

Licensing Committee

Wednesday, 4th March, 2020
Times Not Specified

Attendees	
Councillors:	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Mike Collins, Dennis Parsons and Simon Wheeler
Also in attendance:	

Minutes

- 1. APOLOGIES**
Apologies were received from Roger Whyborn and Jo Stafford
- 2. DECLARATIONS OF INTEREST**
There were no Declarations of Interest.
- 3. PUBLIC QUESTIONS**
There were no public questions.
- 4. MINUTES OF THE PREVIOUS MEETING**
Minutes of the meeting held on 4/12/19 were accepted and signed as a true and accurate record.
- 5. MINUTES OF SUB COMMITTEE MEETINGS**
Minutes of the Sub Committee meeting on the 5/02/20 were accepted and signed as a true and accurate record.
- 6. APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - 'A' BOARD**
The Chair explained the process to the applicant.

The Senior Licensing Officer then presented his report. He verified that the detail in the report issued prior to the meeting stated that the dimensions of the A board were 94 cm not 940 cm as was in the report. He also clarified the proposed position of the board by use of a map. He clarified that as the board in question was a swing board and not an A board that the board was in breach of policy.

The decision to be made by the Committee was as follows:

Approve the application because Members are satisfied that the location is suitable or
Refuse the application because it does not comply with the provision of the Street Scene policy.

This application was referred to Members as it does not comply with policy as it is a swing board and it was in a conservation area, this is a side alley not a public right of way.

It was also stated that on a policy note the proposed position was not on a highway so therefore if it was approved no licence fee would apply.

The Members then raised the following points to the Senior Licensing Officer:

- Further clarification was requested as to where the board would be on the map.
- Is there a good reason why a swing board rather than an A board would not be approved
- It was discussed that the shop does have frontage and the area for the board was on the private alleyway between Montpellier Street and Montpellier Walk.

The Senior Licensing Officer then confirmed that the applicant does fall foul of the policy as it is a conservation area. He also referred members to point 3.3 of the policy (which has been adopted by Council) which states that a board must not have moving parts.

The Applicant then clarified that she had no further questions for the Officer and also gave some background as to the application. She stated that the shop opened in June and that she (as manager) was given the board by Head Office to put outside the premises. She stated that until recently she was not aware of the difference between an A board and a swing board. She said that the idea of the board is that when people go through the walkway the front door is not visible, however the frontage and the side of the shop on Montpellier Street are very visible.

Members then asked the following questions:

- Why do you require a board when the shop front is at street level? Didn't feel it was valid to say people wouldn't know the shop was there
- Are you a destination shop ie do customers just wander in off the street to look at a kitchen?

The applicant replied that the board was provided by Head Office as all the other stores in the chain have them and that she believed that about a third of their trade on a Saturday was people who were just passing.

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

- Do we like the design of the swing board and is it in keeping with the area?
- Is it an appropriate place for it to be as there are other A boards in that part of town?
- Someone had walked to the shop and had no difficulty in seeing the shop front from the street.
- It was also mentioned that Cheltenham now has lots of A boards that don't comply with the policy and that there is blatant advertising going on and suggested that this might not be what the Council want.

- Shame that the board doesn't comply but it is your business to make sure that the shop front is visible.
- It was suggested that other A boards in Montpellier have been approved so maybe the applicant could re apply with an A board rather than a swing board.
- A problem was raised in that maybe there was not enough enforcement being carried out around A boards however it was pointed out that the Enforcement Officer has been successfully engaged in prosecution of taxi drivers.
- The proposed placement of the board was discussed and was agreed that the right board would not impede the impaired.
- There was a blitz on A boards approximately 10 years ago and is it time for another one – although Members are aware that there may not be sufficient Enforcement Officers to cover this.

The Senior Licensing Officer then stated that the Licensing Team leader has agreed that post Cheltenham Festival there will be a review on the policy regarding A boards.

The applicant confirmed that nothing had been missed but made the following points:

- Questioned whether it was worth applying for an A board or would that be refused too.
- Pointed out that the board is aimed at people walking through the walkway as customers have difficulty finding the store and have to park and walk.

The Chair then went to the vote on issue 1.7.1 – **Approve the application because the Members are satisfied that the location is suitable.**

Vote :

In Favour 0
Against 8 (unanimous)

The chair then referred the applicant to the online policy regarding compliancy. He also confirmed that Licensing will send a copy of the policy and the decision to her. He also suggested that they might like to address the matter with BID to see if they can assist.

7. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

There was no representation from the applicant.

The Senior Licensing Officer presented the report – the permission was for 4 tables and 8 chairs as in Appendix A & B of the agenda. An objection had been received from Fone World on the basis that the space left if permission is granted is less than 1.8 metres.

Its was also noted that the measurements provided by the applicant are incorrect.

The recommendation was that the application be refused as the amount of room that will be left on the pavement is only going to be 1.3-5 metres.

Members then made the following points:

- If they had applied for 2 tables and 4 chairs would that be acceptable?
- Requested that the applicant be notified that 1 table might be acceptable as with the proposal people will have to step off the pavement to get round them.
- Asked that applicant had been questioned where their figures had come from
- It was discussed that it is going to leave too narrow a gap for wheelchair users and as it was an area used by buses they needed to be mindful of that.

The Senior Licensing Officer then clarified that the applicant had been contacted regarding their measurements and that no response had been received.

The Chair then moved to a vote on item 1.4.1 of this agenda item – **“Grant the consent because the application is compatible with the current Street Scene Policy”**

Vote

For grant 0
Against 8 (unanimous)

The application was therefore refused.

8. RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - MR KEVIN GAMBLE - HCD002

Please note Councillor Parsons left the meeting prior to this report.

The Chair explained the process to the applicant.

The Senior Licensing Officer explained that the applicant put in his application to renew his licence on 4th February 2020 and has a 2 month grace period to complete the process. The issues were that the applicant has 9 points on his licence that had not been declared within the required time scale (the time scale is within 7 days of the points being awarded) and he did not fully declare his points on renewal.

The options to the Committee were given as follows :

- Grant the application for a Hackney Carriage driver's licence with no further action as he remains to be a fit and proper person
- Grant the application for a Hackney Carriage driver's licence as he remains to be a fit and proper person but that he be issued with a formal written warning
- Refuse the application for a Hackney Carriage driver's licence as he is no longer deemed to be a fit and proper person to hold a licence.

It was explained that if the application is refused then there is a right of appeal to the Magistrates Court.

It was also stated that the applicant was not a new driver and does have experience and should know the process. The minutes of the meeting in 2010 (when the applicant) was last in front of the committee were circulated but the Senior Licensing Officer re-iterated that this was an historic case that was decided at the Magistrates Court and that Members are unable to go behind that decision

The floor was then open to Members to ask for further information from the Senior Licensing Officer. The following points were raised:

- The reason for the applicant's points and Members were directed to the reasons outlined in the report.
- The Chair clarified that the actions that the Committee could take were on page 45 item 307 of the agenda.

The applicant was then asked if he had any further questions for the Senior Licensing Officer – he confirmed that he didn't and the Chair then gave him the opportunity to make his case.

The applicant then explained the following:

- That as a taxi driver most of his work was on airport runs.
- He stated that if his licence is not renewed then it would cause severe financial hardship to himself and his wife, both their cars are on finance and would have to go back then as his wife is a carer she will not be able to work.
- He stated that he had forgotten about the first points he was awarded and couldn't remember where he got them.
- The second points were from a trip back from Wolverhampton with his wife and the third ones were from a trip from Oldham – both were in average speed areas where the average speed was 50 mph. On neither occasion did he have a customer.

The Members were then given the opportunity to question the applicant. The Chair also confirmed that the committee was not there to re-try the applicant for his previous offences.

The following issues were raised by Members with the applicant:

- Why didn't you report the points when you were awarded them?
- Has the policy changed since the previous time the applicant was taken to committee in 2010
- If the applicant had been a driver since 2004 why was he not aware that he needed to be declaring his points?
- All offences are speeding offences and we could all be guilty of going over 50mph.
- As these are fixed penalty offences has the applicant had to do a speed awareness course and does his vehicle have cruise control or a speed limiter.

- Concern was raised that whereas the applicant hasn't had any accidents there seems to be a pattern in his behaviour.
- It was pointed out to the applicant that he had 9 points in October and had they been brought to the committee then they could have revoked his licence but now they have to decide if they can refuse to renew.

The applicant responded that he thought he had to declare his points on application for renewal, the applicant also stated that he had a problem with the online form as he was not computer literate he could only manage to enter one lot of points. The applicant confirmed that he had already been on a speed awareness course and that he did not have cruise control or a speed limiter in his vehicle. He stated that he had no excuses and that he should have been more aware of the speed limits. Since then he has been much more aware of the speed limits.

The matter then went to debate:

- One Member stated that the issue to decide was would you be happy to have a family member go in his car? Is he a right and proper person to have a licence? Does not reporting the points mean that he is unsafe? Re-iterated that Members are not there to punish but did point out that another 3 points and the applicant could lose his licence altogether.
- One Member questioned if a warning letter was issued would a breach of the conditions mean that he would lose his licence immediately. One Legal confirmed that this would not be the case.
- One Member raised that failure to notify does not make him a bad person but did have a problem in that the applicant should have noticed the temporary speed signs as the implications of going above 50mph on a motorway could be significant.
- The point was raised by another Member that not declaring the points could show a lack of honesty on the applicants part.
- Lack of awareness was an issue too, why hadn't the applicant noticed that he was in an average speed area?
- One Member raised that the average speed limiter on a motorway is there for a reason: to protect the work force, this means there could be narrower lanes and the safety of the work force becomes an issue. It was also stated that as the applicant had previously been to the Committee and eventually the Magistrates court they were very surprised that the applicant had forgotten the process.
- The question was raised regarding the cost of the driving test that the applicant would have to take if that was what was decided. The Senior Licensing Officer confirmed that the cost would be approx. £100 for the Diamond Driving Test that the applicant would have to take.
- It was raised that perhaps the applicant taking the test would force him to break the pattern that he seems to be in.
- One member stated that one set of points were due to be removed from the applicants licence in approximately 2 weeks time.
- During the period between 2010 and now the applicant would have had to apply several times, were his points status checked during that time? The Senior Licensing Officer confirmed that they would have been.

The applicant was then asked by the Chair if he had anything further to add.

He re-iterated his financial situation and said that he had taken everything on board and was now much more aware of his speed.

The Chair then went to a vote:

1.4.1 – Grant the application for a Hackney Carriage driver’s licence with no further action as he remains a fit and proper person.

**0 in favour
7 against.**

1.4.2 – Grant the application for a Hackney Carriage driver’s licence as he remains to be a fit and proper person but that he be issued with a written warning.

**0 in favour
7 against**

An amendment to 1.4.2 was proposed as follows – Grant the application for a Hackney Carriage driver’s licence as he remains to be a fit and proper person but that he be issued with a written warning. The applicants grant will be subject to the applicant completing and passing a Diamond -enhanced drivers test within 2 months of the committee decision.

**7 in favour
0 against**

The applicant was then advised that until he passes the test he would not be able to drive. He was also advised that he could take the test outside Gloucestershire. The applicant was reminded that he should contact Licensing immediately by email should he receive points again.

9. RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - MRS JUDITH TIMUR - HCD006

The Chair explained the process to the applicant.

The Senior Licensing Officer then explained that the applicant holds a Hackney Carriage drivers licence which was due for renewal on 29 December 2019.

The applicant has had a number of penalty points on her DVLA driving licence that she failed to notify the council of within the required timescales.

In light of the above the applicants Hackney Carriage driver’s licence was being referred to the Licensing Committee for a review to determine if she is a fit and

proper person to hold a Hackney Carriage driver's licence in the light of the fact that:

- The applicant has points on her DVLA driving licence
- She failed to notify the Council of these within the required timescales as outlined in the Council's licensing policy.

The Senior Licensing Officer confirmed that the applicant has not been to the committee before.

The applicant confirmed that she had no questions at this stage.

The applicant then made the following points:

- The car was purchased by her for her brother and that it was so her brother could get to work as a long distance lorry driver. The points were awarded in Cardiff town centre on New Years day, when notification of this was received her brother could not be contacted as he was driving in Europe. It appeared that the keys of the vehicle were left in the yard at his work place so anyone could have been driving the car.
- The applicant contacted Cardiff police and explained the case – she thought that it had been dropped when she received a summons to attend court. She attended the court and made her case however the prosecution wanted to continue with the case and she was awarded 6 points.
- The applicant was being treated for stress at the time and cares for her elderly mother along with her sister and when the points were awarded she struggled to come to terms with it and buried her head in the sand.
- The applicant explained that at the time it was low down in her concerns and she only drives when her husband is away.

Members were then given the opportunity to question the applicant and the following points were raised:

- It seemed that the applicant was a victim of unfortunate circumstances.
- Had the applicant had points before? The applicant confirmed that she had but they had long been removed from her licence.
- There were some concerns about the safety of people having access to other peoples vehicles.

The applicant had nothing further to add so the matter then went to Member debate.

- The general consensus was that there should be some action taken but that it would be dispassionate to refuse the licence.

The applicant then thanked Members for their time.

The chair then went to a vote as follows:

1.4.1 - Grant the application for a Hackney Carriage driver's licence with no further action as she remains to be a fit and proper person

**0 in favour
7 against**

1.4.2 – Grant the application for a Hackney Carriage driver’s licence as she remains to be a fit and proper person but that she is issued with a formal written warning

**7 in favour
0 against**

This was then carried.

The chair stated that on the back of the 2 cases that they heard was it worth issuing a reminder to all drivers regarding when they get points on their licences.

The chair took the opportunity to thank everyone involved with the licensing committees and the licensing team for their hard work as he is up for re election in May – he hopes to be back both as councillor and as chair.

10. REVIEW OF PREVIOUS DECISIONS

There were no matters to review.

11. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION

There were no items determined urgent.

12. DATE OF NEXT MEETING

3rd June 2020

David Willingham
Chairman