



Notice of a meeting of Licensing Committee

Wednesday, 31 May 2017
6.00 pm
Pittville Room - Municipal Offices, Promenade

Membership	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Adam Lillywhite, Paul McCloskey, Dennis Parsons, Diggory Seacome, Max Wilkinson and Pat Thornton

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 LAST MEETING To approve the minutes of the last meeting held on 12 April 2017.	(Pages 3 - 8)
5.		MINUTES OF SUB COMMITTEE MEETING To approve the minutes of the Licensing Sub Committee held on 29 March 2017.	(Pages 9 - 12)
6.		APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE Mr Adel Ahmadi	(Pages 13 - 16)
7.		REVIEW OF PRIVATE HIRE DRIVER'S LICENCE Mr David Beale	(Pages 17 - 20)
8.		DETERMINATION OF AN APPLICATION FOR A SEXUAL ENTERTAINMENT LICENCE 12-14 Bath Road	(Pages 21 - 42)

9.		BRIEFING NOTE Licensing Service Review 16/17	(Pages 43 - 46)
10.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
11.		DATE OF NEXT MEETING Monday 10 July 2017 at 6pm	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130

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Licensing Committee

Wednesday, 12th April, 2017

6.00 - 7.30 pm

Attendees	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Adam Lillywhite, Diggory Seacome, Pat Thornton and Bernard Fisher (Reserve)
Also in attendance:	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 pre-dated 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

Licensing Sub-Committee

Wednesday, 29th March, 2017

2.30 - 3.20 pm

Attendees	
Councillors:	Diggory Seacome (Chair), Adam Lillywhite and Wendy Flynn
Officers:	Phil Cooper and Vikki Fennell
Also in attendance:	

Minutes

1. ELECTION OF CHAIRMAN

Councillor Diggory Seacome was elected as Chairman.

2. APOLOGIES

None

3. DECLARATIONS OF INTEREST

None

4. DETERMINATION OF AN APPLICATION TO VARY A PREMISES LICENCE

Also in Attendance:

Mr Chris Manners, Finance Director of Dodo Pubs and Designated Premises Supervisor for The Bottle of Sauce; Clive and Debra Hixson and Sue Dodson, local residents.

Licensing Officer, Phil Cooper, introduced the report regarding an application received on 1 February 2017 by Arkell's Brewery Ltd to vary the premises licence of the Bottle of Sauce, Ambrose Street, Cheltenham. The application was to approve the following variations:-

- To extend the hours for licensable activities as listed in the table in 1.2 of the report on Fridays and Saturdays until 01.00 and on Sundays until midnight.
- To add the exhibition of films as a permitted activity.
- To add non-standard timings to the licence with the effect of extending the terminal hour for licensable activities to 01.00 on bank holidays and bank holiday weekends and race days during the March and November meetings.

The applicant had suggested putting in place a number of additional conditions to promote the licensing objectives, including a challenge 25 policy and closing the external courtyard to customers at midnight. These steps were listed in paragraph 2.3 of the report and conditions consistent with those steps would be applied if the licence was granted.

No objections had been received from any of the responsible authorities listed in the Act. However three representations were received from residents on the grounds of preventing public nuisance and these were included from page 41 onwards of the report pack. The objectors had asked for a reduction in the hours being applied for and a limit to the number of live music events permitted.

The Officer advised members that in considering the application, they must ensure the promotion of the licensing objectives the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm and, taking into account the representations, must decide to grant the variation as applied for, make amendments or add conditions to the variation, or refuse all or part of the application.

There being no questions to the Officer, the chair invited Mr Chris Manners, Finance Director of Dodo Pubs, Designated Premises Supervisor for The Bottle of Sauce and representative of the applicant Arkells Brewery Ltd, to speak in support of the application. Mr Manners informed members that the Bottle of Sauce had been operating for five months, had created 20 new jobs and was a financial asset and benefit to the local economy. At the outset, Gareth Jones Environmental Health Officer, had advised Mr Manners to apply for TENs (Temporary Event Notices) when he wished to trade for longer periods, so that he could prove a track record before asking the committee to extend the licensable hours. This he said they had done since November and although this had been expensive, it was a necessary step for peace of mind and had gone well. Mr Manners stated he was conscious of the conditions applied to the licence and was fully aware of containing noise, keeping doors and windows shut, closing the garden area at 23.00 hours etc, to limit public nuisance. He felt he was reactive to any issues raised and had employed door bouncers to ensure glasses were not taken off the premises and that clients left the pub quietly and respectfully, following a complaint from Granley Blinds. Mr Manners further informed members that in the next few months hotel rooms above the premises would be opened, so noise would be contained so residents of the hotel would not be disturbed. He felt that the Bottle of Sauce was a cultural asset to that part of the town which he wanted to build on by hosting events for the jazz festival and similar. He reiterated that he was approachable and contactable should there be problems with the extended hours.

In reply to questions from members, Mr Manners confirmed that doors would be open to let people in and out but that the garden fire door would be kept closed. A member questioned whether external speakers were necessary, to which Mr Manners stated that these were in the middle in the courtyard and would be turned off at midnight. He felt they were not a loud source of noise, but concurred that they could be turned off earlier and turned to a lower level. Mr Manners confirmed that there were two door staff at the premises from early evening till close on Friday and Saturday evenings and that the capacity of the premises was 280 people. He explained the layout of the premises to members and confirmed that there was air conditioning in the canteen but not in the rest of the pub. He added that there were extractor fans and that the installation of air conditioning was being considered. When asked about smokers, Mr Manners stated that he wanted them to go outside to the front of the premises, where they acted more responsibly as policed by bouncers. If they stayed in the courtyard they became more raucous.

A member referred to the premises formally known as The Quaich and questioned when it was taken over. Mr Manners replied that after the Quaich shut, it was taken over in April and the premise was closed for six months. Refurbishment took place in October and November and it opened as The Bottle of Sauce in November 2016. The member asked the local residents present if they had experienced any noise from the premises as The Quaich. Two of the residents had only moved into the area since The Quaich closed and the other resident stated that The Quaich had not been very popular so there had not been much noise. She continued however to point out that a ceiling had been pulled out during the refurbishment and that the furnishings were hard and minimalistic, which all contributed to the noise levels.

The Chair asked the three residents if they wished to express further their objections. They felt that in the summer months with warmer weather the noise levels would be worse, as they felt the pub would not keep all its windows shut and likewise their own windows might be open, so the constant boom of the music would be more audible. A member felt there were sufficient buildings between them to block the noise, but the residents stated they were on the front elevation and on the 2nd and 3rd floors which were above the height of the neighbouring chapel.

There being no further questions the applicant was asked to sum up. He stated he wanted the pub to be a cultural asset to the community and didn't want to create issues. He felt that in relation to the location of the objectors' houses that the main noise came from the main bar area and not the courtyard on the other side. However he stressed he would try and contain the noise as much as possible and urged local residents to contact him directly with any issues they might have so that solutions could be discussed. Mr Manners was happy to give out his phone number and email address. He wanted to create a venue with a cultural edge that stimulated and attracted people of a more mature demographic age.

The sub-committee adjourned from the Committee Room at 14.55 to consider the matter and reconvened at 15.15, when the Chair read out the following statement.

In respect of the application by Arkells Brewery in relation to The Bottle of Sauce, the sub-committee has had regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence it has heard.

In particular, the sub-committee has sought to promote the four licensing objectives when determining the application. Those being the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The decision of the sub-committee was as follows:-

- To grant the licence as applied for relating to the extension of hours
- To grant the licence as applied for relating to the exhibition of films
- To approve the non-standard timings

Subject to the following conditions:-

- Windows to remain closed all the time
- Doors not to be propped open
- Speakers outside to be turned off at 23.00 hours not midnight
- Indoor music until midnight every day.

All other conditions as suggested were accepted and were to be delegated to Officers to word in terms that were enforceable.

The sub-committee had placed these conditions on the licence for the purpose of promoting the licensing objectives.

In all respects the sub-committee found that the licensing objectives were satisfied and that the conditions imposed on the licence would ensure the licence met these objectives.

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

The Chair added that the proposal to turn the venue into a hotel might self-regulate the issue of noise and advised the applicant to investigate installing air conditioning in the premises for the summer months.

Diggory Seacome
Chairman

Cheltenham Borough Council

Licensing Committee – 31 May 2017

Application for a Hackney Carriage Driver's Licence

Mr Adel Ahmadi – ref 17/00127/HCD3YA

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Adel Ahmadi has applied for a Hackney Carriage Driver's licence in Cheltenham.
- 1.2 Mr Ahmadi declared a number of convictions on his application form which are contained in the enclosed background papers along with interview notes and a copy of a letter that Mr Ahmadi has provided in support of his application.
- 1.3 **The Committee can resolve to:**
 - 1.3.1 **Grant a Hackney Carriage driver's licence to Mr Ahmadi because the Committee is satisfied that he is a fit and proper person to hold such a licence; or**
 - 1.3.2 **Refuse to grant a Hackney Carriage driver's licence to Mr Ahmadi because the Committee considers him not to be a fit and proper person to hold such a licence.**

1.4 Implications

- 1.4.1 Legal There is a right of appeal against a refusal of a licence which in the first instance is to the Magistrates' Court.

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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) Act 1976).

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 fit and proper 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 **Fit and Proper Person**

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry - for example elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors - the Council will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Council are:

- a. Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- b. Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will not be expected to have any convictions or cautions for offences of a violent or threatening nature.
- c. Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d. Good knowledge of the area that they are working in.
- e. Good physical and mental health.
- f. Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

3.6 **Violence**

New applicants

Drivers of Hackney Carriage and private hire vehicles are often entrusted with the care of vulnerable persons.

It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

- 3.7 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 10 years old, is unlikely to be granted a licence.
- a. Arson
 - b. Malicious wounding or grievous bodily harm
 - c. Actual bodily harm

- d. Grievous bodily harm with intent
- e. Robbery
- f. Possession of firearm
- g. Riot
- h. Assault Police
- i. Racially aggravated common assault
- j. Violent disorder
- k. Resisting arrest

- 3.9 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 8 years old, is unlikely to be granted a licence:
- a. Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
 - b. Any racially-aggravated offence against a person or property.
 - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 3.10 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 5 years old, is unlikely to be granted a licence:
- a. Common assault
 - b. Affray
 - c. Obstruction
 - d. Possession of offensive weapon
 - e. Criminal damage

4. Licensing Comments

- 4.1 The council is under a statutory obligation to ensure that all its licensed drivers are and remain fit and proper people.
- 4.2 Mr Ahmadi has convictions that bring into question whether or not he is a fit and proper person. The council's adopted policy on the relevance of convictions states that, in general, an application will be refused where the applicant has been convicted within the last 10 years of the offences shown on Mr Ahmadi's disclosure certificate.
- 4.3 Each application must be determined on its own merits and, whilst the Committee's discretion should not be fettered by the adopted policy, the Committee should not depart from the policy unless they are satisfied that there are sufficient reasons in each particular case to do so. Any such departure from the policy should be supported by clear and defensible reasons.
- 4.4 Mr Ahmadi 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.
- 4.5 In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Background Papers

Service Records

Report Author

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Cheltenham Borough Council

Licensing Committee – 31 May 2017

Review of a Private Hire Driver's Licence

Mr David Beale - PHD309

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr David Beale holds Private Hire driver's licence PHD309.
- 1.2 On 13 March 2017 a complaint was made to the council relating to Mr Beale. The details of that complaint are contained in the background papers.
- 1.3 In light of the above, officers have taken a view that Members of Committee should be aware of the matter because of:
 - 1.3.1 The nature of it; and,
 - 1.3.2 The need to ensure that Mr Beale continues to be judged 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 Beale's Private Hire 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
 - 1.4.2 Mr Beale's Private Hire driver's licence be continued because the Committee is satisfied that he is a fit and proper person to hold such a licence but that he be issued with a written warning with regards to his conduct; or
 - 1.4.3 Mr Beale's Private Hire driver's licence be revoked as the Committee considers him to no longer be a fit and proper person to hold a Private Hire driver's licence.
 - 1.4.4 Subject to resolution 1.4.3, the Committee can also resolve that a revocation of Mr Beale's Private Hire licence can take immediate effect in the interest of public safety.

1.5 Implications

- 1.5.2 Legal

The Borough Council has the ability to suspend or revoke a Private Hire driver's licence with immediate effect if necessary in the interests of safety. There is a right of appeal against a suspension or revocation of a licence which, in the first instance, is to the Magistrates' Court.

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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).

3. Policy Considerations

3.1 Accident Notification (para. 1.8)

The council's policy in respect of the licensing of drivers and vehicles requires drivers to notify the council within 72 hours of any accident involving a licensed vehicle.

3.2 Code of Good Conduct for Licensed Drivers (Appendix A) – Relevant extracts

- a) Ensure that where an incident occurs requiring the attendance of Police, that the Police are promptly alerted so that the offender may be dealt with in an appropriate manner.
- b) Make themselves available to Police for the taking of statements etc. following any incident in which they are involved and which requires Police investigation.

3.3 Renewing a Private Hire Vehicle licence (page 19) – Relevant extracts

To apply to renew a licence an applicant must present to the council:

- Vehicle fitness test pass certificate;
- MOT pass certificate.

4. Licensing Comments

- 4.1 The council is under duty to ensure that only people that are deemed fit and proper are issued with, and able to retain, in this case, a Private Hire driver's licence.
- 4.2 This report and the accompanying background papers outline the relevant issues that officers consider bring into question Mr Beale's fitness to continue to hold a Private Hire driver's licence.
- 4.3 As outlined in the report, the council's policy places certain duties on licensed drivers. These duties include a requirement on licensed drivers to notify the council of accidents and/or damage to their licences vehicles. Although Mr Beale claims he was not aware of the collision, he did admit there was damage to his vehicle which he failed to report to the council.
- 4.4 Notwithstanding the policy requirements, the duty to comply with statutory obligations remains that of the individual driver. In this case, the statutory obligation is to ensure that all road vehicles have a valid MOT, and in cases where this is not the case, the driver of that vehicle complies with the restrictions placed on them when driving that vehicle.
- 4.5 Members are to note that on 2 February 2017 a renewal reminder letter was sent to Mr Beale that included a reminder to also have the vehicle's MOT renewed in good time.
- 4.6 Although Mr Beale stated that he was unaware of the fact that he collided with a stationary vehicle, the fact that he admitted that there was damage to his vehicle consistent with the complainant's description of event, calls into question this assertion.
- 4.7 Mr Beale's vehicle insurance would also have been invalidated as a result of the fact that the vehicle did not have a valid MOT.
- 4.8 The vehicle in question is no longer licensed with Cheltenham Borough Council.

- 4.9 Whilst the bulk of this matter relates to the incident of colliding with the stationary vehicle and Mr Beale's failure to ensure his vehicle has a valid MOT, the question for the committee – as a consequence of the former issues – purely relates to his fitness to continue to drive.
- 4.10 Mr Beale 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.

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 – 31 May 2017

Application for a Sexual Entertainment Venue Licence

Report of the Licensing Officer

1. Executive Summary

- 1.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”), as amended by section 27 of the Policing and Crime Act 2009, allows applicants to apply for a Sexual Entertainment Venue (“SEV”) licence where they wish to offer “relevant entertainment” (as defined at paragraph 2.3 of the report) on a frequent basis (as defined at paragraph 2.4 of the report).
- 1.2 In this case, an application for a SEV licence was received on 7 April 2017 from Mr Lloyd Christopher Winstanley-Cox in respect of the premises located at 12-14 Bath Road, Cheltenham.
- 1.3 A copy of the application form is attached at **Appendix A**, a copy of the premises layout is attached at **Appendix B**, a location map is attached at **Appendix C** and a map of Cheltenham’s central shopping area is attached at **Appendix D**.

2. Implications

How does the decision contribute to the council’s Corporate Priorities?

- Cheltenham’s natural and built environment is enhanced and protected.
- Communities feel safe and are safe.
- Our residents enjoy a strong sense of community and are involved in resolving local issues.

Legal

Any applicant who is refused a licence may, within 21 days of being notified of the refusal, appeal to the local magistrates' court.

However, the right to appeal does not apply where the licence was refused on the grounds that:

- the number of sexual entertainment venues in the area exceeds the number which the authority considers is appropriate
- the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves

Contact officer: Vikki Fennell

E-mail: vikki.fennell@teWKesbury.gov.uk

Tel no: 01684 272015

2. Background

- 2.1 On 1 October 2010, full Council approved the adoption of the amended provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to take effect in the borough on 1 December 2010.

- 2.2 Since the adoption, any premises wanting to offer “relevant entertainment” on a frequent basis can only do so by obtaining a SEV licence.
- 2.3 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).
- 2.4 Under the Act premises can provide relevant entertainment on an infrequent basis without the need for a SEV licence. An infrequent basis is defined under the Act as no relevant entertainment has been provided on more than 11 occasions within a 12 month period and no such occasion has begun within a period of one month beginning with the end of the previous occasion, and no such occasion has lasted longer than 24 hours. Any premises which wish to offer relevant entertainment more frequently are required to apply for a SEV licence.

3. Consultation

- 3.1 The applicant has advertised the application in accordance with the statutory requirements set out in Schedule 3 of the Act.

Consultation – Objections

- 3.2 In determining the application, Members must have due regard to any observations made by the Chief Officer of the Police and any other comments made by anybody else.
- 3.3 Members are to note in particular that any objection must relate to either the mandatory or discretionary grounds for refusal set out below.
- 3.4 Objections made on moral grounds or values are not relevant to either the mandatory or discretionary grounds for refusal and should therefore not be considered relevant.

Consultation – Chief Officer of Police

- 3.5 No objection or comments were received from the Chief Officer of Police for Gloucestershire Constabulary.

Consultation – Other Persons

- 3.6 Five representations were received in relation to this application. As all five followed the same template, they have been reproduced in the background papers as one amalgamated representation, but Members should note that all 5 objectors raised the same points.
- 3.7 A summary of the issues raised by objectors is below. Members are to note that the intention of the summary below is to identify the salient issues raised by the objectors. Members should read the accompanying background papers to ensure they are aware of all the issues raised by the objectors.
- **Policy** – The premises in question are situated in an area which, under the council’s current adopted policy, is deemed unsuitable for the licensing of sexual entertainment venues.
 - **Character of the relevant locality** – The operation of the premises as a SEV is inappropriate given the character of the locality in that it is:
 - (i) near residential properties;
 - (ii) near shops used by families and children or with frontages passed by the same;
 - (iii) near properties which are sensitive for religious purposes;

(iv) near other sensitive facilities used by families and children such as a public park, a theatre, a school, a dance studio and a day nursery, a taxi rank, a bus stop and offices where evening meetings may be held that are open to the public.

- **Previous licences** – Objectors have commented that, although these premises have been licensed as an SEV in the past, the council is not bound by previous decisions and may take a “fresh look” each time an application is made. [See officer comments at para 7.6]
- **Gender equality, discrimination** – Objectors have commented that SEVs discriminate against women and that the council has a duty to give due regard to the Public Sector Equality Duty, including tackling gender inequality.
- **Discomfort and intimidation** – The presence and operation of SEVs can make women nervous and force them to modify their behaviour, such as by taking different routes to avoid walking past the premises.

4. Policy Considerations

- 4.1 The council’s adopted policy statement in relation to the regulation and control of SEV’s was adopted by full Council on 13 October 2014 and this policy statement sets out the council’s guidance, application procedure, terms and conditions relating to the regulation of SEVs.
- 4.2 Below are relevant extracts from the policy to highlight relevant issues to Members. However, Members should read these in conjunction with the policy document for completeness and contextual understanding.

Determination (Section 10)

Mandatory Grounds for Refusal

- 4.5 A licence *cannot* be granted:
- a) to any person under the age of 18 years;
 - b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made; or
 - d) to a body corporate which is not incorporated in an EEA State; or
 - e) to any person who has, within a period of 12 months immediately preceding the date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds for Refusal

- 4.6 A licence *may* be refused where:
- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) the grant or renewal of the licence would be inappropriate, having regard:-
 - to the character of the relevant locality; and/or
 - to the use to which any premises in the vicinity are put; and/or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Location of Premises (Section 11)

- 4.7 In deciding the appropriate number of premises to be licensed, the Council must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'.
- 4.8 Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the Council's policy therefore that there is no locality outside of the adopted Central Shopping Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil.
- 4.9 The Council recognises however that the Central Shopping Area offers a more unique situation in as much as it has a much wider mix on offer, particularly in the night time economy and it may therefore be appropriate to consider applications for SEVs in the area. The Council has therefore resolved that it will not set a limit on the number of permitted SEVs in the adopted Central Shopping Area providing those premises are not near properties with sensitive uses or in sensitive locations.
- 4.10 A copy of the plan showing the adopted Central Shopping Area is attached at **Appendix E**.

Properties with sensitive uses or in sensitive locations

- 4.11 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, the Council shall consider, inter alia, whether the grant of the application would be appropriate, having regard to:
 - a) The fact that the premises are sited in a residential area;
 - b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
 - c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
 - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational

establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

Objections (Section 13)

- 4.12 When considering an application for the grant, renewal, variation or transfer of a SEV licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory consultation period.
- 4.13 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 4.14 Objections should not be made on moral grounds or values and the Council will not consider objections that are not relevant to the grounds mentioned above.
- 4.15 Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 4.16 Where the Council receives notice of any objection it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.
- 4.17 Objections may only be made within the period of 28 days following the date on which the application was made to the Council.

5. National Guidance (March 2010)

- 5.1 The Government has issued non-statutory guidance to aid local authorities carrying out their functions under Schedule 3, as amended by section 27.
- 5.2 Although it is non-statutory guidance, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.
- 5.3 Below (para. 5.4 – 5.14) are relevant extracts from the policy to highlight relevant issued to Members. However, Members should read these in conjunction with the guidance document for completeness and contextual understanding.

Meaning of Sexual Entertainment Venue

- 5.4 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." (para 2.1)
- 5.5 The meaning of 'relevant entertainment' is "any live performance or 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 an audience (whether by verbal or other means)." An audience can consist of just one person (e.g. where the entertainment takes place in private booths). (para 2.2)

Refusal of a Licence

- 5.6 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection. (para. 3.23)
- 5.7 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights. (para. 3.30)
- 5.8 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing. (para. 3.31)

Relevant Locality

- 5.9 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined, the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number. (para. 3.32)
- 5.10 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:
- a. in relation to premises, it is the locality where they are situated; and
 - b. in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment. (para. 3.33)
- 5.11 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application. (para. 3.34)
- 5.12 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits. (para. 3.35)

Licence Conditions

- 5.13 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3. (para. 3.39)

The Services Directive

- 5.14 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3. (para. 3.53)

6. Probity in Licensing (Relevant extracts)

- 6.1 Cheltenham Borough Council’s Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 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.
- 6.7 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.

7. Officer Comments

- 7.1 This is an application for a new SEV licence. Whilst the premises were previously licensed as a SEV, the licence expired without being renewed and this new application is being made by a different applicant. Each application should be determined on its individual merits.

- 7.2 When determining an application for a new SEV licence the committee must have regard to the relevant statutory provisions and any objections or comments made by the Chief Officer of Police and other persons, and should have regard to the relevant guidance issued by the Home Office.
- 7.3 The council's adopted policy on the licensing of SEVs defines areas that it considers appropriate for the licensing of SEVs and other areas in which it has resolved to adopt a limit of nil.
- 7.4 In relation to this application, the premises in question are situated in the relevant locality deemed to be *inappropriate* under the policy for the licensing of SEVs. See **Appendix E** for reference.
- 7.5 This is an important point for the committee to consider because notwithstanding the policy position, paragraph 3(d) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 states that a licensing authority *may* refuse a licence application if "...the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality".
- 7.6 Notwithstanding the committee's decisions in previous years to grant SEV licences in relation to these premises, common law has dictated that licensing authorities are entitled to take "a fresh look" at an application. Accordingly, it is open to the council to refuse a licence even where no change in the character of the relevant locality has occurred since a licence was previously granted. The previous decisions have therefore not set a precedent.
- 7.7 Members are to note that the policy must not fetter the committee's discretion to consider the individual circumstances and merits of the application but equally the committee must not arbitrarily deviate from its policy without good reason.
- 7.8 Objectors to this application have highlighted the council's Public Sector Equality Duty and the need for the council to have regard to this when determining this application. Section 149 of the Equality Act 2010 places a statutory duty on the council to, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.9 Having considered all the relevant matters, the committee must decide whether to:
- a) Grant the application as applied for;
 - b) Grant the application subject to any additional terms, conditions and/or restrictions that are either specific to the licence or standard conditions; or
 - c) Refuse the application.

Background Papers

Service records

Sexual Entertainment Venues: Guidance for England and Wales (March 2010)

Cheltenham Borough Council Sexual Entertainment Venue Policy Statement adopted October 2014

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009

Contact Officer

Mr Philip Cooper

E-mail: licensing@cheltenham.gov.uk

Tel no: 01242 775200

0487120



CHEL TENHAM
BOROUGH COUNCIL

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27/4/17
LICENCE APPLICATION

SEX

17/00594/SEXA

NOTE Please read the explanatory notes attached before
completing this application form

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3
APPLICATION FOR A SEX ESTABLISHMENT LICENCE

PLEASE NOTE

All applicants must complete Section A.
Section B to be completed if applicant is a company.
All applicants must sign declaration in Section C.

SECTION A

Application type

(please tick ✓)

☒ New application☐ Renewal of existing licence☐ Transfer of licence☐ Variation of licence

If renewal please state existing
licence number

N/A.

Applicant's details:
Surname

WINSTANLEY-COX

Forename(s)

LLOYD CHRISTOPHER

Address:

Date of birth [dd/mm/yyyy]

National Insurance number

Daytime telephone number

Fax number

Email address

Agent acting on behalf of applicant
(eg solicitor) if applicable:

Name of agent:

Address of agent:

Daytime telephone number of agent

Email address of agent

Name under which the business is to
be known and traded as

Address of premises for which this
application is made

For what purpose do you intend to
use this premises?
eg sex shop

Do you have planning consent to use
the premises stated above for the
purpose intended?
(please provide details, and forward appropriate
documentation to evidence this)

If this application relates to a vehicle,
vessel or stall please give description
(including site to be situated on)

Proposed days and hours of
operation

(please tick ✓ and specify times for each day
using the 24 hour clock)
eg: 23:00 that day or 02:00 on the
day following

Page 32

N/A.

N/A.

N/A.

Post code N/A.

N/A.

N/A.

FANTASY

12-14 BATH ROAD
CHELTENHAM

Post code GL53 7HA

GENTLEMAN'S CLUB.

WE HAVE NO INTENTION OF CHANGING THE
BUILDING OTHER THAN BASIC REMEDIAL WORKS.
THE PREMISE IS AN EXISTING BUSINESS WITHIN
THIS SECTOR AND WILL BE USED ACCORDINGLY.

N/A.

<input checked="" type="checkbox"/> Sunday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Monday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Tuesday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Wednesday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Thursday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Friday -	from 21.00 until 04.00	hours
<input checked="" type="checkbox"/> Saturday -	from 21.00 until 04.00	hours

Have you ever been convicted by a Court for any offence which is not now spent under the terms of the Rehabilitation of Offenders Act 1974?

☐ Yes
☒ No

(please tick ✓ as appropriate)

If **Yes**, please give details

All unspent convictions must be disclosed (if renewal application, since you last applied for a licence)

(please continue on a separate sheet if necessary)

Date of Conviction	Name of Convicting Court	Nature of Offence

Are there any criminal proceedings against you pending?

☐ Yes
☒ No

(please tick ✓ as appropriate)

If **Yes**, please give full details including date of hearing and name of Court

N/A.

Have you been a director or company secretary of a company involved in the ownership or operation of a licensed sex establishment previously?

☐ Yes
☒ No

(please tick ✓ as appropriate)

If **yes**, please give details

N/A.

Were there any convictions recorded against that company?

☐ Yes
☒ No

(please tick ✓ as appropriate)

If **yes**, please give details

N/A.

SECTION B**To be completed if the applicant is a company**

Company name

Company address

Post code

Company telephone number

Company fax number

Company email address

Full names and private addresses of all directors or other persons responsible for management of the company:

1	2	3
Name	Name:	Name:
Address:	Address:	Address:
Post Code:	Post Code:	Post Code:
Date of birth:	Date of birth:	Date of birth:
National Insurance no.	National Insurance no.	National Insurance no.

Any convictions recorded against that person or those persons

Name and date of conviction	Name of convicting Court	Nature of offence	Sentence (if imposed)

Are there any criminal proceedings against that person or those persons pending?

☐ Yes☒ No

(please tick ✓ as appropriate)

If Yes, please give full details including date of hearing and name of Court

N/A.

SECTION C**Declaration**

All new and renewal applications for sex establishment licences are considered by the Licensing Committee. The applicant and/or their representative are required to attend the meeting of the Licensing Committee at which their application is due to be considered to speak in support of their application. They should be prepared to answer any questions which the Licensing Committee may wish to ask.

PLEASE NOTE

This application must be signed by the applicant personally or, in the case of a company, by a director or other duly authorised agent of the company.

I/We confirm that the contents of this application are true and correct.

I/We agree that if a licence is granted by Cheltenham Borough Council for a sex establishment licence, that I/we will comply with all Acts, Byelaws, Regulations and Conditions relating thereto and for the time being in force.

I/We understand that non-compliance with any relevant Acts, Byelaws, Regulations and Conditions will prejudice the continuance of any licence granted.

I/We understand that the council may utilise the information contained herein for internal purposes and may disclose the information to persons or organisations in accordance with the council's registration under the Data Protection Act 1998.

I/We, the undersigned, hereby apply for registration as a sex establishment within the Borough of Cheltenham and I/we declare that to the best of my/our knowledge and belief the foregoing statements are true and correct.

I/We understand that this licence will expire 1 year after it has first been granted or after a period of time decreed by the Licensing Committee, and a newly completed application form will need to be submitted to the local authority **two months before the expire of the existing licence, together with the licence fee current at that time.**

I/We further understand that once the completed application form has been submitted it will be submitted to environmental health, planning, building control and community safety officers of Cheltenham Borough Council together with the local police, fire service, parish councils and ward members for comment.

I/We understand that I/we must submit a copy of this application form to the chief officer of police for the area in which the premises are located and all other Responsible Authorities.

Signature of applicant (s) 

Name (s) in BLOCK CAPITALS

MR LLOYD CHRISTOPHER WINSTANLEY & CO

Capacity in which application is signed
(see note above)

PERSONALLY

Date

28/03/2017

How to apply for a sex establishment licence

This application and the appropriate supporting documentation should be forwarded to the Licensing Team at the address on the front of this form.

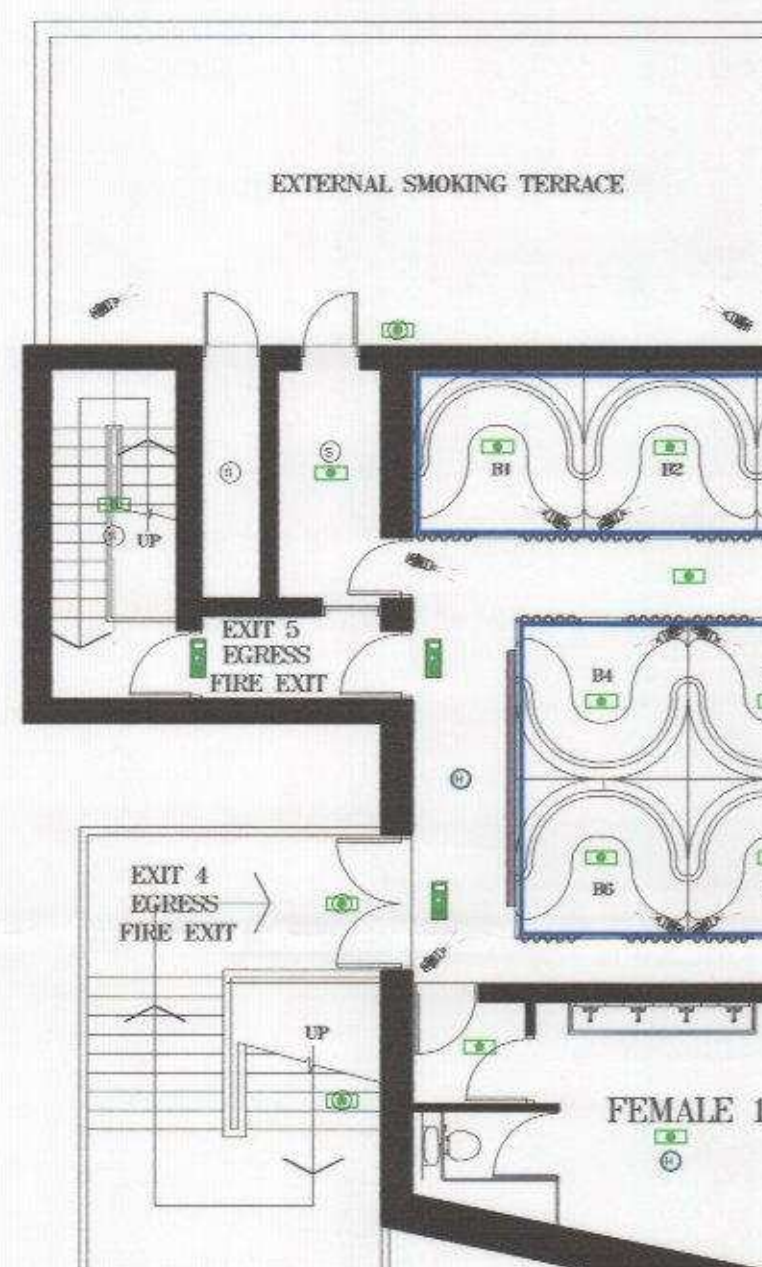
Please read the guidance notes that accompany this application form. Failure to comply with the application procedure could result in a licence not being granted.

The following are required in order to proceed with the application:-

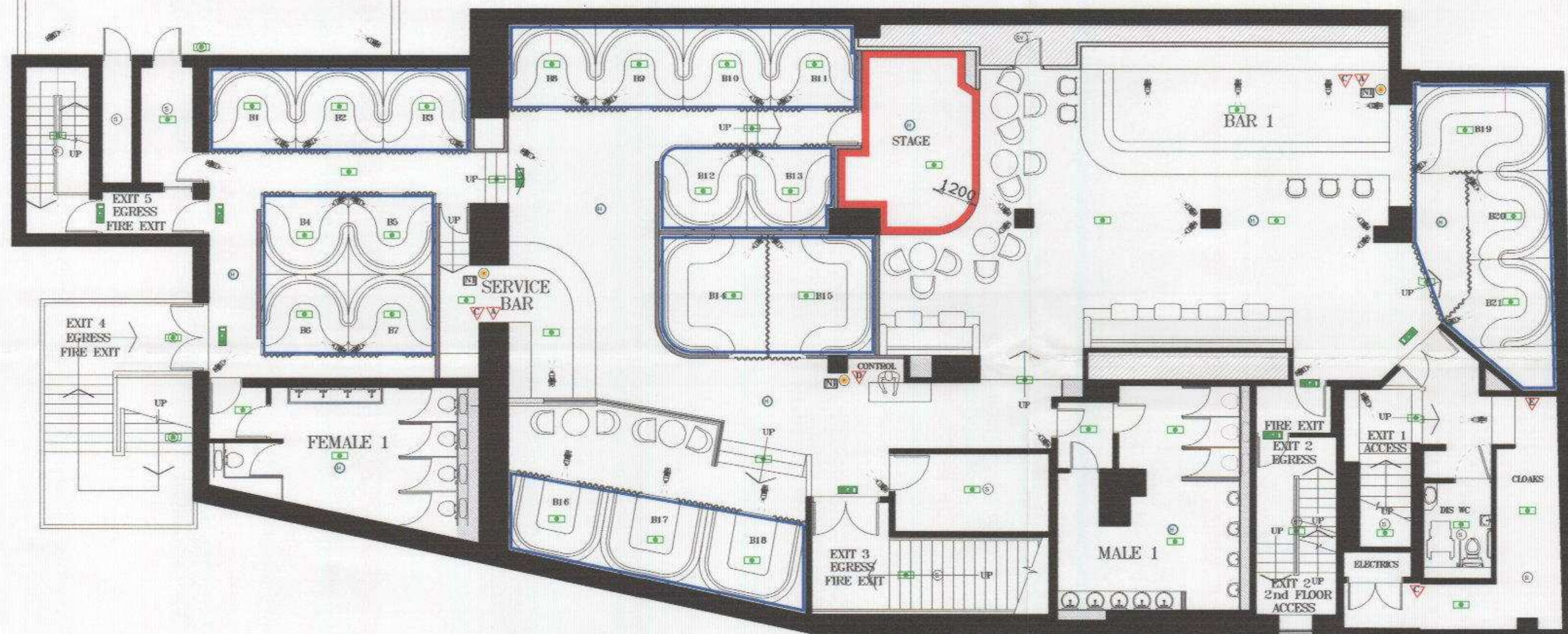
please tick the boxes below ✓ to confirm you have sent them

- **Application form** (all sections completed) ☒
- **2 copies of a plan** delineating the specific rooms or premises to which this application relates, with escape routes (in case of emergency) indicated. ☒
- **2 copies of a location plan** showing the vicinity of the proposed premises with the premises themselves clearly marked. ☒
- **Planning consent documentation** as confirmation that you have permission to use the premises for the purpose for which you are making this application. ☒
- **Any additional information** in support of the application. ☒
- **What you need to show to establish your identity**
This will be required from the applicant named in Section A ☒
- **Driving Licence original(s) for inspection (paper and photo card counterpart)** which will be photocopied by an officer from Licensing Team.
If you do not have a valid photo card driving licence then a valid passport must be shown to the Licensing Officer. ☒
- **If none of the above are available then please supply one of the following original documents-**
Original birth certificate (or similar official document if born outside UK)
P45 / P60 Statement
Marriage certificate ☒

If you have any queries or require assistance in completing the application form, please contact our Licensing Team at the address on the front of this form, or telephone 01242 774924.



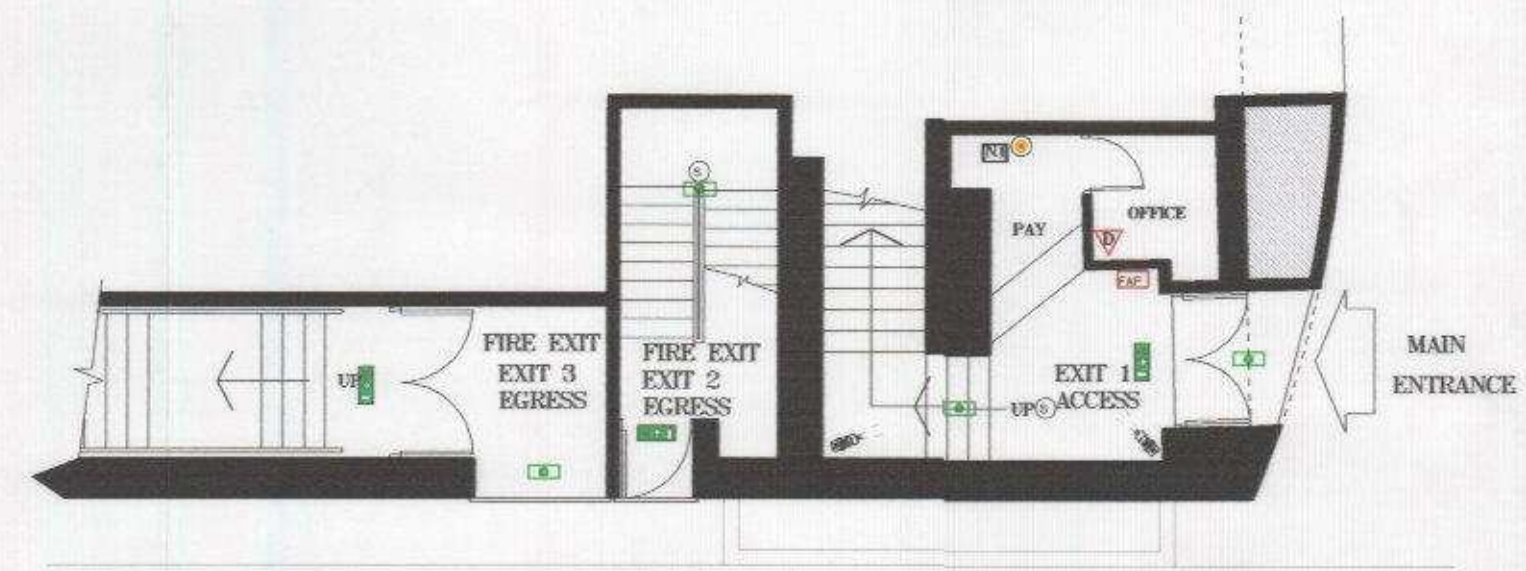
SECOND FLOOR PLAN



FIRST FLOOR PLAN



FRONT ELEVATION



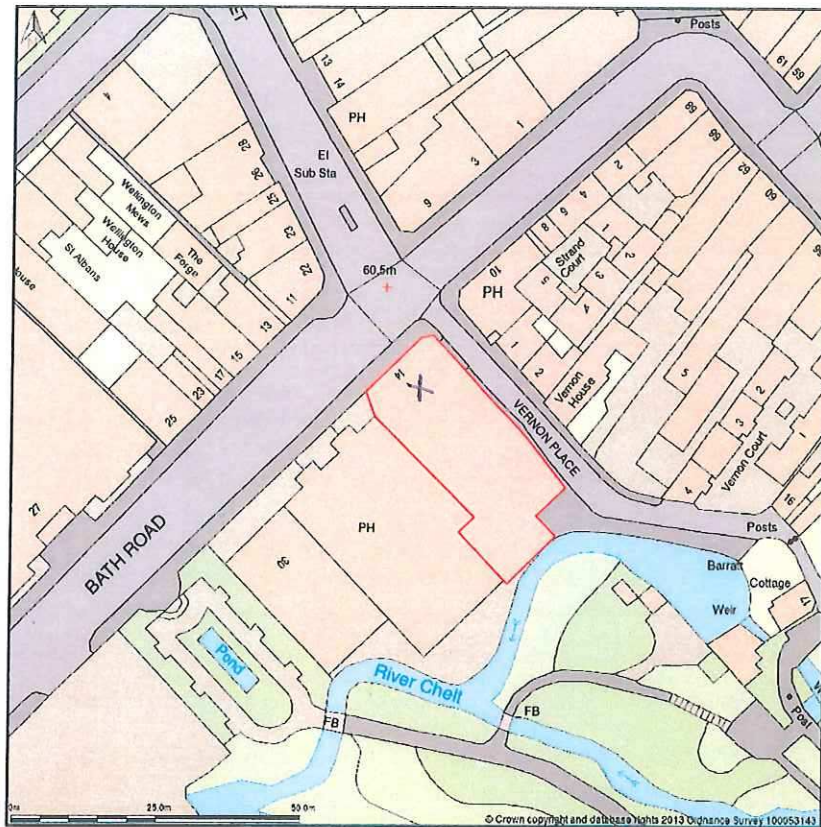
GROUND FLOOR PLAN

- FIRE ALARM**
- VD DETECTOR
 - REDCARE LINE
 - SMOKE DETECTOR
 - SMOKE DETECTOR / FIRST STAGE SOUNDER
 - HEAT DETECTOR
 - HEAT DETECTOR / FIRST STAGE SOUNDER
 - COMBINE SMOKE & HEAT DETECTOR
 - MANUAL CALL POINT
 - FIRST STAGE SOUNDER-LED
 - FIRST STAGE SOUNDER-NEON
 - VOICE EVACUATION SOUNDER
 - VOICE EVACUATION PROJECTION SOUNDER
 - FLASHING BEACON
 - INTERFACE
 - FIRE ALARM PANEL
 - FIRE ALARM REPEATER PANEL
 - DISABLE REFUGE INTERCOM POINT
- EMERGENCY LIGHTING**
- ELB EMERGENCY LIGHT 240V N/M3 BULKHEAD LIGHT BOB
 - PUBLIC AREA COMBINE 28 WATT 2D DECORATIVE FITTING
 - ES EMERGENCY SIGN 240V M3
 - BOH REF AC5004 PUBLIC AREA AC5019
 - EMERGENCY / CLEANERS LIGHT 240V N/M3 IP20 TWIN SPOT WITH MULTI DIRECTIONAL HEADS REF AC5007
- FIRE EQUIPMENT**
- 6kg MULTI-PURPOSE FOAM EXTINGUISHER
 - FIRE BLANKET
 - 2kg CARBON DIOXIDE EXTINGUISHER
 - AQUARIUS FOAM FILLED
 - 6ltr MULTI PURPOSE WATER EXTINGUISHER
 - DRY POWDER
- FIRE NOTICES**
- GENERAL BY EACH CALL POINT
 - STAFF
 - KITCHEN
 - DUTY MANAGER
- AREA BOUNDED BY THE RED LINE INDICATES THE AREA WHERE PERFORMANCES TAKE PLACE
- AREA BOUNDED BY THE BLUE LINE INDICATES THE AREA WHERE PRIVATE SCREENED PERFORMANCES TAKE PLACE
- CCTV CAMERAS

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Client _____
 Project **FEVER BARS**
VOODOO CHELTENHAM GL53 7HB
 Title **PROPOSED LAP DANCING CLUB**
 Drawn by **GRT** Date **SEPT-13**
 Scale **1:100 @ A2**
 Directory **FEVER GROUP**
 Drawing no **VD-13-102**
 Proj Lib **FEVERGROUP**
 Layer set _____

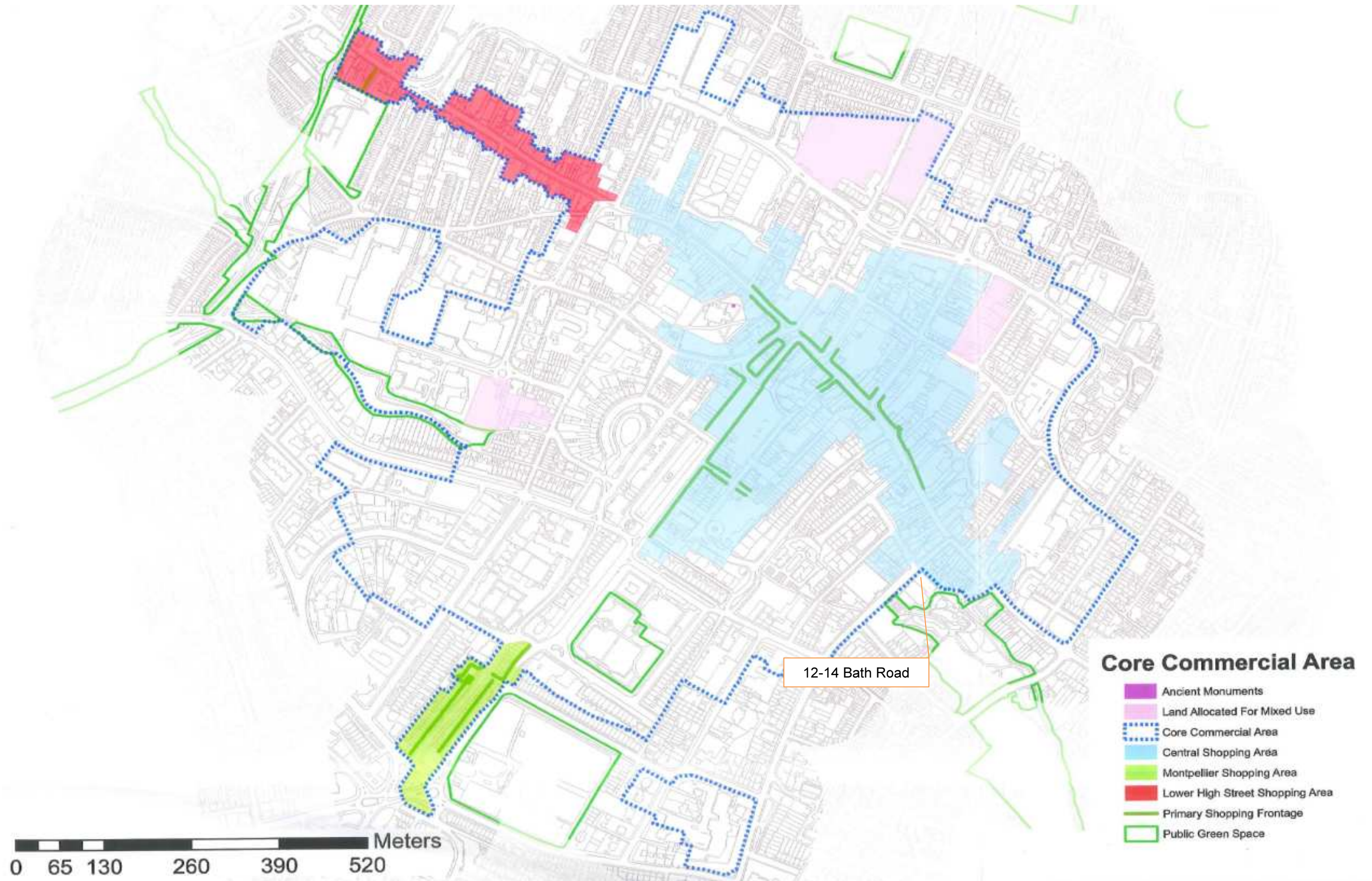
12-14 Bath Road, Cheltenham, GL53 7HA



Site Plan shows area bounded by: 395056.78,222044.94 395198.2,222186.36 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Briefing Notes

Committee name: Licensing Committee

Date: 31 May 2017

Responsible officer: Licensing Team Leader

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Licensing Service Review 16/17

This briefing note provides the Committee with an overview of the licensing service for the 16/17 financial year.

1. Numbers

a. Licence applications processed

Type	Number processed
Alcohol/Entertainment - Premises	251
Temporary Events Notices	382
Personal licences	150
Driver licences	197
Vehicles licences	552
Operators	20
Taxi/PH other	14
Charity collections	154
Scrap metal dealers	8
Objects on the highway permission	128
Pre-application advice	16
Gaming permits	10
Lotteries	62
Sex establishments	3

Distribution of free printed matter	40
Betting shops	1
Club premises certificates	1
Street trading consent	55

Officers processed a total of 2092 licensing applications in the 16/17 financial year across the sectors outlined above. The total number of licences processed is broadly similar to that of the 15/16 financial year.

In all cases, applications were determined in accordance with statutory timescales.

The significant majority of these applications were determined under delegated authority by licensing officers.

In the 16/17 financial year, 18 cases were referred to the Licensing Committee:

Street trading	5
Tables and chairs consent	1
Review of Private Hire Driver's Licence	6
Review of Hackney Carriage Driver's Licence	1
Sexual Entertainment Venue Licence	1
Alcohol/entertainment – Premises	4

In general, officers will refer an item to the Licensing Committee in cases where there is an issue with compliance with policy, a particularly contentious matter, where there is a statutory requirement to do so or other cases where officers consider it beneficial to refer the matter to the committee.

2. Appeals

The council has a good decision making record that has resulted in minimal number of appeals. In the 16/17 financial year, no officer decisions taken under delegated authority were subject to a judicial challenge.

In the same year, 2 appeals were lodged against a Licensing Committee decision – these being a decision to revoke a Hackney Carriage Driver's licence and another to suspend two alcohol licences. One of the two appeals was settled without the need for a hearing (suspension of alcohol licences). In the case of the other, the appeal was upheld by the Magistrate's Court who overturned the Licensing Committee's decision.

Notwithstanding the appeal being upheld, it is worth noting that no costs were awarded against the council which is an indicator that the Magistrates' Court did not find the council's decision to be irrational or made in bad faith.

3. Enforcement/Requests for service

Type	Number
Licensing Inspection	240
Premises - Licensing Act 2003 Complaint	58

HC Driver Complaint	31
Private Hire Vehicle Complaint	1
HC Vehicle Complaint	4
Street Trading	12
PH Operator Complaint	3
Private Hire Driver Complaint	19
Street Collections Complaint	4
Gambling Complaint/Inspection	1
HC Vehicle Inspection	1
Licensing Misc.	10
Objects on the Highway Complaint	85
Personal - Licensing Act 2003 Complaint	1

Total: 470

In the 16/17 financial year, officers dealt with 470 requests for service. This includes complaints, inspections or general recording of proactive work undertaken.

100% of premises due for an inspection in the financial year were inspected in accordance with their risk rating.

There were a total of 9 prosecutions brought by the Licensing section all of which related to either people illegally plying for hire in Cheltenham (8) or unlawful obstruction of the public highway (1).

The council was successful in all 9 cases brought before the courts.

4. PED Service Transformation

In the 16/17 financial year, the licensing service has been heavily involved in the Place and Economic Development service transformation work. The service's involvement consisted of:

- Improved officer time-recording procedures to gain a much better understanding of service costs and resource deployment.
- Review of all internal procedures that have identified a number of areas where substantial improvements can be made to procedures and processes in order to free up additional officer resource to focus on more important issues such as fee earning activities.
- Being successful in obtaining a grant from the LGA that is being put towards developing an online licensing self-service solution that integrates with back office systems.
- An agile working project that will allow officers to work more flexibly to improve resilience and improved service delivery.
- Expanded the remit of discretionary services provided by the licensing section in order to move the service towards a more commercial approach to service delivery.
- Involvement with a number of corporate projects that are linked to the emerging place strategy including the events infrastructure project, the Tour of Britain and public realm CCTV review.

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