

Democratic Services

Riverside, Temple Street, Keynsham, Bristol BS31 1LA

Telephone: (01225) 477000 *main switchboard*

Direct Lines - Tel: 01225 394410

Web-site - <http://www.bathnes.gov.uk>

Date: 15 August 2012

E-mail: Democratic_Services@bathnes.gov.uk

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

Councillor Sarah Bevan

Councillor Bryan Chalker

Councillor Tim Warren (substitute for Cllr Gabriel Batt)

Chief Executive and other appropriate officers
Press and Public

Dear Member

**Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee: Thursday, 23rd
August, 2012**

You are invited to attend a meeting of the **Licensing (Taxis, Street Trading and
Miscellaneous) Sub-Committee**, to be held on **Thursday, 23rd August, 2012** at **10.00 am** in
the **Kaposvar Room - 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 - Thursday, 23rd August, 2012

at 10.00 am in the Kaposvar Room - 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

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer before the meeting to expedite dealing with the item during the meeting.

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

5. MINUTES - 1ST MAY 2012 (Pages 5 - 12)

6. MINUTES - 7TH JUNE 2012 (Pages 13 - 16)

7. LICENSING PROCEDURE - APPLICATIONS FOR LICENCES, PERMITS AND CONSENTS (Pages 17 - 18)

8. APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT NO 5 BISTRO, 5 ARGYLE STREET, BATHWICK, BATH. (Pages 19 - 32)

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, 1st May, 2012

Present:- Councillors Sarah Bevan (Chair), Malcolm Lees and Gabriel Batt

Also in attendance: Alan Bartlett (Principal Licensing Officer), John Dowding (Senior Licensing Officer), Enfys Hughes and Francesca Smith (Senior Legal Adviser)

44 EMERGENCY EVACUATION PROCEDURE

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

45 APOLOGIES FOR ABSENCE

Councillor Bryan Chalker sent his apologies, Councillor Gabriel Batt was his substitute.

46 DECLARATIONS OF INTEREST

There were none.

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

There was none.

48 MINUTES - TUESDAY 3RD APRIL 2012

RESOLVED that the minutes of the meeting of Tuesday 3rd April 2012 be confirmed as a correct record and signed by the Chair(person).

49 LICENSING PROCEDURE - APPLICATIONS FOR LICENCES, PERMITS AND CONSENTS

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

50 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT SEARCY'S RESTAURANT, PUMP ROOMS, ABBEY CHURCHYARD, BATH

The Sub-Committee considered the report which sought consideration of an application for permission to provide facilities on the highway in respect of Searcy's Restaurant, the Pump Rooms, Abbey Churchyard, Bath.

The applicant was present. He confirmed he had read and understood the procedure for this part of the meeting. Several of the objectors were also present.

The Licensing Officer presented the report. He confirmed the application was for 8 tables and chairs and there was no change in the details since last year. He explained that the objections were based on the reduction of space for street entertainment.

The applicant put his case and was questioned. In summary he explained that Searcy's managed the restaurant on behalf of the Council. The application had remained the same since June 2004 when Searcy's took over. The only change was that since last year a barrier had been put around the area. Mr Searle added that Searcy's did not object to street entertainment and in response to the objections did not believe that the tables, chairs and barrier had ever exceeded the 3m area. He added that Searcy's did not employ any security but the Pump Room had security guards on the door.

The objectors put their cases and were questioned. Dominic Searle and Chris Ryde spoke on behalf of the objectors. In summary it was explained that street entertainment was a valuable asset to the street scene of Bath making it a vibrant city and tourist attraction. He added that there were plenty of places in Bath to sit outside and drink and eat but only half a dozen places in the country where street entertainers could perform outside.

The applicant and then the objectors then made a closing statement.

Following an adjournment it was

RESOLVED that the application for permission to provide facilities on the highway in respect of Searcy's Restaurant, the Pump Rooms, Abbey Churchyard, Bath be granted as follows subject to the standard conditions:

8 tables on the highway outside the premises with appropriate seating (including a chalet during the Christmas Market)
Area 19m x 3m Monday to Friday
Area 19m x 2m Saturday and Sunday
Every day from 9:00 to 22:00 hours.

and that planning permission be sought for the barrier.

Reasons for decision

Members have determined an application for permission to place tables and chairs on the highway at Searcy's Restaurant, Pump Rooms, Abbey Churchyard, Bath.

Members took into account the Local Government (Miscellaneous Provisions) Act 1982, Part VIIA Highways Act 1980 and the Human Rights Act 1998.

Members considered the application, took into account the written representations and listened carefully to the oral representations. They balanced the interests of the applicant, the objectors and the general public. Members noted that the objections

had been made on the basis that the area applied for would, if granted, have the effect of restricting the available space for street performers to present their entertainment which had been used for this purpose historically and which made a positive contribution to the street scene in Bath. Secondly that Searcy's had allegedly used more than the permitted space under their previous permission.

Members listened carefully to what the applicant said as regards the operation of the tables and chairs permission. They also noted that there had not been any objections to the application from Highways. They also listened carefully to what had been said by the objectors and noted that both parties needed to use the same space at the same time in order to further their business interests.

They therefore granted the permission in the terms set out in the application with the restriction to the dimensions to the area on a Saturday and Sunday to 19 metres by 2 metres only.

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

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

52 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 item 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."

53 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR C J C

The Sub-Committee considered the report which sought determination of an application by Mr CJC for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant Mr CJC was not present. The Licensing Officer stated that he had phoned the office to say that he did not have time off work to attend the meeting.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence application in respect of Mr CJC be deferred until the 7th June Taxis Sub-Committee.

Reasons for decision

Members noted that the applicant was unable to attend today due to work commitments. Members therefore decided to defer the application to the next meeting of the Licensing Sub Committee on 7th June on notice that, if he was absent on the next occasion, the application might be determined in his absence.

54 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR PTJ H

The Sub-Committee considered the report which sought determination of an application by Mr PTJH for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant Mr PTJH was present. 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 Criminal Records Bureau check was undertaken which had revealed a previous caution. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr PTJH. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr PTJH be granted 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, took into account a Criminal Record check, his statement, references and further information. Members considered that he presented himself well and had satisfied them that this sort of offending was now in the past. Members considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant and therefore found the applicant a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

55 APPLICATION FOR RENEWAL OF LICENCE & CONSIDERATION OF CONVICTION OBTAINED DURING TERM OF CURRENT LICENCE - MR G M W

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

Mr GMW was present. 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 two letters from Mr GMW informing him that he had been convicted of three offences. He circulated the letters and the certified extract of convictions. Mr GMW and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOVED that no further action be taken in respect of Mr GMW's convictions and his Hackney Carriage/Private Hire Driver's Licence be renewed 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 had to consider what action, if any, to take in light of the three convictions of assault obtained by Mr W during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr W continued to be a fit and proper person to hold such a licence and therefore had regard to his history as a Licence holder, his extract of conviction, his statement and supporting information. However, with regard to fitness Members disregarded matters relating to Mr W'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 W stated that the two convictions of assault against Ms W had occurred during their marital breakdown. He also stated that the third offence of assault had occurred when a fight broke out between him and a guest of his wife in his own home. He had lost his temper and assaulted the man for allegedly not leaving Mr W's home when asked.

Mr W stated that he has been a licenced driver since 2000 and that the incidents were not related to his work. The Licensing Officer confirmed that Mr W had an unblemished record as far as this was concerned. Mr W stated that he had also received counselling and therapy for his problem including problems with alcohol.

Members needed to satisfy themselves that their family, friends or loved ones would be safe in a vehicle driven by Mr W. Whilst they acknowledged their policy in this regard they disapplied it because they considered that Mr W was serving his sentence and had notified the Council of his convictions. They therefore considered that he had done the right thing, learned his lesson and should be given credit for doing so.

Nevertheless, Members did not endorse the committing of violent offences by licenced drivers and therefore gave Mr W a stern warning as to his future conduct. In taking into account the convictions and what Mr W stated to them today, they considered that he is a fit and proper person to continue to drive as a Hackney Carriage/Private Hire Driver.

56 APPLICATION FOR RENEWAL OF LICENCE & CONSIDERATION OF CONVICTION OBTAINED DURING TERM OF CURRENT LICENCE - MRS T S

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

Mrs TS was present. She confirmed she 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 Mrs TS informing him that she had received a conviction. He circulated the letter, further information and certified extract of conviction. Mrs TS and the officer withdrew from the meeting while Members took some time to consider these documents.

Mrs TS put her case and was questioned. Mrs TS then made a closing statement.

Following an adjournment it was

RESOLVED that no further action be taken in respect of Mrs TS's conviction and that her Hackney Carriage/Private Hire Driver's Licence be renewed 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 had to consider what action, if any, to take in light of the conviction obtained by Mrs S during the term of her Hackney Carriage/Private Hire Driver's Licence.

In doing so Members had to consider whether Mrs S is a fit and proper person to hold such a licence and therefore had regard to her history as a Licence holder, her extract of conviction, her representations and her supporting information. However, with regard to a person's fitness Members disregarded matters relating to Mrs S's personal circumstances.

Members noted Mrs S was convicted of the offences of theft and of dishonestly receiving a wrongful credit arising from benefit claims. Members took a dim view of licensed drivers committing offences of dishonesty as they were in a position of trust. However, they considered Mrs S was paying off the debt and had notified the Council of her convictions. They therefore considered that she had done the right

thing, learned her lesson and should be given credit for doing so. Nevertheless, Members did not endorse the committing of offences of dishonesty by licenced drivers.

Members noted their policy as regards dishonesty and that they needed to satisfy themselves that their family, friends or loved ones would be safe in a vehicle, driven by Mrs S. They considered that she is a fit and proper person to continue to drive as a combined Hackney Carriage/Private Hire Driver and therefore disapplied their policy.

The meeting ended at 1.01 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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BATH AND NORTH EAST SOMERSET

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

Thursday, 7th June, 2012

Present:- Councillors Sarah Bevan (Chair), Tim Warren and Chris Watt

1 EMERGENCY EVACUATION PROCEDURE

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

2 APOLOGIES FOR ABSENCE

Councillor Gabriel Batt sent his apologies, Councillor Chris Watt was his substitute. Councillor Bryan Chalker sent his apologies, Councillor Tim Warren was his substitute.

3 DECLARATIONS OF INTEREST

There were none.

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

There was none.

5 MINUTES - 1ST MAY 2012

RESOLVED that the minutes of the meeting of Tuesday 1st May 2012 be confirmed as a correct record subject to the following addition:

Item 50 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT SEARCY'S RESTAURANT, PUMP ROOMS, ABBEY CHURCHYARD, BATH – that the Sub-Committee had recommended that planning permission be sought for the barrier.

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

RESOLVED that the procedure for the meeting be noted.

7 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.”

8 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR C J C

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

Members noted that the application had been deferred at the last meeting of the Sub-Committee on 1st May 2012 when the applicant was unable to attend due to work commitments. Members therefore decided to defer the application to the next meeting of the Licensing Sub Committee on 7th June on notice that, if he was absent on the next occasion, the application might be determined in his absence.

The applicant Mr CJC was not present and had not provided any reasons for his absence. Members resolved to determine the application in his absence as it had been deferred from the previous meeting and it had been made clear that, if the applicant did not attend this meeting, the application might be determined in his absence. The Sub-Committee also noted that the applicant had not asked for a further deferral.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed previous convictions. He circulated the Criminal Records Bureau check and personal statement in respect of Mr CJC. The officer withdrew from the meeting while Members took some time to consider these documents.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr CJC.be refused.

Reasons for decision

Members took into account the Human Rights Act 1998 and the Local Government (Miscellaneous Provisions) Act 1976.

Members noted that Mr CJC appeared before the Licensing Sub-Committee on 3 June 2008 as he has previous convictions. Members resolved, on that occasion, to grant his combined Hackney Carriage and Private Hire Drivers' Licence as they considered that he was a fit and proper person to hold such a licence. Mr CJC was licenced between 18 June 2008 and 28 February 2011 when he did not renew his licence.

Members have now had to consider his application as a new driver together with a caution obtained in 2009, for possession of a controlled drug, namely cocaine, which he did not declare during the currency of his previous licence, as required by the Standard Conditions attached to that licence.

In doing so Members have to consider whether Mr CJC is a fit and proper person to hold such a licence and have therefore had regard to his history as a previous Licence holder, his Criminal Records' check and statement.

Members were not satisfied that he had taken full responsibility for the caution as he was bound to have suspected who the drugs belonged to as they appeared to have been left in his car by a regular customer. Secondly that he admitted that the drugs had been left in full view on the dashboard of the car when he could have been carrying other fares.

Members considered that he ought to have at least put them away and taken them direct to the Police Station. Furthermore, he also had the opportunity to give the drugs to the Police when he was stopped for having a defective headlight.

Members considered that he had acted dishonestly and had also not declared that he had obtained a caution during the currency of his previous licence and had therefore acted dishonestly in this regard as well. .

Members asked themselves if they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant. The answer to this was no and therefore they refused to grant the application as they considered that he was not a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

9 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR MKK

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

The applicant Mr MKK was present. 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 Criminal Records Bureau check was undertaken which had revealed previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr MKK. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr MKK 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 Mr MKK's representations, took into account a Criminal Record check, his statement and references.

Whilst noting the circumstances of his convictions, which concerned criminal damage, theft, motoring offences, disqualification from driving and violence, they noted that they all fell outside of their Policy.

However, Members were not convinced by the circumstances under which he failed to provide a specimen of breath which led to his disqualification from driving in 2007 and that, clearly, the Court had not been convinced by his arguments. Members stated to Mr MKK that he should decide whether to continue to give these reasons for mitigation if required to do so in the future.

Nevertheless, Members considered that he genuinely wished to return to work and was aware of his past mistakes, most of which occurred when he was young. Mr MKK had also offered mitigating circumstances to explain the two more recent convictions.

They also took into account that he had an unblemished record when previously licenced as a Hackney Carriage and Private Hire Driver. Members considered that they would be happy if their family, friends or loved were to travel in a vehicle driven by the applicant and therefore find him a fit and proper person to hold a Hackney Carriage and Private Hire Drivers' Licence.

The meeting ended at 12.15 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Agenda Item 7

Licensing (Taxis, Street Trading & Miscellaneous) Sub-Committee Procedure for 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: 23 August 2012	AGENDA ITEM NUMBER
TITLE: Application for permission to provide facilities on the highway for recreation/refreshment at No 5 Bistro, 5 Argyle Street, Bathwick, 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 No 5 Bistro, 5 Argyle Street, Bathwick, Bath.

2 RECOMMENDATION

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

3 FINANCIAL IMPLICATIONS

- 3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £241.

4 THE REPORT

- 4.1 An application has been received for permission to provide facilities on the highway in respect of No 5 Bistro, 5 Argyle Street, Bathwick, Bath (Annex A).
- 4.2 The application is for permission to place 4 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 2m x 7m.
- 4.4 The times applied for are:

Every day from 10:00 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 20 June 2012 (Annex D). The application was also placed on the Council's website.
- 4.11 Objections have been received from Councillor Webber and local residents who allege that the placing of tables at this location would be wholly impracticable; that the pavement is a vital refuge for pedestrians, and is very narrow.

(Copies attached at Annex E).

5 RISK MANAGEMENT

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

6 EQUALITIES

- 6.1 An Equality Impact Assessment (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 this report in an alternative format.	

APPLICATION

**Bath & North East
Somerset Council**

Receipt no^o 482415
taken

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

PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

NO 5 BISTRO 5 ARGYLE STREET BATHWICK BATH BA2 4BA	19 JUN 2012
I/We <u>ANTON CEGOREANU</u>	Post Log No:
	Receipt No: <u>482415</u>
	CH/CA <u>E. C. A. T. C. S.</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		£241.00
▪ Number of tables	<u>4</u> @ £64 per table	<u>256.00</u>
OR IF NO TABLES USED		
▪ Number of items (e.g. chair, parasol)	<u>4</u> @ £32 per item	<u>128.00</u>
Total enclosed		<u>497.00</u>

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

Signed by the applicant(s) ANTON CEGOREANU Dated 18/06/12
CP Dated 18/06/12
 BATH & NORTH EAST SOMERSET

Please return the completed application to: 18 JUN 2012
 Licensing Services, Bath & North East Somerset Council, Bath Street, Bath BA1 1SN

RECEIVED 12/02145/TABLE

APPLICATION

**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 No 5 Bistro
5 Argyle Street Bathwick Bath BA2 4BA

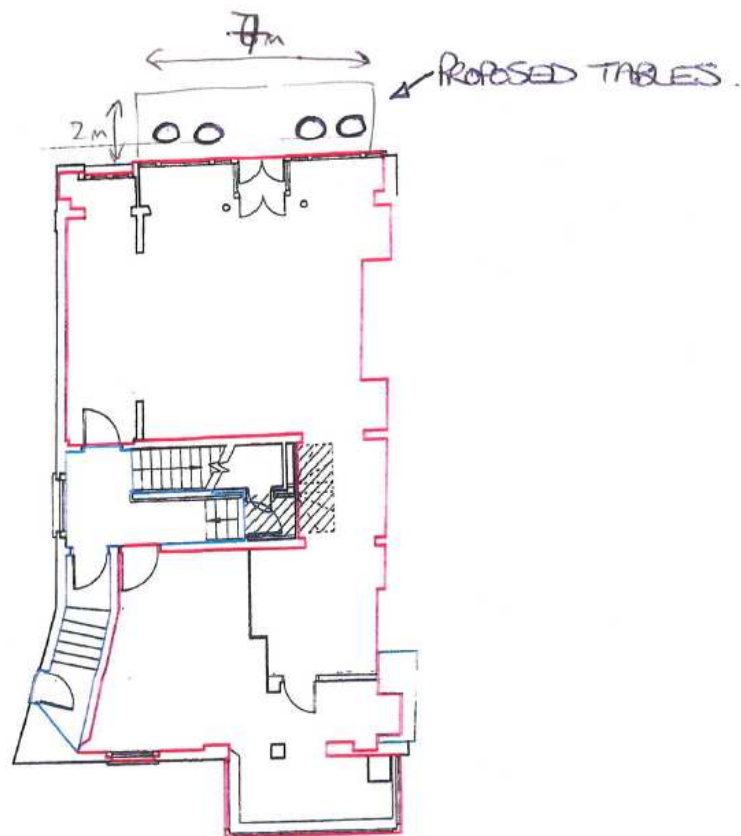
1	Full name and address of each applicant	Mr Anton Cegorehnu 5 St Mark's Gardens Widcombe Bath BA2 4PZ <i>tonicegorehnu@yahoo.co.uk.</i>
2	Contact telephone number	<i>01225/444499</i> <i>07861415653</i>
3	The date or dates, or the period of time for which the permit is required (maximum one year)	From: <i>ASAP</i> To: <i>30 April 2013</i>
4	Number of tables	<i>4</i> <i>60cm D.</i> <i>70cm H.</i>
5	Size/Dimensions of area	<i>2m x 7m</i>
6	The Council must notify any "affected frontages" of this application. Please provide details of the adjoining premises.	<i>—</i>
7	Days of the week and hours of operation on those days	<i>7 (10.00 to 22.00)</i>
8	Specific part of the premises proposed to be used	<i>FRONT OF PREMISES</i>
9	Alcohol permitted	<i>A.C. YES NO</i>
10	If yes, please state your premises licence number	<i>A.C. / LAPRE</i>

APPLIED FOR

** Times confirmed by telephone*

12/02145/TABLE

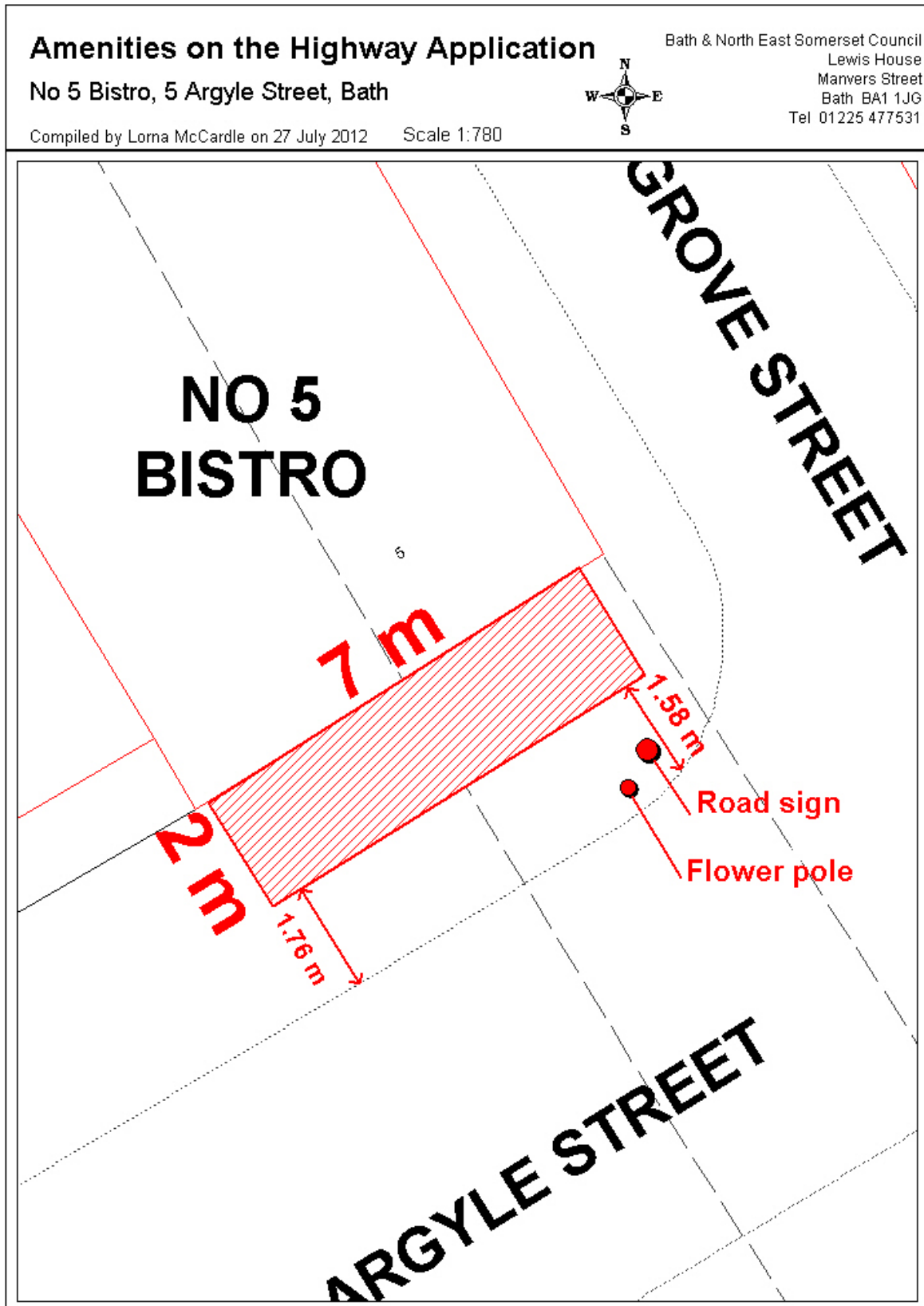
APPLICATION



GROUND FLOOR
5 ARGYLE STREET
BATH

SCALE 1:100

SITE PLAN



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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 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.

ANNEX C

- 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

NO 5 BISTRO 5 ARGYLE STREET BATHWICK BATH BA2 4BA

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:

30 April 2013

and at the following times:

Every Day 10:00 - 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 20 June 2012



Andrew Jones
Environmental Monitoring and Licensing Manager

Licensing Services
Bath and North East Somerset Council
Lewis House
Manvers Street
Bath BA1 1JG

OBJECTIONS

From: Brian Webber (Cllr)
Sent: 22 June 2012 16:23
To: Wendy Stokes
Cc: Manda Rigby (Cllr)
Subject: RE: Tables and chairs application - No 5 Bistro

Wendy

Thank you for this.

I wish to object to the application. The premises are hard by the junction of Argyle Street and Grove Street. It is a busy junction with much turning traffic. The pavement on the corner is a vital refuge for pedestrians, who either are crossing from, or waiting to cross to, the other corner, or have advanced up Grove Street on the very narrow pavement to the corner. Although the Argyle Street pavement directly in front of the No 5 Bistro is quite wide, the corner is obstructed by two Council poles - one for hanging flower baskets and the other carrying traffic signs.

These signs effectively narrow the pavement for pedestrians, who would then have to squeeze round any tables and chairs. I note that the plan with the application does not show the edges of the pavements or the poles. In my opinion, it would be wholly impracticable to put out tables and chairs.

Though it is a Planning matter, I recall that the restaurant Thai by the Weir on the opposite side of Argyle Street were refused planning permission (and lost on appeal) because tables and chairs were felt to be harmful to the setting of Pulteney Bridge. Though the No 5 Bistro is further away from the Bridge, they might also have difficulties with the Planners.

BRIAN
22 June 2012

-----Original Message-----

From: Simon Miller [mailto:simonmiller@mac.com]
Sent: 14 July 2012 16:33
To: Licensing
Subject: 12/02145/TABLE

To whom it may concern

We wish to object to the above application as this is a very busy junction, both for pedestrians and vehicles. Already there is not enough pavement, especially as the pavement approach from Grove Street is very narrow. To have tables, chairs and no doubt umbrellas in addition to the numerous existing A boards would make a dangerous junction even more dangerous.

If the application is approved we can foresee many injuries.

Yours sincerely

Simon Miller & Dr Jos Darling

Henrietta Place, Bath BA2 6PP

OBJECTIONS

The CEO or Director
 BANES Planning Dept.
 Lewis House
 Bath.

Napier House
 9 Henrietta Street
 Bath
 BA2 6LL



13/7/12

Your Ref: 12/02145/TABLE

Dear Sir

With reference to the new occupancy of the restaurant at 5 Argyle St, Bath, no tables, chairs, potted trees, menu boards or other pavement obstructions should be permitted on this stretch of pavement in front of No. 5 Restaurant.

This pavement is frequently crowded with pedestrians, especially on Saturdays. The previous occupants were there for many years and never found it necessary to conduct their business on the pavement. The restaurant interior is of sufficient area to accommodate all the customers they are called upon to serve. Eating outside encourages vermin with all the scattered waste food — McCall's convenience store on the opposite corner was recently fined £20,000 for the vermin infestation of their shop.

And I would remind you of the decade long (ten years) reign of terror conducted by Clarke of Clarke's Restaurant at No. 5 Argyle Street, Bath, from 2001 to 2011, when

OBJECTIONS

the congregation of United Reform Church and many of our nearby residents were compelled to endure the many tables and chairs, A-boards, containers, trees and many other 'pavement obstructions' perpetrated by Clarke, spread all along the pavement in front of the restaurant and most of the church forecourt. Despite the many complaints to the Planning Dept. and to other BANES departments and the police, nothing was ever done about all the 'pavement obstructions'.

Haven't we suffered enough with this problem throughout Bath?

If you wish to discuss this with me please arrange for a meeting, preferably at Lewis House, Bath.

Yours sincerely,

F. Blake

F. BLAKE

To: The CEO or Director
BANES Planning Dept.
Lewis House