

## Licensing Committee

Wednesday, 2nd August, 2017

6.00 - 6.45 pm

Attendees	
<b>Councillors:</b>	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Paul McCloskey, Dennis Parsons, Diggory Seacome and Pat Thornton
<b>Also in attendance:</b>	Phil Cooper and Donna Marks

## Minutes

### 1. APOLOGIES

Apologies were received from Councillor Lillywhite.

### 2. DECLARATIONS OF INTEREST

With reference to agenda item 5, Councillor Willingham declared he had paid an informal site visit to the premises on his way to the Suffolk's Market and Councillor Harman declared that he frequented the pub.

### 3. PUBLIC QUESTIONS

<b>1.</b>	<b>Question from John Imossi to the Chair of Licensing Committee, Councillor Wendy Flynn</b>
	In your review of taxi licensing policy, will you take a zero tolerance approach to drivers of taxis and minicabs, who refuse to transport assistance dogs?
	<b>Response from Chair of Licensing Committee</b> The council recognises its role and responsibility under equalities legislation that includes its duties to ensure that licence holders comply with duties placed on them.  Whilst the council cannot adopt a strict "zero tolerance" policy, because it will fetter the council's discretion which will be unlawful, the council does have a wide discretion to set its own local policies.  The council is currently reviewing its taxi and private hire licensing policy. The review will incorporate updates to equalities related legislative changes and guidance since the last review. As part of this and other proposed policy changes, the council will seek to strengthen its policy on matters of equality duty including sanctions for breaches of these duties by licensed drivers. Options that are currently being considered are the adoption of a penalty point scheme (which will include breaches of equality duty), revising the adopted "Relevance of convictions" policy and/or reviewing the council's taxi enforcement policy.  The revised policy will be subject to formal public consultation towards

	the end of the year which will be an opportunity for anyone to comment on any aspect of the policy including those relating to equality duty.
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#### **4. MINUTES OF LAST MEETING**

The minutes of the last meeting held on 10 July 2017 were approved and signed as a true record.

#### **5. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY**

The Licensing Officer, Phil Cooper, introduced the report regarding an application from EI Group plc for permission to place objects on the highway at the premises known as Suffolk Arms, 40 Suffolk Road, Cheltenham. The application was for four tables, eight chairs and two olive trees in planters. The applicants intended to place the objects on the highway during the opening times of the premises, which were 9.30am – 1.30am Monday to Thursday; 9.00am – 2.30am Friday to Saturday and 9.00am to 12.30am on Sundays.

The Officer advised members that the matter had been brought before the licensing committee because the application did not comply with the council's policy, which stated that consent to place tables and chairs on the highway was subject to canvas barriers being put in place to cordon off the tables and chairs from the highway. He advised that the applicants had applied to have tables and chairs but not barriers. The proposal to omit barriers was however supported by the council's planning enforcement officer who felt there was insufficient space for barriers, but this was not compliant with policy. No other objections had been received.

A location plan was attached at Appendix A and Appendix B showed how the objects would be placed on the highway along with the measurements. Members' attention was drawn to the fact that once the objects were in place on the highway, the clearance left for passers-by was:

- 1.55 metres between the tables and the kerb, and
- 80 centimetres between the planters and the kerb

The Officer pointed out that the council's standard recommendation was that at least 1.8 metres should be allowed for passers-by whenever objects were placed on the highway.

The committee were advised to consider whether to grant permission for tables and chairs if they were satisfied that there were sufficient grounds to depart from the policy requirement relating to barriers and that the location was suitable, or to refuse the permission.

In response to questions from members, the Officer replied that he was not aware that the premises had had picnic type benches there and that if they had, the premises did not have permission for them. He stated that the rationale for the recommendation of 1.8metres clearance was based on the width of a double buggy. He reiterated that the applicants had chosen not to have barriers and that the committee could limit the times that the tables and chairs were out. He advised that the nearby Bar 50 had tables and chairs permitted outside until 11pm and the Beehive, although having tables and chairs within their private

area, a condition on their premises licence stated that the outside area at the front of the premises could not be used after 11pm.

Several members expressed their concern about the lack of space left on the pavement with the presence of the tables and chairs and in particular the planters. Although the tables and chairs sat neatly on the plan in line with the protruding entrance, members felt it was highly likely that chairs would be moved around without any barrier to contain them and this would further reduce the remaining space on the pavement. Equally with a barrier, there would be even less space and no exit and entrance room to access the tables. It was also noted that the window boxes would encroach on the tables and chairs space, pushing them more into the pavement. Members felt strongly that the premises was located on a very busy road and the safety of the public passing by was of paramount importance. With a reduced space for pedestrians a bottleneck situation could arise with people running a gauntlet.

In response to a question from a member, the Officer reported that the entrance to Bar 50 did not extend into the street and in that location there was more space available. Also Bar 50 did not have any other objects on the highway. The Officer advised members that if tables and chairs were granted, an adjustment could be made on the provision of the planters.

A member reminded the committee of their duty of care with regard to the public sector equality duty, where by visually impaired people could trip over the planters and physically impaired people in wheelchairs or mothers with double buggies may not be able to pass safely in the restricted space. Another consideration was the residents in the area and the noise related to moving the tables and chairs inside in the early morning. If approved a member was disinclined to allow the planters and proposed amending the time the tables and chairs could stay outside to an earlier time, suggesting 11pm to be in keeping with other premises in the area.

A member also remarked that one set of tables and chairs was positioned over the barrel drop and another by a glass paned smoke outlet of which one glass panel was broken. If approved, he felt a condition would be necessary to ensure these two areas were safe, secure and properly maintained for the safety of the public.

There was a view that the drawing plan was not to scale and that the tables and chairs could stick out further than the pub entrance and again several members reiterated that without a barrier chairs would be moved further into the pavement restricting the safe flow of people in the remaining space.

With regard to restricting the hours the tables and chairs were outside, one member felt this was not necessary as people leaving the premises would make a noise at closing time in any event. It was generally agreed that the planters would not be allowed as this made the space too narrow, but a member felt there would be sufficient space to pass the tables and chairs if contained within a barrier level with the main entrance, stating that 1.150m space remained and he felt that most pavements in Cheltenham were below 1.200m in width.

There being no further comments, the Chair moved to vote on 1.7.2 of the report being to refuse the application.

Upon a vote it was 7 for, 1 against.

**RESOLVED THAT, the application made by El Group plc to place four tables and eight chairs on the highway outside Suffolk Arms, 40 Suffolk Road, Cheltenham be refused, as it did not comply with the provisions of the council policy on the grounds of lack of barriers and non-compliance with the recommended minimum distance of 1.8m to allow for safe pedestrian access.**

**6. BRIEFING NOTE**

The Licensing Officer referred members to the Briefing Note on the Private Hire and Taxis Policy and the work of the working group outlining certain proposed changes. He suggested that if members had any questions that they contact him and that in due course Cabinet would be asked to approve the revised policy.

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

The Chair asked members to remain behind at the end of the meeting for a short up-date from the Licensing Officer on the new committee structure that would shortly be implemented.

The Chair also wished to place on record the thanks of the committee to Annette Wight who had serviced the Licensing meeting for the last 3 years and who was transferring to another division within the council.

**8. DATE OF NEXT MEETING**

Wednesday 6 September 2017 at 6pm.

Wendy Flynn  
**Chairman**