



LICENSING AND ENFORCEMENT COMMITTEE

MEETING : Tuesday, 26th June 2012

PRESENT : Cllrs. Noakes (Chair), Porter (Vice-Chair), Brown, Durrant, C. Witts, Lugg, Toleman, Gilson and Randle

Officers in Attendance

Steve Isaac, Solicitor

Lisa Jones, Food Safety and Licensing Service Manager

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Julie Wells, Group Manager, Regeneration Services, Facilities and Support

Sonia Tucker, Democratic Services Officer (Secretary)

APOLOGIES : Cllrs. Tracey, Ravenhill, Hanman and Mozol

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

Members noted that Councillors Noakes and Porter had been appointed as Chair and Vice-Chair respectively at the Annual Meeting of the Council. Councillor Durrant indicated that he would be acting as Spokesperson for the Labour Group and Councillor Witts confirmed that he would be acting as Spokesperson for the Liberal Democrats Group.

The Chair welcomed new Members to the Committee.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

The minutes of the meeting held on 13th March 2012 were confirmed as a correct record subject to an amendment to Minute 31, on page 3 relating to the first bullet point under matters clarified by the Licensing and Enforcement Manager which was amended to read:-

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- *The policies would cover all public highways within the City and not just those in the City Centre. However, the City Council had no jurisdiction under Highway Act 1980 powers to licence 'A' Boards and Tables and Chairs on private land including the Docks and Gloucester Quays.*

4. PUBLIC QUESTION TIME (15 MINUTES)

There were no questions from members of the public.

5. PETITIONS AND DEPUTATIONS (10 MINUTES, MAXIMUM 3 MINUTES PER PERSON)

There were no petitions and deputations.

6. STREET TRADING APPEAL - ICE CREAM VAN, KING'S SQUARE (MR COPNER)

The Chair explained the procedure for hearing the case against the Officer decision. As the appellant was not present the Officer would present the case and take questions from Members before the matter was debated by the Committee. The Chair drew the Committee's attention to the revised legal implications which had been circulated. The revised legal implications expanded upon those in the report and indicated that objections to the proposal based on competition should be disregarded. The Committee was advised that the recommendations set out in the report would need to be edited to reflect this revision if the Committee was to uphold them, following debate.

The Council's Case

The Regeneration Group Manager – Property and City Centre Services, presented an appeal against the Council's decision to allow Mr Chris Copner to trade from an ice-cream van in King's Square from between 10 am and 6 pm Monday to Saturday and from 10 am to 4 pm on Sunday.

The Committee was advised that in April 2009 the City Council had adopted a new policy and process for Street Trading applications which had resulted in significant improvements in street trading activity both in the City Centre and the surrounding areas.

In accordance with the policy, there had been consultation on Mr Copner's proposal with the relevant stakeholders resulting in the receipt of four representations from King's Walk retailers, one from the Gloucester City Centre Community Partnership, one from the relevant Cabinet Member and one from Ward Councillor Pam Tracey.

Following evaluation of the proposal against the agreed criteria and taking into account the resultant consultation, the Regeneration Group Manager – Property and City Centre Services, had refused the application on the following grounds:-

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- (1) *The unit does not provide a service of benefit to the public which enhances the area, by introducing new products or adding vitality of the area as there are already a number of ice cream providers nearby.*
- (2) *The unit is not considered to be compatible with the character of the area in which it is proposed to be sited.*

Mr Copner had appealed against the Officer's decision on 19th March 2012, pointing out that as he had not been asked to provide a detailed breakdown of the products he would be selling that the decision was unfair. Mr Copner had submitted photographs to substantiate his belief that King's Square was a suitable venue for his van and had asserted that his products would include specialist ice-cream products which were not widely available.

The Regeneration Group Manager – Property and City Centre Services, had responded to Mr Copner's appeal by suggesting that he might consider becoming a mobile ice-cream trader, or that he might wish to look for another fixed location and re-submit his application in the future. Mr Copner had also been advised to contact the Events Team and had been passed details of a promotional event in the City which he might wish to trade at.

The Regeneration Group Manager – Property and City Centre Services informed the Committee of the work which she had carried out, in liaison with local Councillors, to keep King's Square free of vehicles and pointed out that the application, if granted, would mean that diesel fumes would be emanating from the parked van 7 days a week.

The Committee was advised to uphold the Officer's decision and dismiss the appeal on the following grounds which had been revised in the light of the revised Legal Implications and was reminded to disregard any objections based on competition:-

- (1) *The unit does not provide a service of benefit to the public which enhances the City Centre, by introducing new products or adding vitality to the City Centre.*
- (2) *The unit is not considered to be compatible with the character of the area in which it is proposed to be sited because it is a vehicle.*

The following matters were clarified by the Regeneration Group Manager – Property and City Centre Services following questions from the Committee:-

- Mr Copner resided in Abergavenny, but this was irrelevant to Members' consideration of the appeal
- The land in King's Square was in the City Council's ownership
- If Members wished to grant a licence it would be renewable annually

The Committee voted to debate the matter in public session.

Members were sympathetic towards Mr Copner's business aspirations, but considered that it was undesirable to have a van emitting fumes 7 days a week. Members also believed that if the licence was granted it would be a retrograde step

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in view of all the work which had been done by Officers and Members to keep King's Square clear of vehicles.

RESOLVED

That the appeal STAPP22 (Mr Copner) be dismissed for the following reasons:-

- (1) The unit does not provide a service of benefit to the public which enhances the City Centre, by introducing new products or adding vitality to the City Centre.
- (2) The unit is not considered to be compatible with the character of the area in which it is proposed to be sited because it is a vehicle.

7. POLICIES FOR THE LICENSING OF ITEMS TO BE PLACED ON THE HIGHWAY (TABLES AND CHAIRS AND ADVERTISING BOARDS)

The Food and Licensing Services Manager presented a report detailing the results of a consultation exercise which had been carried out between 12th April 2012 and 25th May 2012 on the draft policies for licensing Advertising Boards and Tables and Chairs on the Highway. Members were requested to note the consultation feedback and to approve and adopt the final versions of each of the Policies.

The Committee was advised of the background to the report and the key issues which needed to be considered by them in their evaluation. The Food and Licensing Services Manager summarised the five formal written responses which had been received during the consultation and highlighted where these responses had necessitated changes to the draft policies which required Member approval.

Questions to the Food and Licensing Services Manager and Committee debate

Councillor Toleman asked how businesses in the Docks would be controlled as he was aware of residents' concerns that 'A' boards and tables and chairs should not cause a problem. The Food and Licensing Services Manager responded that she had raised this with the City Council's Conservation Team and that there would be liaison with the Docks Management Company and other agencies to ensure consistency of approach on privately owned land.

Councillor Brown enquired if existing 'A' board licence holders could be given 6 months to comply with the new policy and it was agreed that this would be included in the policy.

Councillor Porter queried whether there were sufficient staff resources to enforce the new policies. The Food and Licensing Services Manager remarked that there would be help from the Planning Conservation Team and Neighbourhood Officers. Councillor Toleman suggested that the team also liaised with the Markets and City Centre Service Manager.

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Councillor Porter asked whether there had been any complaints in the past from the Police or Highways Authority concerning 'A' boards on main highways which advertised businesses in side streets. It was confirmed that there had not been any complaints. The Committee agreed that side street traders should not be denied the right to an 'A' board and that this would be reflected in the policy.

Councillor Porter remarked that he considered it was unnecessary and onerous for businesses to have to have to provide CCTV as had been suggested by Gloucestershire Constabulary in 4.8 of the report. Councillor Randle commented that most public houses already had CCTV in operation. The Committee voted on whether to accept this condition and there was a majority vote in favour of the recommendation.

Councillor Randle believed that a condition to remove tables and chairs after 23.00 hours would cause difficulty for some small businesses who did not have storage facilities. The Group Manager for Environmental Health and Regulatory Services advised the Committee that provided nuisance was not an issue that there could be flexibility with this requirement.

RESOLVED

1. That the consultation feedback on the two policies to place Items on the Highway be noted.
2. That the proposed amendments as detailed in paragraphs 4.3, 4.5 and 4.7 be noted and included in the final policy for placing Advertising Boards on a Highway plus the following additions:-
 - i. A further condition that existing 'A' Board licence holders be required to comply with the policy within six months from 1st July 2012
 - ii. Insertion of the word 'normally' in the criteria regarding sides streets under 'Guidance' within the policy.
3. That the proposed amendments as detailed in paragraphs 4.7 and 4.8 be noted and included in the final policy for placing Tables and Chairs on a Highway.

8. SAFETY ADVISORY GROUP

The Group Manager, Environmental Health and Regulatory Services, presented a report prepared by the City Council's Health and Safety Service Manager which outlined the establishment of a Safety Advisory Group (SAG) with partner agencies and detailed a protocol which had been agreed as part of the process. The Committee noted that the SAG would be a multi agency group which would bring together all relevant partners to plan and prepare for an event in a co-ordinated way. The role of the SAG would be separate from the operational management of the event with the event organiser still having ultimate responsibility for health and safety planning.

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The Committee welcomed the report.

RESOLVED

That the report be noted.

9. MEMBERS' UPDATE FOR LICENSING AND ENFORCEMENT COMMITTEE

Members were presented with an update on key licensing activities carried out in the last quarter, including information on staffing matters and the implications of changes to the Licensing Act 2003 which took effect from 25th April 2012. The Committee was advised that there had been no Licensing Court cases for Gloucester City Council in the last quarter.

Details of future work and the updated Forward Work Plan to June 2015 were also included in the report.

The Chair reminded the Committee that there would be another opportunity later in the year for Members to witness evening economy matters in the City Centre in order to gain an awareness of the pressures faced by Gloucestershire Police when combating anti-social behaviour and alcohol related issues.

Councillor Randle added that the Licensed Victuallers' Association had extended an open invitation to Licensing and Enforcement Committee Members to attend their next meeting which was being held at 2 pm on Wednesday 4th July at the Old Bell Inn, Southgate Street, Gloucester.

RESOLVED

That the report be noted.

10. DATE OF NEXT MEETING

Tuesday 11th September 2012 at 18.30 hours.

Time of commencement: 18:30 hours

Time of conclusion: 19:48 hours

Chair