

## Licensing Committee

Wednesday, 6th June, 2018

6.05 - 8.20 pm

| Attendees                  |   |
|----------------------------|---|
| <b>Councillors:</b>        | David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Dennis Parsons, Mike Collins and Simon Wheeler (Reserve) |
| <b>Also in attendance:</b> | Vikki Fennell and Phil Cooper   |

### Minutes

**1. APOLOGIES**

Councillor Hegenbarth, Councillor Whyborn and Councillor Clucas had given their apologies. Councillor Wheeler acted as a substitute.

Councillor Harman excused himself at 19:20.

**2. DECLARATIONS OF INTEREST**

Following a discussion, it was agreed that Councillor Parsons would not take part in the vote on agenda item 7 as he had objected to the application.

Councillor Willingham and Councillor McCloskey both declared that they had visited the site in question at agenda item 8.

**3. APPOINTMENT OF SUB-COMMITTEES AND SUBSTITUTES**

The Licensing Officer introduced the report, he explained that in September 2017 the licensing committee had adopted a revised committee structure. Since this had become effective, the full committee met quarterly and was responsible for establishing sub-committees, acting as a consultee to Cabinet/Lead Members and dealing with briefings and training.

He advised that under the committee's revised structure they were proposing to establish three sub-committees, a miscellaneous committee, one for dealing with sexual entertainment venues (SEV) and an alcohol and gambling sub-committee. Alternatively, the committee could opt to include the determination of SEV's within the remit of the miscellaneous sub-committee. The number of Members required for each committee was outlined at section 1.5 of the report. He informed the committee that since the re-structure the miscellaneous sub-committee had met on 8 occasions and the alcohol and gambling on 7, 2 of which were to deal with SEV's.

During the debate the Members made the following observations:

- That by establishing a third sub-committee purely to deal with SEV's would be more bureaucratic and cause more unnecessary administrative work for Democratic Services.

- As they were so infrequent it would be long periods of time before minutes got approved.
- That by establishing a separate sub-committee purely to deal with SEV's would appear prejudicial.
- They intended to rotate the Members on each sub-committee to ensure Members got a broad range of experience.

One Member queried why it wasn't a necessity for the Alcohol and Gambling sub-committee to be politically balanced. The Legal Officer advised that as it was quasi-judicial it was not required to be under legislation. Some Members agreed that it wasn't necessary and felt that when the sub-committee was short on Members it was not always easy to ensure they were both quorate and politically balanced. Others agreed that it was impractical and it was very rare that there was cross party disagreement in any case.

The committee proceeded to vote on whether the Alcohol and Gambling sub-committee should be politically balanced.

Upon a vote it was 3 for 5 against.

A short discussion was had regarding the possibility of returning back to the previous committee structure which saw the full licensing committee deal with the majority of matters and then draw upon 3 Members from the full committee to deal purely with Alcohol and Gambling. The Chair, however, reasoned that it was unnecessary for the full committee to meet to deal with minor applications such as an A-board and that by establishing sub-committees would put their time to better use. It was agreed that further discussions could be had and the committee structure be reviewed if this was deemed necessary.

The sub-committee proceeded to vote on whether to establish two sub-committees as follows

1. A miscellaneous licensing sub-committee who would have responsibility for hackney carriage, private hire, miscellaneous licensing functions and SEV's.
2. An Alcohol and Gambling sub-committee.

Upon a vote it was unanimously

**Resolved that two sub-committees be established one to deal with miscellaneous licensing functions and SEV's and an Alcohol and Gambling sub-committee.**

The sub-committee agreed the membership of the miscellaneous sub-committee as follows:

Councillor Seacome  
 Councillor Collins  
 Councillor Parsons  
 Councillor Willingham  
 Councillor Wheeler

It was agreed that the other Members of the committee would act as substitutes for the miscellaneous licensing sub-committee, and subsequently, the substitutes would be as follows:

Councillor McCloskey  
Councillor Harman  
Councillor Boyes  
Councillor Clucas  
Councillor Hegenbarth  
Councillor Whyborn

Councillor Collins nominated Councillor Willingham as Chair of the miscellaneous sub-committee which was agreed.

**Resolved that Councillor Willingham act as Chair on the Miscellaneous Sub-Committee.**

Councillor Harman nominated Councillor Seacome as Vice Chair of the miscellaneous and Councillor Collins nominated Councillor Parsons.

Upon a vote it was 3 in favour of Councillor Seacome and 5 in favour of Councillor Parsons.

**Resolved that Councillor Parsons be Vice Chair of the Miscellaneous Sub-Committee.**

It was agreed that Members for the Alcohol and Gambling sub-committee would be selected from the full committee on a first come first serve basis and those who were not on the miscellaneous sub-committee would be called upon first. Councillor Parsons proposed Councillor McCloskey as Chair for this sub-committee, however, following a discussion it was agreed that the Chair would be determined at each meeting.

**4. PUBLIC QUESTIONS**

There were no public questions.

**5. MINUTES OF LAST MEETING**

The minutes of the last meeting held on the 6<sup>th</sup> December 2017 were agreed and signed as a correct record.

**6. APPLICATION TO REPEAT A STREET TRADING CONSENT - ITEM WITHDRAWN**

**7. APPLICATION FOR STREET TRADING CONSENT**

The licensing Officer introduced the report, he explained that an application had been made by Mr Tee Smith for street trading consent in respect of two mobile ice cream vans.

He advised that the times he proposed to trade were every day between 17:00 – 22:30, although this would be on an infrequent basis and that the vehicle Mr Smith would use was pictured at Appendix A of the report.

He explained that trading is prohibited in certain locations in the council's adopted policy and such restrictions were outlined at paragraph 2.2 of the

report. An objection to the application had also been received from a Cheltenham Borough Councillor and this was highlighted at paragraph 3 of the report.

The Licensing Officer explained that he had had further correspondence with Mr Smith who was happy for a condition to be imposed on the licence which prohibited the use of chimes. He also stated that he only intended to trade in town centre car parks and was happy to cease trading earlier than 22:30 if deemed necessary by the committee.

The Licensing Officer informed the committee that they could:

- Approve the application because Members were satisfied that the location, size of unit and type of goods are suitable;
- Refuse the application because Members consider the location, size of unit or goods being sold to be unsuitable.

He further advised that they had the option to grant on a trial basis or grant with conditions.

Following questioning, the Licensing Officer confirmed that:

- Mr Smith had never been licensed in Cheltenham before;
- That there were 4 other licensed ice cream traders in Cheltenham, 3 of whom were licensed to trade all year and one of whom was licensed from April – September. 3 of them were licensed from 12:00-19:00 and the other from 11:00-19:30.
- He was led to believe that Mr Smith intended to park up in a location and then advise people via social media of his location, as opposed to continuously moving around.
- Mr Smith had claimed that in addition to selling ice cream he would also be selling desserts.

Following a discussion the Members raised the following points:

- Several Members had concerns over litter, particularly if Mr Smith intended to sell more than just ice creams. A discussion ensued regarding the possibility of producing a litter management plan or imposing a condition which would require bins at every location. In response, the Licensing Officer proceeded to read the relevant extract from the street trading policy which stated that when determining an application the impact of the proposed operation on the local environment should be taken in to consideration.
- Members suggested that if Mr Smith was trading in private car parks that they would like to see an agreement from the landowner and that they would also like the landowner to approve the litter management plan.
- Concerns were raised as to whether it was fair to apply conditions to Mr Smith's licence if such conditions were not imposed on the other ice cream traders. However, the Legal Officer reasoned that Mr Smith had agreed to conditions being applied during his conversation with the Licensing Officer and also that this application is different from all other

ice cream traders in that the applicant intends to trade later in the evening.

- Following concerns about the predicted number of customers who would be gathering in car parks, the Licensing Officer advised that public safety was a factor outlined in the street trading policy which needed to be considered when determining an application and he proceeded to read the relevant extract from the policy.
- Members raised concerns that by granting an open licence Mr Smith could potentially trade from residential areas, not just car parks as he had suggested.
- It was suggested that a condition be applied which required Mr Smith to give the licensing team 48 hours notice of where he intended to trade so that the location could be approved.
- Members agreed that the licence should be granted for a 6 month period and then reviewed should any problems arise.
- Following further discussions, it was agreed that any conditions applied should be simple and enforceable and that requiring the licensing team to approve the location and seeing evidence of the landowner's approval may not always be viable.
- Members felt that as they were unsure as to which locations he would be trading they had to cover all eventualities and so should reduce the operating hours.

Following further discussions, the committee agreed the following conditions be imposed on the licence:

1. Waste bins will be made available both for customers and for staff;
2. Trading times are limited to 1600-2200 Mon - Sat and 1600-2100 Sun;
3. Permitted to trade only on private land and private car parks, not on the public highway;
4. The location and date(s) of trading must be notified to the licensing team at least 2 working days in advance of trading;
5. The ice cream van's chimes will not be sounded and any other music played at the site will be background music only and must not cause a disturbance to residents or other people.

The sub-committee proceed to vote on section 1.5.1 to approve the application subject to the above conditions because the Members are satisfied that the size of unit and type of goods are suitable.

Upon a vote it was unanimously

**Resolved that the application be granted subject to the 6 conditions as outlined above and for a period of six months.**

**8. APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY**

The Licensing officer introduced the report, he explained that an application had been made to place an advertising board on the highway outside S.Rouse & Co, which was located at 99 Gloucester Road, Cheltenham, GL51 8NG.

He confirmed that S.Rouse & Co were proposing to place the board on the highway from 09:00-17:00 Monday – Saturday.

The Licensing Officer advised the committee that the location plan was attached at Appendix A of the report, a photo of the location was included at Appendix B and a photo of the A-board at Appendix C.

An objection had been received from a CBC Planning Enforcement Officer due to the fact that the height of the board exceeded the size dimensions approved in the council's Street Scene Policy and due to the fact that the premises had space on its large forecourt to display the board.

In light of this, the Licensing Officer advised the sub-committee that they could either:

- Approve the application because Members were satisfied that the location is suitable; or
- Refuse the application because it does not comply with the provisions of the adopted Street Scene policy.

Following questioning, the Licensing Officer confirmed that:

- The size restrictions imposed on A-boards was outlined in the Council's outdoor advertising protocol, which had been in place for many years.
- That there were restrictions on premises with street frontages being allowed A-boards, however, this only applied to those in the town centre and S.Rouse fell just outside of this zone.

During the debate the Members made the following observations:

- That under the definition of 'premises' S.Rouse's land actually extended beyond the forecourt to the pavement and so one Member felt it was in their rights to place it there if they so wished.
- Concerns were raised over the fact that the A-board was on wheels and so could potentially roll down the street or into the road.
- Several Members agreed that given the size of the forecourt the company had enough room to place it there and that by placing it on the pavement would just cause unnecessary clutter on the highway.
- Some Members felt that A-boards were only really necessary on properties which were down alleyways and wouldn't get any passing trade and the fact S.Rouse was located on a main busy road meant it would get a lot of passing trade.
- One Member questioned whether it was a dropped kerb outside of the premises. Following further investigation, the Licensing Officer confirmed that it was.

- Members felt concerned that by granting this application it would set a precedent for other businesses in the area.

The Members proceeded to vote on section 1.5.1 to 'approve the application because Members are satisfied that the location is suitable'

Upon a vote it was 0 for and 7 against.

The committee then voted on section 1.5.2 to 'refuse the application because it does not comply with the provisions of the adopted Street Scene policy'

Upon a vote it was 6 for and 1 Member abstained. against.

### **Resolved that**

**The application be refused because it does not comply with the provisions of the adopted Street Scene policy.**

### **ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

The Chair wished to discuss the following matters at minute items 10 and 12.

#### **10. EVENTS IMPACT**

The Chair explained that an issue with regards to events in the Borough had been brought to his attention by Councillor Parsons.

Councillor Parsons proceeded to explain that in the last few months there had been several issues with regards to outdoor music events which had been causing excessive noise to residents. Notable examples included that of the Steps concert at Whaddon Road and Wychwood festival at Cheltenham Racecourse which had attracted complaints from residents many miles from the venue.

Whilst Councillor Parsons reasoned that such events were necessary, particularly to support the ambitions for the place strategy there needed to be a balance. He felt that a meeting with planning, environmental health and various other relevant departments would be beneficial.

The Chair felt that the issue went wider than just the licensing team and as such suggested it be referred to the Overview and Scrutiny Committee for consideration.

The Licensing Officer advised the committee that for temporary events notices only the police and environmental health were able to object. In the case of premises licences, the consultation is wider and anybody can object if their objection is relevant and relates to one or more of the licensing objectives. He explained that in most instances if environmental health were to have any concerns then they work with the applicant or agree conditions. He further advised that the licensing team will send a weekly list of ongoing premises licence applications to all councillors, so that they will be aware of such applications. However the list won't include all events, because not all events require a premises licence application to be made.

**Resolved that**

**The matter be referred to the Overview and Scrutiny Committee for consideration.**

**Local Government Act 1972 - Exempt Business**

**11. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS**  
**Upon a vote it was unanimously**

**Resolved that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 7, Part (1) Schedule (12A) Local Government Act 1972, namely:**

**Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.**

**12. INFORMATION SHARING WITH LICENSING IN ALLEGATIONS MANAGEMENT AND SAFEGUARDING**

The Chair updated the committee on a matter regarding information sharing with licensing in allegations management and safeguarding.

**13. DATE OF NEXT MEETING**

Wednesday 5<sup>th</sup> September 2018 at 6pm.

David Willingham  
**Chairman**