

Democratic Services

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Date: 26 March 2012

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**To: All Members of the Licensing (Taxis, Street Trading and Miscellaneous)
Sub-Committee**

Councillor Sarah Bevan
Councillor Bryan Chalker
Councillor Malcolm Lees

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee: Tuesday, 3rd April, 2012

You are invited to attend a meeting of the **Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee**, to be held on **Tuesday, 3rd April, 2012 at 10.00 am** in the **Council Chamber - Guildhall, Bath.**

Briefing

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.30am.

The agenda is set out overleaf.

Yours sincerely

Enfys Hughes
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Enfys Hughes who is available by telephoning Bath 01225 394410 or by calling at the Riverside Offices Keynsham (during normal office hours).
2. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Enfys Hughes as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

3. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
4. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee - Tuesday, 3rd April, 2012

at 10.00 am in the Council Chamber - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair(person) will refer to the emergency evacuation procedure as set out under Note 5 for each case.

2. APOLOGIES FOR ABSENCE

To inform the meeting of any apologies and substitutions for the meeting.

3. DECLARATIONS OF INTEREST

Members who have an interest to declare are asked to:

- a) State the item number in which they have the interest.
- b) State the nature of the interest.
- c) State whether the interest is personal, or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

5. MINUTES - 7TH FEBRUARY 2012 (Pages 5 - 12)

6. LICENSING PROCEDURE - APPLICATIONS FOR LICENCES, PERMITS AND CONSENTS (EXCLUDING HACKNEY CARRIAGE, PRIVATE HIRE AND SEX ESTABLISHMENT MATTERS) (Pages 13 - 14)

7. APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT MOLES BATH LTD, 14 GEORGE STREET, BATH. (Pages 15 - 28)

The Committee Administrator for this meeting is Enfys Hughes who can be contacted on 01225 394410.

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BATH AND NORTH EAST SOMERSET

LICENSING (TAXIS, STREET TRADING AND MISCELLANEOUS) SUB-COMMITTEE

Tuesday, 7th February, 2012

Present:- Councillors Douglas Nicol (Chair) (In place of Sarah Bevan), Gabriel Batt (In place of Bryan Chalker) and Malcolm Lees

Also in attendance: John Dowding (Senior Licensing Officer), Andrew Tapper (Licensing Officer / Senior Licensing Officer), Enfys Hughes and Shaine Lewis (Senior Legal Adviser)

25 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the emergency evacuation procedure set out on the agenda.

26 APOLOGIES FOR ABSENCE

There were apologies from Councillor Sarah Bevan, Councillor Douglas Nicol was her substitute and Councillor Bryan Chalker, Councillor Gabriel Batt was his substitute.

27 DECLARATIONS OF INTEREST

See minutes number 36.

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

There was none.

29 MINUTES - 6TH SEPTEMBER 2011

RESOLVED that the minutes of the meeting of Tuesday 6th September 2011 be confirmed as a correct record and signed by the Chair(person).

30 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING

RESOLVED that the procedure for this part of the meeting be noted.

31 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR ANTHONY D HUDD

The Sub-Committee considered the report which sought approval of a Mercedes Viano vehicle for use as a private hire vehicle.

The applicant Mr Hudd was present. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that the vehicle fell outside the age requirements as stipulated in the private hire vehicle licence conditions. He added that Officers could exercise some discretion when the vehicle was between two and five years old. This vehicle was just over five years old, therefore the application was presented to the Sub-Committee for determination.

Members adjourned the meeting to inspect the vehicle, then the meeting continued.

Mr Hudd put his case and was questioned.

Following an adjournment it was

RESOLVED that the Mercedes Viano be approved for use as a Private Hire Vehicle subject to the standard conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations and took account of the inspection by a Licensing Officer and their own inspection of the vehicle during the meeting. Although the vehicle fell outside the Council's policy Members found notwithstanding the vehicle's high mileage and age, that it was suitable in type, size and design and was comfortable and of good visible appearance. Therefore the vehicle was approved and licensed subject to the standard conditions.

32 EXCLUSION OF THE PUBLIC

RESOLVED "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

33 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR F D C

The Sub-Committee considered the report which sought determination of an application by Mr FDC for the grant of a combined hackney carriage/private hire driver's licence.

The applicant Mr FDC was present with his friend. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a certified and translated check was undertaken for any driving offences

obtained in Romania prior to Mr FDC's arrival in the UK, which had revealed one driving offence. He circulated the check and a statement in respect of Mr FDC. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr FDC put his case and was questioned. Mr FDC then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr FDC be granted subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations, took into account a Criminal Record check and his statement. Whilst noting the circumstances of the drink driving offence and the other minor motoring matters Members considered the applicant had presented himself very well, was apologetic for his past behaviour and satisfied them that this sort of offending was in the past. Members warned him as to his future conduct and dis-applied the policy having considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant and found him a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

34 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR A T V

The Sub-Committee considered the report which sought determination of an application by Mr ATV for the grant of a combined hackney carriage/private hire driver's licence.

The applicant Mr ATV was present with his cousin. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a certified and translated check was undertaken for any driving offences obtained in Romania prior to Mr ATV's arrival in the UK, which had revealed a number of driving offences. He circulated the check and a statement in respect of Mr ATV. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr ATV put his case and was questioned. Mr ATV then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr ATV be granted subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations, took into account a Criminal Record check and his statement. Members considered that he had presented himself very well, was apologetic for his past behaviour and had satisfied them that this sort of offending was now in the past. Whilst warning him as to his future conduct Members dis-applied the policy having considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant. He was therefore found to be a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

35 CONSIDERATION OF CONVICTION OBTAINED:- MR M Y

The Sub-Committee considered the report which sought consideration of a conviction obtained by Mr MY during the term of his hackney carriage/private hire driver's licence.

Mr MY was present with Mr H (Bath Taxis Association). He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received a letter from Mr MY informing him that he had received a conviction. He circulated the letter, further information and a CRB check. Mr MY, Mr H and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr MY put his case and was questioned. Mr MY then made a closing statement.

Following an adjournment it was

RESOLVED that no further action be taken in respect of Mr MY's conviction.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members had to consider what action, if any, to take in light of the conviction obtained by Mr MY during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr MY was a fit and proper person to hold such a licence and therefore had regard to his history as a Licence holder, his Criminal Records' check, his representations and his supporting information. However, with regard to a person's fitness, Members disregarded matters relating to Mr MY's livelihood.

Members noted Mr MY was convicted of the offence of possessing a prohibited weapon and was sentenced to a 20 week term of imprisonment suspended for 6 months together with a home detention curfew for 3 months. Members took a serious view of licensed drivers carrying weapons of any description in a public vehicle whatever the justification offered for doing so. However, they considered that Mr MY had served his sentence and notified the Council of his conviction according to the conditions of his licence, learned his lesson and should be given credit for

doing so. Nevertheless, Members did not endorse the carrying of any potentially offensive weapons in a public vehicle by its licensed driver and therefore gave Mr MY a stern warning as to his future conduct.

36 CONSIDERATION OF CAUTION OBTAINED:- MR A W

Councillor Gabriel Batt declared a personal interest in that he knew of Mr AW but did not know him socially, therefore felt he would not be prejudiced in determining this matter.

The Sub-Committee considered the report which sought consideration of a caution obtained by Mr AW during the term of his hackney carriage/private hire driver's licence.

Mr AW was present with Mr H (Bath Taxis Association). He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received information from Mr AW that he had accepted a police caution. He circulated information relating to the caution, a chronology of complaints against Mr AW and a letter received from the other driver in relation to the caution. Mr AW, Mr H and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr AW put his case and was questioned. Mr AW then made a closing statement.

Following an adjournment it was

RESOLVED that the hackney carriage/private hire driver's licence in respect of Mr AW be revoked.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members had to consider what action, if any, to take in light of the Police Caution obtained by Mr AW during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr AW continued to be a fit and proper person to hold such a licence and have therefore had regard to his history as a Licence holder, caution, his representations and supporting information. However, with regard to fitness Members have disregarded matters relating to Mr AW's personal circumstances.

In order to hold a combined Hackney Carriage/Private Hire Vehicle driver's Licence the holder must be a fit and proper person and a Licensing Authority may suspend, revoke or refuse to renew a licence if the holder has since its grant (i) been convicted of an offence involving dishonesty, indecency or violence (ii) been convicted of an offence or failed to comply with the Acts of 1847 or 1976 or any other reasonable cause.

Mr AW stated that although he had accepted the complaints at the time they were made the complaints did not all relate to him as some related to a driver he had employed, however he could not be specific as to which incidents were which. Mr AW also stated the assault was a result of a push and shove playground type incident arising from what he considered to be an illegal manoeuvre by Mr B, the other driver. So far as the incident with the 15 year old boy was concerned, Mr AW stated he was stuck behind a dust-cart for 20 minutes and the boy could have asked him to stop once the fare reached £6, however, he didn't and started to kick the seat when he was being taken back to the taxi rank. Mr AW said he was proud to be a taxi driver, had taken an NVQ and was aware that his manner could be seen by others as being abrupt.

In looking at Mr AW's history Members noted he had a history of complaint from the fare paying public and other road users dating from 2002. With regard to him taking the blame for his employee Members noted he was unable to pin point any incidences and considered it unlikely that any other driver could be responsible in light of the investigation procedure outlined by the Licensing Officer and in any event took a dim view if Mr AW was in fact covering for another driver. Nevertheless, Mr AW's file disclosed complaints relating to dangerous driving, poor manners, refusing to take a person with a guide dog, threatening and abusive behaviour, overcharging and the assault. For example, on the 11/09/07 a complaint was received that Mr AW got out of his vehicle holding a long handled torch and proceeded to threaten and abuse another road user. Further, on the 09/11/09 Mr AW was hired by a 15 year old boy to take him on his regular journey; the boy had £6 which always covered the cost. On this occasion, however, the boy was taken over a prolonged route resulting in him being 20 pence short of the fare whereupon Mr AW returned him to the taxi rank and left him. On the 12/02/11 Mr AW assaulted a fellow taxi driver in the tunnel at the Bath Spa Railway Station by repeatedly pushing him to the chest forcing him against the tunnel wall causing grazes to the victim's arm. Mr AW was interviewed by police and accepted a caution for common assault.

Members found that Mr AW had consistently attracted complaint, had been warned of his conduct by licensing officers and formally cautioned for refusing to take a customer with a guide dog. Moreover, Members were particularly concerned by the following: firstly when Mr AW got out of his vehicle with a long handled torch and threatened and verbally abused another road user which continued when he and the road user met in the Sainsbury's petrol filling station some time later; secondly, when Mr AW abused the trust placed in him by a 15 year old boy doubtless causing distress by extended the journey without first notifying him only to return him to the taxi rank when the boy was 20p short of the fare; and finally, with regard to the police caution, Members found this conduct extraordinary particularly as it occurred whilst acting in the course of employment, on a taxi rank and could easily have been witnessed by members of the public doubtless bringing the trade and its law abiding members into disrepute.

It was clear that Mr AW had not only failed time and again to live up to the responsibility that came with being a hackney carriage/private hire driver but also had a propensity towards confrontation and often got out of his vehicle to engage in it. For example the assault followed an incident where Mr AW felt his victim had driven illegally and having dropped his fare Mr AW returned to the rank and confronted him. Following the argument Mr AW returned to his vehicle although Mr

B, the victim, approached him whereupon Mr AW got out of his car, followed him to the tunnel and assaulted him. Members considered there was no justification for him to do this and he could have quite simply remained in his vehicle.

Members found Mr AW's behaviour over a long period of time was not what they expected from a fit and proper person and heard nothing from Mr AW to satisfy them that their family, friends or loved ones would be safe in a vehicle driven by him. Moreover, and notwithstanding his victim having stated that he did not wish to be the cause of Mr AW losing his livelihood, Members considered Mr AW only had his own conduct to blame for the loss of his licence and therefore revoked his licence on the ground of any other reasonable cause.

The meeting ended at 1.58 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Agenda Item 6

Licensing (Taxis, Street Trading & Miscellaneous) Sub-Committee Applications for Licences, Permits and Consents (excluding Hackney Carriage, Private Hire and Sex Establishment matters)

1. The Chair will introduce Members of the Sub-Committee, introduce the Officers present, explain the procedure to be followed and ensure those present understand that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Sub-Committee.
3. The Applicant (or his/her representative) addresses the Sub-Committee.
4. The Applicant may be asked questions by the Sub-Committee and other interested parties.
5. The Applicant (or his/her representative) may call witnesses in support of their case and each witness may be asked questions by the Sub-Committee and other interested parties.
6. The Chair will ask the Licensing Officer whether they have any comments to make and invite any statutory consultee present to address the Sub-Committee. The Sub-Committee may ask questions of Licensing Officers and or consultees.
7. (i) Any objectors will take it in turn to address the Sub-Committee and may be asked questions by the Sub-Committee, the Applicant and other interested parties.
(ii) Objectors may call witnesses in support of their representations and each witness may be asked questions by the Sub-Committee, the Applicant and other interested parties.
8. Objectors and any other parties making representations will be invited to make a closing statement.
9. The Applicant will be invited to make a closing statement.
10. The Sub-Committee withdraw to private session to consider their decision. The Sub-Committee may reconvene to resolve any points of uncertainty on matters already raised. The Sub-Committee will be accompanied for advice only by the Legal Adviser and Democratic Services Officer.
11. The Sub-Committee will return to the meeting room and the Chair will announce the Sub-Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.
12. Where the Sub-Committee attach conditions to the licence the Sub-Committee will detail those conditions.

PLEASE NOTE:

- Where the Sub-Committee considers it necessary the procedure may be varied.
- In circumstances where any party fails to attend the Sub-Committee will consider

whether to proceed in that party's absence or defer to the next meeting on notice to all parties that the matter may proceed in a parties absence on the next occasion. In deciding whether to proceed all notices and representations will be considered.

- Only in **exceptional circumstances** will the Sub-Committee take into account any additional late documentary or other information produced by an existing party in support of their application/representation. This will be at the discretion of the Chair and with the agreement of all the other parties. No new representations will be allowed at the hearing.
- The Sub-Committee will disregard any information or representation given by a party they consider not to be relevant to an Application.
- The hearing will take the form of a discussion and the Sub-Committee will allow all parties to ask questions of other parties present. However, formal cross examination will be discouraged although supplementary questions may be asked for clarification purposes.
- If any person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing in order that reasonable adjustments can be made.
- Parties will be allowed an equal maximum period of time to make representations. Although time limits will be at the discretion of the Chair, in the interests of costs and efficiency, this will not normally exceed **twenty minutes** and will include both case presentation and summing up. The time limit will not include the time taken for questions.

N.B.

1. Where there is more than one party making relevant representations the time allocated will be split between those parties and it is therefore recommended parties arrive early to discuss the application with other interested parties.
 2. Where several parties make the same or similar representations one representative should be appointed to make the representations.
 3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and refuse to allow that person to return, or only allow them to return subject to certain conditions. Any person so excluded will however be entitled to submit to the Sub-Committee any information which they would have been entitled to give orally had they not been required to leave.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion, but on occasion may find it necessary to exclude members of the press and public based upon the legal framework given in the Local Government Act 1972 Schedule 12 (a). On these occasions decisions based on the above framework will be given.

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Bath & North East Somerset Council	
MEETING: Licensing (Taxis, Street Trading and Miscellaneous) Sub Committee	
DATE: 3 April 2012	AGENDA ITEM NUMBER
TITLE: Application for permission to provide facilities on the highway for recreation/refreshment at Moles Bath Ltd, 14 George Street, Bath.	
WARD: Abbey	
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Annex A Application Annex B Site Plan Annex C Council's Standard Conditions Annex D Highways Notice Annex E Objections</p>	

1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of Moles Bath Ltd, 14 George Street, Bath, BA1 2EN.

2 RECOMMENDATION

- 2.1 That the Licensing (Taxis, Street Trading and Miscellaneous) Sub Committee determines the application.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from this report.

4 THE REPORT

- 4.1 An application has been received for permission to provide facilities on the highway in respect of Moles Bath Ltd, 14 George Street, Bath, (Annex A).
- 4.2 The application is for permission to place 5 tables on the highway outside the premises, along with appropriate seating (site plan attached at Annex B).
- 4.3 The size of the area applied for is 11.4m x 0.75m.
- 4.4 The times applied for are:
Every Day from 11:00 to 22:00 hours

- 4.5 Sections 115 A-K were inserted into the Highways Act 1980 by the Local Government (Miscellaneous Provisions) Act 1982 and relate to the provision of Amenities on certain highways.
- 4.6 Upon application the Council may grant permission to provide, maintain and operate facilities for recreation and/or refreshment on a highway.
- 4.7 A grant of permission under Section 115E of the Highways Act 1980 is not to be unreasonably withheld but permissions may be given subject to any reasonable conditions that the Council thinks fit, Section 115J of the Highways Act 1980.
- 4.8 The Council's standard conditions for permission to place tables and chairs on the highway are attached at Annex C.
- 4.9 This report has not been sent to the Trades Union because they would have no involvement in this application.
- 4.10 A notice was placed on the highway on 22 February 2012 (Annex D). The application was also placed on the Council's website.
- 4.11 Objections have been received from local residents which relate to public nuisance. Some of the allegations include that 'on the mornings after club nights, the pavements are littered with cigarette packets, cigarette ends, bottles, plastic glasses and occasional broken bottles', that 'It will block the access for pedestrians', and 'allowing tables and chairs to be put on the pavement adjacent to this establishment would merely encourage further noise well into the early hours of the morning'. (Copies attached at Annex E).

5 RISK MANAGEMENT

- 5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk-assessment guidance.

6 EQUALITIES

- 6.1 An EqIA has been completed. No adverse or other significant issues were found.

7 CONSULTATION

- 7.1 In accordance with current Bath & North East Somerset Council policy, the Licensing Service consulted with the Police, the Council's Highways Maintenance Services, Property Services and Development Control Services, Ward Councillors and affected frontagers.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

- 8.1 Human rights

9 ADVICE SOUGHT

9.1 The Council’s Monitoring Officer (Divisional Director – Legal and Democratic Services), and section 151 Officer (Divisional director- Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Alan Bartlett, Principal Licensing Officer, Telephone (01225) 477536
Background papers	None

Please contact the report author if you need to access the report in an alternative format.

**Bath & North East
Somerset Council**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980**

PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

	ENVIRONMENTAL SERVICES
MOLES BATH LTD 14 GEORGE STREET BATH BA1 2EN	- 3 FEB 2012
I/We <u>MOLES BATH LTD</u>	Post Log No: _____ Receipt No: <u>423194</u> rec taken CH/CA £ <u>561</u>

hereby give notice that I/we intend to apply for a permit in accordance with the particulars in the attached Schedule.

NEW applicants only to complete the following section

- I/We enclose an illustration/photo of the type, colour and dimensions of the furniture
- I/We enclose a site plan indicating the dimensions of the area of highway upon which we wish to place the above furniture (all plans should be drawn to scale)

Applicants REAPPLYING only to complete the following section

(please check the attached application form and amend the details as necessary)

- I/We certify that there have been no alterations to the size of the area
- I/We certify that there have been no alterations to the number or style of the furniture
- I/We enclose the maps/diagrams and/or photographs illustrating change to area/furniture

ALL applicants to complete the following section

- I/We enclose the fee as follows:

Application fee		<u>£241.00</u>
• Number of tables _____ @ £64 per table		<u>320-00</u>
OR IF NO TABLES USED		
• Number of items (e.g. chair, parasol) _____ @ £32 per item		_____
Total enclosed		<u>561-00</u>

- I/We declare that the information given in this application is true.

Signed by the applicant(s)

J W R. YERBURY Dated 3/2/12
Dated _____

Please return the completed application to:

Licensing Services, Bath & North East Somerset Council, 9 - 10 Bath Street, Bath BA1 1SN

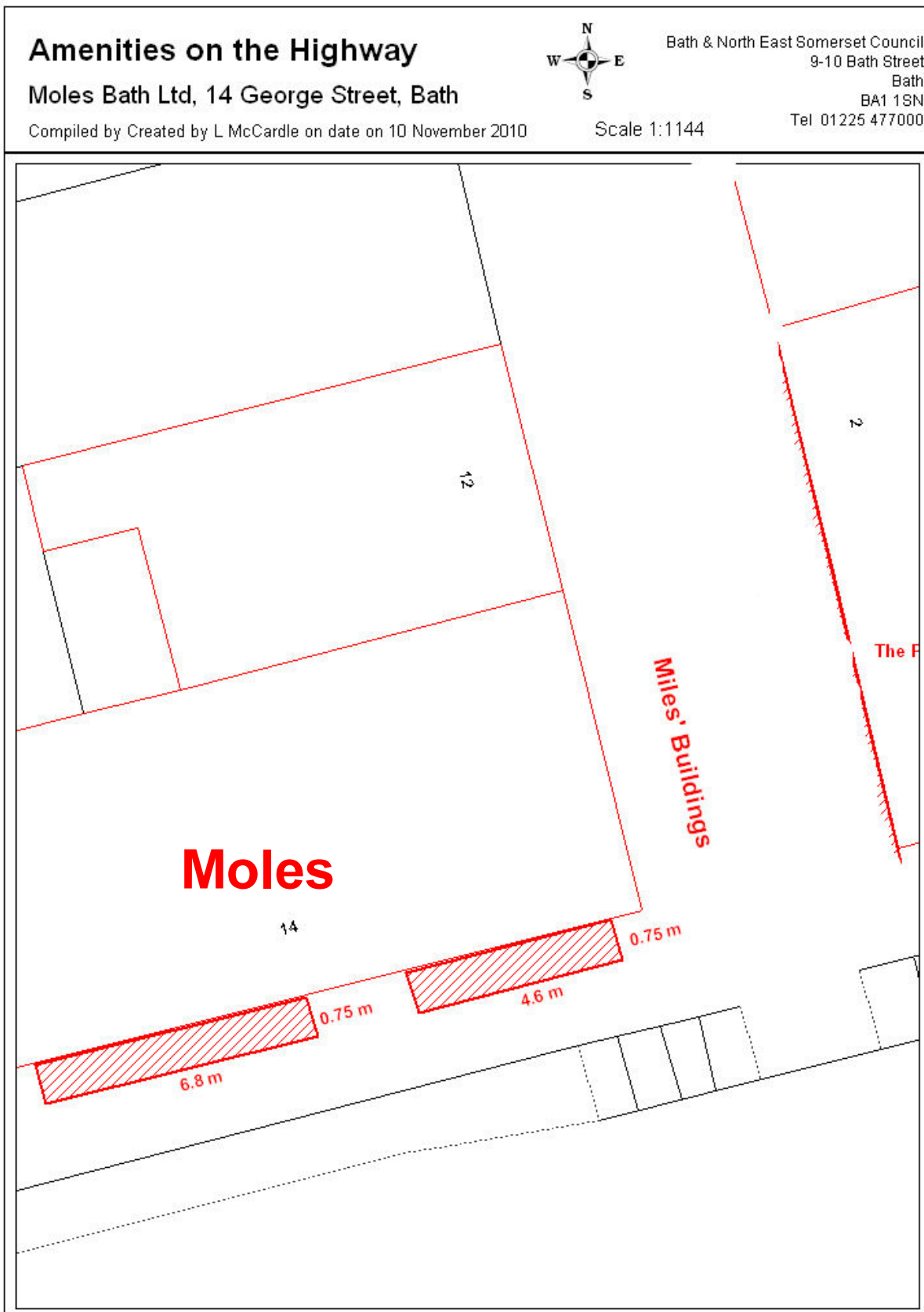
12/00369/TABLE

**Bath & North East
Somerset Council**

**Local Government (Miscellaneous Provisions) Act 1982
Part VIIA Highways Act 1980
Permission to Place Tables and Chairs on the Highway at Moles Bath Ltd
14 George Street Bath BA1 2EN**

1	Full name and address of each applicant	Mr R Yerbury 14 George Street Bath BA1 2EN
2	Contact telephone number	01225 404445
3	The date or dates, or the period of time for which the permit is required (maximum one year)	From: 1 April 2012 To: 31 March 2013
4	Number of tables	5
5	Size/Dimensions of area	11.4m x 0.75m
6	The Council must notify any "affected frontages" of this application. Please provide details of the adjoining premises.	31 Gay Street Bath BA1 2NT 15 George Street City Centre Bath BA1 2EN
7	Days of the week and hours of operation on those days	Every day 11:00 - 22:00
8	Specific part of the premises proposed to be used	Front of main cafe at pavement level
9	Alcohol permitted	Yes
10	If yes, please state your premises licence number	09/04123/LAPRE

12/00369/TABLE



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**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980
PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY**

CONDITIONS

- 1 The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
- 2 The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Bath & North East Somerset Council.
- 3 The holder(s) shall return this Permission to the Office of the Head of Environmental and Consumer Services, 9/10 Bath Street, Bath, BA1 1SN immediately on revocation of this Permission.
- 4 The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
- 5 The holder(s) shall not use or suffer or permit any music playing music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst exercising privileges granted by this Permission.
- 6 The holder(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
- 7 The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during the permitted hours, other than lawfully passing or re-passing thereover as (a) member(s) or the public.
- 8 The holder(s) shall not place on the highway any furniture or equipment or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
- 9 Notwithstanding the specific requirement in Condition 5 above the holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of the Bath & North East Somerset Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 10 The holder(s) shall not assign, underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
- 11 The holder(s) shall observe and comply with any directions in relation to the use of the highway given by the Head of Environmental and Consumer Services, or the Head of Engineering Services for the time being of the Bath & North East Somerset Council.
- 12 The holder(s) shall maintain the area shown on the plan attached to this Permission and edged in red, and the immediately adjacent area, in a clean and tidy condition during the permitted hours and shall leave the same in a clean and tidy condition and unobstructed, which shall include washing down the area, at the end of each daily period of use and on revocation or surrender of this Permission.

- 13 The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required by the Head of Engineering Services and ensure that the same are emptied daily.
- 14 The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the expiry, surrender or revocation of the Permission.
- 15 The holder(s) shall indemnify and save harmless the Bath & North East Somerset Council their agents, servants and workmen from and against all proceedings, claims, damages, costs or expenses in respect of any injury (including personal injury) in damage or loss which may be sustained by the Council or any person or persons, body or company whatever arising out of or in any way connected with the provision or use of facilities under this Permission, except where such injury, damage or loss is attributable to the negligence of the Council.
- 16 This Permission may be revoked by the Bath & North East Somerset Council at any time and the Bath & North East Somerset Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder(s) in respect of such revocation.
- 17 Nothing herein contained shall be construed as the granting or purported granting by the council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1971 or any statutory modification or re-enactment thereof for the time being in force.
- 18 The holder shall, whilst members of the public are using the facilities provided for the consumption of intoxicating liquor, provide and maintain in a prominent position, to the satisfaction of the Council's Head of Environmental and Consumer Services, notices in the form approved by him concerning the provisions of the Byelaw made by the Bath City Council on 30th January 1991 relating to the consumption of intoxicating liquor in public places.

Notes:

- 1 Section 115K of the Highways Act 1980 provides as follows:-
 - (1) If it appears to a council that a person to whom they have granted a permission under section 115E of this Act has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.
 - (2) If a person on whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the council may take the steps themselves.
 - (3) Where a council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under sub-section (1) of this Act was served.
- 2 Failure to comply with any Condition of the Permission will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.

BATH & NORTH EAST SOMERSET COUNCIL
ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES (BATH) ORDER 2004

This Order is made under the Criminal Justice and Police Act 2001 and relates to the consumption of alcohol in a Public Place. For the purposes of the Order, your premises and the area covered by your permit are not a Public Place.

Where a constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to consume alcohol in such a place. The constable may require the person concerned either not to consume in that place anything which is, or which the constable reasonably believes to be, alcohol; or to surrender anything in his possession which is, or which the constable reasonably believes to be, alcohol or a container for alcohol. A constable may dispose of anything surrendered to him in such manner as he considers appropriate.

A person who fails without reasonable excuse to comply with a requirement imposed on him under in such circumstances commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500).

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

PART VIIA HIGHWAYS ACT 1980

MOLES BATH LTD 14 GEORGE STREET BATH BA1 2EN

NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council by the proprietor of the abovementioned premises for permission to provide facilities for recreation or refreshment consisting of a number of tables and chairs in or on that part of the highway specified above until:

31 March 2013

and at the following times:

Every Day 11:00 - 22:00 hours

Further information about the above application, including the area of footpath or footway, may be obtained by calling at the address below.

If you wish to make any representations to the Council regarding the above application you should do so in writing to the undersigned within 28 days from the date of this notice.

Under the provisions of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, such representations will normally be made available for public inspection.

Dated 6 February 2012



Andrew Jones
Environmental Monitoring and Licensing Manager

Licensing Services
Bath and North East Somerset Council
9 - 10 Bath Street
Bath
BA1 1SN

From: sheilaLamble [mailto:sheilalamble@hotmail.co.uk]
Sent: 14 February 2012 20:40
To: Licensing
Subject: Moles George Street application

Sir,

12/00369/table

We understand Moles of George St have applied to have a table licence outside their premises on George St. north.

We object on the grounds that they have failed to commit to the conditions of their previous licence.

We understood that Moles night club would take responsibility for littering by smokers and drinkers outside their club in the evenings. They have not.

On the mornings, after club night, the pavements are littered with cigarette packets, cigarette ends, bottles , plastic glasses and occasional broken bottles.

On our way into town in the mornings my husband and I clear this, or most of it , as best we can .

We have asked them to honour their responsibilities and they do not.

Under these circumstances we believe it to be inappropriate to offer this table licence , or indeed to consider any other licence, from Moles under the present management.

Should they honour their commitments, show respect for their neighbours, respect the neighbourhood they occupy , and indeed make an effort to improve it, then we would have no objection.

We believe that as many have worked hard so that Bath be declared a World Heritage site licences of this kind should not, be offered to those that wilfully denigrate their environment, either by ignorance or by apathy. If they are, they should be recinded if the standards expected of them are breeched.

Moles should not expect to profit from Bath's privileged status if they are unable to respect this status and particularly as Moles lies on Bath's major tourist thoroughfare.

Please let us know if there are any other ways we are able to make representation.

Thank you for considering our opinions.

Sheila Lamble

BA1

Bath UK

Sheila M Lamble 10 The Circus Bath BA1 2EW 01225 315200 079762924

From: Trish and Robin [mailto:trishandrobin@btinternet.com]
Sent: 02 March 2012 10:02
To: Licensing
Cc:Manda Rigby (Cllr); brian.webber@bathnes.gov.uk
Subject: Application for a table licence by Moles, George Street.

My wife and I have just returned from an overseas trip and have been informed that Moles, George Street are currently applying for a table licence outside their night club.

Most nights of the working week this club allows mainly young people to drink to excess causing regular disturbance to a large area around their establishment where many residents live. This causes significant sleep disruption most nights of the week except Sunday. There is nightly chanting from drunken groups exiting from this night club who in direct contravention of the law drink openly on the street leaving their empty bottles and glasses, in many cases broken in doorways and on the pavements surrounding their property. Furthermore their customers frequently vomit and urinate in the street as is all too disgustingly evident the following morning especially at the junction of Gay Street with George Street. The image that this gives to the large number of tourist who walk around this area in daytime must be quite appalling.

The micro litter, broken glass and vomit that has to be regularly cleared up by the Council cleaning staff is an additional burden on the Council Tax payers and is totally unacceptable. This club appears to take absolutely no interest or responsibility in ensuring that the outside of its premises and the adjacent area are properly cleaned immediately after the club is shut to customers.

Allowing tables and chairs to be put on the pavement adjacent to this establishment would merely encourage further noise well into the early hours of the morning. This business provides virtually no benefit to the local economy and indeed when the social costs of the anti-social behaviour of its clientele combined with the long term health costs from binge drinking as well as the costs of cleaning up the mess caused to the community from Moles customers then the social costs significantly outweigh any minor economic benefit. There are indeed compelling reasons for its current licence to be reviewed.

We strongly object to this table licence being granted and ask that we are able to object in person at any hearing that may be held on this matter.

Regards,

Patricia and Robin Davies
18 Gay Street
Bath.

From: Lawrence Jones [mailto:lawrencedjones@msn.com]

Sent: 15 February 2012 16:21

To: Development Control

Subject: Planning Application by Moles Bath Ltd 14 George St BA1 2EN Ref 12/00369/TABLE.

Dear Sir

I have seen the poster on the railings outside the Moles premises in George St whereby application is made for recreation or refreshment of a number of tables and chairs everyday from 11 am to 2200pm incl on that part of the highway until 31/3/13 As a local resident I wish to object to this application on the following grounds

- 1 There is inadequate space on George St pavement outside the Moles premises It will block the access for pedestrians
- 2 Number of tables and chairs not mentioned
- 3 The Moles Club already causes a substantial noise nuisance to the neighbouring residential occupants including Miles Buildings through people who have used the Club congregating outside and making a noise well into the early hours The provision of tables and chairs will only make this worse
- 4 There is already a problem with late night drunkenness in the area and this will again add to the problem
- 5 Every morning in Gay Street George St and the surrounding area there are bottles left behind and again this is only likely to add to the problem

I hope these factors will be taken into consideration

Yours faithfully

Lawrence D JONES 20 Gay Street Bath BA1 2PD

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