

# Licensing Committee

Friday, 7th June, 2013

2.30 - 3.24 pm

Attendees	
<b>Councillors:</b>	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Roger Whyborn and Jon Walklett

## Minutes

1. **APOLOGIES**  
None
2. **DECLARATIONS OF INTEREST**  
Councillor Thornton, agenda item 4 personal interest as is friends with the applicant.
3. **PUBLIC QUESTIONS**  
None received
4. **MINUTES OF MEETING HELD ON 3 MAY 2013**  
Resolved that the minutes of the meeting held on 3 May 2013 be agreed and signed as an accurate record.
5. **MINUTES OF SUB COMMITTEE MEETINGS**  
None
6. **STREET TRADING APPLICATION**  
Councillor Thornton left the chamber at 2.35pm due to her declaration of interest.

Amelia Byres, Senior Licensing Officer, introduced the report as circulated with the agenda. An application had been received from Mr Hayes for a street trading consent to sell local fruit, jam and preserves from a traditional market barrow on the High Street outside Beechwood Arcade Shopping Centre.

The requested trading period and days are 10.00 – 16.00 Monday to Saturday.

Appendix A of the report showed an image of the proposed barrow and Appendix B detailed a location map.

Mr Hayes' application sought consent to trade from 24 June to 14 August and 2 September to 7 October 2013.

Mr Hayes attended the meeting and spoke in support of his application. He previously sold local produce at the train station until the new Tesco supermarket affected his trade.

Mr Hayes confirmed that most of the fruit would be provided by his own fruit trees. He explained that the bad weather had resulted in cherries and plums fruiting very late this season. Due to this Mr Hayes had selected dates to trade to hopefully tie in with fruits cropping.

Mr Hayes stated that only local produce would be sold and this would be very good for the high street.

Members asked the following questions:

- A Member suggested that Mr Hayes be permitted to trade for the whole period of the selected trading dates.
- Amelia Byres confirmed that the dates had been selected by Mr Hayes.
- Mr Hayes explained it had been difficult to choose trading dates as a result in late crops of fruit due to the bad weather. Mr Hayes said it would be preferable to have the option of a longer trading period.
- A Member raised concern about the produce spreading to the sides of the barrow. The Member said they were happy with the location and the unit but asked that the timing of set up be tightly controlled.
- A Member asked how close the barrow was in relation to the near by flower seller.
- Mr Hayes said it was quite close but looking out of the Beechwood Arcade, his barrow was the first stall on the left and the flower seller was further down the high street by HMV.
- When asked, Mr Hayes confirmed that his produce is sourced from Ross on Wye, Hales Fruit Farm, Vine Farm in Staunton and Leominster. The maximum distance for produce is 40 miles.
- When asked, Mr Hayes said there would be no conflict between his barrow and the flower seller as different produce was sold.
- He confirmed that his business at the train station had closed down as Tesco had killed his trade. Mr Hayes said that there would not be enough produce to spill over and spread outside of the barrow so this would not be an issue.
- When asked about the stall, Mr Hayes said it had not been made yet but he had seen one that could be made for him. Mr Hayes said the barrow would be attached to his vehicle which could be parked outside Cambray Place. The barrow would then be taken to its trading point and the vehicle would be moved away allowing Mr Hayes to cycle back into town. Mr Hayes stated he was not expecting to drive onto the high street with the barrow.
- A Member referred to the change in the Town Centre Policy which encouraged tourists into the town. The Member felt the unit shown in Appendix A of the report was not attractive and asked if his barrow would be similar to what Mr Hayes had in mind.
- Mr Hayes explained that the bottom of the barrow would be filled in to enable fruit to be stored there. Everything that would be sold on the day would be on display with a back to the barrow to protect produce from

the weather. He stated that the measurements in his application were slightly out but would be no more than 50cm extra.

- When asked, Mr Hayes said the barrow would be an attractive display and it was going to be fantastic.
- A Member referred back to the trading dates and reminded Mr Hayes that even if he was unable to trade due to lack of produce, the fee would still need to be paid.
- Amelia Byres confirmed that Mr Hayes could be charged on a weekly basis dependent on each week. If a break in trade did change that could be accommodated for.
- A Member asked if the application was approved that a condition could be attached to the licence to ensure there is no spillage out of the vehicle and asked officers and Mr Hayes to agree together what that layout will be.
- A Member asked if Mr Hayes was happy his barrow would not impinge on the flower seller and did not sell anything they sold.
- Mr Hayes said he hoped the application would be approved, his application was in keeping with the high street and would enhance it. Nothing like his produce was sold at this end of the high street and everything would be very locally produced and fruit from Cheltenham would be used.
- A Member asked how Mr Hayes saw this application fitting in with supporting tourism.
- Mr Hayes confirmed this would be the same stall as set up at the station which was very well received. Visitors who came for the day to the town on holiday or to visit the festivals often took some local produce from the Cotswolds back home with them from his stall.
- When asked, Mr Hayes stated that jams and preserves are made with the local produce by a lady locally and could be sold along with local fruit juices.

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 Street Scene policy as the proposed location be deemed unsuitable.

Members voted for these two options:

Option 1: Voting For: 9, Against 0, Abstentions 0

Option 2: Voting For: 0, Against 9, Abstentions 0

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

## **7. PRIVATE HIRE DRIVER REVIEW**

Amelia Byres introduced the report as circulated with the agenda. This is a review of Mr Rodgers Private Hire Driver's licence which is due for renewal on 14 December 2013.

Mr Rodgers drives a private hire vehicle which was subject to a vehicle inspection on Thursday 18 April 2013 by Police Constable J Tranter.

Police Constable J Tranter contacted the Licensing Officer immediately to advise that the vehicle had been inspected at 23.45 hours on the A40 London Road, Cheltenham. PC Tranter advised that the vehicle had been stopped due to an inoperable headlamp and bald rear nearside tyre.

PC Tranter advised that the rear nearside tyre was worn below the legal limit, the measurement in the groove of the tyre was 75mm on the inside edge of the tyre, the full circumference of the tyre measured 100mm.

Amelia Byres confirmed that Mr Rodgers brought his vehicle for inspection at 11.00 the next day. The vehicle had a new tyre and replaced headlamp.

A diagram of the tyre measurements submitted by PC Tranter is detailed in Appendix A of the report.

A reference from Mr Foley is attached at Appendix B of the report and Appendix C shows a copy of the rental agreement between Mr Rodgers and Mr Foley

Members asked the following Officer comments:

- When asked, Amelia Byres confirmed the tyre was a standard make and referred Members to point 3.6 of the report which detailed the policy on tyres.

Mr Rodgers attended the meeting and spoke in support of his licence. He explained that the day he was stopped was a race day and had got straight into his vehicle that morning. Mr Rodgers apologised for not checking his vehicle prior to starting work and said this was his fault.

Mr Rodgers said he was pulled over due to his headlamp not working and was taken aback when he was told his tyre was under the correct level. Mr Rodgers said he had travelled 100 miles that evening. He was advised by the Police officer to take his passenger home and stop working for the evening. Mr Rodgers stated that if the tyre had been in a serious condition the vehicle would have been immediately taken off the road.

Mr Rodgers confirmed he had since bought a tyre measuring device for his own use and apologised for the worn tyre on his vehicle.

Members asked the following questions:

- A Member told Mr Rodgers he should have checked his tyres and it takes time for them to wear.
- Mr Rodgers confirmed he had checked his tyres 3 to 4 days earlier and his tyres were above the legal limit then. Mr Rodgers said he now checks them on a daily basis.
- Members discussed the level of wear on the tyre and where the tyre had been measured.

- Mr Rodgers confirmed the Police officer measured the tyre twice, the inside of the tyre fell below the limit but the outside of the tyre was fine. All of his other tyres were satisfactory.
- When asked, Mr Rodgers said he did not see the device used by the Police officer as he was looking after his passenger in his vehicle.
- A Member detailed the required tread of tyres and stated that the tyre measured 1.3mm instead of 1.6mm and this was a very small difference. The Member said they were surprised that such a song and dance had been made about it. The Member advised the Committee that the difference of 0.3mm equalled 3 pieces of A4 paper.
- A Member referred to Mr Foley's letter at Appendix C and page 23 of the report which stated that it would be impossible for any motorist to see the uneven tread wear of 0.3mm.
- When asked, Mr Rodgers confirmed his headlamp had been working that evening but there had been an ongoing problem with the headlamp blowing out. He stated that in the previous 6 weeks to being stopped he had had the headlamp replaced on 4 occasions. This problem had now been fixed.

In summing up, Mr Rodgers said he was very sorry for the incident. As a result of this he had received 3 penalty points on his DVLA driver's licence and a fine which had made him think about checking his tyres more regularly.

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

1. Mr Rodgers' Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Rodgers is a fit and proper person to hold such a licence, or
2. Mr Rodgers' Private Hire driver's licence be revoked as the Committee considers Mr Rodgers is not a fit and proper person to hold a Private hire driver's licence because he failed to maintain his vehicle in a roadworthy condition.

Members voted for these two options:

Option 1: Voting For: 10, 0 against, 0 abstentions

Option 2: Voting For: 0, 10 against, 0 abstentions

**RESOLVED that Mr Rodgers' Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Rodgers is a fit and proper person to hold such a licence.**

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

**9. DATE OF NEXT MEETING**

5 July 2013

Garth Barnes

**Chairman**