

Licensing Committee

Friday, 6th November, 2015

2.00 - 3.20 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Wendy Flynn, Adam Lillywhite and Pat Thornton
Also in attendance:	Andy Fox and Peter Lewis

Minutes

1. APOLOGIES

Apologies were received from Councillors Regan, Reid and Walklett.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF LAST MEETING

The minutes of the last meeting held on 2 October 2015 were approved and signed as a true record.

5. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

The Senior Licensing Officer, Andy Fox, introduced the report regarding an application from Mr Robert Gibson of Caffè Dolcetti, 4 Regent Street, Cheltenham to place 2 tables and 4 chairs on the highway outside the premises from 10.00 to 18.00 hours every day. Appendix A showed photographs of the location and Appendix B showed how the tables and chairs would be positioned, together with photos of the furniture.

The Officer advised that only one representation had been received and that was from the Gloucestershire Constabulary who stated that the width of the pavement in this location was insufficient for furniture.

In reply to a question, the Officer confirmed that the pavement width in question was 2.25m, reduced to 1.55m with the tables and chairs in place and that the Council's policy required a minimum clearance of 1.8m. He also confirmed that the applicant's measurements had been verified by Licensing Officers.

The Chair invited the applicant to speak in support of his application. Mr Gibson stated that he had been surprised that his application had come to this committee as prior to submitting his application he had spoken with Licensing Officers and he was aware that other similar establishments in the vicinity had had been granted permission with a clearance of 1.5m or less. He said he had

double checked his measurements with the tables and chairs in place to ensure he was the same as the others. He told members that he only wanted 2 tables and 4 chairs to enhance the café culture scene in Regent Street.

One member raised his concern about people moving the tables and chairs to form a group of four. Mr Gibson replied that if that happened he would address the situation and added that he had large front windows so would be able to see if there was any inappropriate behaviour and deal with it immediately. He also informed members that he valued customer service very highly, that he always had two members of staff on duty and they also had a panic button to the Police Station.

The question of kerb height outside his premises was raised and the applicant replied that the height of the kerb was the same as that outside Café Nero, Jamie Oliver's and others in the area.

In reply to a question from the Chair, the Officer informed members that the applications for the other premises mentioned had been granted prior to the current street scene policy. The Chair remarked that he was aware of the circumstances of the application in relation to Jamie Oliver's and mentioned that the committee had recently passed an application where tables and chairs were proposed, with end barriers, on a pavement of similar width but that the clearance in that case was only reduced in one local spot. He pointed out to members the need for consistency and the potential for other cafes in the vicinity to make similar applications.

One member commented that the Regent Street footpath was busier than Grosvenor Street where the other similar application had been granted, but another member pointed out that the carriageway of Regent Street was only used as a turning space and that the speed of traffic along Grosvenor Street was faster. A further member felt this area wasn't that busy, that the furniture could fit and that the situation was better than he initially thought.

In summing up, Mr Gibson stressed that he had submitted his application based on the information supplied by the other establishments in the area on their successful applications and after consultation with the Licensing team.

The Chair moved to vote informing members that if they agreed the application, it would have to be on the assumption that there were sufficient mitigating factors to deviate from the policy. It was then confirmed by officers that there was an expectation on the width based on experience to date, rather than a specific minimum width in the policy.

Upon a vote that the application be approved because Members felt the application was compatible with the current street scene policy:

It was 3 for, 3 against and 1 abstention. The Chair therefore had the casting vote and voted against.

It was therefore RESOLVED THAT:

The application to place tables and chairs on the Highway at the premises of Caffè Dolcetti, 4 Regent Street, be refused as the application fell outside the provisions of the current Street Scene Policy.

6. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report regarding a review of the Hackney Carriage Driver's Licence HCD757 for Mr Neil Spencer which was due for renewal on 4 February 2018. He reminded members that this report had come to Committee in October, when it was decided to defer the item so Mr Spencer could familiarise himself with the background papers that he said he had not received.

The report explained that the council had received a number of complaints from the public about Mr Spencer's behaviour, the details of which were outlined in the background papers. In light of this, officers had taken the view that his Hackney Carriage Driver's licence should be brought before the committee for a review.

The Officer drew members' attention to two of the witness statements and advised that neither were community protection officers as stated in the paperwork. The officer also referred members to the emails he had received from Inspector Tim Waterhouse and PS Andy White who had written in support of Mr Spencer.

In response to questions from members, the Officer replied that the number of complaints was only those before the committee today and that the complaints from 2011 and 2012 had been acted upon at the time.

The Officer further explained that Mr Spencer had received a verbal warning after the first occurrence, a written warning after the second occurrence, although there was no evidence to support that, and the third occurrence was before the committee today. He confirmed that no action had been taken after the first two incidents as there was an enforcement protocol of steps to be taken before coming to committee.

The chair advised members that they needed to determine what weight to give to the first two incidents and to consider all three incidents before reaching a view. The chair then invited the applicant to speak in support of his review.

Mr Spencer commented that after the first complaint in 2011, he made a statement and then heard nothing else until the October. Following the second incident, he said that he rang the Licensing department concerning the CEO and was informed that as he had spoken to a Police Officer at the scene not to worry and then 2 or 3 weeks later he was asked to come in. Mr Spencer said he had asked for a copy of the written warning but had never received one and the Licensing Officer confirmed this was the case as it did not exist.

With regard to the third incident, Mr Spencer admitted that he did make a comment, but not what was written down in the complainant's statement. He regretted his stupid remark but stated that he had been under personal pressure and stress with the illness of his father, who had since passed away. The chair read out what was said as per Mr Spencer's statement and asked Mr Spencer to confirm if that was correct and Mr Spencer agreed that it was.

One member had concerns about Mr Spencer's alleged homophobic comments. Mr Spencer denied being homophobic stating that he was going to a civil ceremony in April.

In summing up Mr Spencer reiterated that he regretted his off the cuff remark but commented that the last six months had been the worse of his life. He had been a taxi driver for over 10 years and many of his fares were females who felt safe with him. He referred to his two character references from the Police and said he was not a bad man.

One member questioned whether Mr Spencer had asked the Police Officers for their letters, to which Mr Spencer replied that he had asked the Inspector as he knew him and PS White wrote when he heard the Inspector had, because Mr Spencer helps the Police out.

The chair invited the members to adjourn to discuss the matter and stated that they would take into account the comments of the Police Officers. At this point, Mr Spencer handed over some more character references for the committee to consider.

Members left the Chamber at 14.40 and returned at 15.05.

The chair reported that the committee had considered this case carefully and that the matters alleged in the paperwork were serious and normally the committee would be considering revocation of the licence. On this occasion, however, a serious written warning letter would be sent to Mr Spencer stating that if there were any further complaints about him then he would have to come back before the committee.

Upon a vote, it was 7 for, 0 against.

RESOLVED THAT, Mr Spencer's Hackney Carriage driver's licence be continued because the committee was satisfied that he was a fit and proper person to hold such a licence and that a written warning be issued that upon receipt of any further complaints Mr Spencer return before the committee.

The chair hoped that he wouldn't see Mr Spencer before the committee again and that he would drive carefully.

7. BRIEFING NOTE

The Briefing Note on Taxi and Private Hire Licensing Deregulation and Late Night Refreshment Licensing Exemptions was noted.

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

None

9. DATE OF NEXT MEETING

4 December 2015

Roger Whyborn
Chairman