

Cheltenham Borough Council Full Licensing Committee

Meeting date: 7 June 2023

Meeting time: 6.00 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Dr David Willingham (Chair), Councillor Angie Boyes (Vice-Chair), Councillor Barbara Clark, Councillor Tim Harman, Councillor Richard Pineger, Councillor Julie Sankey, Councillor Diggory Seacome, Councillor Izaak Tailford, Councillor Simon Wheeler and Councillor Bernard Fisher

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Contact: democraticservices@cheltenham.gov.uk
Phone: 01242 264 130

Agenda

1 Apologies

2 Declarations of interest

3 Minutes of sub-committee meetings (Pages 5 - 14)

To approve the meetings of the Licensing Sub Committees held on 1st March, 5th April and the Alcohol and Gambling subcommittee held on 22nd May.

4 Review of previous decisions

A verbal update from the Licensing Team Leader.

5 Application to place an object on the highway - A board (Pages 15 - 24)

6 Report for Code of Conduct

7 Exempt Items - Local Government Act 1972

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2; Information which is likely to reveal the identity of an individual

8 Review of a Hackney Carriage Drivers Licence (Pages 25 - 34)

9 Any other items the Chairman determines urgent and requires a decision

10 Date of next meeting

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Cheltenham Borough Council

Licensing Sub-Committee - Miscellaneous Minutes

Meeting date: 1 March 2023

Meeting time: 7.00 pm - 9.00 pm

In attendance:

Councillors:

David Willingham (Chair), Angie Boyes (Vice-Chair), Barbara Clark, Diggory Seacome and Simon Wheeler

Also in attendance:

Vikki Fennell (Solicitor) and Jason Kirkwood (Licensing Team Leader)

1 Apologies

There were none.

2 Declarations of Interest

There were none.

3 The Local Government Act 1972

The committee unanimously voted that:

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2; Information which is likely to reveal the identity of an individual

The meeting then entered exempt session.

4 Driver Review

The Senior Licensing Officer introduced the report. The driver was not present but after Member debate the matter went to the vote on 1.6.2c.

For: 5

Against:0

Revoke

5 Determination of a New Hackney Carriage Driver's Licence

The Licensing Team Leader introduced the report, after a lengthy debate and Member questions to the applicant the matter then went to the vote.

The matter then went to the vote on 1.6b to revoke.

UNANIMOUS – REVOKED

It was then explained that the applicant was given 21 days to appeal the decision to the Magistrates Court.

6 Any Other Items the Chairman Determines Urgent and Which Requires a Decision

There were none and the meeting ended.

Cheltenham Borough Council Licensing Sub-Committee - Miscellaneous Minutes

Meeting date: 5 April 2023

Meeting time: Time Not Specified - Time Not Specified

In attendance:

Councillors:

David Willingham (Chair), Simon Wheeler, Ed Chidley, Julie Sankey (Reserve) and Tim Harman (Reserve)

Also in attendance:

Jason Kirkwood (Licensing Team Leader)

7 Apologies

Apologies were received from Councillors Boyes and Seacome and Councillors Sanky and Harman attended as substitutes.

Councillor Chidley was welcomed to the committee as a new member replacing Councillor Clark.

8 Declarations of Interest

There were none to be disclosed in open session.

9 The Local Government Act 1972

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2; Information which is likely to reveal the identity of an individual

The committee voted unanimously on the above. The meeting then entered closed session,

10 Review of a Private Hire Driver's Licence

After Member questions and Member debate the matter then went to the vote on 1.7.1 from the report that no further action, the driver is found to be fit and proper.

For: Unanimous.

11 Review of a Hackney Carriage Driver's Licence

Members considered the case and voted unanimously to suspend the driver's HCV licence for up to three months, pending safeguarding training being undertaken.

12 BRIEFING NOTES

There were none.

13 Any Other Items the Chairman Determines Urgent and Which Requires a Decision

The Licensing Team Leader said that, as Members were aware, the council was trying to introduce a policy to ensure all taxis were wheelchair-accessible, with the current understanding that in exceptional circumstances, if a saloon car was written off or beyond economic repair, the driver would be allowed to replace it with another saloon. A driver has approached the council to replace a fully electric saloon vehicle; there is nothing wrong with it, and the driver bought it 14 months ago in an attempt to be 'green', but is finding it unsuitable for taxi work. It needs a full charge every six hours, and how far it will travel on one charge depends on temperature, lights, hills, distance etc, sometimes only achieving 150 miles. As the driver may need to drive a child to school 65 miles away, this is undermining his ability to make a living.

He said that officers make a lot of decisions on exceptional circumstances, but has brought this case to Members' attention as it concerns the only fully electric vehicle on the fleet. The driver would like to replace it with a hybrid vehicle, and if Members

agree, the Licensing Team Leader and Chair can make the decision under delegated powers, rather than keep the driver waiting four weeks until the next meeting.

Members agreed unanimously with this suggestion.

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Cheltenham Borough Council Licensing Sub Committee-Alcohol and Gambling Minutes

Meeting date: 22 May 2023

Meeting time: 14:00 – 16:00

In attendance:

Councillors:

Diggory Seacome, Simon Wheeler and David Willingham

Also in attendance:

Sarah Farooqi, Jason Kirkwood (Licensing Team Leader) and Phil Bowen (Senior Licensing Officer)

1 Election of Chair

Cllr Dr David Willingham was elected as Chair of the committee.

2 Apologies

There were none.

3 Declarations of interest

Cllrs Willingham and Seacome declared that they had made a site visit.

4 Determination of Application for a Premises Licence

The Licensing Officer introduced the report as published.

There were no questions from the objectors, applicant or Members.

The objectors were then asked to address the committee and they made the following points:

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- Very aware of the area as has lived in Cheltenham for a long time.
- Upper Norwood Street does not need a nightclub, a nightclub will bring issues to the area, people do not want extra noise.
- The residents were happy with what was there before but believe that this is not the right area for a night club.
- There were more people that he has spoken to who were too frightened to put in an objection.
- Cheltenham is not bereft of drinking establishments but there does seem to be a shortage of services like doctors and dentists.

One Member questioned the objector as to whether there were residences above the site and the objector confirmed that there were and also opposite.

It was also queried by a Member why the objector was referring to the site as a night club when it only was applying for a licence until 11pm. The objector said that 11pm was too late for the property to be open and that it will turn into being a nightclub with an extended hour here and there.

The second objector was then asked to address the committee, she made the following points:

- As she lives on Great Norwood Street she has concerns mainly to do with the live music. If there is loud music that will be heard through the wall and effect the way that she lives her life.
- There are plenty of empty properties on Bath Road that could be used for this purpose.
- There was also concern about the amount of drunk people that will be in the street which will not make her feel safe and there will possibly be public urination.
- There are a mix of residential properties and shops and cafes in the area but none of them are open at night.
- There is already a large amount of noise from the renovation, whereas this is not the applicants fault it could be an indication of what is to come with a noisy bar.

A Member then asked if there had been any problems from the Suffolk Arms or the Retreat to which she confirmed that there had been, however not right below her children's bedroom window, she believed that there should not be alcohol near where there are children.

The previous objector then spoke and said that the Suffolk Arms has always been there but this application is introducing a menace to the existing neighbourhood. There are people that walk passed but that is not too much of a problem, he stated that the Bath Road is a much more suitable venue.

The Chair explained that the committee is only there to determine the application before them not discuss the empty properties that are in different areas.

One Member asked the objector if she purchased her property whilst the Indian restaurant was in the property, she said that the property was vacant then and she wouldn't have bought the property if a bar had been there.

The applicants solicitor was then given the opportunity to address the committee and she made the following points:

- The application is for on and off sales of alcohol, the nature of the premises will not be as a nightclub.

- The idea of the business is to attract a co-operative wholefoods style shop with occasional live acoustic music.
- The DPS is an experience licensee having previously been at the Beaufort Arms.
- The premises has been lovingly restored with exterior paint matching the original colours and there will be soundproofing.
- The two tenants that live upstairs did not put in any representation regarding the application.
- The premises will serve cocktails and non-alcoholic cocktails, there will be no vertical drinking at the premises.
- There is a kitchen and seating area downstairs along with the toilets.
- There is a patio which is a sun trap – there will be no music played outside.
- Recycling will be done daily but not late at night or early in the morning.
- Environmental health have not made any representations and the conditions with the police have been agreed.
- Had the applicant been contacted by the objectors she would have been happy to discuss their concerns.
- The applicant would be happy to offer two further conditions 1) that during the performance of live music at the premises the DPS or person nominated by them will ensure that noise from such activities is effectively inaudible inside the nearest noise sensitive premises. 2) the during the performance of live music that doors and windows shall be kept closed except of access and egress. The DPS or a person nominated by them, shall ensure that the door and windows are maintained closed as far as possible when live music is taking place.

The responses to Member questions were as follows:

- Where as there can only be one DPS holder there will be a deputy and either the holder or the deputy will be on site at all times.
- The premises is looking to have live unamplified music once or twice a month.
- The application is for the premises to be open until 11pm but the live music will go on no later than 9pm.
- The supply of alcohol would be from 10am – 11pm although service of drinks will finish at 10pm and there will be drinking up time.
- All customer would be removed from the premises by 11 although the applicant then explained that most days they will be intending to closed by 8.30pm unless there is a festival or something similar going on in the gardens.
- They see the business as mainly a sale of provisions business rather than a sale of alcohol business.
- It was explained to the committee that sales will be upstairs and the lower ground will be seating.
- The conditions that were made by the police were described as follows: CCTV at the entrance and exit and to be maintained, the date and time must be on the recording, any person on the premises must be trained in the operation of CCTV and able to produce information as and when required, an incident to be kept and no standing at the bar with no vertical drinking on the premises and seated drinking at all times.

The matter then went to Member debate where the following points were raised:

- A lot of the application is down to perception, the applicant appears to have applied for the maximum that they might need which will not be the normal opening hours. The applicant seems to want a quiet and respectful business which appears to be very different to the business that the objectors are talking about, there is middle ground to be found and would not hesitate in approving the licence.

- The objector has called this an application for a nightclub which having listened to the applicant it clearly is not. It is not a material concern that the premises may affect property value. There were no objections from the highway authority. The objections with regard to noise are covered under the Licensing Act.

The matter then went to the vote to grant

FOR: 3

GRANTED

5 Any other items the Chairman determines to be urgent and which requires a decision

There were none.

Cheltenham Borough Council

Licensing Committee –

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

Application for permission to place an object on the Highway

Report of the Senior Licensing Officer

1. Executive Summary

1.1 Mr James Kitto based at, Cheltenham Festivals - Cloudscapes, has made an application to place a horsebox with a rope circle around it with large beanbags. The location is the High Street and the junction of Cambray Place. The proposed object (horsebox) is 260cm high, 230cm wide and 475cm long. The total size of the roped off area is unknown and has been requested to be submitted from the applicant.

1.2 The reason for the object is for a performance of Cloud Scapes as part of the Science Festival. An immersive installation combining clouds and script. Between 10:00 and 15:30 hours on the day of the event.

1.3 It is intended that the object be displayed;

Monday	n/a
Tuesday	n/a
Wednesday	n/a
Thursday	n/a
Friday	n/a
Saturday	n/a
Sunday	09:00 - 17:00

1.4 **The Committee are asked to note that the size of the entire obstruction complies with the standard sizes recommended in the council’s policy.**

1.5 **A picture of the proposed structure is attached at Appendix A.**

1.6 Width of footpath available is 5.8m.

1.7 **An updated location plan of the proposed location is attached at Appendix B. This was received during the consultation.**

1.8 The original location plan is attached at **Appendix C.**

1.9 **The Committee may:-**

1.9.1 **Approve the application because Members are satisfied that the location is suitable, or**

1.9.2 **Refuse the application.**

1.9.3 **Full reasons should be provided for the decision of the Committee.**

1.10 **Summary of implications**

Legal

No right of appeal.

Contact officer: One Legal
E-mail: 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 or other objects are considered by the Licensing Committee, as set down in council policy.

3.2 In particular, 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 Authority 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 Authority’s commitment to work in partnership with other enforcement agencies

4 OBLIGATIONS ON THE PERMISSION HOLDER

4.1 The Permission Holder undertakes:-

- To ensure that the object(s) is not placed in any other area than that stated in this Permission.
- Not to allow the object(s) to be placed on the highway outside the times and dates permitted by this Permission.
- To ensure that the dimensions and appearance of the object(s) at all times accords with the details agreed by the Council upon the issue of this Permission.
- To ensure that the object(s) does not at any time obstruct the passage of or cause danger to persons lawfully using the highway.
- To ensure that the object(s) is at all times well maintained and kept in a clean and tidy condition.
- To ensure that the object(s) is at all times sufficiently weighted so that they do not move or blow over in the wind.
- To pay to the Council the cost of making good any damage caused to the highway in consequence of the Permission Holder’s operations thereon.

- To indemnify the Council from all claims, damages and costs in respect of all accidents damages and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act neglect or default of the Consent Holder, his servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability.
- To observe all statutory and other provisions and regulations for the time being in force which relates to the placing of the object(s) on the highway.
- To comply with any directions or requirements issued by a chief officer of the Council or any member of their staff so authorised.
- To forthwith inform the Council in writing of the details of any transfer/disposal to another person of the business to which the object(s) relates.

5. Consultee Comments

- 5.1 No comments from any of the statutory bodies or prescribed consultees have been received as of the report date of 26th May 2023.
- 5.2 2 objections from local businesses were submitted before the new location plan was received, these are attached at **Appendix D**.
- 5.3 The committee should note that the consultation for this application ends on the **1st June 2023**. If additional objections are received these will be made available prior to the hearing. It has been necessary to produce the report and publish it prior to the close of objections due to the proposed date of the event.

6. Licensing Comments

- 6.1 The committee must determine the application with a view to promoting the Council's adopted policy.
- 6.2 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy adopted on 2nd December 2020, whereby all new applications are referred to the Licensing Committee.
- 6.3 This application must be determined on its individual merits and in view of promoting the current policy on the licensing of objects on the Highway.
- 6.3 Mr Kitto has been sent a copy of this report and invited to attend the meeting and advised that he may be represented if he so chooses.

Background Papers

Service Records

Case Officer

Contact officer: Mr Philip Bowen
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200

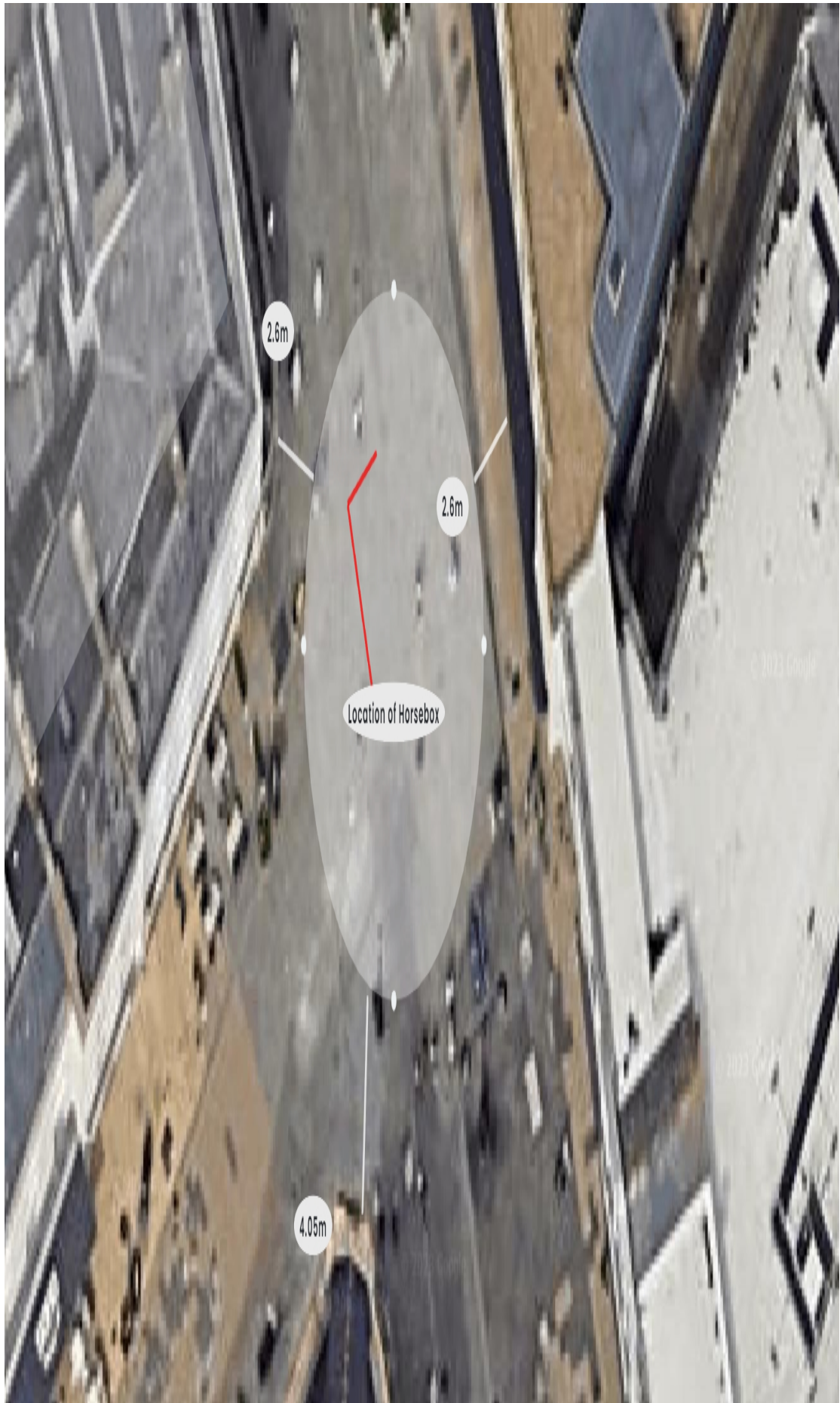
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