

Licensing Committee

Wednesday, 5th June, 2019

6.00 - 7.20 pm

Attendees	
Councillors:	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Mike Collins, Dennis Parsons and Simon Wheeler
Also in attendance:	Vikki Fennell, Louis Krog and Sophie McGough

Minutes

1. APOLOGIES

Apologies were received from Councillor Whyborn.

2. DECLARATIONS OF INTEREST

There were none.

3. PUBLIC QUESTIONS

There were none.

4. MINUTES OF LAST MEETING

A conversation was had about the exempt minutes from the previous meeting. Subject to a vote, the committee unanimously resolved to remove the exemption and put the minutes in to the public domain.

The minutes of the last meeting on 6th March were approved and signed as a correct record.

5. MINUTES OF SUB COMMITTEE MEETING

One Member requested that the full name of officers be listed in the minutes.

Subject to the above amendments the minutes of the Miscellaneous Licensing Sub Committee held on 8th May 2019 were approved and signed as a correct record.

6. APPLICATION FOR A STREET TRADING CONSENT

The Licensing Team Leader introduced the report, he explained that an application had been received from Mr Edward Danter for a street trading consent to sell hot food and hot and cold drinks from a hot food unit on the High Street. He highlighted that the application submitted in relation to Mr Danter's proposed 2019 trading had been altered from previous years in that the location was slightly different and the trading unit had been scaled down in size.

He highlighted that a number of objections had been received in relation to the application and advised the committee that they should be mindful of these

when determining the application. These were outlined at **Appendix 3** of the officer report.

He reminded the committee that each application should be determined on its individual merits and with a view of promoting the principles and objectives contained in the council's adopted policy. If Members were minded to deviate from the policy they should have clear reasons for doing so.

He noted that the next phase of the High Street East Masterplan work was due to commence in September and that this could affect the suitability of the location Mr Danter had applied to trade from. He advised that there was currently no definitive timescale for the works.

Following questions from Members, the Licensing Team Leader confirmed that:

- If an alternative location is identified for the stall, it would be subject to the usual consultation;
- He confirmed that 3 potential alternative sites had been identified, one was on the High Street near to Rodney Road, the other was outside Cavendish house as the Christmas market was moving this year and the final location, which had been suggested by Mr Danter, was on the High Street situated slightly up from John Lewis.
- Following a concern from Members that they had not had the opportunity to visit the alternative locations, the Licensing Team Leader confirmed that the committee had to determine the application before them. If they were minded to permit the application and the site became unavailable due to the works on the High Street then further consultation on an alternative site would need to be completed and the application may have to come back before the committee.
- Following a question from a Member, he confirmed that the alternative location for the Christmas market was not yet in the public domain as it was subject to procurement.
- Following a comment from Mr Danter that the proposed location for the stall had already been repaved last year, the Licensing Team Leader confirmed that whilst the stall wouldn't be situated directly within the area being repaved there would be a lot of traffic, noise and disruption to this area and so it had been deemed unsuitable for a food unit. He highlighted that this was dependent on the programme of works and may not affect Mr Danter at all.

Mr Danter explained that:

- He had experienced a number refurbishments to business units and the High Street in the times that he had traded at this location and these had not caused disruption to his business.
- He confirmed that his family had been trading on Cheltenham High Street during the festive period since 1986.

- He also had a funfair business that ran up until the 2nd November and then the food unit supported him and his family through the festive period.
- He highlighted that he had made a number of changes to the stall and location subject to consultation with the council and in response to complaints from other retailers. He explained that they had also enhanced the appearance of the unit at a cost of nearly £10,000 in 2015 and this year they had almost half the size of it in order to comply with the policy and to ensure that it did not obstruct New look or other retail units. They had also applied for a trading pitch that was slightly lower down the High Street so as to not conflict with other businesses.
- He highlighted that during the festive period in 2017 they had not received any complaints about the unit.

Mr Danter offered the following responses to Member questions:

- In response to a complaint about the smell of onions, they had sourced crispy dry onions that they now used;
- He was satisfied that the litter provisions were adequate. The Licensing Team Leader confirmed that there was not a specific condition on the licence regarding litter.

Members made the following comments during the debate:

- Members agreed that Mr Danter's stall was integral to Cheltenham during the festive period and extremely popular with both residents and visitors to the area. They acknowledged that Mr Danter managed the stall well and had worked with the council to resolve any issues.
- Several Members were concerned that the unit may need to be moved as a result of the works on the High Street and alternative locations would be subject to further consultation so wouldn't be able to be done at short notice.
- Members suggested that there needed to be closer dialogue with the townscape and licensing team regarding planned works and this would hopefully enable the licensing team to work with applicants to resolve issues outside of committee.
- Members acknowledged that it was not for the licensing committee to identify alternative locations, however, several Members felt that they would be happy to grant the application but not in the current location applied for.
- One Member reasoned that a number of the objections were not material considerations, they also felt that the majority of food outlets in the immediate vicinity had a different offer to Mr Danter's stall. One Member disagreed and felt that competition was still a factor as consumers would simply substitute.

In his final right of reply Mr Danter made the following comments:

- This unit was mobile and could easily be moved and relocated within 24 hours should it interfere with the works on the High Street.
- He reiterated that last year all the works taking place on the High Street had been completed on time and did not interfere with his unit.
- He read out several letters of reference, one from a local businessman who felt that the stall added something special to the High Street during Christmas time and stressed the importance of supporting a well-run family business. The other was from a sausage company supplier who explained that they relied on Mr Danter's unit in the run up to Christmas.

The committee proceeded to vote on section 1.5.1 of the report to approve the application because Members were satisfied that the location was suitable for the trading proposed.

4 in favour

4 against

The Chair had the casting vote and opted to grant the application.

The Licensing Team Leader and committee agreed that a plan b should be devised in consultation with Mr Danter in case problems arise as a result of the works on the High Street.

7. POLICY ON LICENSING OBJECTS ON THE HIGHWAY

The Licensing Team Leader introduced the report, he explained that the Licensing Committee had requested that a review of the street scene policy be brought to the next full licensing committee meeting and a briefing note had been prepared to assist Members in their discussions. This outlined the current policy, recommendations for any future policy direction and examples from other councils.

He advised the committee that they could make recommendations to Cabinet on the proposed revised policy options with regards to the council's policy on the licensing of objects on the highway.

Members agreed that there was inevitably an issue with enforcement and the fact it took several months for a case to be listed with the Magistrate's Court was a poor use of officer's time.

The Licencing Team Leader advised that they had met with the planning enforcement team who can deal with the advertisement side of A boards and through the Town and Country Planning Act the council had the ability to remove unauthorised A boards. Planners could, therefore, delegate such powers to licensing to deal with themselves and this would save them having to go through the Magistrate's Court. He did, however, acknowledge that there were practical issues that needed to be considered such as the storage and procedure for destroying of such boards.

Some Members noted that other councils had adopted an automatic entitlement approach where subject to compliance with restrictions advertising boards can be used without the need for an application and thought this would be an appropriate approach to adopt.

Members felt it imperative that councils had the power to act more quickly to resolve issues and not have to prepare case files for court. The Licensing Team Leader explained that if they had delegated powers from the planning officers then the legislation states that they must give 14 days notice and if applicants haven't complied within this time frame they can remove the A board themselves.

A Member also noted that there were issues with businesses leaving their tables and chairs out overnight which was not permitted by the licence.

Members had concerns as to whether the council had adequate enforcement resources and discussed whether the matter should be referred to O&S to look at. The Licensing Team Leader acknowledged that enforcement was an issue, however, if they had delegated powers to deal with A boards then the cases could be resolved within 2 weeks which would help alleviate some of the resourcing issues.

Following a discussion, the committee agreed that the Chair and Vice Chair should in the first instance meet with the Built Environment Enforcement Manager to identify the extent of the problem.

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

(A) Tewkesbury Borough Council Licensing Review

The Chair informed the committee that Tewkesbury Borough Council were currently reviewing their Hackney Carriage & Private Hire Taxi licencing policy with a deadline of the 26th August. It was suggested that the item be brought back to the next miscellaneous licensing committee meeting and any concerns could be fed back to Tewkesbury following that.

(B) Safeguarding concerns

The Licensing Team Leader informed the committee that they were having ongoing discussions with the police and County Council following concerns they had about the lack of information being disclosed on DBS checks. He advised that as per the national guidance's "relevancy criteria" police would not routinely log the following information:

- Violence considered less serious than GBH not involving a child or vulnerable adult unless there is a pattern of behaviour
- Domestic incidents
- Drug possession/use
- Drug dealing not involving children

- Drunkenness

He explained that there was a national consultation on the DBS criteria that they would be feeding in to and they were also dealing with it locally through the Gloucestershire Licensing Officers Group.

He confirmed that there was a national database of taxi drivers where refusals and revocations were logged, however, safeguarding information was not disclosed on there.

9. REVIEW OF PREVIOUS DECISIONS

10. DATE OF NEXT MEETING

4th September 2019.

11. APPROVAL OF EXEMPT MINUTES

The committee had resolved to release the exempt minutes from the previous meeting in to the public domain.

David Willingham
Chairman