



## Notice of a meeting of Licensing Committee

**Wednesday, 4 March 2020**

**6.00 pm**

**Pittville Room - Municipal Offices, Promenade**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Mike Collins, Roger Whyborn, Dennis Parsons, Jo Stafford and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting

## Agenda

<b>1.</b>		<b>APOLOGIES</b>	
<b>2.</b>		<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>		<b>PUBLIC QUESTIONS</b> These must be received no later than 12 noon on the fourth working day before the date of the meeting 27 <sup>th</sup> February 2020.	
<b>4.</b>		<b>MINUTES OF THE PREVIOUS MEETING</b> To approve the minutes of the last meeting held on 4 <sup>th</sup> December 2019.	(Pages 3 - 10)
<b>5.</b>		<b>MINUTES OF SUB COMMITTEE MEETINGS</b> To approve the minutes of the meeting of the Licensing Sub Committee held on 5 <sup>th</sup> February 2020.	(Pages 11 - 22)
<b>6.</b>		<b>APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - 'A' BOARD</b> Tom Howley	(Pages 23 - 30)
<b>7.</b>		<b>APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY</b> Greggs 219 High Street	(Pages 31 - 40)
<b>8.</b>		<b>RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - MR KEVIN GAMBLE - HCD002</b> Mr Kevin Gamble HCD002	(Pages 41 - 44)

<b>9.</b>		<b>RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - MRS JUDITH TIMUR - HCD006</b> Mrs Judith Timur – HCD006	(Pages 45 - 48)
<b>10.</b>		<b>REVIEW OF PREVIOUS DECISIONS</b>	
<b>11.</b>		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION</b>	
<b>12.</b>		<b>DATE OF NEXT MEETING</b> The next meeting will be Wednesday 3 <sup>rd</sup> June 2020.	

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### Licensing Committee

**Wednesday, 4th December, 2019**  
**6.00pm**

Attendees	
<b>Councillors:</b>	David Willingham (Chair), Tim Harman, Diggory Seacome, Mike Collins, Dennis Parsons, Simon Wheeler and Bernard Fisher (Reserve)
<b>Also in attendance:</b>	Louis Krog (Licensing Team Leader), Jason Kirkwood (Senior Licensing Officer), Vikki Fennell (Legal Officer), Judith Baker (Minutes)

### Minutes

#### 1. APOLOGIES

Councillor Whyborn, Councillor Boyes, Councillor McCloskey.

Councillor Fisher attended the meeting as a substitute for Councillor Whyborn

#### 2. DECLARATIONS OF INTEREST

Councillor Dr Willingham and Councillor Fisher declared an interest in Item 8, as they sit on the Gloucestershire County Council Task and Finish Group. Their interest is not prejudicial.

#### 3. PUBLIC QUESTIONS

There were none.

#### 4. MINUTES OF THE LAST MEETING

Minutes of the Licensing Committee meeting, held on 4<sup>th</sup> September 2019 was approved and signed as a true record of the meetings.

#### 5. MINUTES OF SUB-COMMITTEE MEETINGS

Minutes of:

- Licensing – miscellaneous sub-committee, 6<sup>th</sup> November 2019;
- Licensing – alcohol and gambling sub-committee, 7<sup>th</sup> November 2019

were approved and signed as a true record of the meeting.

#### 6. CHAIRMAN'S ANNOUNCEMENTS

Before the start of the meeting, the Chairman made the following announcements:

- The achievements of the licensing team have recently been recognised: the licensing team as a whole has received an iESE certificate of excellence, awarded to any public sector body to mark significant

innovations in transforming local public services; and the licensing team leader was runner-up in the Institute of Licensing Jeremy Allen award, a national award for excellence in licensing;

- There have been five prosecutions for illegal plying for hire during race week in March this year. All drivers were fined and received at least six points on their licences; three further cases are going to trial early next year, and one has been dealt with by way of caution. He congratulated the licensing enforcement team for their hard work to achieve these outcomes.

The Licensing Team Leader thanked Sarah Hughes, licensing enforcement officer, for the enormous amount of work involved, including formal cautions and recorded interviews, resulting in 5 pleading guilty on the initial hearing and only three going to trial. In response to a Member's question, he confirmed that one driver was formally cautioned only, as for various circumstances, it was not in the public interest to go through to full trial.

### **7. REVOCATION OF STREET TRADING CONSENT**

The Licensing Team Leader reminded Members that the miscellaneous licensing sub-committee granted consent in April for a fruit and vegetable stall in Cambray Place. The applicant never took up trading and has recently fallen behind on his licence fees. Officers have tried to engage with him but failed to get any response, and in the meantime he is blocking a trading location that could be used by others. Officers are asking the committee to revoke the licence to free the location for others to use. CBC has the power to revoke street trading consents at any time; this power has been delegated to licensing committee, and is not a decision for officers.

In response to a Member's question, the Licensing Team Leader confirmed that the amount currently owed is £336, and will accumulate. Action could be taken to recover the fees, but this will cost more than the amount owed; it will therefore be written off. He confirmed that the applicant was invited to attend tonight's meeting, and that while it is acceptable for Members to make a decision in his absence, they can defer if they prefer.

In the absence of any communication, correspondence or apologies, the Chairman was minded to proceed. Members had no further comments.

**Vote on officer recommendation to revoke street trading consent of Mr Mohamed.**

**Unanimous**

**The consent is revoked**

The Licensing Team Leader confirmed that if the applicant turned up tomorrow and started trading, enforcement action would be taken. He will receive the committee's decision tomorrow.

8. **RESPONSE TO SEXUAL ENTERTAINMENT VENUE POLICY REVIEW**

The Licensing Team Leader reminded Members that under the constitution of the Council, the licensing committee acts as lead consultee to the Cabinet Member for Development and Safety. A consultation on the revised sexual entertainment venue (SEV) policy has been launched, and Members are invited to feed in comments and put forward any recommendations to Cabinet. The substantial changes are listed in the report.

A Member said he could not see any reference in the report, but when licensing committee is required to review SEV policies through scrutiny sessions and interested parties are invited to address the committee, he would like legal representation to be present.

In response to Members' questions, the Licensing Team Leader confirmed that:

- once the consultation is complete, the report will go to Cabinet and then to full Council for debate in the new year;
- the 'relevant locality' will take in Bath Road from Vernon Place to Sandford Park entrance;
- the shaded area on the map is where policy designates SEVs to be appropriate;
- officers will look again at when and where fliers can be distributed, and make it clearer;
- proposed Condition 20 relates to the requirement for SEV premises to maintain a refusals log;
- under discretionary grounds, the authority can adopt a policy approach saying an 8.00pm start time is appropriate – to protect children and vulnerable people from harm from SEVs;

Members pointed out the following typographical errors:

- Page 49, line 7 – '*Town*' means Cheltenham and refers to it ~~on~~ **in** its entirety;
- Page 44, line 11 – '*The authority recognises however that the Central Shopping Area offers a ~~more~~ **varied** unique situation...?*';
- Page 44, para 12.3, where '*council*' has been amended to '*authority*', '*recognise*' needs to be amended to '*recognises*';
- The last paragraph on Page 47 is numbered '*19. Specific Conditions*', and the first paragraph at the top of Page 48 is numbered '*19. Duration of Licence*';
- No. 14 in the Purple Flag map is not listed underneath;
- Page 39, under No. 2 Definitions, '***The Authority means Cheltenham Borough Authority Council***'

A Member suggested that, given that paragraphs 12.4(c) and (d) state that licences could be refused in sensitive areas, and The Two Pigs has been granted a licence on several occasions despite being close to the children's

library, these paragraphs may need different phraseology as CBC could be going against its own policy if it grants a further licence at this location. Leaving the wording as 'sensitive areas', rather than specifying churches, schools, mosques etc., would be better.

In further response to Members' questions, the Licensing Team Leader stated that regarding distribution of flyers, which are currently distributed on free buses, this type of bus may not be allowed in future, potentially addressing concerns about flyer distribution, subject to conditions.

The Chairman raised the following points:

- Page 50, para. 18, '*no children/children and young adults*' would have higher impact than '*person under the age of 18*', and Challenge 25 rather than Challenge 21 should be adopted;
- Page 51, para. 30, needs to be updated to reflect modern availability of electronic communication identifiers, such as Facebook, Instagram and WhatsApp;
- Page 51, para.35, should also include reference to people who are victims of modern slavery/domestic abuse/human trafficking – the risks are similar to those highlighted by GRASAC, and access to information should be available to anyone at risk. Some authorities also give advice on contraception etc., though it is wrong to assume that SEV performers are involved in other activities. Members discussed the possibility of providing performers with leaflets, useful telephone numbers, details of organisations etc. – to be placed in the changing rooms, for example;
- regarding the community impact assessment, it is worth noting that our policy applies equally to performers of all genders, though is not sure how to phrase this; there are always a lot of objections to venues with female performers, but negligible objections to venues with male performers. The Licensing Team Leader confirmed that the impact assessment states that the council is non-discriminatory.

The Chairman concluded the discussion, saying that officers can take away factors about which Members are concerned, and think about how to re-write the report. There were no further comments from Members.

### **9. SAFEGUARDING - TAXIS AND PRIVATE HIRE**

The Senior Licensing Officer introduced the item, following on from a discussion of the draft statutory guidance for the taxi and private hire industry at the September meeting, and inviting Members to consider the improvements and direction of travel of this work. He said a few things have crystallised since September, but the Department of Transport has not yet confirmed the implementation of the statutory guidance. He highlighted aspects of his report as follows:

- some of the actions laid out in the previous guidance have already moved on and been implemented, and some are ongoing, as explained after each action;
- some work may sit better in GCC's Taxi Licensing Task Group, such as flexible warranting under Action 2, which could be done through GCC or GLOG; this is a significant change;
- under Action 3, safeguarding training is being implemented – a few further tweaks are needed;
- having looked into the Disclosure and Barring Service, CBC does not have a legal obligation or duty to refer an individual to the DBS, but does have the power to do so – these are two different things. CBC will have to go through case by case process to make referral;
- CBC doesn't carry out a massive amount of enforcement action, but statutory guidance talks about reviewing work on a regular basis to pick up trends. CBC officers will therefore work on liaison with the trade, although there no easy answer. Officers have looked at advice from a representative body, but got nothing back;
- the information at Annex 2 regarding safety advice for taxi users will be posted on the website when complete;
- there are quite a lot of items and improvements referred to in statutory guidance which will be better dealt with by GCC, to produce something meaningful to help everyone;
- Level 2 considers changes to policy conditions, looking at the process re drivers and updating the service; there are slight differences in conviction policies across councils, and statutory guidance may carry out the work for us; a definitive version for all will follow;
- Improvements Action 4 deals with the CCTV issue, where it was clear last time that Members have concern. This could be brought about on a more consistent level nationally through the latest guidance – cases are going through now – but for the time being no requirements will be imposed on drivers and will follow in due course. It is incumbent on CBC to produce more guidance for drivers as there are a lot of them out there with no clue about their responsibilities.

The Chairman thanked the officer for his report, saying that safeguarding is an essential piece of work doing – really good place for starting the issues. In response to Members' questions, the Senior Licensing Officer made the following points:

- On the subject of flexible warranting – the variation of conditions between adjoining councils, and how to train and inform taxi drivers what it actually means and what their obligations are - at the recent race meeting, South Gloucestershire colleagues, including a full-time, permanent officer dedicated to taxis – joined Cheltenham officers for a night of enforcement. Whereas CBC officers cannot do anything about Tewkesbury vehicles in the Cheltenham borough, he could pull over any vehicle he wanted,

question the driver, who quickly understood and were compliant. It was useful to see how powerful that tool was;

- On the matter of CCTV, the member is correct that there are strong benefits, both for the passenger and the driver, but at the moment, CBC is not making it mandatory. It advises drivers with CCTV to make sure their systems are compliant with the law, as another potential big issue is that drivers have no understanding of privacy law. It can be a tool to protect them, but they need more advice about their responsibilities, and to be conscious of the threat of legal action if they are not using it correctly.

The Chair made the following minor suggestions:

- 'CSEA' in the introduction should be written out in full – 'child sexual exploitation and abuse';
- 'NR3' should be defined as the national register of refusals and revocations of taxi licences;
- A reverse contract should be included – how people are expected to consult themselves in taxis – drivers are as vulnerable as passengers, being lone workers and picking up strangers;
- A Christmas campaign, reminding people to be sure about the vehicle they are getting into, is worth doing pointing out.

A member asked that CSEA, GLOG and any other acronyms be written out in full when first mentioned. He also suggested that after Members have been required to undergo training before sitting on Licensing Committee, any refresher training should be mandatory rather than optional. The Senior Licensing Officer confirmed that this was flagged up because it is generally mentioned in statutory guidance, and there is inconsistency across councils. It needs to be mandated to allow Members to attend, though the Chairman pointed out that CBC is a member-led authority, unlike some others, and Members are involved in a lot of work and decision-making.

The Chairman confirmed that Members are happy to approve the report with the minor amendments mentioned.

### **10. NOMINATION OF ENTE CHAMPION FOR CHELTENHAM**

The Licensing Team Leader said that the authority has recently adopted a strategy to manage Cheltenham's evening and night-time economy (ENTE), and that as part of this, there is an action to appoint an ENTE champion, with sufficient political influence. This report is seeking a nomination and appointment. The role and responsibilities are set out in the report.

The Chair of Licensing was happy to put himself forward for this role, and was proposed and seconded by other Members. He suggested tying the role to the Chair or Vice-chair of licensing committee, to be reviewed annually or biennially. Other Members agreed that it was logical to attach the role to the post of Chair rather than to a specific person, and were happy to proceed on that basis.



**11. REVIEW OF PREVIOUS DECISIONS**

There were none.

**12. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

There were none.

**13. OTHER MATTERS**

The Licensing Team Leader reported a disproportionate number of issues in the town during the recent November race meeting, more in keeping with the March festival. Officers from South Gloucestershire and the police worked with CBC officers over the weekend, and issues included UBER vehicles operating in Cheltenham and absent or late door staff. Officers will be picking this up with various night clubs. There were no prosecutions but there were some particularly difficult issues, and South Gloucestershire officers will be back to help in March.

A member suggested that the officer introduction of agenda items adds nothing to the meeting and is pointless and time-consuming, if the assumption is that Members have read the papers and come prepared to the meeting. The Licensing Team Leader pointed out that tonight's meeting is unusual, in that no members of the public are present, but when they are, it cannot be assumed that they know or have read everything, and it seems odd to jump straight into the debate and decision. He conceded that for council business it could be appropriate to get straight down to business. The Chair made the point that the officer introduction is minuted, and that when anyone comes back to look at the minutes, the information is all recorded in one place. Other Members agreed that it should not be assumed that members of the public know what is going on, that the officer introduction is basically a brief introduction and reminder of what Members have read, and that they find it useful and a reasonable level of cover.

**14. DATE OF NEXT MEETING**

David Willingham  
**Chairman**

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## Licensing Sub-Committee - Miscellaneous

**Wednesday, 5th February, 2020**

**6.00 - 8.25 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Angie Boyes (Reserve)
<b>Also in attendance:</b>	Vikki Fennell, One Legal & Louis Krog, Licensing Team Leader

## Minutes

### 1. **APOLOGIES**

Apologies were received from Councillor Wheeler.

Councillor Boyes acted as substitute.

### 2. **DECLARATIONS OF INTEREST**

The Chair stated that all five Members and the licensing team leader visited Club Covert on Monday lunchtime, and that he personally visited the ford in School Road, Charlton Kings, in connection with Agenda Item 5.

### 3. **MINUTES OF THE PREVIOUS MEETING**

A councillor asked for it to be made clear that the incidents reported by the police during race week were not related to any form of sexual assault. These amendments have now been made.

The minutes were then signed as a correct record of the meeting.

The Chair wanted to formally congratulate Colin Pilsworth and Licensing for the continuation of the Purple Flag accreditation. Further he wanted to congratulate Sarah Hughes and Licensing for the 4 successful plying for hire prosecutions and the successful street obstruction prosecution.

### 4. **APPLICATION FOR A STREET TRADING CONSENT**

The Chair explained to the applicant how consideration of his application would proceed.

Officer introduction

The Licensing Team Leader introduced the application for grant of a street trading consent, at a previously-used location on the Strand, trading between 8th November to 31st December 2020 at the times and on the days outlined in the application. An image of the trading van is attached at Appendix 2 of the officer's report. Members were advised that they could grant the consent if

they considered it appropriate in this location or refuse the application as it does not comply with street scene policy or for any other reason.

There have been a number of objections, included with the papers, and paragraph 3.2 of the officer report reminds Members to be mindful of the assessment criteria when considering whether to grant or not. Under 'licensing comments', the report sets out CBC's assessment criteria regarding number of locations and type of trading. This is not an approved location, but Members are reminded that policy does not necessarily fetter discretion. It is up to Members to take the needs of the area into consideration and the case's individual merits..

In response to Members' questions, the Licensing Team Leader confirmed:

- the location is the same as that used at Christmas 2019;
- the unit is a scaled-down version of that previously used and this was the version used at Christmas 2019;
- the site is not designated under policy but has been used by this applicant a number of times before and should be considered on its merits; and
- there have been no complaints to CBC about the unit during the Christmas 2019 season.

### Applicant's address

The applicant said he has been trading since 1986, and 2020 will be his fourth year at this location. His family has traded for three generations, and last year invested a lot in a new custom-built, smaller unit to comply with what was required. It has been very successful, there have been no complaints, and he would like to continue trading at this location.

In response to Members' questions, the applicant confirmed:

- that the principal product would be pork rolls, turkey rolls, and Gloucester sausage. Coffee is secondary to this;
  - that later opening hours have been applied for on Thursdays, because although late night shopping is not as popular as it used to be, most shops stay open until 8-9pm leading up to Christmas;
- The Chair pointed out that the hours set out on the application are a maximum, not a requirement.

### Member debate

Members made the following points:

- looking at the objections, these are the same every year, and Members did not believe it was particularly fair to say this outlet competed with Sainsbury's – as the products were not the same. There are no concerns about the operator, who has traded for a long period without significant problems;
- there are two types of competition – direct and substitute – and as people only eat lunch once, this business represents a substitute. The High Street faces many difficulties, competing with on-line shopping and retail parks, and as a result more food and beverage outlets are opening. Established operators have to pay high business rates – the leader of the council recently wrote an article in the Echo commenting on the way in which business rates are damaging the High Street. The applicant won't have to pay these and this isn't fair, added to which this location is not supported by policy;

- the stall offers something different from the surrounding businesses, and is nice and a diverse part of Cheltenham's festive offer.

Applicant's response

The applicant read out two letters, as follows:

- from a long-term resident of Cambray Place who feels that the stall is something special, a well-run family business which enhances the Christmas street scene;
- from a local sausage producer, who has been trading with the applicant's family for over 10 years. The business employs five local people, and provides hot, high-quality food for people on the move, who may not have time or money to find a seat in a café but don't want junk food.

The Chair asked that references be supplied before the meeting rather than at the meeting going forward.

Vote

1.5.1 Approve the application because Members are satisfied that the location is suitable

4 in support

1 in objection

CARRIED

The Chair informed the applicant that this will be confirmed in writing in due course.

## **5. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**

Review of Hackney Carriage Driver's licence

The Chair explained to the applicant how consideration of his application would proceed.

Officer introduction

The Licensing Team Leader explained that the applicant's hackney carriage driver's licence is due for renewal in January 2021, but CBC received a complaint on 9th January 2020, the nature of which is outlined in the background papers of the officer's report. Officers felt that this was serious enough to warrant a review. Options are set out at 1.4.1-1.4.4 in the officer report. Members were reminded that the decision as to whether the applicant is a fit and proper person to hold a hackney carriage drivers licence is based on the civil standard of proof, i.e on the balance of probabilities.

In response to Members' questions, the Licensing Team Leader confirmed:

- the first image in the background papers accompanying the officer's report shows the depth gauge, which the applicant says he did not see, above the windscreen, and was the best picture available on the night;
- two of the photos were taken on the night of the incident, the other two the morning after.

Applicant's address

The applicant stated that the job, to pick up a customer from The Merryfellow on School Road in Charlton Kings, was booked for 10.30pm. He stated that it was raining. After the pick-up, he tried to go a short-cut route and, arriving at the river, didn't see the warning sign or think the water looked dangerous. He has been using the road for 10 years, and had no problems before, and the customer did not complain about him using this shortcut route. He has never noticed the sign not allowing cars down this road, other than for access, before.

In response to Members' questions, the applicant confirmed that:

- he has been driving from 2008, and has had a hackney carriage driver's licence from October 2010;
- he has had no other similar incidents or lapses of concentration;
- he has driven the route regularly, both day and night, and not noticed the no entry sign before; most drivers take this shortcut to avoid traffic;
- he did not drive down School Road to pick up the customer; he came from a previous job in Cirencester Road;
- he knows the route well, and although there had been a lot of rain, has experienced this before and would not have deliberately put himself or his passenger in danger;
- if his passenger had been a wheelchair user, he would not have driven through the river;
- he had not noticed the danger signs, warning of fast flowing water during heavy rain;
- his passenger lives in Battledown;
- when his engine cut out in the river, he called 999; emergency services asked if he was able to get out safely – he was – and advised him therefore to call a breakdown service;
- his passenger walked home.

### Member debate

Members raised the following concerns:

- the applicant, a professional driver - deemed a fit and proper person, did not see either of the two signs, and proceeded into the water, putting himself and his passenger at risk. On a dark night, in heavy rain, this is an incredibly poor decision; the right decision would have been to turn back;
- the applicant is approved to take wheelchair passengers, but should not have contemplated driving through the river, even by himself;
- the fact that other taxi drivers use the shortcut is not a defence;
- the driver should have taken the shortest, safest route, but did not do so here;

One Member stated that he would not be happy getting into the applicant's taxi at the moment, but another Member said he would, as this incident was the first mistake the applicant has made in ten years and he accepts that what he did was extremely serious. He has learnt a lesson forcefully and is present tonight as part of the learning curve. The Member would question the probability of him doing anything similar again, and would not want to deprive him of his livelihood because of one mistake. The Chair reminded Members that this is not a material consideration and cannot be taken into account when making a decision.

A Member was concerned by the applicant's comment that other drivers habitually use this route despite it being a route for access only.

Members then considered the four options available to them, as outlined in the officer report. The Chair pointed out that the committee is not here to punish the applicant, but that licensing is concerned with protecting the public. Members said they were struggling to find the most appropriate sanction; the Licensing Team Leader confirmed it is at the Committee's discretion to come up with their own resolution to fit this particular case should they see fit.

After further discussion, a Member proposed that, given the gravity of the situation, a formal written warning should be issued, to remain on the applicant's record. He also suggested the licensing officers write to hire companies and the trade association for hackney carriages to highlight the fact that this is a no-entry road and drivers should not use that route.

The Licensing Team Leader confirmed that a resolution for a written warning would need to be passed, to add this to the list of options; if agreed, it would be taken as a material consideration in any future cases involving the applicant.

### Applicant's response

The applicant had no further comments to make.

Vote on resolution 1.4.1 that the applicant remains a fit and proper person to hold a Hackney Carriage Driver's licence and that no further action is required  
0 in support  
5 in objection  
NOT CARRIED

Vote on resolution proposed by a Member, that a formal written warning be issued by the licensing authority and remain on the applicant's record .  
5 in support – unanimous  
CARRIED

The Chair suggested that the applicant should take this as a warning and be sure to be more careful in future. He asked that licensing officers put a notice in the Trade Times, reminding drivers that this section of School Road should not be used. The Licensing Team Leader confirmed that this will be done, adding that any enforcement action is the responsibility of the county council, not CBC.

## **6. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

PHD licence

The Chair explained to the applicant how consideration of his application would proceed. The applicant was accompanied Mr Gordon Milne, present to act as a character witness.

Officer introduction

The Licensing Team Leader introduced the application for a private hire driver's licence. The background papers set out the applicant's convictions and endorsements, and policy requirements regarding the expected time lapse between these and the re-issuing of a licence. Members can grant the licence, if they consider the applicant to be a fit and proper person, or refuse if they do not consider this to be the case. He reminded Members that it is the council's statutory duty to only grant a licence to fit and proper people, and that the applicant still needs to undertake other assessments. He confirmed that the burden of proof, on the balance of probabilities, is on the applicant, to show that he is fit and proper to hold a licence.

### Applicant's case

The applicant said that he had not had a licence since 2012. He said that since 2012 his life had fallen apart, and he was struggling to survive and live, dealing with sick parents amongst other things. He said he needs his job as a taxi driver and that he is trying to get his life back on track.

The Licensing Team Leader confirmed that the applicant has submitted a detailed written statement, which is included in the background papers, and that this should be taken into account by Members.

In response to questions from Members, the applicant confirmed that:

- he has no convictions or incidents of violence; under the influence of alcohol, he has made some embarrassing mistakes – but no violent offences and never while at work;
  - he has not sought or received any counselling for his issues; he has tried to explain his situation in four sides of paper, but it is not a simple story;
  - he believed himself to be under the limit in the incident in November 2013, having had one glass of wine; he drove one hour later, was pulled over by the police and was a fraction over the limit; after 1.5 hours at the police station, he was allowed to drive home. He realises now he made a huge mistake in driving after the glass of wine;
  - the incident in 2015 was more complicated and after drinking in a local pub, he exchanged abusive texts with his step-father following being evicted by him, which he now regrets. Rather than carry his shopping home, he decided to drive the three-minute journey, being angry and not thinking clearly. When he arrived home his step-father had reported him to the police and they were waiting to breathalyse him;
  - he understands that policy expects people to be free of drink-driving offences for five years before a licence can be re-issued, except in exceptional circumstances. He said he is still looking after his sick parents, and is permanently on call to help them. He has undertaken various temporary work, and lost a job through looking after his mother; he has no job at the moment, has just acquired a flat, and is trying to get his life back in order and move on, while looking after his parents;
  - he would not say he has a poor relationship with alcohol. The first drink-driving incident was a mistake, the second arose from a volatile relationship. He has a glass of red wine with a meal, but not every day.
- Mr Gordon Milne, former manager of A2B private hire company, used to employ the applicant, and told Members that he was aware of his family problems, but always found him to be honest and of good character, a fit and proper person to hold a licence. He was good with the public, always received good conduct reports, and only used alcohol during recreational time, never when driving



passengers. As someone with 42 years' experience in the taxi trade, would not be at the meeting tonight if he had found otherwise.

### Member debate

Members raised the following issues and concerns during the debate:

- the applicant has not one but two convictions for driving under the influence of alcohol. Given the council's public safety duty and policy, which would allow him to be licensed again in May 2023, Members would feel uncomfortable granting a licence now;
- the definition of 'fit and proper' is not defined in law, but a widely-used test would be whether a person would allow a spouse, child etc to get into a vehicle with this person, is he safe and suitable to be allowed a licence?;
- the applicant has had his driving licence back for 18 months, but this is not long enough to prove that he can be trusted to drive loved ones or vulnerable members of the public;
- as the applicant has had no issues since 2015, and nothing else on his DBS regarding non-driving incidents, one Member felt he would not want the applicant to wait until 2023 to comply with policy;
- whilst having sympathy with the applicant's family situation, this is not a material in the decision as to whether or not to grant him a licence;
- Members would be happier if the applicant had sought and was receiving some help for alcohol and abusive behaviour;
- Members felt that the applicant should come back in 12 months;
- as an authority, CBC has to be assured applicants can maintain a high standard of driving and behaviour; driving with excess alcohol and malicious texting is therefore concerning, as is failure to declare a disqualification and caution;
- CBC has a duty to protect the safety of the travelling public in Cheltenham.

### Applicant's response

The applicant explained that the caution for malicious communications and driving over the limit all took place on one night. He said his undeclared disqualification was 21 years ago, and he understood from a licensing officer that only more recent ones, since the grant of the first taxi licence, needed to be declared. He has no excuse for the other.

Mr Milne said there are currently several licensed drivers working in Cheltenham with drink-drive and criminal convictions, and asked if there were double standards here. He reiterated the applicant's concern for his parents.

### Vote

1.4.1 to grant the applicant's Private Hire driver's licence if Members consider him to be a fit and proper person

0 in support

5 in objection

### REFUSE

The Chair confirmed that the licensing committee is not minded to grant the private hire licence due to concern about the short time between convictions, and the fact that this does not comply with policy. He told the applicant that officers will confirm this in writing, and that he, the applicant, has the right to appeal to the magistrate's court, within 21 days

## **7. APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE**

### **Officer introduction**

The Licensing Team Leader introduced the application for the grant of a sexual entertainment licence at Club Covert, 12-14 Bath Road. The dates and hours are set out in the report, to coincide with The Festival in March 2020. The application form, site location, and all objections are included in the appendices of the officer's report. He confirmed that there has been no objection from the Chief Officer of Police, and two objections had been received from local residents. Mandatory and discretionary grounds for refusal are set out in the report.

One of the objectors stated that Club Covert is not part of Cheltenham's Night safe scheme, but this is no longer the case, and Eroticats is also an associate member. The conviction of the alcohol licence holder at Club Covert is not relevant to this application, although Members need to understand the relationship between the two, and to what extent he will be involved with the running of the sexual entertainment venue. Members may also want to consider its Public Sector Equality Duty when determining this application – guidance is set out a 7.3.3 in the officer report.

The Licensing Team Leader also reminded Members that while Club Covert currently falls just outside the area in which the council permits the licensing of SEVs, it has previously granted a licence for this location, and they should also note that policy doesn't fetter discretion. Every application must be considered on its individual merits and circumstances, but equally Members must not deviate from CBC's policy without good reason to do so.

### **Applicant's address**

The applicant was represented by his solicitor, Mr Younis, who made the following comments:

- this is a new application from Club Covert, to operate at the times set out in the application form, for the Cheltenham Festival in March;
- the applicant has operated a SEV at The Two Pigs from 2017; he is experienced in the business – an important factor, carrying significant weight;
- Parliament made it lawful to operate SEVs as part of retail and leisure activity in 2009;
- there are two grounds for objection – mandatory and statutory – but not moral. In this case, mandatory grounds can be disregarded. Regarding discretionary grounds, Club Covert is currently just outside Cheltenham's permitted area for SEVs, but two previous clubs have been licensed at this location, and on February 11<sup>th</sup> 2020, Cheltenham Borough Council's Cabinet will consider a new policy area, which will encompass 12-14 Bath Road;
- previous decisions would suggest that these premises are deemed suitable for a SEV; it is not in a vicinity frequented by under-18s after 8.00pm, near a place of worship, school or college. The location should therefore not be a concern here;
- the fact that the police have not raised any objections or made any comments is of paramount importance, reflecting the view of the suitability of

the applicant and the proposed venue. If the police had any concerns about either, they would have raised them;

- Club Covert is now a member of the Night Safe scheme, which aims to reduce crime and anti-social behaviour; the applicant attends meetings and is actively involved;
- Cheltenham's Purple Flag status recognises its commitment to a safe and vibrant night-time economy, between 5pm and 5am, with transport, pedestrian links, well-lit streets, and an emphasis on safety. The applicant is keen that the town retains its Purple Flag status;
- regarding the question of how the applicant can be in charge of two venues at once, if the licence is granted, he will employ James Elias, an experienced manager to work with him. He has 15 years' relevant experience, has been the Chair of Night Safe, and was DPS Moomoos and Fever, used to have a SEV at Club Covert and is used to running events in Cheltenham, making him very well-qualified for the role. Mr Elias will manage the SEV, and Mr Roe will manage the bar;
- the applicant is hiring the venue for race week only, on a purely commercial basis – the bar and alcohol licence will be managed by Club Covert;
- 13-14 personnel will be employed by the applicant;
- if granted, suitable agreements will be drawn up to ensure that the applicant holds the only SEV licences in Cheltenham;
- Mr Field, mentioned in one of the objections, is not party to this application, and mention of him should be disregarded;
- Members visited the club on Monday, and the applicant has confirmed that he is happy to address any concerns they have, and abide by any conditions which may put their minds at ease;
- the number one priority is safety – anyone under the influence of alcohol or restricted substances will be refused entry;
- the club will use a chip system to pay for dances – no cash will be exchanged;
- the rooms used for dances will be secure, and CCTV will be used;
- Club Covert has its own crowd control policy, and there are rails outside to keep customers from spilling onto the road; they will be encouraged to queue at the side of the building, not to the front;
- Club Covert caters for a high number of people during normal licensing hours, and this is expected to be lower during its use as a SEV;
- anyone of legal age will be welcome, as long as they are responsible and respectful; if staff feel any guests appear likely to cause problems, they will be refused entry and this will be recorded in an appropriate log. The Club's first duty is to the dancers and the guests;
- there have been two objections to an SEV in this location, but these are subjective and prejudicial and should be disregarded; the club will open from 8.00pm, after local shops have closed, and there is no link between SEVs and brothels as suggested in one letter; it was noted that GRASAC was not in attendance;
- licensed premises allow control – inspections and conditions which allow the council and authorities to know where this entertainment is taking place; this avoids exploitation;
- the dancers' right to work will be checked – they are not coerced, and the majority are known to the applicant;
- if granted the applicant would be happy to have an anti-bribery and slavery policy if needed.
- people who are offended or feel their human rights are violated by the club can always walk an alternative route;

- the changing rooms are secure, refreshments are provided free of charge to the dancers, and members of staff will be on hand;
- the smoking area is for the dancers only, as it can only be accessed by walking past the booths. Customers will have to go outside, and there will be a handstamp for re-admission;
- when leaving the club, there will be a sign asking people to be peaceful and respectful of the neighbours;
- door staff will know their duties and keep up with cleaning up any mess, monitoring the situation at the end of the night;
- toilets are going to be reorganised, and female toilets will need to be accessed past the booths; there will be 2-3 security personnel to escort women to the toilets for their own peace of mind;
- a minibus will be provided at the end of the shift, to drive the dancers to their cars or their accommodation; door staff will walk them to their cars if close at hand;
- to sum up, the applicant is an experienced licence holder; the police have no concerns and would be present at the meeting if they did; conditions can be addressed and respected; the objections are not sustainable; the applicant is keen to support Cheltenham's Purple Flag status; the venue is currently outside CBC's policy area but this is changing next week; the venue has been licensed before; there are no establishments frequented by young people in the vicinity, and it will not open before 8.00pm; the licence gives a degree of control; the applicant will make sure all council policies are adhered to; performers are not coerced;
- by licensing these premises, the SEV will not be forced underground or behind closed doors, putting the dancers and members of the club in jeopardy, and the council will be allowed a greater degree of control.

### Member debate

In response to questions from Members, the applicant and his solicitor confirmed the following:

- a chip system will be used to pay the dancers, so they will not handle cash during the evening; there will be a cap on how much cash they take away with them at the end of the night; the arrangements for their safety on leaving the club is described above;
- the applicant will not be involved with any 24-hour SEV licences at other premises in Cheltenham save for the one at the Two Pigs;
- when asked whether the applicant would also be looking to open pop-up SEVs elsewhere in Cheltenham, he said it would be difficult to confirm this until the decision re Club Covert has been made tonight; the Licensing Team Leader confirmed that this is not relevant to the application but helps to give Members an understanding;
- the applicant attends every Night Safe meeting, and Club Covert is now a member too; radios will be hired;
- the two venues will be run independently; dancers will not move between the two and will only perform in the venue to which they are assigned;
- there will be no fliers for this venue or the Two Pigs, or for the Eroticas bus;
- when Club Covert closes at 4am (due to its alcohol licence), the intention is to minibus customers who want to carry on to the Two Pigs;
- both the manager of the bar and the manager of the SEV will be on site at all times;

Following the site visit, Members raised the following issues and felt that remedial work would be needed before the SEV opens for business:

- the performers' changing rooms – lights should be in working order, no exposed wiring
- the performers will need water in their area to save them from going up and down the stairs
- the window in the changing rooms is not particularly secure
- directional signage for fire exits is needed from the public areas
- the sliding door to the roof area must be secure; no-one must access the roof area
- there is concern about the smoking area for patrons – a very small space, with a railing a few feet from the front door
- how will the queue be managed, and segregated from people going outside to smoke?
- an alternative fire escape strategy was discussed for the dance areas – how will this be managed?

The applicant and his solicitor confirmed that these concerns can be dealt with quickly before the first date offering SEV. An alternative fire evacuation can be written, but the distance for people passing through the temporary dance area will be no different from usual.

### Member debate

The Chair confirmed that the moral objections cannot be considered here, and that concerns about the DPS are not material. The comments about 'recruitment opportunities' are not helpful. The second letter does not provide evidence to back its claims.

If the issues raised on the site visit – lighting, fire exit signage, access to the roof – are dealt with, he is minded to grant the licence, but asked that the regulations are modified to ensure no exchange of details includes electronic communication. He would like to see a limit on the number of people smoking outside to ensure not too many people are there causing a nuisance. On discretionary grounds, is minded to treat the map and red line as an indicative boundary rather than an absolute on given this seems reasonable as the council is proposing a change to the policy and the distance involved is very small.

On the site visit, Members heard about the checks on performers, to ensure they are who they say they are, are of age etc. He is content with this, and subject to conditions sees no reason to object.

A Member expressed concern that the narrow pavement area by the barrier could result in people spilling out onto the road. He felt it important to ensure a steady flow of people in this area, but there will be clusters of people, and it is important that others are not too intimidated and can actually walk past. He cannot support limiting the number of smokers, but if a crowd is waiting to get in and smokers are coming out, he is concerned that people will be pinned to the road.

The applicant stated that congestion outside the night club is dealt with on a regular basis, and the queue is managed round the corner. Smokers returning to the club will be treated as new arrivals and have to wait in line again. There will be a lobby kit to ensure the area is kept clean and tidy. The Licensing

Team Leader suggested that when a two-storey night club operated on the premises, there were always long queues down Vernon Place, but this is not the case – he has never seen long queues outside the Two Pigs. He cannot see any conflict in managing the queue and the smokers, and the local authority has the power to close the club should it become problematic.

A Member thanked the applicant's solicitor for his comprehensive explanation, she noted that there are no objections from the police, and the applicant is an experienced operator. She sympathised with the objectors but did not feel their comments relevant to these establishments. She said the door staff needed to be mindful of residential properties nearby and respect this, but was otherwise supportive of the application.

The Chair confirmed that the issues raised will be addressed. He said the council prefers venues with a robust SEV licence rather than properties operating under the exemption.

### Right of Reply of Applicant

The applicant's solicitor confirmed that the applicant wishes to work with the council and will abide by any conditions imposed, having measures in place to adhere to them prior to 10th March to put any doubts in Members' minds to rest.

### VOTE (unanimous)

Grant the application as applied for subject to the remedial works being undertaken;

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

None

David Willingham  
**Chairman**

## Cheltenham Borough Council

### Licensing Committee – 4 March 2020

#### Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

#### Application for permission to place an object on the Highway – ‘A’ Board

#### Report of the Licensing Team Leader

##### 1. Executive Summary

- 1.1 Miss Sarah Goldsmith based at, Tom Howley, 1-2 Promenade, Cheltenham has made an application to place an advertising board at Montpellier Walk. The proposed advertising board is 940cm (3ft) tall.
- 1.2 It is intended that the ‘A’ board be displayed;

Monday	09:30 - 17:30
Tuesday	09:30 - 17:30
Wednesday	09:30 - 17:30
Thursday	09:30 - 17:30
Friday	09:30 - 17:30
Saturday	09:30 - 17:30
Sunday	11:00 - 15:00

- 1.3 The Committee are minded to note that the size of the advertising board complies with the standard sizes recommended in the council’s policy.
- 1.4 **A picture of the proposed structure is attached at Appendix A.**
- 1.5 Width of footpath available is in excess of 1.8m (6 ft).
- 1.6 A location plan of the proposed location is attached at **Appendix B.**
- 1.7 **The Committee can:**
- 1.7.1 **Approved the application because Members are satisfied that the location is suitable, or**
- 1.7.2 **Refuse the application because it does not comply with the provision of the Street Scene policy.**
- 1.8 **Summary of implications**

Legal

No right of appeal.

**Contact officer: One Legal**  
**E-mail: [legalservices@teWKesbury.gov.uk](mailto:legalservices@teWKesbury.gov.uk)**  
**Tel no: 01684 272693**

## 2. Introduction

- 2.1 Following the loss of the highways agency and the associated transfer of responsibility for this aspect of highways enforcement to the borough council.

## 3. Policy Principles, Aims & Objectives

- 3.1 All new applications for 'A' boards/display stands are considered by the Licensing Committee.
- 3.2 Such objects are subject to a maximum width of 60cm in any one direction and a height of 1 metre and must be of a colour, design, finish and materials that are of a high standard appropriate to the conservation area.
- 3.3 The Town Centre Policy for Street Trading and Objects on the Highway in relation to Advertising 'A' boards, states that *"It is accepted that some businesses operate from premises which are not in a prominent location and yet rely in large part on passing trade, and it is appropriate to assist in the promotion and success of those businesses to allow the use of 'A' boards or similar advertising displays. The Council does not however, want to see a proliferation of such items and will restrict to one per business with a clear need. It is not intended that every business in the town centre will be permitted to display an 'A' board"*.

## 4. Consultee Comments

- 4.1 No objections were received in relation to this application.

## 5. Licensing Comments

- 5.1 This application has been made in response to a visit by the Licensing Enforcement Officer and is being referred to the Licensing Committee because:

- 5.1.1 It is a new application and these are always referred to the committee for determination; and
- 5.1.2 The application does not comply with the council's policy in that the business benefits from full, street level frontage and so does not comply with the 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.*

- 5.2 The committee must determine the application with a view to promoting the council's adopted policy. However, whilst the policy must not arbitrarily be deviated from without good reasons, it should also not fetter the committee's discretion to consider the individual circumstances of the case.
- 5.3 Members are to note that the proposed location is not part of the adopted highway. If this application is granted, the licence fee will not apply as a consequence.
- 5.4 Miss Goldsmith has been sent a copy of this report and invited to attend the meeting and advised that she may be represented if she so chooses.



**6. Officer recommendation**

6.1 The officer recommendation is that this application be refused.

**Reason(s):** The application does not comply with the Revised Outdoor Advertising Protocol as outlined above (paragraph 5.1.2).

---

**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**

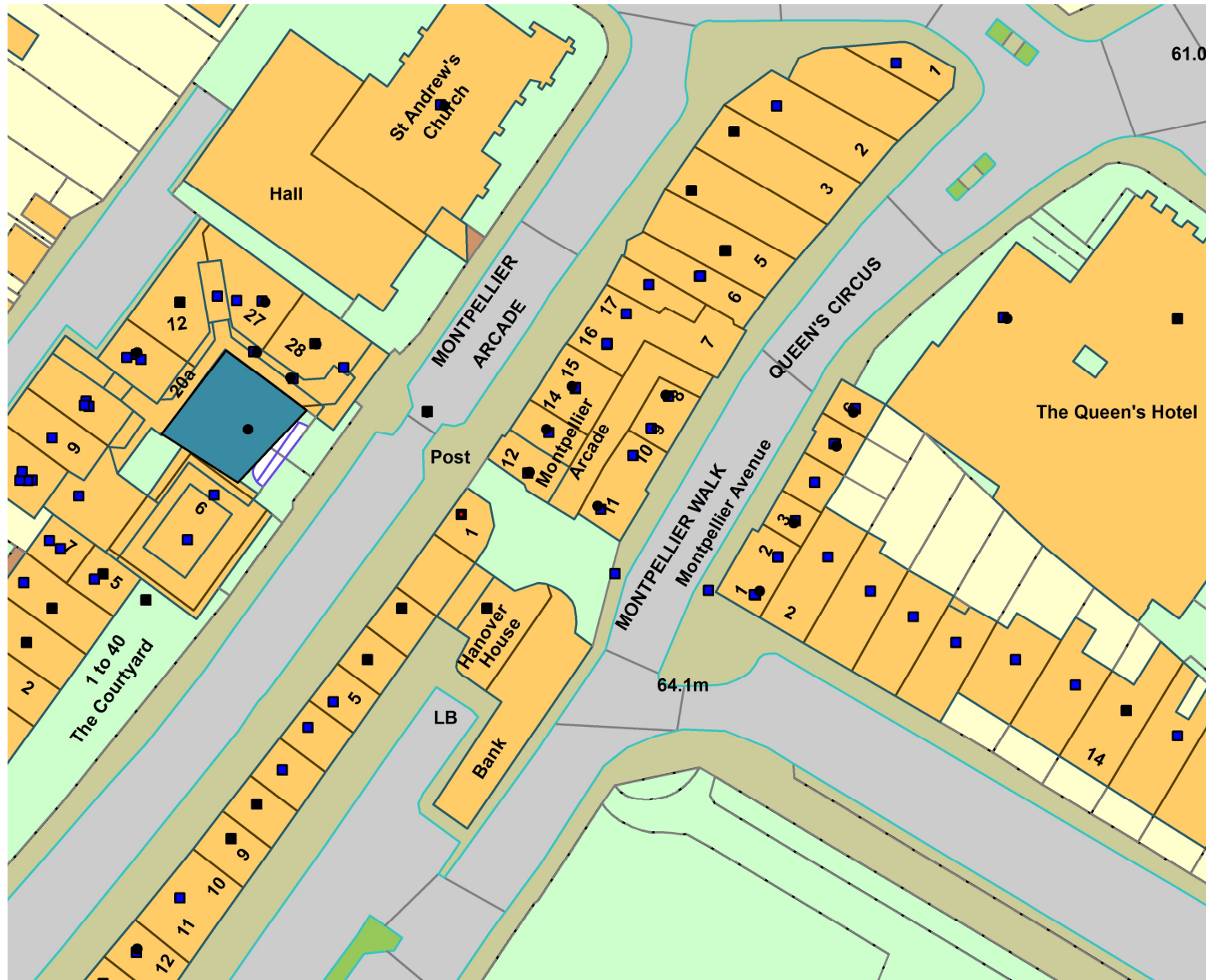
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# Licensing Committee

4 March 2020



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## Legend

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<b>Organisation</b>	Cheltenham Borough Council
<b>Department</b>	Department
<b>Comments</b>	Tom Howley Aboard
<b>Date</b>	24 February 2020
<b>SLA Number</b>	SLA

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## Cheltenham Borough Council

### Licensing Committee – 4 March 2020

#### Highways Act 1980 Local Government (Miscellaneous Provisions) Act 1982

#### Application for permission to place tables and chairs on the highway

#### Greggs 219 High Street Cheltenham

#### Report of Licensing Team Leader

#### 1. Summary and Recommendation

1.1 An application has been received from Mrs Karen Towle from Greggs PLC in respect of the pavement outside Greggs, 219 High Street Cheltenham to place 8 chairs and 4 tables there.

1.2 It is intended that the tables and chairs be put out:

Monday	06:30 - 18:00
Tuesday	06:30 - 18:00
Wednesday	06:30 - 18:00
Thursday	06:30 - 18:00
Friday	06:30 - 18:00
Saturday	06:30 - 18:00
Sunday	09:00 - 17:00

1.3 A picture of the proposed structure(s) is attached at **Appendix A** and a location plan at **Appendix B**.

1.4 This application has been referred to the Licensing Committee because:

1.4.1 The application has attracted an objection; and

1.4.2 The available space is less than the required 1.8m (6ft).

#### 1.4 The Committee can:

1.4.1 Grant the consent because the application is compatible with the current Street Scene Policy, or

1.4.2 Refuse the consent because the application falls outside the provisions of the current Street Scene Policy or for any other reason.

## 1.5 Summary of implications

Legal No right of appeal.

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

## 2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1<sup>st</sup> April 2013. A copy of the whole 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 and Objectives

- 3.1 This section outlines the policies the council will apply when making decisions on applications for consents.
- 3.2 In particular, this part of the policy will aim to promote the following aims and objectives:
- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
  - To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
  - To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
  - To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

20/00112/TCA		
	Page 2 of 3	Last updated 25 February 2020



For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

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

- 4.1 An objection has been received from Mr Afzal from Fone World located at 217 High Street. The objection is attached at Appendix C.

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

- 5.1 The committee must determine the application with a view to promoting the council's adopted policy. However, whilst the policy must not arbitrarily be deviated from without good reasons, it should also not fetter the committee's discretion to consider the individual circumstances of the case.
- 5.2 Members are to note that the measurements on the plan submitted are not correct. The actual full width from the property line to pavement edge is 3.6m (11.8 ft) at the narrowest end and 3.8m (12.5 ft) at the widest.
- 5.3 Using the correct measurements, the minimum unobstructed access once the tables and chairs are put out is in fact 1.5m (5 ft) which is less than the 1.8m required by the council.

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

- 6.1 The officer recommendation is that this application be refused.

**Reason(s):** The remaining unobstructed highway is insufficient at 1.5m.

---

#### **Background Papers**

#### **Service Records**

#### **Case Officer**

**Contact officer: Ms Freya Gill**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**

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Dimensions	
Overall Height:	800mm
Overall Width:	440mm
Overall Depth:	530mm
Seat Height:	440mm
Arm Height:	n/a
Weight:	3.080kg
Material:	Polypropelene
	Anodized alu legs
Colour/Finish	Black
	White
COM	n/a
Stacking	Yes
Feet	
Adjustable	n/a
Thread size	
Rec. Top Size	n/a
Outdoor?	Yes



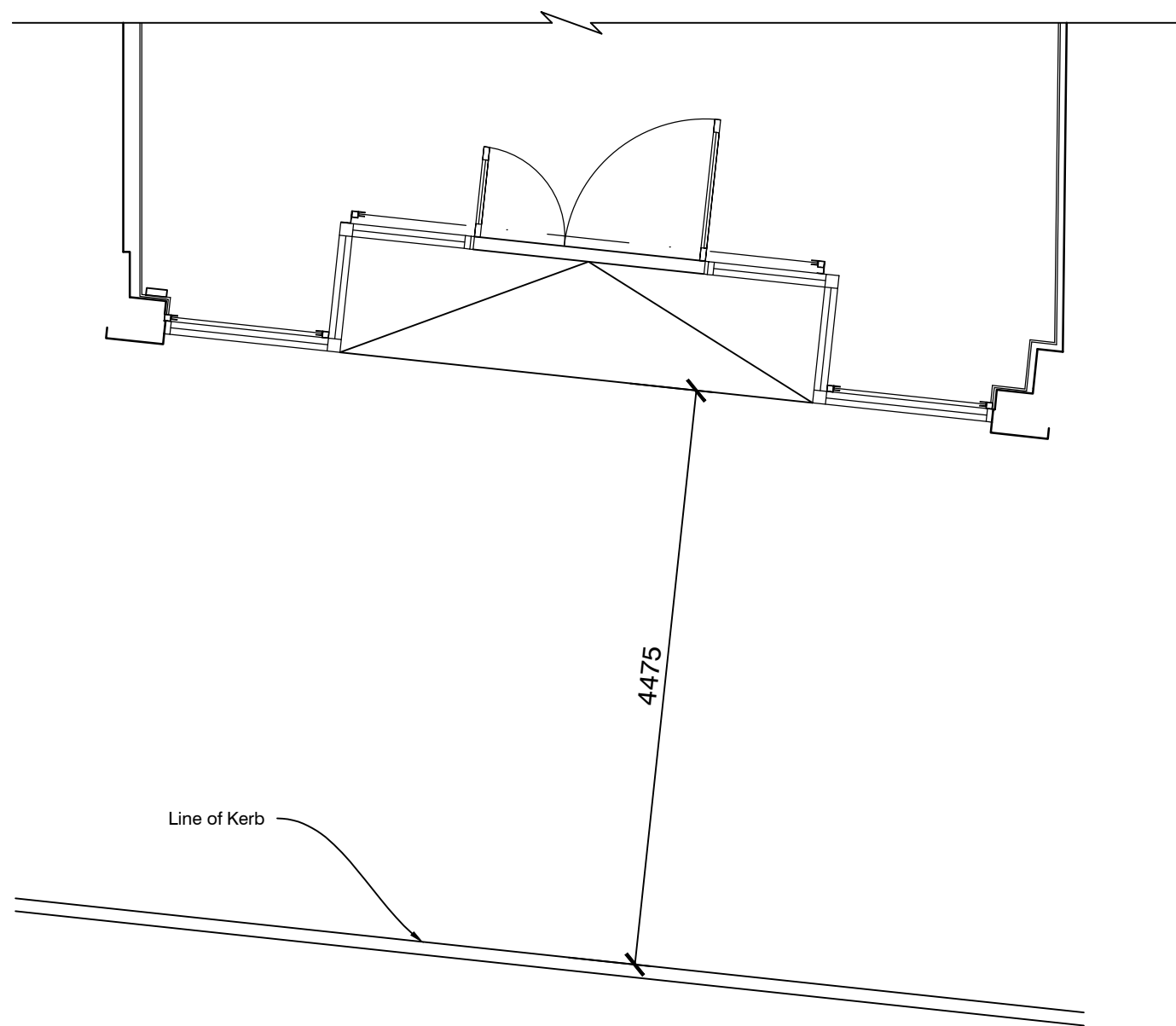
Tables tops are 600 x 600mm in size.

The tops are Melanine Sheet with transfer with African Hardwood and chipwood moulded and are 17mm in the middle and expand out to 35mm.

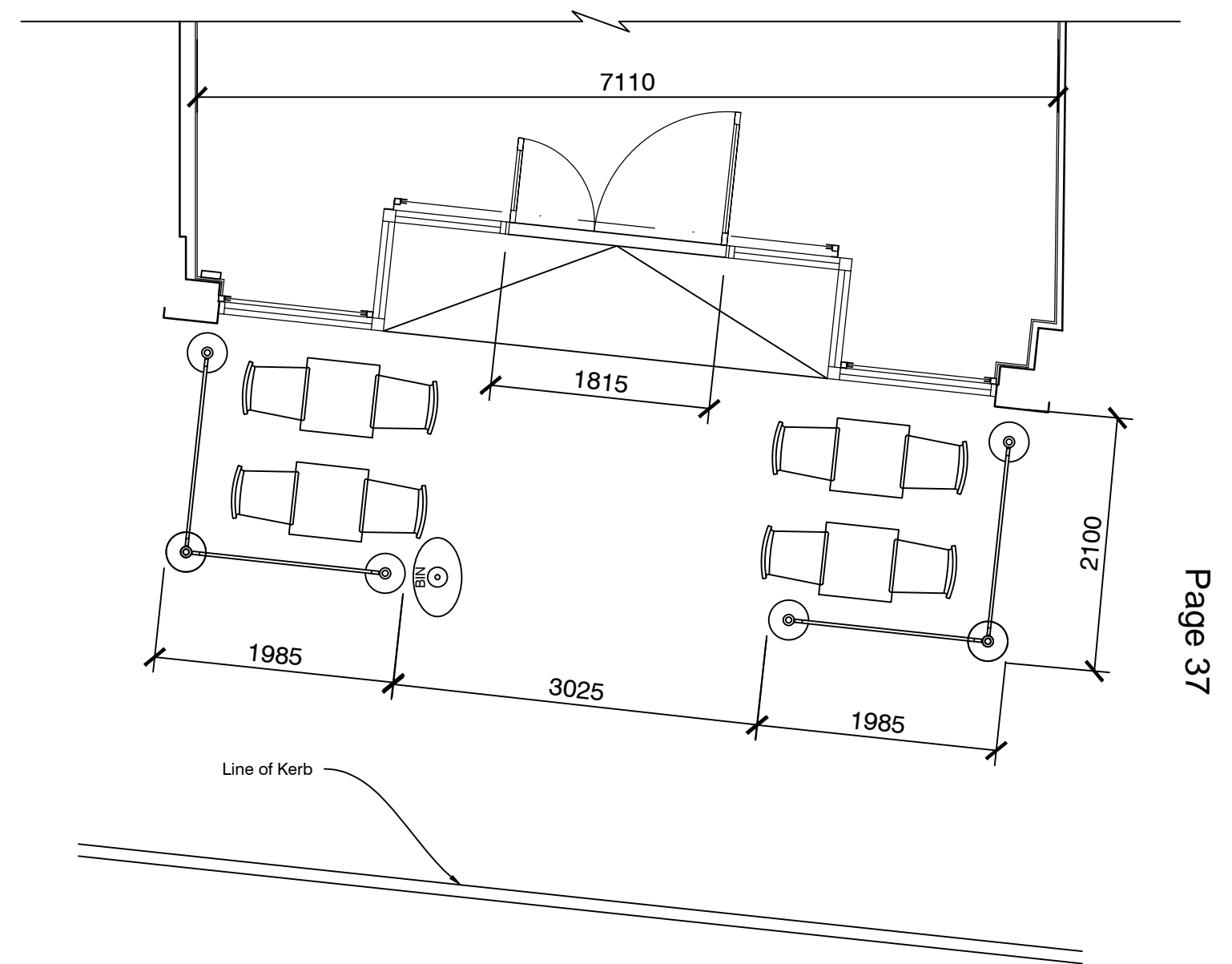
Dimensions	
Overall Height:	710mm
Overall Width:	To fit 600, 700, 800
Overall Depth:	To fit 600, 700, 800
Seat Height:	n/a
Arm Height:	n/a
Weight:	
Material	Aluminium
Colour/Finish	Silver
	Grey
COM	n/a
Stacking	Yes
Feet	
Adjustable	
Thread size	
Rec. Top Size	600mm Square
	700mm Square
	800mm Square
Outdoor?	Yes

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## EXISTING GROUND FLOOR PLAN



## PROPOSED GROUND FLOOR PLAN



PROPOSED GREGGS OUTDOOR SEATING;

219 HIGH STRET, CHELTENHAM, GL50 3HH

SCALE 1:50 @A3

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**From:** M Afzal  
**Sent:** Thu, 6 Feb 2020 18:17:49 +0000  
**To:** Internet - Licensing  
**Subject:** Representation of application for greggs

Dear licensing Cheltenham borough council,

Application reference number: 20/00112/TCA

I am writing from FONE WORLD (217 high street, GL503HH) as to regards for the permission of the application for greggs (219 high street) to have tables and chairs in front of the premises and allowing 2m of footway. I would like to say that there should be a change and this should not be accepted by the council as it will not just affect my business, more so it will affect the pedestrians and the people of Cheltenham. The plan could be changed for less amount of chairs and tables but I don't think that it would make the situation better. At the moment there is not a lot of space as it is on the high street for pedestrians as there is a road for busses, cars and cycles to pass through. For example on busy days when the town and high street are packed there would not be enough space for pedestrians to walk and I have seen this in person where it gets busy and so people would have to walk on the road used for busses and transportation. This would cause a risk and a potential hazard for people if they are not careful enough, Similarly I have seen that Pret a manger, further up the high street have pursued a similar thing but I think that it is fine as there is space for pedestrians and the road finishes which makes it suitable to have chairs, tables and barriers. I don't think this is the right decision as it will have an impact on pedestrians and the amount of space for people to walk, the high street should be an open place for pedestrians to shop and walk around and not be restricted.

I hope you can improve and rectify this application as this is not fit for standards for the high street.

Yours faithfully,

Mr Afzal – director of Fone World

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## Cheltenham Borough Council

### Licensing Committee – 4 March 2020

#### Renewal of a Hackney Carriage Driver's Licence

#### Mr Kevin Gamble - HCD002

#### Report of the Licensing Team Leader

##### 1. Executive Summary and Recommendation

- 1.1 Mr Kevin Gamble holds Hackney Carriage driver's licence HCD002 that was due for renewal on 04.02.2020.
- 1.2 Mr Gamble has a number of penalty points on his DVLA driving licence. The council was not notified of these points within the required timescales, in some cases not at all, and Mr Gamble failed to fully disclose the penalty points on his renewal application. The details and interview notes are attached as background papers to this report.
- 1.3 In light of the above, Mr Gamble Hackney Carriage driver's licence is being referred to the Licensing Committee for a review to determine if he remains a fit and proper person to hold a Hackney Carriage driver's licence in light of the fact that:
  - 1.3.1 He has 9 penalty points on his DVLA driving licence; and
  - 1.3.2 He has not fully declared these to the council on his application form; and
  - 1.3.3 He failed to notify the council of any of the points within the required timescales.
- 1.4 **The Committee can;**
  - 1.4.1 **Grant Mr Gamble's application for a Hackney Carriage driver's licence with no further action as he remains to be a fit and proper person; or**
  - 1.4.2 **Grant Mr Gamble's application for a Hackney Carriage driver's licence as he remains to be a fit and proper person but that he be issued with a formal written warning; or**
  - 1.4.3 **Refuse Mr Gamble's application for a Hackney Carriage driver's licence as he is no longer deemed to be a fit and proper person to hold a licence.**

##### 1.5 Implications

- 1.5.1 Legal                      There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates' Court.

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

##### 2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).
- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

### 3. Policy Considerations

#### Duty to notify the council

- 3.1 There is a policy requirement for licence holders to notify the council under the circumstances listed below:

#### ***Convictions / cautions / fixed penalty notices / criminal investigations***

*Licence holders 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. (page 7)*

#### Relevance of convictions

- 3.2 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.
- 3.3 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 **Motoring Convictions (Existing Licence Holders)**

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence.

An existing licence holder who has 7 penalty points or more on his or her driving licence due to multiple offences, or 6 penalty points or more for one isolated offence, will be required to appear before the Licensing Committee to explain their convictions. The Committee then have the option to:

- a. Take no further action
- b. Give a written warning
- c. Require the driver to pass a DSA private hire/hackney drivers test, at the driver's own expense, within 2 months of their decision
- d. Suspend the Licence upon conditions or for a period of time
- e. Revoke the licence.
- f. Refuse to renew the licence (if such an application is being considered)

#### 4. Licensing Comments

- 4.1 The council is under a statutory duty to only license persons deemed to be fit and proper.
- 4.2 Due to the number of penalty points Mr Gamble has on his DVLA driving licence coupled with the fact that he failed to disclose them has called into question whether he remains a fit and proper person to hold a Hackney Carriage driver's licence.
- 4.3 This authority sets a high standard for licence holders and expect them to maintain the highest level of safe driving standards as outlined in the council's licensing policy.
- 4.4 Mr Gamble has been licensed since 2009 and is therefore not new to the trade. Through his experience as a Hackney Carriage driver, he should have been aware of the requirement to report penalty points to the council and to be honest when completing his renewal application.
- 4.5 Members are to note that the council's Licensing Committee previously revoked Mr Gamble's Hackney Carriage driving licence in 2010 for totting up. This decision was substituted with a two-month suspension on appeal.
- 4.6 Mr Gamble 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.

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#### Background Papers

Service Records

Licensing Committee – June 2010

#### Report Author

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**Tel no:** 01242 262626

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## Cheltenham Borough Council

### Licensing Committee – 4 March 2020

#### Renewal of a Hackney Carriage Driver's Licence

#### Mrs Judith Eloise Timur - HCD006

#### Report of the Licensing Team Leader

##### 1. Executive Summary and Recommendation

- 1.1 Mrs Judith Eloise Timur holds Hackney Carriage driver's licence HCD006, which was due for renewal on 29.12.2019.
- 1.2 Mrs Timur has a number of penalty points on her DVLA driving licence that she failed to notify the council of within the required timescales.
- 1.3 In light of the above, Mrs Timur's Hackney Carriage driver's licence is being referred to the Licensing Committee for a review to determine if she remains a fit and proper person to hold a Hackney Carriage driver's licence in light of the fact that:
  - 1.3.1 She has 6 points on her DVLA driving licence; and
  - 1.3.2 She failed to notify the council of these within the required timescales as outlined in the council's licensing policy.
- 1.4 The Committee can;
  - 1.4.1 Grant Mrs Timur's application for a Hackney Carriage driver's licence with no further action as she remains to be a fit and proper person; or
  - 1.4.2 Grant Mrs Timur's application for a Hackney Carriage driver's licence as she remains to be a fit and proper person but that she be issued with a formal written warning; or
  - 1.4.3 Refuse Mrs Timur's application for a Hackney Carriage driver's as she is no longer deemed to be a fit and proper person to hold a licence.

##### 1.5 Implications

- 1.5.2 Legal
 

There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates' Court.

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**Tel no: 01684 272015**

##### 2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

### 3. Policy Considerations

#### Duty to notify the council

- 3.1 There is a policy requirement for licence holders to notify the council under the circumstances listed below:

#### ***Convictions / cautions / fixed penalty notices / criminal investigations***

*Licence holders 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. (page 7)*

#### **Relevance of convictions**

- 3.2 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.
- 3.3 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
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- 3.6 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.

#### 3.7 **Motoring Convictions (Existing Licence Holders)**

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- e. Revoke the licence.
- f. Refuse to renew the licence (if such an application is being considered)

#### **4. Licensing Comments**

- 4.1 The council is under a statutory duty to only license persons deemed to be fit and proper.
- 4.2 Due to the number of penalty points Mrs Timur has on her DVLA driving licence coupled with the fact that she failed to notify the council of these within the required timescales has called into question whether she remains a fit and proper person to hold a Hackney Carriage driver's licence.
- 4.3 This authority sets a high standard for licence holders and expect them to maintain the highest level of safe driving standards as outlined in the council's licensing policy.
- 4.4 Members are to note in 2013, when Mrs Timur was first licensed, her local knowledge test asked what a licence holder should do when convicted of a driving offence and she correctly stated that the council should be informed within 7 days. Through her experience as a Hackney Carriage driver therefore, she should have been aware of the requirement to report penalty points to the council.
- 4.5 Mrs Timur has been sent a copy of this report and invited to attend this meeting to speak in support of her 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.

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#### **Background Papers**

Service Records

#### **Report Author**

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

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