

Full Licensing Committee

Wednesday, 2nd December, 2020
4.00 - 5.40 pm

Attendees	
Councillors:	David Willingham (Chair), Paul McCloskey (Vice-Chair), Angie Boyes, Mike Collins, Wendy Flynn, Tim Harman, Diggory Seacome, Jo Stafford and Roger Whyborn
Also in attendance:	Vikki Fennell and Jason Kirkwood

Minutes

1. APOLOGIES

Apologies were received from Councillor Wheeler.

2. DECLARATIONS OF INTEREST

Councillors Willingham and Boyes declared they had visited the site.

3. MINUTES OF THE PREVIOUS MEETING

The minutes of the Full Licensing Committee meeting held on 2 September 2020 were approved and signed.

4. MINUTES OF SUB-COMMITTEE MEETINGS

The minutes of the meeting of the Licensing Sub-Committee (Miscellaneous) held on 4 November 2020 were approved and signed.

The minutes of the meetings of the Licensing Sub-Committee (Alcohol and Gambling) held on 11 August 2020, 24 September 2020 and 4 November 2020 were approved and signed.

5. APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY – ‘A’ BOARD

The Senior Licensing Officer introduced the report. An application had been received from The Urban Meadow Café, 24 Rodney Road, to place an advertising board on the High Street at the junction with Rodney Road. The size of the A Board was compliant with policy and a picture of proposed A Board was attached with the report. A location plan of the proposed location was also attached to the report, however the Officer stated that the location did not comply with policy requirements, in that an ‘A’ Board should be placed directly outside or immediately adjacent to the premises entrance. Whilst no objections had been received, the Officer’s recommendation was to refuse the application based on non-compliance with the council’s policy on location.

The Officer reminded members of the aims and objectives of the council’s policy and stated that if members granted the application reasons must be stated for deviating from policy.

In response to questions from members, the Officer;

- Shared his screen to show an image of the frontage of the premise and its location within Rodney Road, as well as the size of the footway.
- Confirmed that he was not aware of any similar businesses who had permissions for A boards in that location. However further along the High Street he confirmed there was a mixture of A boards, some with and some without permission and that action was being taken to deal with those without permission.
- Confirmed that the Government had introduced new legislation in the light of Covid to allow more widespread use of tables and chairs on the pavement on a temporary basis and a member questioned whether this could be considered in relation to A boards as well. However the Officer was unaware of similar legislation with regard to objects on the highway.

The Chair invited the applicant's representative, Jo Baker, to address members. Ms Baker stated she owned the lease on the property at 24 Rodney Road, having taken a 12 year lease in January of this year and had started trading as a café on the ground floor and a yoga studio on the first floor. After just 3 months of trading, the business was closed down due to the corona virus pandemic and on re-opening after lockdown she rebranded the business to give it a boost. Ms Baker explained that on seeing a number of A boards on the high street, she thought that would be an excellent way of increasing footfall down to the café from the High Street.

She reported that she had had a promising August and attributed an increase in income to the A board advertising. However in September she was asked to remove the A board by the Licensing team as she did not have a proper consent. This she did immediately and proceeded to submit an application and the appropriate fee on 1st October. However, the 28 day consultation period was delayed as a record of payment could not be found and Ms Baker had to submit proof of payment.

In the meantime Ms Baker had written to Barclays Bank to ask them to confirm in writing that they had no objection to the A board being placed outside their building. Ms Baker also stated that she was aware the Council's Street Scene Policy was under review, which included the location of A Boards and she confirmed that the A Board would provide at least 1.8m unobstructed thoroughfare. Ms Baker referred to the image of the premises shown earlier and stated that this was an old picture and the property definitely looked like a café now. Finally she informed members that since the removal of the A board, she had noticed a steep decline in footfall and passing trade. She hoped the committee would consider the application favourably for the survival of her business and would be grateful if it was possible for a grant even on a temporary basis.

In response to questions from members, Ms Baker confirmed that:

- The café was on the ground floor and that the pavement was too narrow for the A board to go outside the premises.
- There were 2 hanging vertical signs hanging from the building.

- The yoga studio had re-opened that day and was limited to a reduced number of participants and that whilst it was closed yoga classes were run online.
- There were four full time members of staff and one part time weekend helper, all local people who had been furloughed and had remained very supportive.

In response to a question to the Licensing Officer, he confirmed that consent for an A board can be given for a specified period.

Before going to debate the Chair reminded members that if they were to deviate from policy they needed to give clear reasons for doing so and that licensing decisions had to be reasonable, proportionate and rationale. The Chair summarised his reasoning; firstly the A board was not outside the premises and thus did not comply with policy, it was very close to a busy junction and additional street objects added to potential hazards, the sign could not be directly overseen by the applicant as she was not near it. However, a reason for varying the policy, albeit temporarily, could be the Covid crisis and the precedence set by the government in response to temporary changes to assist businesses that are struggling. The Chair was minded to consider a temporary consent and if members agreed with this, a decision would be needed on the length of time.

During the ensuing debate members mentioned the following:

- In order to support local independent businesses in these challenging times, consideration of a temporary consent was an option that could be supported.
- A temporary grant for a period of time in line with the expiry date of the temporary tables and chairs legislation was felt acceptable and defensible. One member suggested the expiry date was the end of September.
- Many businesses were struggling in this current situation and if everyone had an A board it would be impossible to navigate the high street safely, which is why the council has a policy. Also the premises has 2 hanging signs outside the building and is located on the ground floor, so not necessary to deviate from policy.
- The diagram in the report was far too small to follow exactly where the A board would be placed. The applicant clarified its position and confirmed it would be outside the vehicle access area.
- With diminished footfall in the high street and with more people working from home which impacts Rodney Road which has many offices in it, the committee should be doing what it can to support local businesses.
- The A board is tastefully designed and the council wants to encourage local businesses and people into the town. The applicant has followed all the rules and done as asked, think it fair, reasonable, and pragmatic to deviate from policy and should consider a permanent grant of consent.
- Must consider each application on its own merits and difficult when other parts of the town seem to have many objects on the street. It doesn't comply with the policy, but the applicant has received business support grants from the council during this period, so seems contradictory,

however concerned about the precedent this could set and the number of other businesses who could apply.

- It is impossible to implement policy of having an A board outside the premises as the pavement is not wide enough. The applicant has done everything asked of her and a temporary consent should be considered and with a review of the situation at the end of September.
- Committee need to do all they can to attract people into the town centre.
- One member was not happy to deviate from policy permanently, but would consider a temporary consent.
- Rodney Road is mainly residential or commercial, so this is an isolated business in this road, and by saying it is an isolated business could justify a consent and not set a precedent.

There was some discussion on whether to consider a permanent consent or temporary consent and the precedent this could set. Several examples of past deviations from policy were cited, as well the granting of a permanent consent for one A board advertising several businesses down one alley way which led to a tweaking of the policy.

The Licensing Officer confirmed that an email had been received from the Manager at Barclays Bank saying that they would be quite happy with the A board to be outside their premises. He also drew members attention to the A boards policy, whereby it states that the council seeks to strike a balance between promoting the councils priorities in particular strengthening the boroughs economy by assisting and promoting local businesses but at the same ensuring the free passage along the foot paths and maintaining the visual street environment by the controlled use of boards and he confirmed there had been no objections to the application on the basis of public safety.

The Chair went through the options available to members in their decision making and suggested an additional option should the approval of the application on a permanent basis be refused.

The Chair invited the applicant to her final right of reply in which she thanked members for an interesting debate and stated that in view of the members concerns about a plethora of A boards arriving on the High Street, Ms Baker said she didn't think this would be the case as the cost of an A board put some off and many colleagues within the hospitality association didn't want them and they were happy with the support they had received with regard to the new temporary legislation on tables and chairs.

The Chair moved to vote on:

1.8.1 of the report, to approve the application because members were satisfied that the location was suitable - Against 5, For 3 - Refused

To approve the application temporarily until 30/9/21 or until such other time as the government revoked the Covid emergency legislation in relation to the tables and chairs policy, with the reason that the location is suitable because of trying to regenerate businesses in the town centre impacted by Covid 19 – Against 1, For 7 – **CARRIED**

The Chair confirmed that the application had been granted on a temporary basis and that the exact wording of the decision would be determined by the Legal Officer and Licensing Officer and forwarded to the applicant.

6. RESPONSE TO CONSULTATION TO REVISED STREET SCENE POLICY

The Senior Licensing Officer presented the response to the consultation on the revised Street Scene Policy. He stated that the public consultation period was open until 14 January and that members of the committee had the opportunity now to feedback their comments to the Cabinet Member for Cyber and Safety, for consideration by Cabinet. Members were asked to note the revisions to the revised policy as outlined in Appendix 2 to the report. It was subsequently pointed out that members had a copy of the revised report but without the amendments being highlighted.

Apart from some minor grammatical changes, the principal proposed changes related to strengthening the authority's position on determining applications that do not comply with policy; lengthening the consultation period; formalising the requirement to maintain minimum 1.8m unobstructed thoroughfare; updating the council's approach to enforcement; and permissions around advertising structures such as A boards.

The Chair thanked the Licensing team for the work they had done on this policy.

One member raised the point of the raised piece of land between Montpellier wine bar and the Courtyard, which was privately owned land and where there had been issues about tables and chairs and signage on this private land and who was responsible for them. He felt this should be regularised.

The Chair felt a discussion with Highways to get a better understanding of the rules regarding private land could be beneficial.

A member pointed out that there were several references to Cheltenham Borough Council's Local Plan adopted in 2006, however he pointed out that a new one was adopted in 2019. This needed to be altered and to double check that the core commercial area was still the same in the new policy. The Licensing Officer would verify this.

Concern was also expressed about the interpretation of the default position and presumption of refusal, as many applications came to committee because they did not comply with policy. The Chair pointed out that it was the committee's role to state the reasons for reaching any decision.

In response to a member's concern about the 1.8m ruling and whether this distance should be the same for passing both tables and chairs in the highway as well as A boards, and whether the latter should be 1.2m, the Licensing Officers were asked to review this measurement as a sensible consideration. Another member however felt that the distance should not be changed.

The Chair asked Officers to ensure there was a robust equalities impact assessment on this and to consider sending the consultation to the likes of the National Institute for the Blind and other disability charities to be able to comment on the policy to ensure accessibility for those who struggle.

The Chair also wished to look at alternative signage provision, whereby businesses in lower footfall areas could purchase a modular sign that could be attached to something, enabling a single piece of street furniture as opposed to several.

Members were asked to:

- Note the revisions to the revised policy as outlined in the report; and
- Acting as lead consultee to the Cabinet Member for Cyber and Safety, submit any comments or response this committee wished to make for consideration by Cabinet.

All the comments made by members had been noted by the Officers and would be forwarded to cabinet.

Upon a vote it was carried.

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

There were no urgent items to be discussed.

The Chair however wished to record his thanks to the Licensing Team, One Legal and the Democratic Services team for their hard work in manging these meetings and wished everyone a merry Christmas and a Happy New Year.

8. DATE OF NEXT MEETING

3 March 2021.

David Willingham
Chairman