

Licensing Committee

Friday, 3rd May, 2013

2.30 - 3.16 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Charles Stewart, Pat Thornton, Roger Whyborn and Jon Walklett
Also in attendance:	Amelia Byres, Sarah Farooqi and Phil Cooper

Minutes

1. ELECTION OF VICE CHAIR PERSON

In the absence of the committee chair, the vice-chair, Councillor Seacome, took the chair for this meeting and the solicitor advised that it was not necessary to elect a vice-chair.

2. APOLOGIES

Councillors Barnes, Regan and Stennett.

3. DECLARATIONS OF INTEREST

None declared.

4. PUBLIC QUESTIONS

No public questions had been received.

5. MINUTES OF MEETING HELD ON 1 MARCH 2013 AND 5 APRIL 2013

Resolved that the minutes of the meetings held on 5 April 2013 and 1 March 2013 be agreed and signed as an accurate record.

6. MINUTES OF SUB COMMITTEE MEETINGS

Resolved that the minutes of the sub committee meeting held on 4 April 2013 be agreed and signed as an accurate record.

7. STREET TRADING APPLICATION

Amelia Byres, Senior Licensing Officer, introduced the report which had been circulated with the agenda. An application had been received from Mrs Ellen Danter for a street trading consent to sell hot turkey and pork rolls, Gloucester and German sausages, mince pies, hot and cold drinks from a hot food unit. The unit would be placed in the pedestrianised area of the High Street outside Monsoon and Warehouse/Oasis, opposite H Samuels and Clinton Cards.

The requested trading times were 09.00 – 18.00 Monday, Tuesday, Wednesday, Friday, Saturday, Sunday and 09.00 – 21.00 pm Thursdays.

Appendix A of the report showed an image of the hot food unit and Appendix B provided a map of its location.

Paragraph 4 of the report set out the comments from consultees. Objections had been received from the Cheltenham Business Partnership Manager for the reasons set out in paragraph 4.1.

Paragraph 4.2 of the report detailed objections from Aurora Fashions – Oasis/Warehouse and Monsoon.

Members were asked to determine the application based on the Street Scene Policy approved on 1 April 2013.

In response to questions from members, the Senior Licensing Officer confirmed that the requested trading periods had changed from the previous year, this trading period was 3 weeks shorter than 2012. She was not in a position to provide members with the dimensions of the stall in feet and inches but Mrs Danter confirmed that the dimensions were the same as the previous year.

Mrs Danter attended the Committee and spoke in support of her application. She advised the committee that she had been trading in Cheltenham for 29 years and had purchased her hot turkey stall from new 11 years ago and had been trading for 10 years with no problems. She had been disappointed that two objections had been made against her application and she highlighted that these were from clothes retailers and there had been no opposition from food shops. She explained that when Monsoon had moved out of the Regent Arcade 18 months ago, they no longer wished to provide an electricity supply to the stall which had been the arrangement with the previous retailer. She had tried unsuccessfully to apply for her own electric point and felt it was a shame that she had had to install a generator since Monsoon had moved to this location. The generator was supplied by a good established firm, Power Electrics, and she pointed out that they currently had 14 generators on site at the Jazz Festival in Cheltenham. She assured members that there were no vibrations or fumes from the generators and they met all legal requirements. With the agreement of the chair she circulated four photographs to members which in her view clearly demonstrated the size of the stall and left clear ways to the shops. She concluded that she was a well-established business and she was well known in the town. She indicated that she had a file of positive comments from customers, shops and local cafes which included 500 signatures including those from food retailers.

Members were invited to ask questions of the applicant:

- Asked under what authority Monsoon had taken away the power supply from the stall, the Senior Licensing Officer advised that the previous shop had a contract with Mrs Danter for the supply of electricity which the new owners did not wish to continue.
- Asked whether the generator was different to last year, Mrs Danter advised that it was very similar but was quieter so would produce no noise and would not damage the pavements. She added that she had supplied a letter to officers from the company supplying the generator giving details.
- Asked how many complaints she had received in the last 18 months, Mrs Danter advised that she had only received two complaints from shops. Environmental Health had visited her stall in December 2012 in

response to these complaints and they were quite happy with its operation.

- Asked whether the retailers who had complained had talked to Mrs Danter or her staff, she advised that last year she had been given permission to set up her stall on the Friday to start trading on Saturday. She was aware that Monsoon was unhappy with the generator and therefore she knocked on their door and approached the staff inviting them to speak to her about any problems. The response of the manager at Oasis was that the generator would have to be moved straight away. At that point Mrs Danter had contacted the council, and licensing officers had confirmed that her licence to trade had been granted and therefore she had permission to stay.
- A member referred to the reference in the report that the clothes retailers had to dryclean some of their stock because of the smell and asked how many complaints had been received. The Senior Licensing Officer advised that Environmental Health had been consulted and they had no issue with the smell.
- Asked whether the shielding of the generator could be improved, Mrs Danter said she had spoken to Environmental Health and there would now be a lid on the generator box to absorb the sound.
- A member asked whether the stall could be moved closer to Marks and Spencers. The Senior Licensing Officer advised that this was not possible as the area was an emergency vehicle route which must remain clear.

Councillor Whyborn advised that in his other capacity on the council, he was aware that the company supplying the generators to the Festivals were working hard to minimise the noise. He added that the generator at the turkey stall would not be operating at night.

In the discussion that followed, a member was of the opinion that businesses should pull together in the recession and it was very sad that these big brand retailers had made these complaints against Mrs Danter who paid a fee for her pitch. Another member highlighted that the shop that was now complaining about the generator noise, had been the one that had cut off the electricity supply.

Members were advised that they had two options as set out in the report:-

1. The application be approved because Members are satisfied that the location is suitable, or
2. The application be refused because it does not comply with the provision of the town centre policy as the proposed location be deemed unsuitable.

Members voted for these two options:

Option 1: Voting For: 7, Against 0, Abstentions 0

Option 2: Voting For: 0, Against 7, Abstentions 0

RESOLVED that the application be approved because Members are satisfied that the location is suitable.

8. PRIVATE HIRE DRIVER APPLICATION

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application had been received from Mr Simon Palmer for a Private Hire Driver's Licence.

Mr Palmer has a number of convictions and cautions details of which are enclosed in the background papers. All of the convictions had been at least 15 years ago with only one more recent caution. The committee were now asked to determine whether Mr Palmer was judged to be a fit and proper person to hold this licence.

In response to a question from a member, the Licensing Officer, advised that he did not have information on the quantity of drugs involved in the caution.

Mr Palmer attended the committee and spoke in support of his application. He explained that all the convictions happened when he was young and naive and in respect of the recent caution he had been trying to protect his son.

A member questioned Mr Palmer on when he had last been personally involved with the use of cannabis. Mr Palmer replied that he had not touched it for 16 years. The chair asked Mr Palmer whether he intended to give up his current job and move to driving full-time. Mr Palmer confirmed that that was his intention and he planned to do more airport runs.

Members were advised that they had two options as set out in the report:-

1. The application be granted, subject to Mr Palmer successfully completing all other assessments, as Mr Palmer is deemed to be a fit and proper person, or
2. The application be refused on the grounds that Mr Palmer is deemed not to be a fit and proper person because of his conviction history.

Members voted for these two options:

Option 1: Voting For: 7, Against 0, Abstentions 0

Option 2: Voting For: 0, Against 7, Abstentions 0

RESOLVED that Mr Palmer's application be granted, subject to Mr Palmer successfully completing all other assessments, as Mr Palmer is deemed to be a fit and proper person.

9. HACKNEY CARRIAGE DRIVER APPLICATION

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application had been received from Mr Andrew Charalambous for a Hackney Carriage Driver's Licence.

Mr Charalambous was previously a licensed Hackney Carriage driver for 20 years until 5 April 2013 when the Licensing Committee revoked his licence with immediate effect because of two recent driving offences which led the Licensing Committee to determine that he was no longer a fit and proper person to hold such a licence. The Licensing Officer advised members that the applicant had not attended the last meeting and was not in attendance today. Officers advised

that they had interviewed the applicant twice and once since the last meeting when he had indicated that he would be in attendance at this meeting. The Senior Licensing Officer advised that she had tried to contact Mr Charalambous by phone at his home and via his previous operator in the last few minutes and there had been no response.

In response to a question from a member, the Senior Licensing Officer confirmed that Mr Charalambous's driver licence had expired and the vehicle plate had now been transferred to another driver.

The solicitor clarified that this was a new application and the committee must consider it as such taking into account the additional information set out in the report. The solicitor advised that in the absence of the applicant, the committee must first determine whether they are going to consider the application or defer it to a future meeting when the applicant would again be invited to attend. The Committee was advised could in theory continue to adjourn any decision until the applicant appears at committee.

Councillor Whyborn, seconded by Councillor Walklett, proposed that the application should be determined at this meeting.

Upon a vote this was agreed unanimously.

The committee then went on to determine the application.

The solicitor advised that if the committee refused the application, the applicant would have 21 days to appeal to the Magistrate's Court. The applicant would also have the option of applying for a new licence for which a new fee would be payable. The committee was advised that it was for an applicant to satisfy the committee with suitable evidence that he was a fit and proper person to hold a licence.

In the discussion that followed, members concluded that in light of the convictions and the absence of any new information to the contrary that they were not satisfied that the applicant was a fit and proper person to whom they could grant a licence.

Members were advised that they had two options as set out in the report:-

1. The application be granted as Mr Charalambous is deemed to be a fit and proper person, or
2. The application be refused on the grounds that Mr Charalambous is deemed not to be a fit and proper person due to the nature of his convictions listed on the background papers.

Members voted for these two options:

Option 1: Voting For: 0, Against 7, Abstentions 0

Option 2: Voting For: 7, Against 0, Abstentions 0

RESOLVED that Mr Charalambous' application be refused on the grounds that Mr Charalambous is deemed not to be a fit and proper person due to the nature of his convictions listed on the background papers

10. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRE A DECISION

No urgent business.

11. DATE OF NEXT MEETING

The day to the next meeting was confirmed for 7 June 2013.

Members were advised that the subcommittee that had been arranged for May 2013 had now been cancelled.

Chairman