



# CHELTENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Licensing Sub-Committee - Miscellaneous

**Wednesday, 3 July 2019**  
**6.00 pm**  
**Pittville Room - Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Simon Wheeler
<b>Officers:</b>	Louis Krog and Vikki Fennell

### Agenda

<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>APPLICATION FOR RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE</b>	(Pages 3 - 8)
<b>4.</b>	<b>APPLICATION FOR RENEWAL OF PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - A-BOARD</b>	(Pages 9 - 10)
<b>5.</b>	<b>APPLICATION FOR STREET-TRADING LICENCE</b>	(Pages 11 - 20)
<b>6.</b>	<b>APPLICATION FOR A VARIATION OF A SEXUAL ENTERTAINMENT VENUE LICENCE</b>	(Pages 21 - 44)
<b>7.</b>	<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION</b>	

**Contact Officer:** Sophie McGough, Democracy Officer,  
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- 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 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 suitable 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.
- 3.3 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.

**Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators**

- 3.4 The licensing authority must be satisfied that all those who are licensed to drive hackney carriages and / or private hire vehicles, and those who are licensed to operate under a private hire operator's licence, are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.
- 3.5 Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.
- 3.6 These guidelines shall apply to all new applicants for, and all existing holders of, hackney carriage / private hire driver's licences and private hire operator's licences.

**General Policy**

- 3.7 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.8 Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.
- 3.9 When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.
- 3.10 A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This is a criminal offence and, as such, may lead not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.
- 3.11 Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy, may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a licence, or the application being refused. In these circumstances the

applicant has the right of appeal to the MagPage 5ourt, such appeal to be lodged within 21 days of the decision being notified.

### **Fit and Proper Person**

- 3.12 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:**

- 3.13 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.

### **3.14 Convictions / cautions / fixed penalty notices**

Licence holders must notify the Council in writing within 7 days if he or she is convicted or cautioned for an offence or receives a fixed penalty notice.

### **3.15 Hybrid Traffic Offences**

Hybrid offences will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or fewer penalty points for the offence.

#### **HYBRID TRAFFIC OFFENCES**

CU10 Using a vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Breach of requirements as to control of the vehicle, mobile telephone etc

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g.

CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes

CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

## **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 As outlined in the report, Mr Layton has a number of DVLA penalty points that he has accumulated since his last renewal but not declared to the council at the time or on his application form. The details of these convictions are outlined in the accompanying papers.

- 4.3 There is a policy requirement on licence **Page 6** that they must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation.
- 4.4 The question on the application form asks “Have you been charged within any new motoring offences since your current licence was issued?” to which Mr Layton responded No.
- 4.5 Mr Layton 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.
- 4.6 The Committee must be satisfied that Mr Layton is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

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**Background Papers****Service Records****Report Author**

**Contact officer:** Mr Phillip Bowen  
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**Tel no:** 01242 262626



**Interview Details**

Interview Date: 17/06/2019

Interviewing Officer: Mr Phillip Bowen, Ms Freya Gill

Time Started: 10:31

Interviewee Name: Mr Keith Layton

Interview Location: Municipal Offices

Interviewee Age: Over 18

**Interview Notes**

A DVLA check was undertaken by Licensing Officer Freya Gill on 12 June 2019 revealed 3 sets of 3 points that had not been declared to CBC. Dates of offences not declared were:

4 June 2016– 3 penalty points (expired 4 June 2019) – SP30 (exceeding statutory speed limit on a public road)

7 April 2017 – 3 penalty points – SP50 (exceeding speed limit on a motorway)

12 July 2017 – 3 penalty points – SP50 (exceeding speed limit on a motorway)

**Purpose of the interview:**

To discuss points on DVLA licence which were not declared to the Council at the time, and were not declared on the renewal form.

**Details of the undeclared points:**

**Q1:** Can you run me through those points:

Mr Layton said that the only set of points that he can remember was the very last one (July 2017). There was a distance camera on M5 between Jct 12 and 11. He thought that he was doing just about 50mph, coming back from a school run. The speed camera was triggered as doing over 50mph, 51 or 52. The speed cameras were relating to rolling road works. This is the only one that he can remember.

He cannot remember where the previous points were. He has been looking through records and can't find anything in his records.

**Q2:** You said that you were doing 51 / 52mph, did you appeal the points?

Mr Layton did ask if he could appeal, he did ask to go on a speed awareness course but was turned down on that. Mr Layton said that he did not want to get any more points. He received a letter back refusing the speed awareness course, and came into the offices to report these points. He cannot remember who he reported that to. He also received a £90 fine on the last points.

**Q3:** How did you notify us?

Mr Layton said that he would not have notified us by email as he has only recently been able to use email. He stated that his writing is not that brilliant so it would have been notified verbally to CBC.

**Q4:** On the renewal form, it asks a question – have you been charged with any new motoring offences?

Mr Layton said that this would be his mistake, he thought that CBC were already aware of those points. Mr Layton said that he is not very good with paperwork. This is the first time he has filled the forms out himself.

Mr Layton clarified with us that Cheltenham Borough Council were not aware of any of the above sets of points.

**Q5:** You do know that you need to notify us within 7 days of any convictions, points etc.?

Yes

**Further comments:**

Mr Layton was informed that Cheltenham Borough Council policy is that a driver that has 7 penalty points or more on their licence, or an offence for 6 points or more would have to attend Licensing Committee. Louis Krog has asked for this renewal application to go to the Committee. The Committee then have an option as part of the renewal process. This does not currently stop you from continuing to work or continuing with your renewal application. The Committee may decide to do any of the following:

1. Take no further action
2. Give a written warning
3. Ask you to pass a DSA test within 2 months
4. Suspend the licence for a period of time
5. Revoke the licence / refuse to renew your application

Time interview terminated: 10:45

Interviewing officer signature



Interviewee Signature:





2.3 The width of footpath available is in excess of 4 metres (13 feet).

### 3. Policy Principles, Aims & Objectives

3.1 The current consent does not comply with the council's "Revised Outdoor Advertising Protocol" that states:

*No 'A' board will be approved within Conservation Areas except in the following circumstances; having regard to the position and location of the premises:*

*a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level;*

*b) the premises are situated along a side alleyway and / or on private land which is not a public thorough fare / right of way.*

3.2 The current location of the 'A' board in relation to Lakeland Ltd. does not comply with the council policy restrictions in that the business is located at street level with full street level frontage. To this extent the business is not deemed to be in need of this form of additional advertising.

### 4. Consultee Comments

4.1 No comments were received in relation to the application to renew the consent.

### 5. Licensing Comments

5.1 The application to renew the consent has given the council an opportunity to review the decision to grant the business a consent to obstruct the highway with an 'A' board. As stated in this report, the initial application in 2018 should have been referred to the Licensing Committee as it did not comply with the provisions of the council's "Revised Outdoor Advertising Protocol" as outlined above.

### 6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

**Reason(s):** The location is not disadvantaged and in need of this additional form of advertising in accordance with the restrictions set out in the Revised Outdoor Advertising Protocol.

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#### Background Papers

#### Service Records

#### Case Officer

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**

## "Miscellaneous" Licensing Sub-committee – 3 July 2019

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a Street Trading Consent

#### Mr William Nigel-Jones

#### Report of the Licensing Team Leader

### 1. Summary and recommendation

- 1.1 We have received an application from Mr William Nigel-Jones for a street trading consent to sell tea, coffee, cold drinks and cakes from a coffee bike measuring 3.10m (10 ft) in length, 1.09m (3.5 feet) wide and 2.20m (7 feet) high.
- 1.2 Mr Nigel-Jones has applied to trade on the High Street outside 117 High Street. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Nigel-Jones has applied for a three month consent to trade on the following days and times:

Monday	08:00 - 15:00
Tuesday	08:00 - 15:00
Wednesday	08:00 - 15:00
Thursday	08:00 - 15:00
Friday	08:00 - 15:00
Saturday	08:00 - 14:30
Sunday	None

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 **The Committee can:**
  - 1.5.1 **Approved the application because Members are satisfied that the location is suitable, or**
  - 1.5.2 **Refuse the application because it does not comply with the provision of the Street Scene policy.**
- 1.6 **Implications**

#### Legal

The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Any application should be considered in line with the Council's policy on Street Trading.

**Contact officer: One Legal**  
**E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)**  
**Tel no: 01684 272015**

2.1 The current street trading policy was adopted by Council on 12 February 2016. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

3.1 Permitted locations for street trading

The council's adopted policy prescribes a number of permitted trading locations and associated permitted trading goods. These locations and permitted goods are outlined in the council's adopted policy that is available on the council's website.

3.2 Assessment criteria

In considering applications for the grant or renewal of a consent the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.
- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The council will generally not permit trading units over 3 meters tall to avoid obstruction of sight.

- **Environmental Credentials** - The in **Page 13** proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

#### 4. **Consultee Comments**

4.1 Three objections were received in relation to this application. These are outlined in **Appendix 3**.

#### 5. **Licensing Comments**

- 5.1 The Committee must determine the application with a view to promoting the council's adopted policy and Members should not arbitrarily deviate from the council's policy.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above ("Permitted Locations") and Members should take these into account when determining this application.
- 5.3 Members are to note that the proposed trading location does not comply with the council's street trading licensing policy in that the location is not one approved by the policy.
- 5.4 Whilst the policy creates a presumption against the grant of an application if the application does not comply with the policy, this position should not fetter the committee's discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.4 Members are reminded that clear and thorough reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy.

#### 6. **Officer recommendation**

6.1 The officer recommendation is that this application be refused.

**Reason(s):** The proposed trading location is not designated as an approved trading location by virtue of Appendix 1 of the trading policy.

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**Background Papers**

Service Records

**Case Officer**

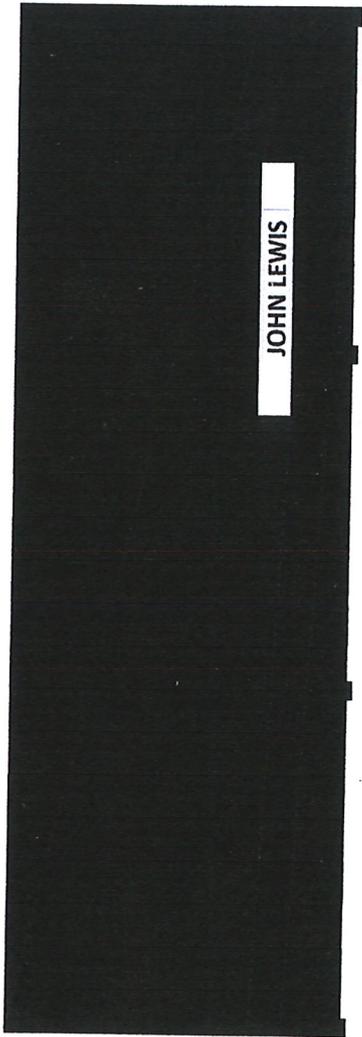
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**Tel no: 01242 262626**

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**THE HIGH STREET, CHELTENHAM**

**PROPOSED SITE FOR COFFEE BIKE BUSINESS**

**SCALE: 1:1250**

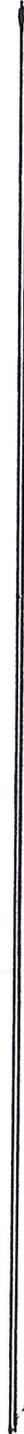


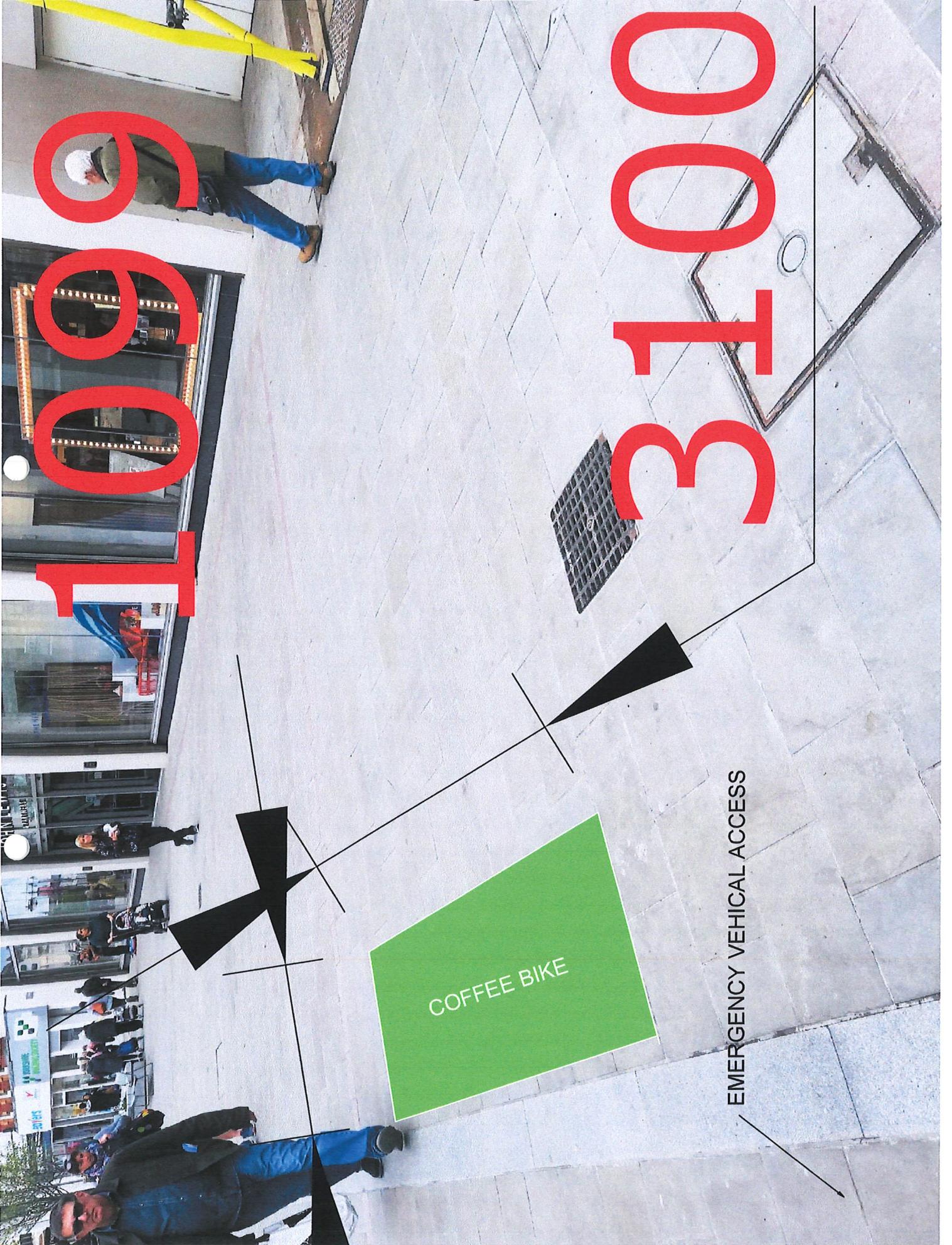
**JOHN LEWIS**



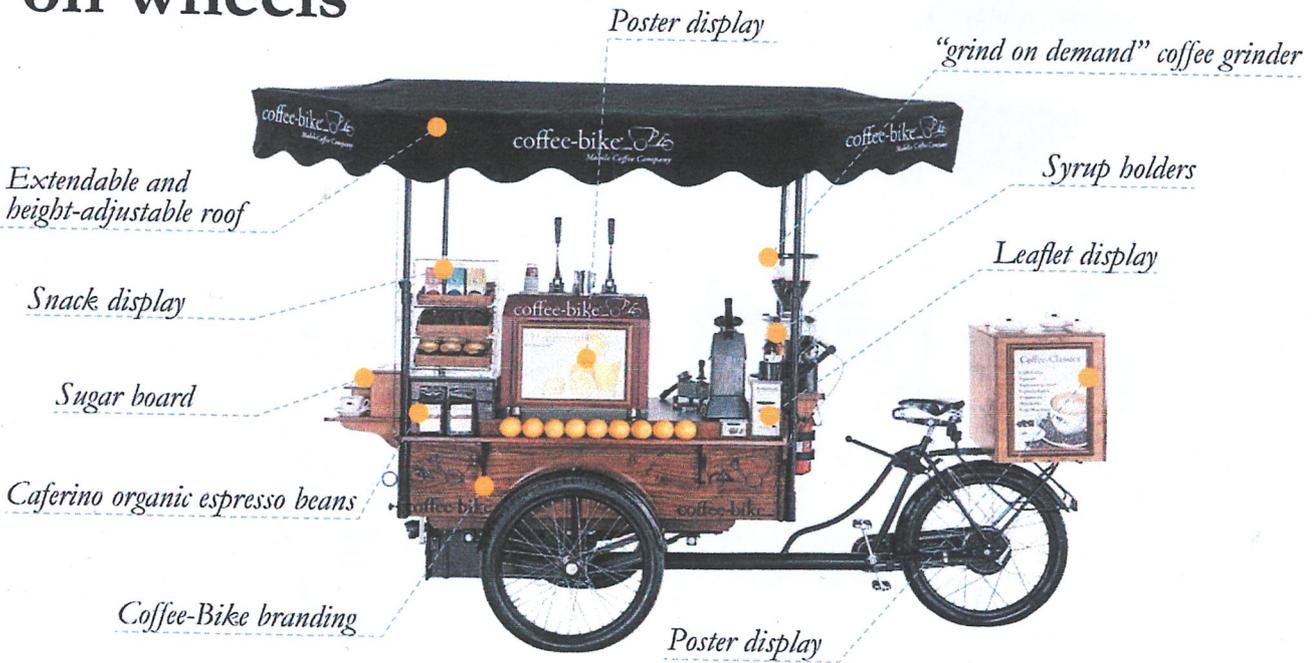
**COFFEE BIKE**

**EMERGENCY VEHICLE ACCESS & WALKWAY**





# A mobile coffee shop on wheels



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## **Farmhouse Deli**

With reference to the Street Trading Application (19/02134/STA) submitted by Mr Nigel Jones, to site a coffee bike, near to the new John Lewis store, I wish to object on the following grounds:

1. Unfair Competition. As an established trader, with significant Business Rates overheads, it is unfair that another trader, can be allowed to set up a temporary stall, with substantially less cost, in a prime position.
2. Such a stall will undoubtedly affect our sales, as a large proportion of our Sales is focused around the sale of Coffee and snacks and to have a temporary stall purveying the same products, will significantly impact our business
3. There are 16 businesses in close proximity to the proposed location offering coffee and snacks at present, there is neither a requirement nor need for more in this area.
4. As a recognised Trader with long term commitment to the town, it is important that my business is supported in return for the payment of Business Rates and the ancillary business brought to the area, which only long term profitability can provide

I trust the above objection will be given full consideration and that it will be upheld and I await hearing the outcome in due course.

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## **ZI Coffee & Bake Shop**

We wish to object to the Street Trading Application (19/02134/STA) submitted by Mr. Nigel Jones, to site a coffee bike near the new John Lewis store. As a small business having to pay significant rent and other business taxes we think it is unfair to let a temporary stall with substantially less costs be stationed in a prime location. With 16 businesses trading in coffee and snacks in the area the competition is already great as it is, there is no need for another trader selling the same items, especially if it's temporarily - affecting our sales but not committing to the long term contribution to the town. Further more, our coffee shop is tucked away in a small alleyway, we are investing great deal of funds and time to attract costumers from the High Street, having a coffee bike, having any food stall in the proposed location would cost us significant amount of our trade.

We hope the above objection will be given full consideration and we would like to hear the outcome in due course.

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## **Revival Cafe Bar & Grill**

I intend to display my objections towards the placement of a coffee stand near the John Lewis store, due to being a business owner of a cafe myself, I see this stall to have a significant impact on our sales, as there are already many coffee shops presents around the location, I do not believe the need for this stall to be necessary.

Due to my long term business commitments to this town, I hope that my objections will be considered.

## "Miscellaneous" Licensing Sub-committee – 3 July 2019

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a variation of a Sexual Entertainment Venue Licence

#### Red Apple Associates Ltd.

#### Report of the Licensing Team Leader

#### 1. Summary and recommendation

- 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, renew, vary and/or transfer a Sexual Entertainment Venue ("SEV") licence where they wish to offer "relevant entertainment on a frequent basis.
- 1.2 In this case an application for the variation of a premises licence was submitted on 3 May 2019 for a variation of Sexual Entertainment Venue (SEV) licence issued in respect of the Two Pigs, Church Street, Cheltenham, GL50 3HA.
- 1.3 The variation application is to amend the licence to add the following additional dates to the licence:
- 1.3.1 The Showcase
- Friday 25th to Saturday 26th October 2019 8pm - 5am
  - Saturday 26th to Sunday 27th October 2019 8pm - 5am
- 1.3.2 The November Meeting
- Friday 15th to Saturday 16th November 2019 8pm - 5am
  - Saturday 16th to Sunday 17th November 2019 8pm - 5am
  - Sunday 17th to Monday 18th November 2019 8pm - 5am
- 1.4 A copy of the application form is attached at **Appendix A**. A copy of the premises layout is attached at **Appendix B** with a detail plan of the 1st floor at **Appendix C** showing where relevant entertainment is to take place. A location map is at **Appendix D** and a wider plan of the central shopping area is at **Appendix E**.

## 1.5 Implications

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

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## 2. Background

- 2.1 On 1 October 2014, 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 that want 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 wishing 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 both or either of 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 The Chief Officer of Police did not raise any objections in relation to this application.

**Consultation – Other Persons**

3.6 In relation to this application the licensing authority received 2 representations from residents and others. Copies of these are enclosed as background papers.

**4. Policy Considerations**

4.1 The council’s adopted policy statement in relation to the regulation and control of SEVs was adopted by 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 (para. 5.3 – 5.16) 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.

4.3 The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Council’s role as the Licensing Authority to administer the licensing regime in accordance with the law.

**Determination (Section 10)**

**Mandatory Grounds for Refusal**

4.4 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;
- 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**

4.5 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:
  - 1) to the character of the relevant locality; and/or
  - 2) to the use to which any premises in the vicinity are put; and/or
  - 3) 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)**

- 4.6 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'.
- 4.7 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.
- 4.8 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.
- 4.9 A copy of the plan showing the Central Shopping Area is attached at Appendix E.

**Properties with sensitive uses or in sensitive locations**

- 4.10 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)**

- 4.11 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.
- 4.12 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 4.13 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.
- 4.14 Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 4.15 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.
- 4.16 Objections may only be made within the period of 28 days following the date on which the application was made to the Council.

**6. National Guidance (March 2010)**

- 6.1 The Government has issued non-statutory guidance to aid local authorities carrying out their functions under Schedule 3, as amended by section 27.
- 6.2 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.
- 6.3 Below (para. 6.4 – 6.14) 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**

- 6.4 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)
- 6.5 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**

- 6.6 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)

- 6.7 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)
- 6.8 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

- 6.9 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)
- 6.10 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)
- 6.11 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)
- 6.12 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

- 6.13 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

- 6.14 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)

## 7. Officer Comments

- 7.1 When determining an application for a sexual entertainment venue licence, the committee must have regard to the relevant statutory provisions, the council's adopted policy, the relevant guidance issued by the Home Office and any objections or comments made by the Chief Officer of Police and other persons.
- 7.2 In particular, the committee must bear in mind that its grounds for refusal of this licence application is restricted to those specified under the statutory mandatory and discretionary grounds. For reference these are outlined at paragraphs 4.4 and 4.5 respectively. As such, the relevance of representations made in relation to this application must therefore also relate to either the statutory mandatory and discretionary grounds for refusal.
- 7.3 The committee is also reminded that the Council does not take any moral stand in relation to operation of sex establishments such as sexual entertainment venues because the Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the statutory provisions.
- 7.4 The committee must also be mindful of its Public Sector Equality Duty under the Equality Act 2010. In determining this application, the committee must have due regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - c) Foster good relations between people who share a protected characteristic and those who do not.
- 7.5 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.

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### Background Papers

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

### Case Officer

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**

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Main Offices  
CHELTENHAM BOROUGH  
COUNCIL  
MUNICIPAL OFFICES  
PROMENADE  
CHELTENHAM  
GL50 1PP

Tel: 01242 775200  
Fax: 01242 284210  
email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
[www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

LICENCE APPLICATION

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

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3  
**APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE 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.

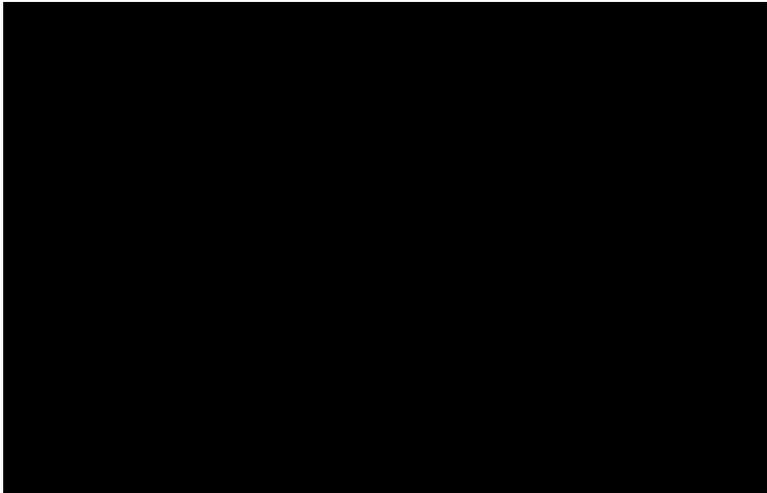
**SECTION A**

Application type (please tick ✓)  New application  Renewal of existing licence  
 Transfer of licence  Variation of licence

If renewal please state existing licence number 18/00715/SEX

Applicant's details:  
Surname BURROWS

Forename(s) STEVEN JOHN

Address: 

Date of birth [dd/mm/yyyy]  
National Insurance number  
Daytime telephone number  
Fax number

Email address

INFO@EROTICATS.CO.UK

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

SOLICITOR

Name of agent:

ROGER BISHOP

Address of agent:

WALL JAMES CHAPPELL

15-23 HAGLEY ROAD

STURBRIDGE

Post code DY8 1QW

Daytime telephone number of agent

01354 371622

Email address of agent

rhb@wjc.law.co.uk

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

RED APPLE ASSOCIATES LTD

Address of premises for which this application is made

TWO PIGS

CHURCH STREET

CHELtenham

GLoucestershire

Post code GL50 3HA

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

SEXUAL ENTERTAINMENT VENUE

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)

YES

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

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

SEE ATTACHED

Saturday - from \_\_\_\_\_ until \_\_\_\_\_ 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

Have you been a director or company secretary of a company involved in the ownership or operation of a sexual entertainment venue licence previously?

Yes  
 No  
 (please tick ✓ as appropriate)

If **yes**, please give details

Were there any convictions recorded against that company?

Yes  
 No  
 (please tick ✓ as appropriate)

If **yes**, please give details

**SECTION B**

To be completed if the applicant is a company

Company name RED APPLE ASSOCIATES LTD

Company address Unit 3 AMBROSE HOUSE

METEOR COURT, BARNETT WAY

BARNWOOD, GLOUCESTER

Post code GL4 3GG

Company telephone number 01684 273 895

Company fax number \_\_\_\_\_

Company email address EUROPEANEVENTS@Live.COM.BT, UK

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

1	2	3
Name <u>STEVEN JOHN BURROWS</u>	Name:	Name:
Address: 	Address:	Address:
	Post Code:	Post Code:
	Date of birth:	Date of birth:
	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

**SECTION C**

**Declaration**

All new and variation applications for sexual entertainment venue licences are considered by the Licensing Committee. Opposed applications for renewal and/or transfer will also be 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 sexual entertainment venue 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.

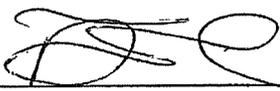
I/We understand that the council may utilise the information contained herein for internal purposes and may disclose the information to persons or organisations in accordance with the council's registration under the Data Protection Act 1998.

I/We, the undersigned, hereby apply for registration as a sexual entertainment venue licence 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, ward members or any other interested party 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 STEVEN JOHN BURROWS

Capacity in which application is signed DIRECTOR  
(see note above)

Date 30/04/2019

**How to apply for a sexual entertainment venue 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

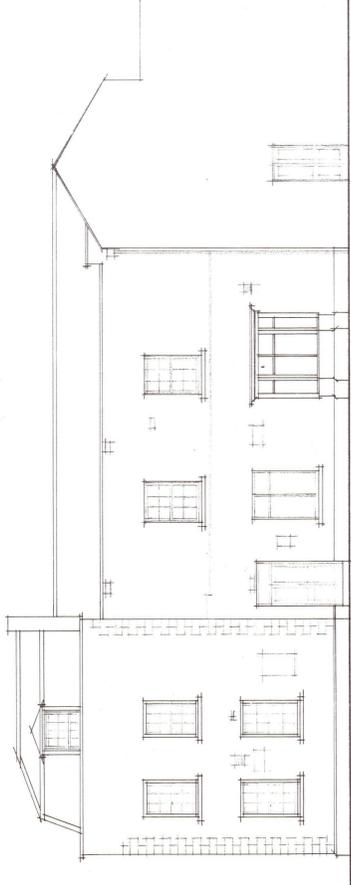
- **Application form** (all sections completed)
- **Copies of plans** delineating the specific rooms or premises to which this application relates, with escape routes (in case of emergency) indicated.
- **Copies of a location plan** showing the vicinity of the proposed premises with the premises themselves 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, passport

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 775200.

REVISIONS

NOTES  
The accuracy of this drawing cannot be guaranteed and all critical dimensions must be taken on site.

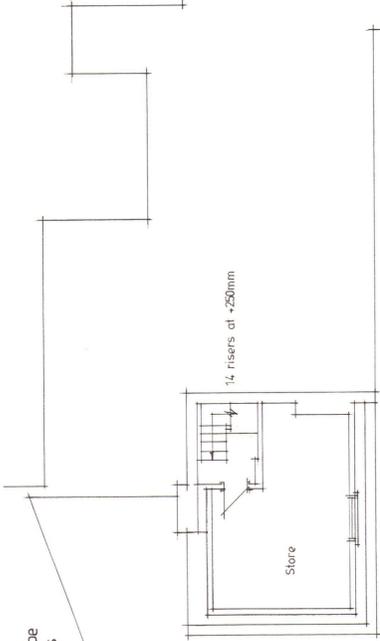
KEY  
Water extinguisher  
CO2 extinguisher  
Illuminated 'EXIT' sign with directional arrow



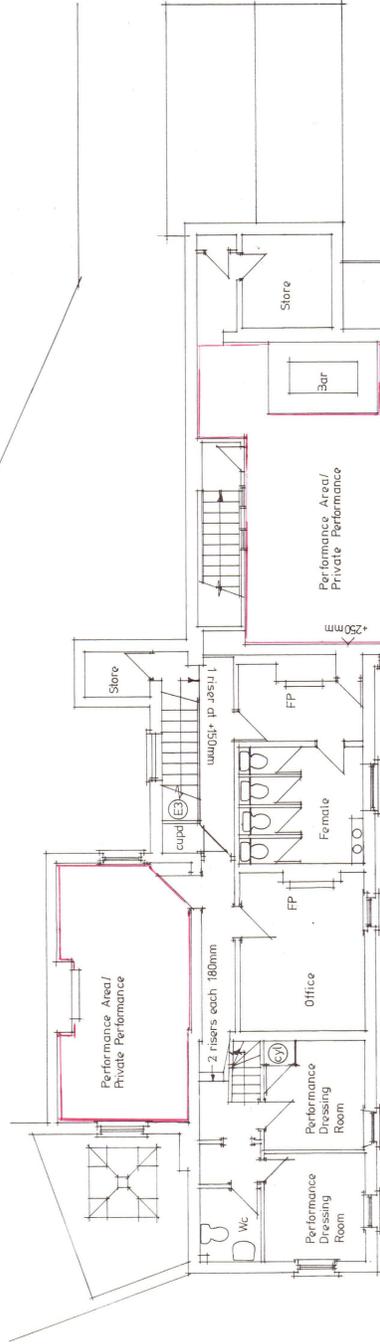
NORTH WEST ELEVATION  
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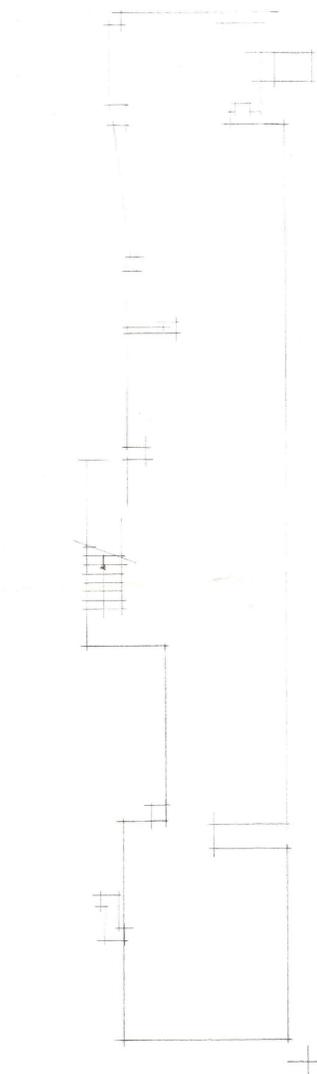
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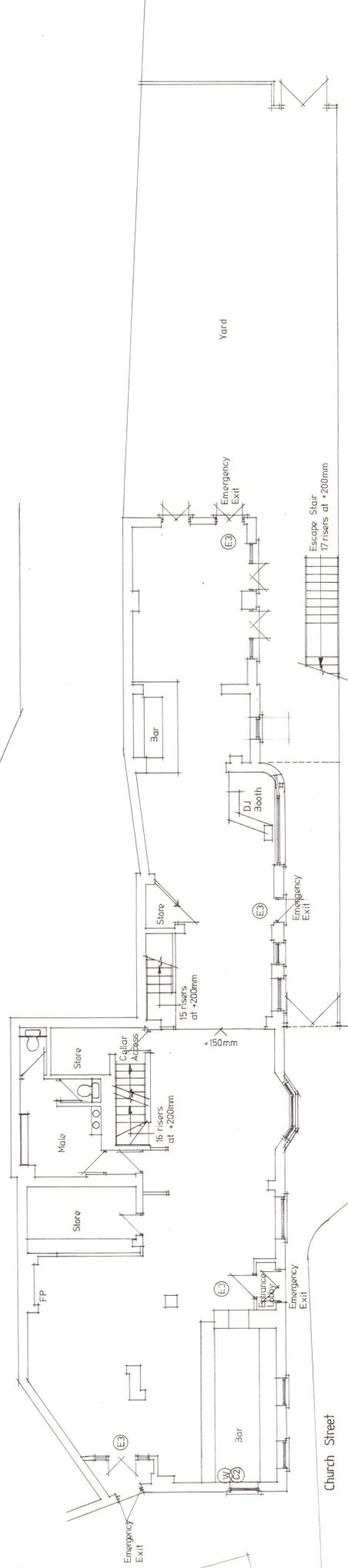
ATTIC FLOOR PLAN  
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FIRST FLOOR PLAN  
1:100

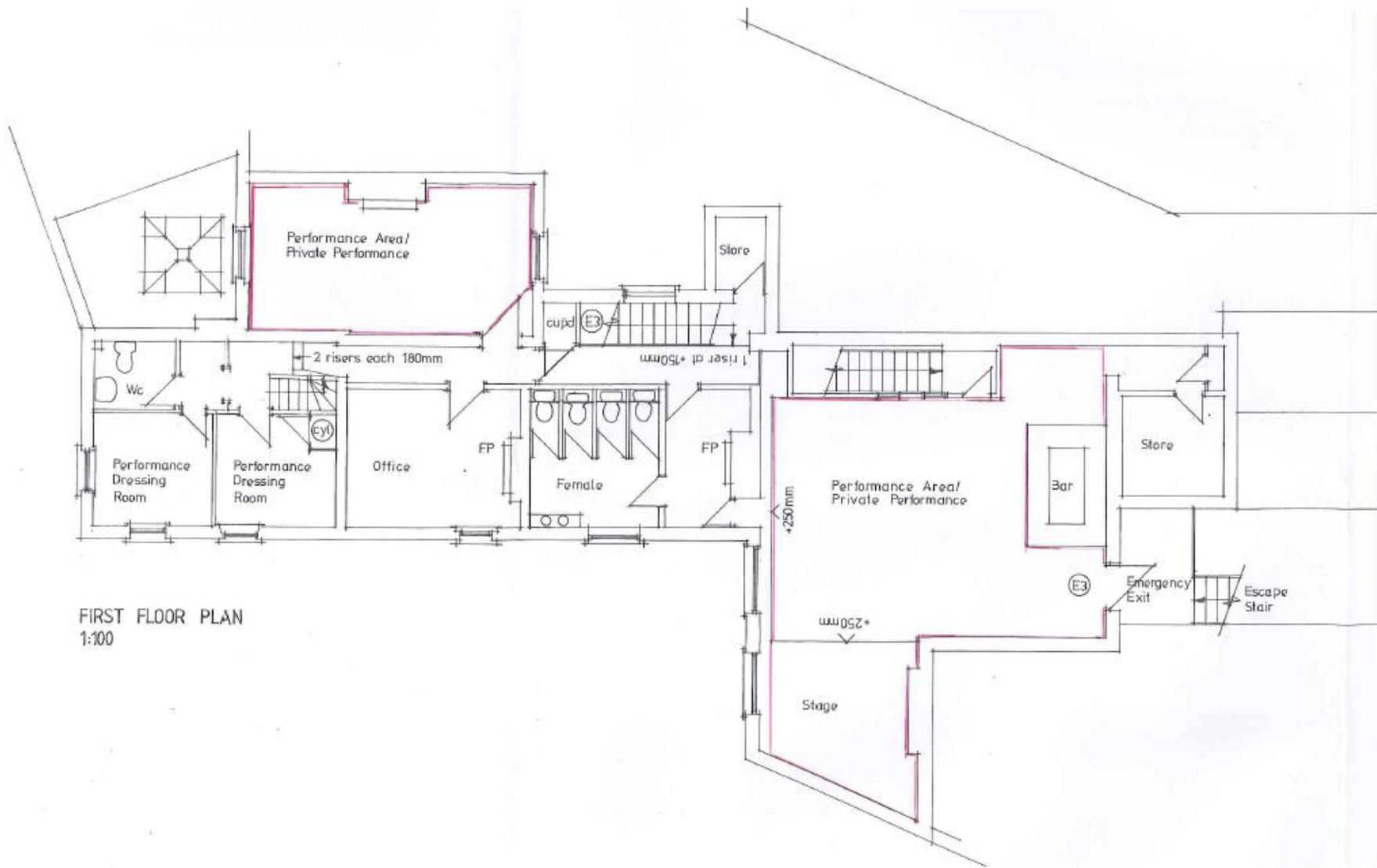


CELLAR FLOOR PLAN  
NTS



GROUND FLOOR PLAN  
1:100

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FIRST FLOOR PLAN  
1:100

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Location map - 2 Pigs

1:1000



12 June 2019

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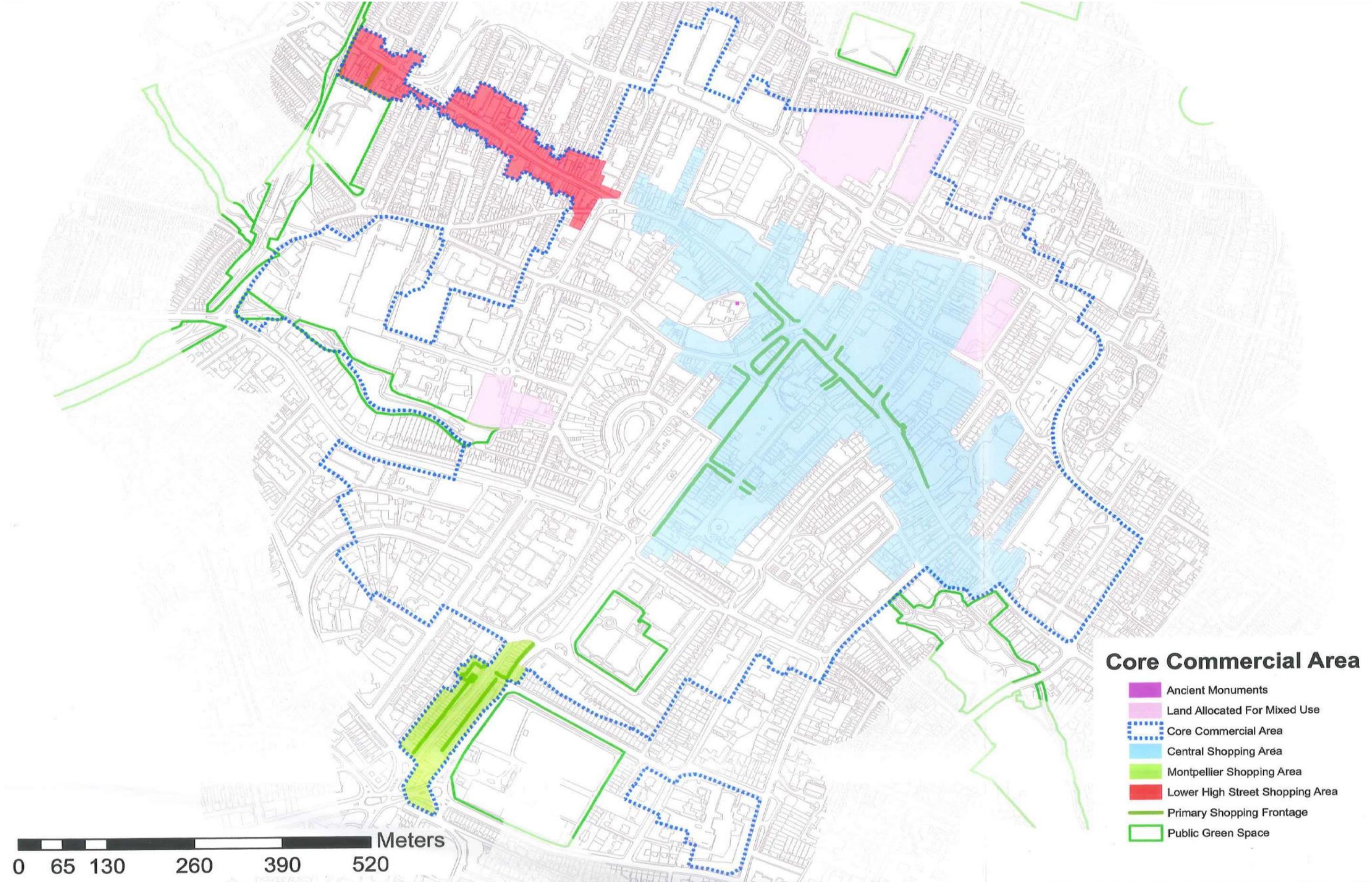


Fig 1 – Adopted Central Shopping Area (Shaded in sky blue)

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## **Cheltenham Borough Council Licensing Committee Report Background Paper - Red Apple Associates Ltd**

### **Gloucestershire Rape and Sexual Abuse Centre**

This e-mail to Cheltenham Borough Council is to oppose the above application – I note that the last date for receipt of comments is 31st May.

GRASAC have been working with staff from Cheltenham Borough Council as well as the Police as evidence was gathered prior to the recent race week that individuals (mostly, but not entirely, women) have been approached requesting sexual favours or at times grabbed or groped, in particular during the period of race meetings. Please see copies of the posters produced in conjunction with all organisations attached for your information.

Sadly, in addition, there was a serious sexual assault reported by Gloucester Constabulary during the recent race week in March (including seeking information from helpful bystanders who supported the victim) that was widely reported by the Police.

We would hope that the request by the sexual entertainment venue is declined and as Cheltenham Borough Council staff members, with support from Councillors, continues to work with organisations that advises any individuals who have suffered sexual assault, the request from the venue would be wholly in opposition to the hard work and effort of all involved to make Cheltenham a safer place to reside and visit.

Please contact me if you require any further information and I would be grateful if you could acknowledge receipt of this communication.

### **A resident**

I am writing to object to the proposed additional dates applied for sexual entertainment at the Two Pigs.

### **External Advertising/ Objects on the pavement**

Throughout Race Week and during other race events when the Two Pigs is hosting the Eroticats lap dancing under its SEV licence, it regularly has external advertising objects on the pavement during its opening hours. One outside Spec Savers on the High Street, near the corner of Church Street, partially blocking the pavement. One at the High Street entrance to the alleyway down the side of Cobblers Corner leading to the Two Pigs. This object more or less blocks this access to the alley, especially when there is also one of the promotions staff standing next to the barrier with fliers. These objects consist of fabric banners in pink and black promoting 'Club Eroticat' stretched between two metal posts.

Contrary to the licence term “ No flyers or similar promotional material for the premises shall be distributed within the Town”, flyers promoting Club Eroticat are distributed throughout the town centre by teams of promoters wearing pink hi-vis jackets branded Club Eroticat. The flyers have the same pink and black branding as the on-street banners on the High Street outside the Two Pigs. They don't contain the locations, instead they promote the Eroticats courtesy van which drops punters off at the Two Pigs as well as whichever other premises are hosting Eroticats that evening. The flyers also promote the Eroticats website, the front page of which offers XXX live cam chat and XXX chatlines. The flyers can still be found on the pavements round the town centre the following day despite the best efforts of the Ubico street cleaning team.

**Involuntary involvement in the sex industry**

Working in the sex industry may be an active choice for the performers and management, but it is not so for everybody involved, including some of the staff at the Two Pigs who are used to working in a pub and music venue the rest of the year. When Eroticats takes over the pub for days at a time, the Two Pigs' usual staff are either co-opted into working in the lap dancing club, collecting glasses etc, or are laid off for days at a time.

The promoters hired via Griffins promotions are mostly 18-21year olds shipped into Cheltenham for the evening. Their usual jobs are promoting night clubs around the southwest of England and Wales, and they aren't told before they arrive that they will be promoting a sexual entertainment venue.

**24 Hours exemption**

If the Two Pigs is not granted a licence, it can still host lap dancing once a month under a 24 hour exemption. It is argued regularly that the licence gives more control than the exemption. Previous advocates for Red Apple/ Eroticats have argued that it enables them to concentrate lap dancing in one venue. Neither of those are the case. Eroticats does not restrict itself to the Two Pigs for race events. They regularly host lap dancing in other venues around the town centre during race events. Having a licence has not prevented the Two Pigs from having external advertising on the pavements and benefiting from promotion staff and flyers throughout the town centre. Operating under the exemption would limit the operation of Eroticats at the Two Pigs to one night per month.

The 24exemption makes a mockery of local decision making on licensing applications and policies. The process is not transparent or publicly accountable. Members of the public wanting to avoid lap dancing activity or to find out the extent of it during race events are not able to do so. The extent to which the 24 exemption is used during race events is peculiar to Cheltenham. It doesn't appear to happen elsewhere in the country during major sporting events. For most of the country this 'loophole' which was apparently designed not to penalise pubs or clubs from hosting the occasional stripper has little effect. But in Cheltenham, it has become the basis of an industry. It is up to the UK parliament to review this legislation, but it would be appreciated if Cheltenham's local politicians could press for this review.

**The effects of sexual entertainment**

One of the advantages of being in my forties is that I can go out for a drink with my friends in town without having to deal with anyone getting 'handsy'. That is not the case during race week and other racing events. The level of sexual harassment increases during race events, leading to many women choosing to avoid the town centre or certain venues. The many women who work in the licensed trade can't avoid it. Sexual harassment is rarely reported, Although the GRASAC campaign during raceweek is to be commended, I still didn't report the man who latched onto my group of friends, following us and putting his arms around our waists despite not being invited and us repeatedly peeling his hands off us or moving away; or the men who shouted after me as I made my way home at the end of the evening. I am aware how overstretched the police are during these events, and it is hard to change the habits of a lifetime to formally report these incidents.

I have previously 'made the mistake' of booking tickets for a show at the Everyman during a race meeting. The show was great, but walking back home through the town centre (by the most direct route) with my twelve year old was not, running the gamut of promoters large groups of drunken men, and this would make me less likely to book a similar event during a race meeting in future.

The links between sporting entertainment, sexism, and the sex industry are not inevitable, and it is time that it was challenged, to make the atmosphere in the town centre more welcoming for everyone, not just for men wanting to turn the clock back. Notably during race events, the gender balance in the town centre changes to a very male dominated space.