

Licensing Committee

Friday, 7th March, 2014

2.30 - 3.27 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Jon Walklett and Roger Whyborn
Also in attendance:	Louis Krog, Licensing and Business Support Team Leader and Fiona Samuda, Solicitor

Minutes

1. APOLOGIES

Councillor Barnes. The Vice Chair Councillor Seacome would chair the Licensing Committee in Councillor Barnes' absence.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF MEETING HELD ON 7 FEBRUARY 2014

Councillor Walklett confirmed that he had given his apologies for the meeting on 7 February 2014 and did not attend the Committee.

Councillor Regan stated that during the Licensing Committee meeting on 7 February a question had been asked about advertising for the Sexual Entertainment Venue. The applicant said advertising would be provided on the venues website. This had not been included in the minutes and would be amended.

Resolved that upon these amendments being made, the minutes of the meeting held on 7 February 2014 be agreed and signed as a true record.

5. MINUTES OF SUB COMMITTEE MEETINGS

None

6. APPLICATION FOR PRIVATE HIRE DRIVER'S LICENCE

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application had been received from Mr John Carr for a Private Hire driver's licence.

Mr Carr previously held a Private Hire driver's licence with Cheltenham Borough Council. This licence was revoked by the Licensing Committee on 26 July 2013.

The attached background papers detailed Mr Carr's convictions.

The Officer advised Members that Appendix A of the report provided a copy of Mr Carr's initial interview notes from the 5 July 2013. Point 5.3 of the report detailed subsequent interviews and stated that Mr Carr notified the Council on 26 February 2014 that he had received further penalty points.

The Officer referred Members to point 5.5 of the report which advised Members to note from the number of penalty points Mr Carr received for his offences they should be treated as minor traffic offences. Paragraph 3.10 of the report provided further detail of this.

Members asked the following questions of the Officer and in responding;

- Confirmed that the Police are not consulted about Private Hire driver applications and each application must be determined on its own merits using the Councils policy. Mr Carr's previous three penalty points were dealt with at the Licensing Committee on 26 July 2013.
- Advised Members that this application is for a new Private Hire driver's licence and confirmed that Mr Carr has six penalty points on his DVLA driver's licence.
- Stated that the date on page 23 of the papers should read 5 July 2013.
- Referred Members to point 3.9 of the report which detailed the policy considerations for minor traffic offences. Mr Carr's penalty point offences are classed as minor offences. Point 3.10 of the report explained that an application will normally be refused if the applicant has more than one conviction for this type of offence within the last 6 months.

The Officer referred Members to the character reference from Mr Gordon Milne of A2B which had been provided as additional papers to the Committee. A copy of the character reference is attached as a supplement to this agenda item.

Mr Carr attended the meeting and made the following points in support of his application;

- Confirmed he had first been licensed as a Private Hire driver in June 2013.
- Had reflected on his previous decision to use part worn tyres on his vehicle and realised this was a bad misjudgement and would not buy them again.
- Has a reminder note in his vehicle to check his tyres regularly to make sure this never happens again. He was ashamed about the condition of his previous tyres.
- The Chairman asked Mr Carr to explain about the subsequent driving offence.
- Said he thought he had cleared the pedestrian zebra crossing when stopping to deliver a pizza to a student from Cheltenham College. It was dark and raining so it was difficult to see where the end of the crossing was.

Members asked the following question of Mr Carr and in responding:

- Confirmed that Mr Gordon Milne from A2B had offered him a job if his licence was granted today. Any conditions requested of him would be adhered too and Mr Milne had agreed to check his vehicle every week.
- Stated there was not anyone else around when he delivered the pizza.
- Said he drives 25,000 miles a year and had learned a severe lesson about using part worn tyres.
 - A Member felt Mr Carr should not be cross examined about his previous driving offence.
 - The Chairman advised the Committee that this offence had been dealt with and Members must determine this new application today.

In summing up Mr Carr said he had put the tyre offence behind him and did not want any more penalty points on his DVLA driver's licence.

Members were advised they had the following recommendations to determine;

1. Mr Carr's application for a Private Hire driver's licence be granted because the Committee are satisfied that he is a fit and proper person to hold such a licence.
2. Mr Carr's application for a Private Hire driver's licence be refused as the Committee considers him not to be a fit and proper person to hold such a licence.

Upon a vote it was (4 for, 4 against and 1 abstention)

RESOLVED using the Chairman's casting vote; that Mr Carr's application for a Private Hire driver's licence be refused as the Committee considers him not to be a fit and proper person to hold such a licence.

7. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLE AND CHAIRS

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Sam Roberts in respect of Boston Tea Party, 45-49 Clarence Street, Cheltenham.

The applicant had initially applied to place 10 tables and 34 chairs outside the premises but had subsequently reduced this to place 9 tables and 18 chairs directly outside the premises. If permission was granted today the tables and chairs would be placed outside on Monday to Sunday from 07.00 – 21.00.

The Officer referred Members to the additional papers which detailed a revised design of tables and chairs.

Appendix A of the report shows a photograph of the style of tables and chairs that would be used.

Appendix B of the report provides a location plan of the positions of the tables and chairs.

The Officer referred Members to point 3 of the report which detailed the consultation process and listed objections received against this application at point 3.2.1 of the report. Appendix C of the report provided copies of the three

objections. The Officer asked Members to note that these objections were received before the applicant reduced the number of table and chairs in his application.

The Officer referred Members to point 4 of the report which outlined the policies the Council apply when making decision on application for consents.

Members asked the following question of the Officer and in responding;

- Confirmed the bus stop next to the location of the tables and chairs was in use.
- A Member raised concern about bus fumes blowing onto the pavement where the table and chairs would be situated.
- Referred Members to point 1.1 of the report which explained that the number of tables and chairs requested had been reduced to 9 tables and 18 chairs.

Mr Roberts attended the meeting and made the following points in support of his application;

- Stated that there was a two metre clearance from the tables and chairs to the pavement edge.
- Had invested £350,000 in the venue.
- Said that having tables and chairs outside would define the café culture and attract people from the Promenade to this up and coming area.
- Confirmed he operates 14 other similar businesses around the country and stated that having tables and chairs outside is very important to the venue.

Members asked the following questions of Mr Roberts;

- A Member raised concern about the measurements taken and felt there was insufficient room between the barrier and the road for the use of the table and chairs.
- Mr Roberts advised the Committee that the area was measured with the Officer during a site visit.
- The Officer confirmed that a revised proposal of tables and chairs had been made during the site visit.
- Confirmed that he was happy to remove the banner barriers as suggested by the Urban Design Manager.
- Stated that ensuring customers did not move the tables and chairs around to suit larger groups would be an operational challenge for the premises and staff would deal with this.
- Suggested instead of single barriers being in place bookend barriers would be more suitable. This would also allow more space for pushchairs and this would also be monitored by staff.
- Stated that it would be the customer's choice to sit outside near to where buses would be in use.
- Advised the design of tables and chairs would be different inside the premises and that the external tables and chairs were an Italian design and expensive.
- The Officer reminded Members that it was not within the Committees remit to discuss the comfort of the chairs but could take a view of the colour used in keeping with the area.

- Advised that the zig zag area on the plan were by folding windows and if smokers were outside when these windows were open staff would deal with any issues.
- A Member suggested that Officers should be left to determine the style of table and chairs used.
- The Officer suggested that discussions should take place between Mr Roberts and the Urban Design Manager to decide which furniture would be suitable.
- Agreed that he would be happy if Members felt a further reduction in tables and chairs was necessary.
- The Officer advised Members they were expected to determine this application today and would not be able to bring this application back to the Licensing Committee if the table and chair layout was not suitable.
- The Chairman suggested that six tables and 12 chairs should be placed outside the premises with book end barriers.
- Mr Roberts confirmed he was happy with this alteration.
- A Member suggested 7 tables and 14 chairs being used.

Upon a vote it was (4 for 5 against)

that 7 tables and 14 chairs are placed outside the premises.

Upon a vote it was unanimously

RESOLVED that 6 tables and 12 chairs are placed outside the premises.

Members also voted to determine if the decision regarding which table and chairs should be used should be left to the applicant or discussed with the Urban Design Manager.

Upon a vote it was (6 for 3 against)

RESOLVED that the applicant will decide which tables and chairs are to be used outside of the premises.

8. STREET TRADING APPLICATION

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application from Mrs Susan Kinnear for a street trading consent for an ice cream cart had been received.

If permission was granted the ice cream cart would trade on the Promenade by the long gardens on Monday to Sunday from 12.00 – 18.00.

Appendix A of the report showed an image of the trading unit and location map.

The Officer confirmed that no objections had been received against this application. Point 2.4 of the report detailed comments from the Council's Urban Design Manager. Point 3 of the report listed the Council's current policy considerations.

Members asked the following question of the Officer and in responding;

- Confirmed that the Town Hall had not objected to this application.

- Stated that the location of the ice cream stall would be at the long gardens opposite the Municipal Offices. After various options being discussed this site had been found for the Green Coffee Machine which has now moved its location.
- Stated that there will be no clashes with the Farmers Market as the stalls are now situated outside Cavendish House.
- Said that he had not updated Mrs Kinnear with the town centre plans as had only recently been aware of the changes.

Mrs Kinnear attended the meeting and made the following points in support of the application;

- Stated that the ice cream stall has successfully been used at street parties, the Cheltenham Ladies College and at the Suffolk Square street fair. The suggest area to place the stall had good foot fall and would be an additional attraction to the Promenade.
- Confirmed she worked independently and would control rubbish using a bin and ensuring a sweep of the area is done at the end of each trading day.
- Stated that tables and chairs would not be placed outside of the ice cream stall.
- Asked if the electricity supply close by could be used.
- The Officer suggested that Mrs Kinnear contact Tom Mimmagh who had helped the previous trader with this enquiry.
- Confirmed that if the electricity supply could not be used the ice cream stall could still operate.

Members were advised they had the following recommendations to determine;

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 unanimously;

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.

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

The Officer asked Members to contact him directly about putting their views forward about setting maximum late night levy fees for premises providing alcohol. These views would then be forwarded to the Home Office with the Officers consultation document.

A Member asked if the Pasty Shop where the Famous used to be had permission to place table and chairs outside of the premises as tables and chairs were in use there.

The Officer confirmed this area is private land but would clarify this and let Members know.

10. DATE OF NEXT MEETING
Friday 4 April 2014.

Chairman