

# Licensing Committee

Wednesday, 12th April, 2017  
6.00 - 7.30 pm

| Attendees                  |   |
|----------------------------|---|
| <b>Councillors:</b>        | Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Adam Lillywhite, Diggory Seacome, Pat Thornton and Bernard Fisher (Reserve) |
| <b>Also in attendance:</b> | Phil Cooper and Donna Marks   |

## Minutes

**1. APOLOGIES**

Apologies were received from Councillors Parsons and Wilkinson. Councillor Fisher attended as a substitute for Councillor Parsons.

**2. DECLARATIONS OF INTEREST**

None

**3. PUBLIC QUESTIONS**

None

**4. MINUTES OF LAST MEETING**

The minutes of the last meeting held on 12 January 2017 were approved and signed as a true record.

**5. APPLICATION FOR A STREET TRADING CONSENT**

The Licensing Officer, Phil Cooper, introduced the report regarding an application made by Mr Edward Danter for a street trading consent to sell hot food and cold drinks from a unit measuring 4.8 by 2.4m on the High Street near to the junction with Cambray Place. Mr Danter had applied for consent to trade from 10 November 2017 to 7 January 2018, trading every day from 9am to 6pm, except Thursday which was until 9pm and Sunday which was 11am to 5pm.

Appendix 1 showed the proposed location of the trading pitch and Appendix 2 showed an image of the trading unit.

During the consultation objections were received from the council's senior environmental health officer, who opposed the application due to complaints received last year. In addition, Cheltenham Business Improvement District had responded on behalf of several businesses in the vicinity, 1 of which had supported the application, 1 provided a neutral response and the remaining 4 had opposed it. All consultation responses were listed in paragraph 4.1 of the report.

The Officer continued that the proposed location was an approved trading site in the council's policy, however the policy restricted the type of goods to be sold

in that location to sign-up services and buskers selling merchandise. It was not an approved location for food and drink sales. The policy also limited the size of trading units in that location to 6 metres squared which the proposed trading unit exceeded. He advised members that whilst the policy made these specifications, each application should be determined on its own merits and that the committee could depart from the policy if there were clear reasons for doing so. He informed the committee that having listened to all the facts, they should either grant the street trading consent, modify it or refuse it.

A member questioned the impact the John Lewis development might have on this trading location by Christmas 2017 and was informed that the retail unit was not due to open until spring 2018, so works would still be on-going in this area and that highways had been consulted but had not objected.

The Chair asked Mr Danter to address the committee in support of his application. Mr Danter introduced himself as the son of Ellen Danter, who was also present and who had been street trading successfully for 30 years. He explained that Mrs Danter would soon be retiring from the family business and that he was starting to take a more leading role. Mr Danter stated that he wanted to continue the business using the same street trading unit as had been used for the last 14 years, selling pork and turkey rolls, sausages and hot and cold drinks and would be trading from the same pitch as last year.

In reply to questions from members, the applicant stated that it would be possible to cook the onions off site and keep them warm in a bain-marie with lid to reduce the smell as much as possible. He confirmed that the unit was still mobile and that it was the same size in length and height as last year, but that the appearance may appear slightly different as timber cladding had been added. The applicant circulated photos of the unit from 2015 and 2016 to members. He confirmed that he had sold sausages every year, as well as turkey rolls and pork rolls and although these latter two were not advertised specifically there was a large menu at the back with these on.

In response to a question from a member concerning the complaint about noise from the generator, Mr Danter stated the same generator had been used for the last 3 years and was a small compact, super silent, cladded generator. He also advised that he was in discussion about using electricity from a lamp post socket. Mr Danter informed members that the start date of his application predated the town's Christmas light switch-on by a fortnight and that the procession and light switch on was more in the Montpellier area of the town, with nothing happening in the area of his trading pitch. His unit was therefore not in the way of a procession and he ensured members that there was sufficient delivery space and emergency vehicle access.

With regard to the businesses objecting to the trading unit, a member asked the Officer how the selection was made of which businesses are consulted. The Officer replied that the licensing team carry out consultation with a number of stakeholders including Cheltenham Business Improvement District (BID), who then consult directly with the businesses they feel might be affected, but that he didn't know how many businesses had been contacted by the BID.

Members expressed concern over the size of the unit and the fact a licence had been granted the previous year against the Council's policy and questioned the

Officers about this. The Licensing Officer confirmed that the policy allowed for trading units up to 6m.sq in that location and that the unit in question was 4.8m x 2.4m, being 11.52m.sq, so nearly double the permitted size. He confirmed that this was the same size as approved last year and that, according to the policy, the location in question permitted trading for signup services and busking. The Legal Officer, Donna Marks, confirmed that the decision made last year was the same application based on the same policy as this year and that the committee last time saw fit to go against policy. She informed members that the applicant could submit an application for a unit outside the permitted size and that it was up to this committee to decide. She pointed out that as this was granted last year, that if refused this year, there could be a judicial review hearing.

In summing up, Mr Danter stated it was the same unit that had been used for the last 14 years, but that he had spent £6,000 last year to add cladding and to give it a different style look. He said it was very popular, that he had letters of support and that he hoped he could continue for at least this year to carry on the hard work his mother had put into the business.

During the ensuing debate members expressed their support for the application stating it added to the street scene, had seasonal flair, was a stronger application than last year and that the unit looked better. However members were also mindful of the complaints about noise and smell and the comments of other food establishments in the area who paid business rates rather than a pitch fee. The Legal Officer reminded members that a condition could be added to the licence and also made them aware that if granted, it would be outside the policy and this could set a precedent for having breached the policy. Some members expressed concern about the application not complying on size and that it had been approved last year, and also questioned the fact that the policy had been changed just before this was passed last year which may have given rise to some uncertainty.

The Chair moved to members that, if granted, a condition be added that onions be cooked off-site and placed in a bain-marie and that everything be done to reduce the impact of cooking smells on other businesses. Members were in favour of this.

There being no further debate, the Chair moved to vote on 1.6.1 of the report being in favour of the application, with the additional condition.

Upon a vote it was 7 for, 0 against, 1 abstention.

**RESOLVED THAT Mr Edward Danter's application for a street trading consent be approved with the condition that in order to reduce the impact of cooking smells on other businesses, fried onions would be prepared off-site and reheated on-site in a container with a lid.**

## **6. REVIEW OF LICENSING COMMITTEE STRUCTURE AND OPERATION**

The Licensing Officer, Phil Cooper, introduced the report of the Licensing Team Leader on the review of the Licensing Committee Structure and Operation. He reminded members that in July 2016 Council had decided that a review of the licensing committee's structure and meeting arrangements should be

undertaken by officers in consultation with the committee. The rationale for the review was explained in paragraph 3 of the report.

Following consultation, officers had now prepared a draft proposed structure, under which the full committee would be scheduled to meet 4 times a year with the case-by-case business being discharged by 2 sub-committees. The proposed structure was illustrated at Appendix 1 to the report.

The Officer advised that if the committee approved the structure, the new arrangements would be implemented from September 2017.

Members debated the proposals set out in the report and the following points were made or clarified:-

- There would be five members on each of the sub-committees and members would swap over on an annual basis. Members could sub from one committee to the other to cover absences.
- Currently a full committee debated minor miscellaneous matters and only 3 members discussed more in-depth matters. The new structure would address this and allow improved proportionality on each sub-committee of 5 members.
- The new proposal would allow opportunities for member development, for different members to be part of the ad-hoc alcohol and gambling sub-committee, whilst still cross party working and still being quorate with 3 members should 2 members not be able to attend.
- With the full committee meeting four times a year, more time could be allocated to reviewing the policies giving members more input into the policies that govern their licensing decisions. The full committee would also provide the opportunity for extra training and for being pro-active on certain issues.
- The annual allowance for the Chair could be split between the Chair and vice chair, as the vice chair would be chairing one of the sub-committees and taking on more responsibility. This matter would be considered by the Independent Remuneration Panel when they next meet and reported back to council. If the Chair was unavailable for a certain meeting then another Chair would be elected from within the membership of that sub-committee. It was remarked that there was no training for Chairs, but suggested that the Local Government Association might do some.
- It was confirmed that 12 meetings of licensing would be diarised, on the first Wednesday of each month. Of these 12, four would be full committee meetings. Any of the 12 slots could be used for scheduling the Miscellaneous Licensing Sub-committee according to business. The Alcohol and Gambling Sub-committee would be scheduled on an ad hoc basis, as at present, as these committees had to be held within a 20-working-day period of the close of consultation. If this were to coincide with a scheduled Wednesday evening slot, then this would be used.

The Chair and Vice Chair both advocated their support of this new committee structure, with the Vice Chair outlining his experiences of licensing in Bristol, which had a similar structure to the proposal. The vice chair would also like to see an annual report provided, so that members could see, for example, how many of the decisions made by the committee went to appeal.

Some members did not support the rationale that this restructure would address gaps in members' skills and knowledge as members would not be gaining experience of one element of licensing with only 5 members per committee. They also questioned any savings being made in either member or officer time. Others suggested that the new structure be supported and trialled for two years to see how it went and reviewed again at that point if necessary.

Upon a vote, it was 6 for, 2 against.

**RESOLVED THAT:-**

1. **The proposed revised structure of the licensing committee as set out in Appendix 1 of the report be approved;**
2. **Authority be delegated to the Democratic Services Manager to implement the resolution including delegated powers to:**
  - a. **Make the necessary arrangements to implement any constitutional changes;**
  - b. **Make the necessary arrangements, in consultation with the chair and vice-chair of the Committee, to implement the new Licensing Committee structure; and**
  - c. **Ensure the special responsibility allowances for the Licensing Committee are reviewed by the Independent Remuneration Panel and reported back to Council at the appropriate time.**
7. **BRIEFING NOTE**

Members were asked to note the Briefing Note which outlined the details of the new licensing legislation that came into force on 6 April 2017 as some of the legislation would impact on the Council and Officers.
8. **ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

None
9. **DATE OF NEXT MEETING**

Wednesday 10 May 2017 at 6pm.

Wendy Flynn  
Chairman