

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date: 07 July 2016
Subject:	Application under Section 17 of the Licensing Act 2003 by Paul Holmes for a new Premises licence for Cater Cater, Unit 2, The Barge Arm, The Docks, Gloucester, GL1 2DN	
Report Of:	Gill Ragon – Head of Public Protection	
Wards Affected:	Westgate	
Contact Officer:	Philippa Golden – Licensing and Enforcement Officer	
	Email: philippa.golden@gloucester.gov.uk Tel:396028	
Appendices:	<ol style="list-style-type: none">1. Copy of application form2. Plan showing layout of premises3. Location plan4. Copy of the representation from local residents5. Gloucester City Council's Licensing Policy Statement6. Procedure for Licensing Sub Committee	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider an application by Paul Holmes for a new Premises Licence in respect of Cater Cater Unit 2, The Barge Arm, The Docks, Gloucester, GL1 2DN. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

- 2.1 That members:

- (a) Consider the application, any relevant representations, the Licensing Objectives, the Council's Statement of Licensing Policy and National Guidance (Section 182).
- (b) Determine the following steps it considers necessary for the promotion of the licensing objectives:
 - To grant the application as applied for,
 - To accept the application and modify the conditions of the licence, by altering or omitting or adding to them,
 - To reject the whole or part of the application.

3.0 Background

- 3.1 On 20th May 2016, the Licensing Team received an application from Paul Holmes for a new Premises Licence.
- 3.2 The application contained all the requisite documentation including the fee and a plan of the premises. The plan is attached in **Appendix 2**.
- 3.3 It can be confirmed that the application has been advertised (A4 notice displayed on site and a Public Notice placed in the local newspaper) and that the application has been served on all Responsible Authorities.
- 3.4 A location plan is attached in **Appendix 3**.
- 3.5 The applicant is applying for the following licensable activities:-

Licensable Activity	Days and times applied for
Retail Sale of alcohol	Monday to Thursday 10:00 to 23:00 Friday to Saturday 10:00 to 00:00

- 3.6 The applicant has requested that the licensable activity of the provision of recorded music is to be removed from his application as he no longer requires it.
- 3.7 The applicant has listed conditions which would be attached to any Premises Licence granted. These conditions can be seen in Section 18 and 19 of the Premises Licence application form.

4.0 Representations

- 4.1 During the consultation period, the application has resulted in twelve representations from local residents (known as 'Other Persons' within the meaning of the Act.)
- 4.2 The representations are centred around noise, smoking and anti-social behaviour concerns. These are considered 'Public Nuisance' under the licensing objectives. The representations are attached in **Appendix 4**.
- 4.3 On Monday 13th June 2016, Gloucestershire Constabulary held an onsite meeting with the applicant Paul Holmes. Gloucestershire Constabulary were satisfied with the operating schedule and conditions offered up by Cater Cater and made no representation.
- 4.4 On Tuesday 21st June 2016 a meeting took place at the City Council Offices between the objectors (Other Persons) and representatives from Cater Cater. The purpose of the meeting was to try and alleviate any concerns that the objectors might have and the impact that the business would have on local residents.

- 4.5 The conclusion of the meeting was that the objectors were not satisfied that their concerns had been met. Therefore, requesting that the application go before members to determine the new premises licence application.
- 4.6 The applicant and those who have made representations have been given Notice of Hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

5.0 Financial Implications

- 5.1 There are no direct financial implications associated with this report.

6.0 Legal Implications

- 6.1 The Licensing and Enforcement Sub-Committee is asked to determine this application with a view to promotion of the Licensing Objectives which are:
- The prevention of Crime and Disorder
 - Public Safety
 - The prevention of Public Nuisance
 - The protection of Children from Harm
- 6.2 In making its decision, the Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy. Members attention is drawn to Sections 3, 4, 5 and 6 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 8 that refers specifically to the licensing hours. This is attached in **Appendix 5**.
- 6.3 The Sub-Committee must also have regard to the representations made and the evidence it hears and also be satisfied that:-
- the application is properly made
 - the application has given proper notice.
 - The applicant has satisfied the advertising requirements.
- 6.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report
- 6.5 The Sub-Committee has powers adjourn or carry forward the hearing to additional; specified dates.
- 6.6 For the purposes of determining an application, a "relevant representation" means a representation which:
- (a) Is relevant to one or more of the licensing objectives.
 - (b) Is made by a responsible authority or other persons within the prescribed period.
 - (c) Has not been withdrawn
 - (d) If having been made by a person who is not a responsible authority, that they are not in the opinion of the Licensing Authority frivolous or vexatious.
- 6.7 In deciding what action, if any, it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations

identify. Any action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committee decision must be necessary and proportionate.

6.8 The Sub-Committee is required to have regard to the most up to date version of the Home Secretary's Guidance when making its decision. However the Guidance does not cover every possible situation, so long as Guidance has been followed properly and reason carefully understood, the Sub-Committee may depart from it if they have to do so. Full reasons must be given for any departure from the Home Secretary's Guidance.

6.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:

- Speculating of what might happen in the absence of evidence that harm would or could happen.
- Not paying attention to Government Guidance where failing to follow it requires good reasons to be given.
- Modifying Imposing conditions that do not promote the licensing objectives.

6.10 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :

- The applicant.
- The 'other person' who made the relevant representations.
- The 'responsible authority' who made the relevant representation.

6.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as **Appendix 6**.

6.12 In considering the application, the Sub-Committee is solely performing the role of the Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application.

6.13 This matter will be dealt with as a fresh hearing.

6.14 There is a right of appeal to the Magistrates Court.

7.0 Risk & Opportunity Management Implications

7.1 There is a right of appeal to the Magistrates Court for both the applicant and 'Other Persons'. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

8.0 People Impact Assessment (PIA):

- 8.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 8.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

9.0 Other Corporate Implications

Community Safety

- 9.1 None at this stage

Sustainability

- 9.2 None at this stage

Staffing & Trade Union

- 9.3 None at this stage

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005 Gloucester City Council Licensing Policy Statement Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (June 2014) and Daniel Thwaites v Wirral Borough Magistrates Court (2008)