

Licensing Committee

Friday, 10th January, 2014
2.30 pm

Attendees	
Councillors:	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Pat Thornton, Jon Walklett and Roger Whyborn
Also in attendance:	Councillor Penny Hall and Councillor Wendy Flynn

Minutes

- 1. APOLOGIES**
Councillor Stewart

- 2. DECLARATIONS OF INTEREST**
Councillor Walklett declared an interest in agenda item 9 as he has met the applicant and said that he would not participate in that item and leave the meeting.

Councillor Barnes declared an interest in agenda item 9 as he has met the applicant and said that he would not participate in that item and leave the meeting.

- 3. PUBLIC QUESTIONS**
None

- 4. MINUTES OF MEETING HELD ON 6 DECEMBER 2013**
Resolved that the minutes of the meeting held on 6 December 2013 be agreed and signed as a true record.

- 5. MINUTES OF SUB COMMITTEE MEETINGS**
None

- 6. LOCAL GOVERNMENT ACT 1972-EXEMPT INFORMATION**

- 7. APPROVAL OF EXEMPT MINUTES OF MEETING HELD ON 6 DECEMBER 2013**
Councillor Barnes confirmed his attendance at the meeting, upon this amendment it was resolved that the exempt minutes of the meeting held on 6 December 2013 be agreed and signed as an accurate record.

- 8. PRIVATE HIRE DRIVER APPLICATION**
Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Nadeem Masud for a Private Hire driver's licence.

Mr Masud has a number of convictions which are detailed in the background papers.

Louis Krog detailed the policy considerations and referred Members to point 3.10 of the report which states “An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the below offences and the conviction is **less than 5 years** prior to the date of application:

- S5 Public Order Act 1986 offence (harassment, alarm or distress) ”

Louis Krog also referred Member to point 3.4 of the report which states the overriding consideration is the safety of the public.

Mr Masud attended the Committee and spoke in support of his application. He said that during the last 8 years he had been working as a delivery driver.

Members asked the following questions;

- A Member stated that the case had been to Court on three occasions and asked why Mr Masud pleaded guilty at the last Court case.
- Mr Masud explained that each time he went to Court he was charged £150.00 and the offence was under Section 5 of the Public Order Act.
- When asked how the Police became involved in the incident detailed in the background papers, Mr Masud said the girls had reported the incident to the Police. The girls did not attend two Court case hearings resulting in the case being adjourned and Mr Masud being fined £150.00 on each occasion.
- A Member stated that the Committee were in a difficult position. The Member did not know why the applicant had not asked for the Court decision to be overturned by means of an Appeal.
- Louis Krog reminded Members that it was not for the Committee to decide if the conviction was justified or whether the Courts’ were right in prosecuting him. The Committee should determine the application based on the facts and determine his fitness to be licensed as a driver.
- Mr Masud advised the Committee that he had been in ill health due to being assaulted in October last year. This assault had resulted in Mr Masud being signed off work for 2 months with fractures to his face. Mr Masud stated he had brought a copy of his medical report and recent payslips if Members wanted to look at them. Mr Masud said his doctor had stated he needed an easier job now which would ease the pain in his face.
- A Member asked why Mr Masud had made an application and attended the Committee today even though this went against the current policy in relation to his conviction. The time period still had one more year to lapse before Members could consider an application like this.
- Mr Masud said he needed to get a less strenuous job to make money to help his family and to live a respectable life.

Members were advised they had two recommendations to vote on;

1. That Mr Masud’s application be granted as Mr Masud is a fit and proper person.

2. That Mr Masud's application be refused on the grounds that Mr Masud is deemed not to be a fit and proper person.

Upon a vote it was (5 for, 4 against)

RESOLVED that Mr Masud's application be granted as Mr Masud is a fit and proper person.

9. APPLICATION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

Councillor Barnes and Walklett left the Chamber due to their declaration of interests.

Councillor Seacome became the Chairman for this item.

Louis Krog, Business Support and Licensing Team Leader, introduced the report as circulated with the agenda. An application had been received from Mr Raja Miah in respect of The Ball Room, Bayshill Lodge, Montpellier Street, Cheltenham. The applicant wishes to place 21 chairs and 7 tables on the pavement directly outside the premises.

If granted the tables and chairs would be placed outside from 08.00 – 00.00 on Mondays and Tuesdays, from 08.00 – 01.00 Wednesday to Saturdays and from 10.00 – 23.00 on Sundays.

Appendix A of the report shows a picture of the proposed tables and chairs. Appendix B of the report shows a location plan of where the tables and chairs will be placed.

Louis Krog advised Members that the current policy for Town Centre Street Activities: Street Trading & Objects on the Highway was approved on 1 April 2013. A copy of the whole policy had previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

Louis Krog confirmed that four objections had been received against the application from the following;

C Loyons, local resident
Elizabeth Willmet, local resident
Nigel Overal, Gloucestershire Highways
Martin Levic, Senior Enforcement & Compliance Officer

Louis Krog advised Members that copies of all of the objections were attached to Appendix C of the report on page 27.

Gloucestershire Highways objected to the application and had concerns with the application as they felt the applicant had not submitted a plan that accurately reflected the actual site conditions. They felt that the proposed arrangement of tables and chairs, even when not in use as shown in the submitted plan could be located without causing a compromise to pedestrian movements using the crossing and passing by the property. When the table and chairs were in use they felt this would cause even more of a restriction to the footway.

Members asked the following Officer questions;

- A Member asked for a larger picture of the whole of the corner of the premises.
- Louis Krog provided Members with a copy of the table and chairs plan for the Wine Bar which is right next to the Ball Room
- When asked Louis Krog confirmed the minimum space between the tables and chairs to the pavement edge is 1.8 metres.
- A Member reminded Members of the double buggy test, there must be enough room for a double buggy to get past the table and chairs.
- When asked, Louis Krog confirmed that guidance notes were provided with all application forms. The applicant had chosen the timings for the tables and chairs to be in use in line with the timings of his premise licence.

Mr Miah attended the Committee and spoke in support of his application. He said he had not applied for anything additional to other premises which had been granted permission for tables and chairs in this area. The tables and chairs would help with his lunchtime trade and provide a better trade for customers.

Members asked the following questions;

- When asked, Louis Krog confirmed that the Wine Bar have permission to have their tables and chairs outside from 10am to midnight every day.
- When asked, Louis Krog stated that no other premises in this area had permission to place table and chairs on the highway for the times requested in this application today.
- A Member raised concern over the number of table and chairs applied for. The Member asked Mr Miah if the Committee were minded to grant this application today would he be happy with a reduction of what had been applied for.
- Mr Miah said he would be happy with this.
- The Chairman advised Members to put the additional plan of the Wine Bar's table and chairs next to the plan on page 25 of the report. This provided a whole street frontage view of the Ball Room and the Wine Bar. The Chairman advised Members to also look at the photograph on page 28 of the report.
- A Member raised concern for the residents living in the flats above the premises.
- Mr Miah said the people living in the flats were in the same catering business as him.

- A Member asked about the two bollards at the end of the pavement and asked if the tables and chairs would stay inside of them. The Member felt there was not enough room between the bollards and the tables and chairs for people to walk past.
- Mr Miah said the tables and chairs would stay inside the bollards.
- A Member suggested a reduction in the number of tables to three, this would make more space for double buggies to get past rather than using the carriage way.
- A Member referred to the bollards and said these take up a large amount of space. They are in place to protect the pavement when the refuse lorries reverse down the side street to empty the bins. The Member also suggested a reduction in the tables and chairs. Looking at the photograph 2 tables and 2 chairs could be placed to the right of the door and possibly 1 table with chairs could be placed to the left of the door. This would leave enough space for walkers and buggies to get past.
- A Member suggested if the Committee were minded to grant the application barriers must be in place and the times would need to be brought in line with the Montpellier Wine Bar, 10am to midnight every day.
- Members referred to the Wine Bar's table and chairs.
- Member discussed adjourning this item to enable the Committee to get the exact measurements of the site.
- When asked, Mr Miah confirmed the tables and chairs that would be used were the same design as those used in the Montpellier Wine Bar.
- Members felt that a range of options had been heard today and asked what the options were if they were minded to adjourn this item.
- The Solicitor advised Members that the matter could be deferred to allow Officers to make further calculations and for a site visit to take place.

Upon a vote it was unanimously

RESOLVED that this application be adjourned until the next Licensing Committee on 7 February 2014 to allow further calculations to be done and for Members to attend a site visit.

10. STREET TRADING APPLICATION

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr William Danter for a street trading consent to sell hot and cold food and cold drinks from a traditional English barrow measuring 3.4m long x 2.14m. The application sought permission to trade on the High Street adjacent to Next and the Carphone Warehouse.

Mr Danter has applied for the following dates:

Saturday 14 February to Tuesday 4 March 2014 (ending on Pancake Day)
Saturday 5 April until Monday 21 April 2014
Saturday 24 May until Sunday 1 June 2014
Saturday 19 July until Saturday 23 August 2014
Saturday 25 October until Saturday 1 November 2014.

Mr Danter applied to trade for the following times;

Monday to Wednesday 09.30 – 17.30
Thursday 09.30 – 20.00
Friday 09.30 – 17.30
Saturday 09.00 – 18.00
Sunday 10.00 – 17.00

Appendix A of the report showed a picture of the trading unit.
Appendix B of the report showed a location map of where the unit would trade from.

Louis Krog referred Members to 3.2 of the report which detailed the policy considerations. The proposed trading location is situated in a designated conservation area. The Council has adopted a more restrictive approach to street trading in the conservation areas of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination.

Members asked the following Officer questions;

- When asked, Louis Krog confirmed that the picture provided on page 33 of the report was the English barrow that would be used.

Mr Danter attended the Committee and spoke in support of his application.

Mr Danter said he had been trading with his English barrow since 2006 providing crepes, doughnuts, sweets, candyfloss and toasted marshmallows. In 2010 Mr Danter moved his barrow outside Carphone Warehouse and since then no objections had been received.

Seasonal treats would be sold over the school holidays, pancakes ready to take away and over Easter chocolate doughnuts and handmade chocolate apples would be sold. In the Summer fruit compote crepes, locally sourced strawberries with cream and toffee apples would be provided.

Mr Danter said he had worked very hard to ensure fresh crepes and doughnuts were provided and he had refurbished the barrow in 2012 with a side generator. The barrow enhanced the high street and offered seasonal treats and hoped the application is approved.

- When asked, Mr Danter said the barrow would be seasonally decorated to each season.
- When asked, Mr Danter confirmed that this would be the only barrow during the school holidays and throughout the year.

- When asked, Louis Krog said there had been no complaints or problems when the barrow was trading over the recent Christmas period.
- A Member asked why there were gaps in dates that permission had been applied for.
- Mr Danter said that the school holidays had been applied for and he wanted to keep the barrow as a treat rather than applying for permission all year round.
- When asked, the Chairman confirmed that Mrs Danter has a hot turkey roll stall outside Monsoon during the Christmas season and Mr Danter's barrow trades outside Carphone Warehouse at this time also. This would not change as a result of this application.
- Mr Danter said his position outside Carphone Warehouse was proven to work well and had no problems or complaints from the businesses around him.

Members were advised they had two recommendations to vote on;

1. The application be approved because Members are satisfied that it does comply with the Council's policy in relation to street trading in conservation areas;
2. The application be refused because it does not comply with the Council's policy in relation to street trading in conservation areas.

Upon a vote it was (7 for 2 abstentions)

RESOLVED that the application be approved because Members are satisfied that it does comply with the Council's policy in relation to street trading in conservation areas.

11. STREET TRADING APPLICATION

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Glen Ford for a street trading consent to sell ice-cream from an ice cream van. Mr Ford has applied for an annual consent to trade from 12.00 to 20.00 everyday.

Louis Krog advised Members that an objection from Mrs Louise Metcalfe, Senior Environmental Officer on behalf of the Environmental Protection Team.

The basis of the objection is that Mr Ford has persistently breached his licence conditions in relation to controlling noise. Consents are issued with the relevant conditions stipulation that the trader must comply with the "Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2005".

Mr Ford had persistently breached the above mentioned code of practice by playing his chimes longer than the permitted 12 seconds. This has led to a number of noise complaints to the Council and resulted in an abatement notice being served on Mr Ford for likely occurrence of a statutory nuisance which included the requirement to comply with the Chimes Etc. code of practice.

A copy of the objection is attached to Appendix A of the report.

Louis Krog referred Members to the Policy considerations detailed at point 4 of the report.

Members asked the following Officer questions:

- A Member sought clarification about which ice cream van Mr Ford had applied to use in this application.
- Louis Krog confirmed the vehicle was registration number CX05 RZA. Another vehicle was previously being used without consent and this was being dealt with separately.
- A Member referred to the enforcement monitoring on page 40 and stated that there were no locations of where the ice cream van had been seen.
- Louis Krog confirmed that subject to the normal parks ban the vehicle could be used anywhere in the borough with consent.
- Louis Krog advised Members that Mr Ford had a bundle of papers and had provided a copy for each Member.
- The Chairman looked through the papers. The Chairman said there was a large amount of information provided in the additional papers. He said it was unfortunate to receive these papers at such a late stage.
- A Member asked if this item could be deferred for consideration for the additional papers.
- The Solicitor advised that the Committee could defer the item and this would allow the Officers the opportunity to consider the additional papers submitted.

Upon a vote it was unanimously;

RESOLVED that the application be deferred to the next Licensing Committee on 7 February 2014 to allow Officers to review the additional paper work.

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

13. DATE OF NEXT MEETING

7 February 2014.

Garth Barnes
Chairman