

Licensing Sub-Committee - Miscellaneous

Wednesday, 2nd January, 2019
6.00 - 7.10 pm

Attendees	
Councillors:	David Willingham (Chair), Mike Collins, Simon Wheeler, Tim Harman (Reserve) and Roger Whyborn (Reserve)
Also in attendance:	Louis Krog and Vikki Fennell

Minutes

1. APOLOGIES

Apologies were received from Councillor Seacome and Parsons. Councillor Whyborn and Harman were in attendance as substitutes.

The Chair wished to put on record his thanks to Louis Krog, Beverly Thomas and Yvonne Hope for their assistance in dealing with the urgent matter that had come before the committee over the Christmas break.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. PUBLIC AND MEMBER QUESTIONS

A Member question had been received from Councillor Wilkinson, as Councillor Wilkinson was not in attendance the answer was taken as read.

4. REVIEW OF STREET TRADING CONSENT

Mr Morris explained that he had only received the meeting papers that day, he was, however, happy for the committee to proceed as he wished to resolve the matter as quickly as possible.

The Licensing Team Leader proceeded to introduce the report. He advised that Mr Morris was granted a 12 month renewal of his street trading consent in October 2018. However, on the 20th of November 2018 the council had received a complaint that Mr Morris was exceeding his permitted pitch size. The complaint was accompanied by a picture showing the infringement. He advised that a number of the objectors to the renewal application referenced the perceived lack of enforcement by the council for breaches of the terms of the consent. Therefore, in light of the sensitivities around the trading location and in the interest of fairness and transparency, officers, in consultation with the chair and vice-chair of the Miscellaneous Licensing Sub-Committee had decided it would be appropriate to refer the matter to the sub-committee for consideration. He reminded Members that that they were not here to review the suitability of the location but consider the suitability of the trader to comply with the restrictions and terms of his consent. He further advised that 17 representations

had been received in support of Mr Morris and these were passed around to the sub-committee.

The Licensing Team Leader offered the following responses to Members questions:

- The complaint had come from one of the businesses in the immediate vicinity to the stall;
- The complainant had not stipulated the length of the breach, the only evidence they had of the breach was from the picture taken;
- He confirmed that there should be 3 metres clear on either side of the stall. The complaint referred to the boxes which had been placed by the kerbside;
- He was unaware of what time the photo had been taken but would suspect it was near closing time, which Mr Morris confirmed was around 16:45;
- None of the Council's street trading pitches were physically demarcated. He advised that this was outside of CBC's remit and if the committee were minded to recommend this a formal request it would need to put it to Gloucestershire County Council.

Mr Morris was invited to speak, he noted the following:

- He was certain that the complaint had been received from a named retail premises adjacent to his stall and felt it was unreasonable given that the named retail premises adjacent to his stall had scaffolding erected outside of their store for 3 months yet he had not complained;
- He informed the sub-committee that the named retail premises adjacent to his stall had also placed pot plants outside of their premises and passed around an image for the committee to see, this now made it difficult to leave a clear 3 metres either side;
- The picture that had been received from the complainant had been taken at closing time when they were taking the stall down, he explained that leniency was necessary at these times in order for objects to be collected;
- No complaints had been received from members of the public about the stall in 14 years;
- He regularly measured the stall with a tape measure to ensure they were not breaching their licence;
- He felt studs to demarcate the space would be helpful to both staff and local businesses.
- Following a Members question, he advised that the breach had likely been for around 10-15 minutes until the van picked up the boxes.

Councillor Mason spoke in support of Mr Morris, he reiterated Mr Morris's comments and felt saddened that it had come to this point. It was clear that the photograph had been taken at the time of packing and unpacking and he felt there needed to be some leeway during these times.

In the Members debate that followed, the following points were made:

- Members agreed that the breach was not a serious offence and were satisfied that members of the public could pass safely, as such there was no public interest in taking the matter forward;
- Whilst some felt that demarcating the pitches would be sensible, this could set a precedent for future applications and could potentially be expensive

and damaging to the paving. The Chair explained that there were innovative ways of demarcating the space i.e. with street art or jet washing the pavement and felt that further discussions should be had with GCC;

- The Licensing Team Leader agreed to investigate the pot plants which had been erected outside the named retail premises adjacent to his stall;
- One Member felt that the pictures were taken at an opportune moment and could easily misrepresent the situation.
- One Member noted that historically the size of the pitch had actually been reduced to make Regent Arcade more visible. They felt it was important that a discussion was had between the licensing committee and the complainants to discuss the rationale behind the size of the pitch;
- Members agreed that they were disappointed the case had come before the committee and were concerned about the relationship between the businesses and street traders and lack of community cohesion;
- The Licensing Team Leader advised that it was possible to vary the consent if an application was made, this could potentially give Mr Morris more space at times when he is likely to breach the current consent i.e. Christmas and Valentine's Day;
- Whilst they felt it was important enforcement action was taken when there were clear breaches of the consent, they did not see that as the case here. Members did however, appeal to Mr Morris to remain within his allocated pitch as far as possible;

In his final right of reply, Mr Morris explained that he was keen to work with local businesses, he thanked Members for their time and confirmed that he would try, as best as possible, to remain within the allocated space.

Members proceeded to vote on section 1.5 of the report to resolve to take no action in relation to the complaint

Upon a vote it was unanimously for.

RESOLVED THAT

No action be taken in relation to the complaint.

The Chair advised that the street trading policy was subject to a review and due to come before the full licencing committee in March. As part of this review, they could look at the potential to demarcate the pitches. He also reiterated the importance of a conversation between the BID, local businesses and street traders to improve community cohesion. The Licensing Team Leader confirmed that a draft street trading policy would come before the full licensing committee in March and Members would have the opportunity to input in to this. Subject to this, the policy would go to Cabinet before the formal consultation process would take place.

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

The Chair advised that an urgent confidential matter concerning a Hackney Carriage Driver needed to be determined by the sub-committee.

LOCAL GOVERNMENT ACT 1972 -EXEMPT INFORMATION

RESOLVED 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 3, Part (1) Schedule (12A) Local Government Act 1972, namely:

Information relating to any individual,

Information which is likely to reveal the identity of an individual,

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Following a debate, Members were invited to vote upon section 1.6.1 of the report to:

Resolve to lift the Hackney Carriage driver's licence suspension as the committee is satisfied that they are a fit and proper person to hold such a licence.

Upon a vote, it was unanimously against

Members then voted on section 1.6.2 to:

Resolve to revoke the Hackney Carriage driver's licence because the committee do not consider them to be a fit and proper person to hold such a licence.

Upon a vote it was unanimously for

Members then voted on section 1.6.3 to:

Revoke the Hackney Carriage driver's licence with immediate effect if it appears to the committee to be necessary in the interest of public safety pursuant to section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Upon a vote it was unanimously for

Resolved That

The Hackney Carriage driver's licence be revoked with immediate effect as the Committee no longer considers them a fit and proper person to hold such a licence

David Willingham
Chairman