office the following morning and the Licensing Officer confirmed that the vehicle had three new tyres. The Licensing Officer informed Members that had the Police Traffic Officers been present at the vehicle inspection, Mr Jaientilal's vehicle would have been impounded and he would have received a heavy fine and penalty points.

In response to questions from Members, the Officer confirmed that:

- Ordinary local police could not impound a vehicle, it had to be Traffic Police, who were not present on this occasion.

- All three tyres were below the legal thread, although it was difficult to capture this in the pictures provided.
- The vehicle had been in this condition for at least 6 weeks although Mr Jaientilal had been on holiday for a good proportion of this time.
- A Hackney Carriage driver's licence did allow school runs. However Mr Jaientilal informed members that he did not operate any school runs.

Mr Jaientilal attended the meeting and spoke in support of his review. He informed Members that it was his first evening out after returning from holiday and his first time out for about a month as his father had been ill prior to his holiday. He said that he was concerned about one of the tyres in particular and that the tracking might not be right, but that he normally checked his tyres once a month with a gauge. He apologised to members sincerely about this situation saying it was his livelihood, he felt bad about it and that he never knowingly would drive like that. It was the first time it had happened.

Members asked some questions of Mr Jaientilal, who in reply stated that:

- He had been a taxi driver since 1995 formerly with Starline and had had a Hackney Carriage Licence for 5 years.
- He was the only driver of this car.
- He had purchased a new tyre gauge.
- The tracking was cutting from the inside so he was not fully aware of the state of the tyres.
- That he normally bought new tyres but with the tyres concerned two had been newly bought and one was a rethread.

Members were advised that they had the following recommendations to determine and following discussion it was agreed to ask Mr Jaientilal to attend a driver's awareness course.

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

Upon a vote it was (5 for, 2 against)

RESOLVED, that Mr Jaientilal's Hackney Carriage driver's licence be continued, because the Committee was satisfied that Mr Jaientilal was a fit and proper person to hold such a licence and that Mr Jaientilal attend the driver's awareness course.

6. REVIEW OF PRIVATE HIRE DRIVER'S LICENCE

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The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Rowshan Ghanbary's private hire driver's licence which was due for renewal on 15 March 2016. He informed Members that Mr Ghanbary had convictions on his DVLA driving licence.

The Officer advised that Mr Ghanbary reported in June his first set of points acquired in January and then in September reported another two sets of points, at which point his licence was copied and placed on file. Prior to this no complaints had been received about Mr Ghanbary's driving since the granting of his licence in March 2012. The Officer did bring Members' attention to the fact that one of the offences had been recorded by mistake as having taken place in 2004 instead of in 2014. The mistake was verified by DVLA.

Mr Ghanbary attended the meeting and spoke in support of his review. He informed Members that he had been in this country for 7 years and had had a driving licence for 5 years and these were the first offences which had all unfortunately occurred in a six month period. He continued that he very much regretted these 3 mistakes and knew that he had to respect the rules of this country if he wanted to stay. He said that this had taught him a lesson and made him reflect on his driving as he didn't want to lose his licence.

In response to questions from Members, Mr Ghanbary answered that:

- The first offence was committed when he was with his girlfriend on a personal trip and not a business trip as a taxi operator.
- On the second offence he didn't see the mobile van and was going into a 50mph zone and therefore was accelerating.
- On the third offence it was late at night and he was tired after a busy night shift and it was a mistake. He said he was now a better driver because of these mistakes.
- He drove 40-50 hours a week as a taxi driver.
- He was aware that he would lose his driving licence with 12 points and thus would be 100% more careful as this was his last chance and that they had all been genuine errors.

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

1. Mr Ghanbary's Private Hire driver's licence be continued with no further action, because the Committee was satisfied that Mr Ghanbary was a fit and proper person to hold such a licence; or
2. Mr Ghanbary's Private Hire driver's licence be revoked as the Committee considered Mr Ghanbary not to be a fit and proper person to hold a Private Hire driver's licence.

Members were also advised that if they allowed Mr Ghanbary's licence to continue, they had the option of adding a requirement that Mr Ghanbary must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision, and that Mr Ghanbary had offered to do this if required.

Upon a vote it was (5 for, 2 against)

RESOLVED, that Mr Ghanbary's Private Hire driver's licence be continued, because the Committee was satisfied that Mr Ghanbary was a fit and proper person to hold such a licence and that Mr Ghanbary must successfully pass the approved road safety driving assessment test within 3 months of the date of this meeting.

7. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Benit Harish Santilal's Hackney Carriage driver's licence which was due for renewal on 26 March 2015. He informed Members that Mr Santilal had convictions on his DVLA driving licence.

The Officer informed Members that since Mr Santilal was granted his licence in 2006, no complaints regarding his driving ability had been received. Mr Santilal reported his offence to the Licensing section and on being interviewed, he explained that he had gone to London in his sister's car and that as she was tired he had driven as he thought he was insured to do so. The Officer confirmed that the vehicle he was driving was not a licensed vehicle.

Mr Santilal attended the meeting and spoke in support of his review. He informed Members that he thought his own insurance covered him third party to drive his sister's car and hence he drove.

In response to a question from a Member, Mr Santilal confirmed that his own insurance was fully comprehensive and that he had never been uninsured.

Members questioned the Officer about why the police would discover he was uninsured if the above statement from Mr Santilal was true. The Officer replied that the correct paperwork and valid insurance certificate, albeit a temporary cover note for the period 4 December 2013 to 3 January 2014, had been produced when he had applied for a licence renewal. Mr Santilal confirmed to Members that he was insured from 3 January 2014 onwards and at the date of the offence of 8 July.

It was suggested by the Officer that Mr Santilal should ring his insurance company to confirm if he was fully comprehensively insured from 3 January 2014 and thus covered to drive third party and to ask the insurance company to send an email with a copy of the certificate.

Members remained in the Chamber whilst the Licensing Officer accompanied Mr Santilal to make the phone call.

On returning to the Chamber, the Officer reported that he had spoken with Mr Santilal's insurance company and had been informed that it was at the discretion of individual insurance company's policies as to whether someone was covered to drive another car on their own insurance. He could, however, confirm that Mr Santilal had been insured for the period of his licence, but that he was not insured third party to drive other cars. Mr Santilal's conviction was therefore correct, but he himself was unaware of the variances of insurance companies.

One Member felt that many people would be unaware of this variance and think they were covered for third party insurance on other cars.

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

1. Mr Santilal's Hackney Carriage driver's licence be continued with no further action, because the Committee was satisfied that Mr Santilal was a fit and proper person to hold such a licence; or
2. Mr Santilal's Hackney Carriage driver's licence be revoked as the Committee considered Mr Santilal not to be a fit and proper person to hold a Hackney Carriage driver's licence.

Members were advised that if they allowed Mr Santilal's licence to continue, they had the option of adding a requirement that Mr Santilal must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision.

Upon a vote it was (6 for, 1 against)

RESOLVED, that Mr Santilal's Hackney Carriage driver's licence be continued with no further action, because the Committee was satisfied that Mr Santilal was a fit and proper person to hold such a licence and that Mr Santilal did not need to attend the driving assessment test.

At the conclusion of this item, Members raised some issues with regard to the driver assessment course and routine vehicle checks. One Member felt that there should be stricter rules on tyres, speeding and insurance cover and that if a driver applied for a licence with a temporary insurance cover note then a follow up should be made to ensure permanent insurance cover was in place. Similarly it was felt that driver assessment examiners should be aware of the reason for the test, so that particular observance could be placed on that particular issue, be it speeding or the condition of the vehicle and that feedback be given. The Officer informed Members that this was being reviewed at the moment with the Driving Standards Agency.

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

None.

9. DATE OF NEXT MEETING

7 November 2014.

Chairman

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Cheltenham Borough Council

Licensing Committee – 5 December 2014

Application for a Private Hire Driver's Licence

Report of the Licensing Officer

1. Executive Summary

- 1.1 An application has been received from Mr Giuseppe Maurizio Licata for a Private Hire driver's licence.
- 1.2 Mr Licata has convictions, the details of which are contained in the enclosed background papers.
- 1.3 In light of this Members of the Committee should be aware of the convictions because of:
 - 1.3.1 The nature of the offences; and
 - 1.3.2 The need to ensure that Mr Licata is judged to be a fit and proper person to hold a Private Hire Driver's Licence.

1.4 The Committee is recommended to resolve that:

- 1.4.1 **Mr Licata's application for a Private Hire driver's licence be granted because the Committee is satisfied that he is a fit and proper person to hold such a licence, or**
- 1.4.2 **Mr Licata's application for a Private Hire driver's licence be refused as the Committee considers him not to be a fit and proper person to hold such a licence.**

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

There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.
Contact officer: Vikki Fennell
E-mail: vikki.fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Private Hire driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

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

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.
- 3.2 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.3 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.4 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.5 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern.
- 3.6 **Drunkness with a motor vehicle (disqualification)** - Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.
- 3.7 **Drugs** - An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 3.8 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 years will require careful consideration of the facts.

4. 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.

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- 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. Licensing Comments

- 5.1 Members should refer to the enclosed background papers for a full list of convictions and an explanation of how the Council's policy applies to each type of offence. Please note that cautions are applied after an admission of guilt and should, for decision-making purposes, be treated as though they were convictions.
- 5.2 The Committee must seek to promote its own adopted policy and only deviate from it where there are strong and defensible reasons.
- 5.3 Members may wish to note that Mr Licata was licensed as a Hackney Carriage driver until he surrendered his licence following a conviction in 2010. Since then he has applied on 3 occasions for a Hackney Carriage driver's licence – in 2011, 2012 and 2013 – and was refused on each occasion by the Licensing Committee, whose decision was that Mr Licata was not a fit and proper person to hold such a licence. The minutes of each of those minutes are attached to the background papers.
- 5.4 Members will note that less than 5 years has elapsed since the reinstatement of Mr Licata's DVLA licence following disqualification. The policy requirement in relation to such offences is that at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an application is considered. However Members will also note that at a previous Licensing Committee meeting, the Chair decided that in Mr Licata's case this period could be reduced from 5 years to 2 years. This is explained in further detail in the background papers. The Committee is not bound by that decision but Members should be aware of it.
- 5.5 With regards to the caution for a drug related offence, the policy states that an offence of this type within the last 3 years will require careful consideration of the facts. To that end Members should refer to the interview notes in the attached background papers where Mr Licata has provided an explanation.
- 5.6 Members should note that there are driving offences on Mr Licata's licence dated 2009 which resulted in penalty points. Those points have now expired but Members may still take into account those offences if they are deemed relevant.
- 5.7 Mr Licata has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 5.8 The Committee must be satisfied that Mr Licata is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

Background Papers

Service records.

Minutes of the above-mentioned Licensing Committee meetings.

Officer's report refers to Cheltenham Borough Council's Policy, Guidance and Conditions for Private and Taxis, approved 15 July 2014

Contact Officer

Contact officer: Philip Cooper

E-mail: licensing@cheltenham.gov.uk

Tel no: 01242 775004

Licensing Committee – 5 December 2014

Review of Hackney Carriage Driver’s Licence

Mr Mozir Choudhury - HCD404

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Mozir Choudhury has held his Hackney Carriage driver’s licence with Cheltenham Borough Council since 2008.
- 1.2 In October 2014 Mr Choudhury reported to the Licensing team that he had been convicted of a driving offence, details of which are shown on the attached background papers.
- 1.3 In light of this Members of the Committee should be aware of the conviction because of:
 - 1.3.1 The nature of the offence; and
 - 1.3.2 The need to ensure that Mr Choudhury is judged to be a fit and proper person to hold a Hackney Carriage driver’s licence.
- 1.4 **The Committee is recommended to resolve that Mr Choudhury’s Hackney Carriage driver’s licence be:**
 - 1.4.1 **permitted to continue with no further action taken because the Committee considers Mr Choudhury to be a fit and proper person to hold such a licence, or**
 - 1.4.2 **revoked because the Committee considers Mr Choudhury to no longer be a fit and proper person to hold such a licence.**
 - 1.4.3 **Subject to 1.4.2, if the Committee determines that Mr Choudhury’s licence should be revoked as he is not a fit and proper person, the Committee may also consider whether that revocation should have immediate effect in the interests of public safety.**

1.5 Implications

1.5.1 Financial

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

1.5.2 Legal

There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates’ Court.
Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage driver’s licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions))

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

3.5 Major Traffic Offences

AC10 Failing to stop after an accident

AC20 Failing to give particulars or report an accident within 24 hours

AC30 Undefined accident offences

BA10 Driving while disqualified by order of court

BA20 Attempting to drive while disqualified by order of court

CD10 Driving without due care and attention

CD20 Driving without reasonable consideration for other road users

CD30 Driving without due care and attention or without reasonable consideration for other road users

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death by careless driving when unfit through drugs

CD60 Causing death by careless driving with alcohol level above the limit

CD70 Causing death by careless driving then failing to supply a specimen for alcohol analysis

CD80 Causing death by careless, or inconsiderate, driving

CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers

DD10 Causing serious injury by dangerous driving

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

DD90 Furious driving

DR10 Driving or attempting to drive with alcohol level above limit 63

DR20 Driving or attempting to drive while unfit through drink

DR30 Driving or attempting to drive then failing to supply a specimen for analysis

DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity

DR61 Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive

DR40 In charge of a vehicle while alcohol level above limit

DR50 In charge of a vehicle while unfit through drink

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR70 Failing to provide specimen for breath test

DR80 Driving or attempting to drive when unfit through drugs

DR90 In charge of a vehicle when unfit through drugs

IN 10 Using a vehicle uninsured against third party risks
 LC20 Driving otherwise than in accordance with a licence
 LC30 Driving after making a false declaration about fitness when applying for a licence
 LC40 Driving a vehicle having failed to notify a disability
 LC50 Driving after a licence has been revoked or refused on medical grounds
 MS50 Motor racing on the highway
 MS60 Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)
 MS70 Driving with uncorrected defective eyesight
 MS80 Refusing to submit to an eyesight test
 MS90 Failure to give information as to identity of driver etc
 UT50 Aggravated taking of a vehicle
 Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)
 Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)
 Inciting offences as coded above, but with 0 changed to 6 (e.g. IN16 becomes IN16)

3.6 Major Traffic Offences (see above for list of offences)

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

More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

4. Licensing Comments

- 4.1 Mr Choudhury was interviewed on 3 November 2014. The interview notes are included in the background papers.
- 4.2 If Members are minded to allow Mr Choudhury's licence to continue, they should be mindful that the Council's Policy states that major traffic offences "will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers". The Committee has the option of adding a requirement that Mr Choudhury must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision.
- 4.3 Members should be aware that the only other endorsement shown on Mr Choudhury's DVLA driving licence relates to a minor traffic offence that occurred in 2009. Details are shown on the background papers. Whilst these points have now expired Members can take the offence into account if they believe it to be relevant.
- 4.4 Mr Choudhury has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer Members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.5 The Committee must be satisfied that Mr Choudhury is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

Convictions

Report Author

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

Cheltenham Borough Council

Licensing Committee – 5 December 2014

Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place an object on the highway – ‘A’ Board

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Joseph Hall has made an application to place an A-board on the highway to promote his skateboard and clothing store which is located at First Floor, 24 Rodney Road, Cheltenham GL50 1JJ.
- 1.2 The proposed location of the A-board is on the High Street opposite the junction with Rodney Road, as shown at **Appendix A**.
- 1.3 The size of the A-board is below the maximum size permitted under the Council’s policy. However the proposed location of the A-board does not comply with policy, as explained at paragraph 5 onwards.
- 1.4 It is intended that the A-board be in position:

Monday	Not applicable
Tuesday	11:00 – 17:00
Wednesday	11:00 – 17:00
Thursday	11:00 – 17:00
Friday	11:00 – 17:00
Saturday	11:00 – 17:00
Sunday	11:00 – 15:00
- 1.5 An image of the A-board is attached at **Appendix B**.
- 1.6 The recommendations have regard to the individual merits of this application and the established policy. The policy seeks to avoid a proliferation of A-boards and objects on the highway whilst having regard to cases where there is a clear commercial need for this form of advertising.
- 1.7 **The Committee is recommended to resolve that:**
 - 1.7.1 **The application be approved because Members are satisfied there are sufficient reasons to deviate from the policy in respect of objects placed on the highway; or**
 - 1.7.2 **The application be refused because Members are not satisfied that the A-board complies with the Council’s adopted policy in respect of objects placed on the highway.**
- 1.8 **Summary of implications**

1.8.1 Financial

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

1.8.2 Legal

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

2. Background

2.1 The current Policy on Measures to Control Street Scene Activities in Cheltenham covering Street Trading, Objects on the Highway and Charitable Collections was approved on 1st April 2013. A copy of the whole policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims and Objectives

3.1 The policy outlines the principles the Council will apply when making decisions on applications for objects on the highway consents.

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

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

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

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

3.4 Conditions of Consent

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

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.
- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.

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

3.5 Revised Outdoor Advertising Protocol (Appendix I)

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

- a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,
- b) the premises are situated along a side alleyway and / or on private land which is not a public thoroughfare / right of way.

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

4. Consultation

- 4.1 A consultation was carried out between 14 October 2014 and 28 October 2014. One objection was received, from the Council's Senior Enforcement and Compliance Officer, who made the following comments:
"From the information provided . . . this A-board is unacceptable as it is in direct conflict with the policy to control street scene activities."

5 Licensing Comments

- 5.1 The application complies with the Policy requirement in that the premises "are located at basement or first floor level i.e. the premises has no shop-front at street level".

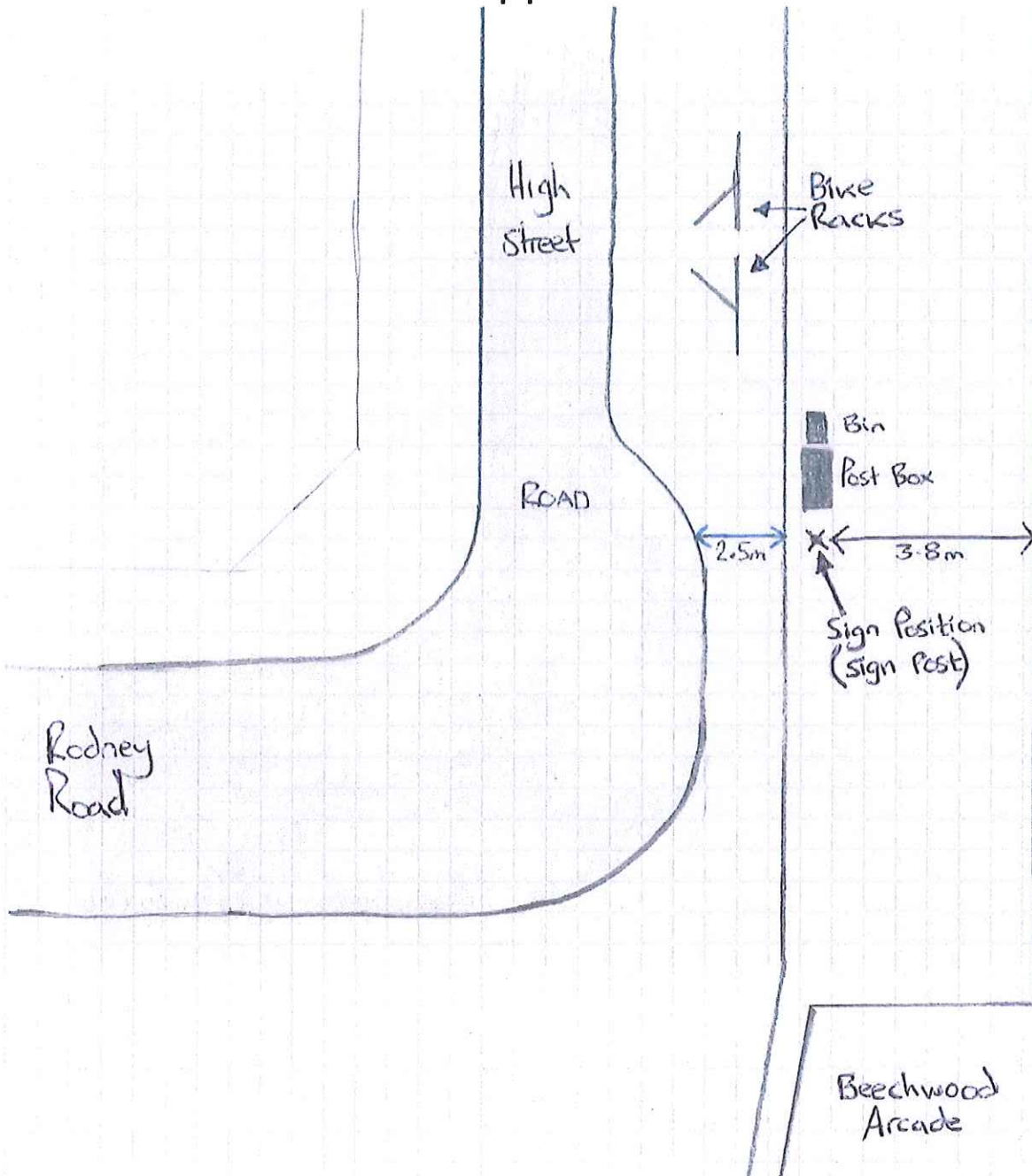
- 5.2 However the application is being brought before the Licensing Committee because it does not satisfy one of the conditions contained within the council's policy, which states: "The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises." In this case the application is to place an A-board not immediately outside or adjacent to the premises, but in an adjacent street.
- 5.3 The reason that the Council's policy only permits A-boards directly outside the premises - and even then only when the premises is disadvantaged due to having no direct street frontage - is to avoid a proliferation of 'directional' A-boards on other streets. Whilst it may be appropriate for the Committee to deviate from their policy, they should only do so if there are clear and justifiable reasons for doing so, bearing in mind that such a decision may be seen as setting a precedence.
- 5.4 This application must be determined on individual merits taking into account the information received and in accordance with the council's current adopted policy in respect of objects placed on the highway.
- 5.5 The Committee must seek to promote its own policy and only deviate where there are sufficient and justifiable reasons for doing so.

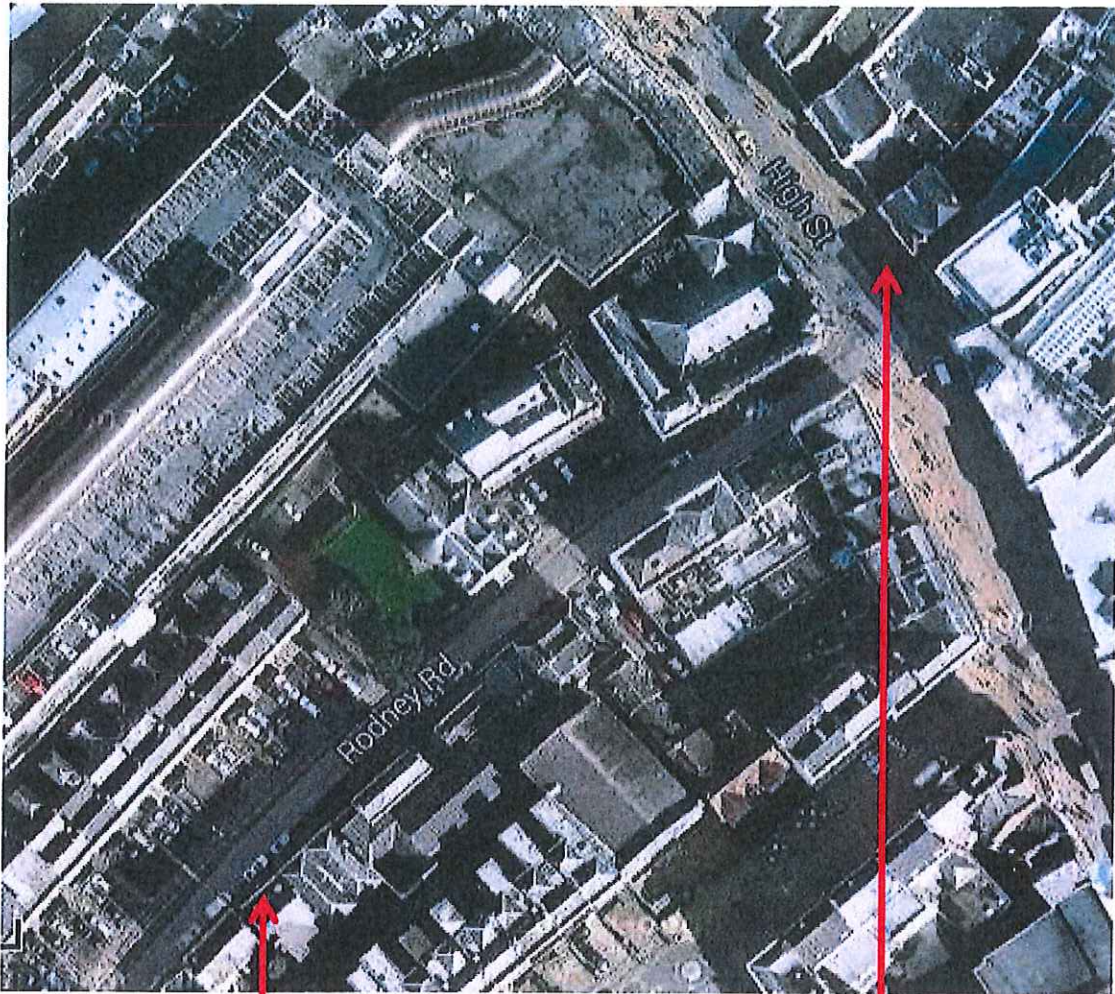
Background Papers

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

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Approximate location of the premises, located on the 1st floor of 24 Rodney Road.

Proposed location of A-board.

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Appendix B



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