

Democratic Services

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Date: 28 May 2014

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To: All Members of the Licensing Sub-Committee

Councillors:- Manda Rigby, Roger Symonds and Anthony Clarke

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Sub-Committee: Tuesday, 3rd June, 2014

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 3rd June, 2014** at **10.30 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, Sean O'Neill
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, Sean O'Neill who is available by telephoning Bath democratic_services@bathnes.gov.uk 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, Sean O'Neill 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.

Protocol for Decision-making

Guidance for Members when making decisions

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

Licensing Sub-Committee - Tuesday, 3rd June, 2014
at 10.30 am in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

5. MINUTES - 29TH APRIL 2014 (Pages 7 - 18)

6. MINUTES - 13TH MAY 2014 (Pages 19 - 28)

7. LICENSING PROCEDURE - MISCELLANEOUS (Pages 29 - 32)

8. BATH CHRISTMAS MARKET - AN APPLICATION TO INCREASE THE NUMBER OF UNITS FROM 155 (2013) TO 172 FOR 2014. (Pages 33 - 60)

9. APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY

FOR RECREATION/REFRESHMENT AT COEUR DE LION, 17 NORTHUMBERLAND PLACE BATH BA1 5AR (Pages 61 - 72)

10. LICENSING PROCEDURE - DRIVER APPLICATION AND CONVICTION (Pages 73 - 76)

11. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“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(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”.

12. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: MR JK H (Pages 77 - 90)

13. CONSIDERATION OF CONVICTION OBTAINED:- MR K H (Pages 91 - 104)

The Committee Administrator for this meeting is Enfys Hughes, Sean O'Neill who can be contacted on democratic_services@bathnes.gov.uk.

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BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 29th April, 2014, 10.00 am

Councillors: Manda Rigby (Chair), Patrick Anketell-Jones and Gerry Curran

Officers in attendance: Enfys Hughes, Alan Bartlett (Principal Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor)

137 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

138 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Roger Symonds, Councillor Gerry Curran was his substitute and Anthony Clarke, Councillor Patrick Anketell-Jones was his substitute.

139 DECLARATIONS OF INTEREST

Councillor Manda Rigby declared an interest in Roscoff Deli as she was a frequent customer. Therefore this item would be deferred to a future meeting.

140 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

141 MINUTES: 7TH APRIL 2014

RESOLVED that the minutes of the meeting on 7th April 2014 be approved as a correct record and be signed by the (Chairperson).

142 LICENSING PROCEDURE: LICENSING ACT 2003: VARIATION OF PREMISES LICENCE

RESOLVED that the procedure for the meeting be noted.

143 APPLICATION TO VARY THE PREMISES LICENCE FOR THE NEST, 7 BLADUD BUILDINGS, BATH BA1 5LS

The Sub-Committee considered the report which sought determination of an application for the variation of an existing Premises Licence under Section 34 of the Licensing Act 2003 in respect of The Nest.

Attendance List -

Applicant:

Jeremy Phillips (Francis Taylor Buildings) - representing applicant

Walaiti Rathore (Fraser Brown) - representing applicant

Rod Johnson (Licensee and witness)

Max Johnson (Licensee and witness)

Paul Douglas (witness)

Representations:

Avon and Somerset Constabulary - Inspector Steve Mildren and PC Chris Leadbeater

Environmental Health Agency - Nigel Shire

TARA and CARA Residents Association

Ian Perkins and Sally Rothwell and witnesses - Helen Ashman, John Dixon, Clair Rosier.

The Public Protection Officer presented the report, outlined the variation and the representations received.

Jeremy Phillips representing the applicant, put the case, asked questions of the licensees and made the following points:-

- the premises were in the cumulative impact area (CIA) therefore there was a presumption of refusal;
- the licence holders were local to Bath and had been involved with licensed premises for a long time;
- the style of operation was that of a community nightclub with the facility for live bands, working with the local universities, Art Exhibitions, fundraising and workshops for young musicians, the nightclub was not just a commercial enterprise;
- there was free entrance to the nightclub;
- the majority of crimes associated with the club were mobile phone thefts;
- the licensee had made their mobile phone numbers available to local residents and maintained an incident book;
- the extended hour would relieve some pressure on people departing from the club;
- during the previous year they had used 12 Temporary Event Notices (TENs) with extended hours and this year had used 4, the evidence was that there was a more gradual exodus of people and on one occasion though the notice was until 0400am the club had actually closed at 0330 as everyone had left;
- with regard to drug taking the club had liaised with the police and removed shelving in the toilets, had 15 minute checks of the toilets (both male and female) and had female staff in the female toilets;
- they no longer allowed re-entry to the club after 0200am and shut the smoking area earlier;
- the CCTV had previously not been up to specification but had all been checked and was in line with the police recommendations;
- the following proposed conditions were outlined:-

- Checks of the male and female toilets on Friday and Saturday nights
- A log book to be maintained
- Signage that drugs checks would take place and there was zero tolerance of drugs on the premises
- Signage of the 'Challenge 21' policy
- No entry or re-entry to the club after 02.00am
- the smoking area to close at 02.00am
- Signage that patrons should respect the local residents
- Join the Pub Watch Scheme
- After consultation with the police the club would have a written dispersal policy for Friday and Saturday nights
- A minimum of 2 door staff from 11pm on Friday and Saturday nights
- A noise limiter set by Environmental Health, to be secured thereafter so that it could not be tampered with
- Restrict live music until 11.00pm
- The Designated Premises Supervisor's (DPS) telephone number to be made available to local residents, the number to be manned at all times
- The DPS to attend a quarterly meeting of the residents association if invited
- To delete the condition relating to the door staff having to wear fluorescent jackets

Mr Douglas was brought as a witness. Notification of this witness and details of his evidence was submitted to the Licensing Authority after the usual 5 working days' notice, however the information was circulated to all parties before the hearing. The Legal Adviser stated that there was discretion to allow such information to be heard but not an automatic exclusion. With the Sub-Committee's agreement Mr Douglas made the following points:-

- He had observed the premises on Easter Saturday outside the residents premises;
- 98% of the noise was from traffic;
- there was lots of pedestrian movement past the premises which was also used as a short cut;
- there was a good atmosphere in the city with no aggression or violence and no males urinating;
- people had taken 28 minutes to leave the club;
- he believed that granting the extra hour would not add to any issues.

Councillor questions

The following responses were given to councillor questions:-

- the average age of the clientele had gone up in the last 5 years to around 25 years;
- on his evidence Mr Douglas did not think people leaving the club impacted on residents;
- there were problems previously for residents living above the premises, this no longer existed as the club had installed a sound ceiling and the previous club was a rave club with DJs;

- hi viz jackets had been necessary for the CCTV which was previously black and white, so hi viz showed up;
- in respect of the premises being in the CIA, the 14 additional conditions would address the issues raised - drug taking, Challenge 21, no re-entry, closing the smoking area early, Pub Watch, dispersal policy, making telephone numbers available and attending residents meetings;
- the Legal Adviser clarified that a trial period could not be imposed the conditions must be permanent;
- with regard to the club being a community club and the benefit to the community of extending the hours, the response was that the community was disadvantaged as the club currently closed earlier than others in Bath so was at a disadvantage and they wished to compete commercially on a level playing field.

Question from other parties

The following responses were given:-

- Mr Douglas had also stood near the residents properties and stated that music could only be heard from the club when the doors opened;
- the traffic noise seemed constant with lots of taxis;
- the conditions could only be imposed if the variation in hours was granted;
- Mr Douglas only observed the premises on one occasion.

Other parties cases - TARA and CARA

Ian Perkins stated that they had mobile phone footage of the club available to the meeting. Following legal advice this information was not allowed to be seen.

The followings points were made:-

Ian Perkins

- a lot of work had taken place to improve the George Street area but this club had not improved and was poorly managed;
- Mr Douglas had observed the club on Easter Saturday when most of the students were back home.

Helen Ashman

- previously the club had not been open on so many nights but by October 2013 she had had enough so complained to Environmental Health;
- audio meters had been installed and initially the noise from music had improved but then the limiters had been tampered with and noise had increased again;
- the noise from live bands was worse with loud drum and bass which could be heard from the basement;
- crowd noise was heard from the front of the property and previously their front door had been blocked;
- they could not open their windows due to the noise and smoking;

- the door staff were not very efficient in encouraging the crowds to leave on closing with many hanging around outside the club and spilling onto the busy road outside;
- other clubs seemed to control dispersal better;
- this happened most days bar Sundays;
- there was a general lack of respect for residents.

John Dixon

- lived near the cross roads where many people would pass on the way home from various clubs;
- the problem was antisocial behaviour including clearing up vomit, broken glass, a number of assaults, a rape and extreme noise;
- the problems had worsened in the last two years;
- to extend the hour would only increase the problems.

Clair Rosier

- lived in pedestrian street so there was no traffic noise;
- problems included drinking alcohol on the street, dropping litter, damage to property, antisocial behaviour, drug dealing and prostitution;
- her children would not be allowed to see such things at the cinema yet could see them outside their bedroom window;
- traffic noise died down after 12 bar taxis;
- the issue was not traffic it was the crowds and music.

Questions

The following responses were given to questions:-

- the level of noise from the club depended on the performance, with live music often the sound checks could be heard around 7pm and music could be heard through the walls of the building;
- I don't mind the club being there but they should respect the residents;
- the reason the club was popular was that the entrance was free;
- now work had been done at Zero Zero that club was better run and at Moles there was more of a dialogue with local residents;
- the video footage showed that the Nest doorstaff could not manage the crowds outside, people walk into the busy road and people walk off carrying drinks, this gave a feeling that the management do not care;
- Mr Douglas's observations were not on a typical night;
- even with a 24 hour licence people still leave en masse when it was closing time, so to extend by an hour would just mean people would leave en masse at 0300am;
- if the doorstaff no longer have to wear hi viz jackets it will be hard to tell who they are;
- the licensee stated that the club was full on Easter Saturday and were not completely reliant on students as customers;

- the improvements at Zero Zero were as a result of the conditions on their licence;
- the improvements at Moles were due to a change in proprietor who had a more concerned attitude towards local residents and had regular discussions to ameliorate problems;
- the dispersal from the club needed to be more efficient;
- previously the residents had contact details for the licensee but had had no meeting and the problems continued;
- one resident who lived a little further away said the problems arose from all licensed premises he could not be specific, but the noise that disturbed him inside was the crowds not traffic.

Avon and Somerset Constabulary

Steve Mildren stated that the premises was in the CIA along with other premises. When there had been issues with noise and he had discussions with the licensees they were always forthcoming. There had previously been a breach in respect of the CCTV but this was now compliant. He added that the management had engaged with the police but there needed to be a period to see if the current changes were working.

PC Leadbeater read out the crime figures recorded with The Nest as the location, there were 27 offences, including 15 thefts and 11 violence against a person. The peak was Saturday between 1200 - 0300 hours. These figures were higher than similar places. They had carried out drug swabs with higher than usual readings in the toilets, on a table on the dance floor, the bar and stairwell, in November and January. He noted that there were baseline readings in most similar premises. He deduced that The Nest caused more of a resource demand on the police than its peers.

Questions

The following points were made in response to questions:-

- This club was worse than others in the area eg Zero Zero and Moles;
- Zero Zero closed around 0300-0400 and Moles about 0400;
- it would be more helpful for the applicant to have more details in relation to the crime figures;
- the police stated that they had to consider Data Protection;
- the impact of the extra hour would be to push back the nuisance, crime and disorder and antisocial behaviour to a later time.

Environmental Health - Nigel Shire

Mr Shire explained that he had been involved with the owners and management of the Nest and local residents. Noise monitoring equipment in resident's properties had revealed nuisance noise levels from music playing at the premises. He said that there had been some improvement when limiters were independently installed but after approximately 3 weeks they had received more complaints so the limiters had proved ineffective for a long term sustainable solution. It was suggested that the limiters be set in conjunction with Environmental Protection officers, whilst gaining

access to the nearest noise sensitive premises and once set there should be limited access to only the management. This has yet to be proved as a solution.

Questions

In response to questions the following points were made:-

- the noise levels were not sufficient to be a statutory nuisance as defined by the Environmental Protection Act 1990, but did indicate a breach of a condition attached to the premises licence;
- the improvement had only been for a short period;
- when the TENs had been used there had been no observations of the dispersal being more gradual;
- Mr Douglas's evidence was that it had taken half hour for crowds to disperse;
- the doorstaff were ineffective in controlling the noise;
- environmental health had not objected to any of the TENs;
- more conditions would be a good thing but they needed to be tested over time.

Summing up

Ian Perkins

The Sub-Committee had heard from residents and some who could not attend, that this premises caused them misery. Having looked at the survey area which had improved, this premises had not. If there was an extension it would just push the current problems back an hour. The local people affected did not suffer from traffic noise.

Mr Perkins was concerned by the applicants offering conditions which could not be implemented unless the variation was granted. Many of the conditions were good practice and should be happening anyway. The applicants had failed to make a compelling case.

Avon and Somerset Constabulary

Steve Mildren was heartened by his discussions with the management of the premises and had no doubt of their good intentions. However in the CIA and from the figures an additional hour would have an adverse impact on the local community.

Applicant summing up

Mr Phillips stated that the presumption was against the applicant, however they had demonstrated that the issues had been addressed. The police evidence was unacceptable to make an objection with no specific evidence and detail and they had not objected to any of the TENs. The Environmental Health Officer had said the operators were helpful and had not objected to the TENs. Evidence from the licensee when the TENs were used was there was a more gradual exit and the club had closed earlier. If there were conditions these could be actively enforced.

The applicant had sympathy for the residents but the problems were the cumulative impact of a number of premises. The conditions were specific and targeted and would make a significant difference. When Zero Zero had conditions imposed there had been a huge difference and with Moles regular meetings had improved the situation. The variation was a small increase of one hour plus the conditions would improve the situation and make a massive difference.

Following an adjournment it was

RESOLVED that the application for the variation of an existing premises licence at The Nest be refused.

Reasons for decision

Members have today determined an application to vary a premises licence at The Nest, Bladud Buildings, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members were aware that the proper approach under the Licensing Act was to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. In this case, however, Members noted that the premises are situated in the Cumulative Impact Area and accordingly as the council has a Cumulative Impact Policy a rebuttable presumption was raised that such applications should be refused unless the applicant demonstrates that the variation if granted would not undermine the licensing objective and add to the Cumulative Impact being experienced.

In reaching a decision Members were careful to take account of all the relevant oral and written representations and were careful to balance the competing interests of the applicant, interested parties and responsible authorities.

The police stated they had concerns regarding drug use, drunkenness and anti-social behaviour at and in the vicinity of the premises. The police produced evidence in the form of incident logs which recorded initial contact with complainants given as in the location of The Nest. Police stated there had been 27 recorded crimes in the locality of the Nest mostly mobile phone incidents but 11 allegations of violence against the person. Police further stated there had been positive drug swab tests taken at the premises some of which were quite high readings. The police stated that these concerns had been raised with the premises management and to a certain extent the premises had improved and were always been happy to engage. However, as the steps had only been put in place very recently the application was premature and overly ambitious at this stage.

The Environmental Health Officer stated there were complaints of noise from music and patrons at and in the vicinity of the premises. The Officer stated that whilst the noise had not currently been determined as a statutory nuisance it did cause nuisance.

Residents stated the area around the premises is residential with a number of noise sensitive properties nearby. They stated The Nest shines out as not having

benefited from the improvements associated with other premises in the area and stated customers were attracted to The Nest because it was free to enter. They also stated noise had increased and they experience problems with drunken patrons outside. Around the Hay Hill area it was stated that there are incidents of urination, vomit, broken glass and fighting and should this application be granted this would only lead to an increase in the crime, disorder and anti-social behaviour.

The applicant stated they provide a community night club, a facility for up and coming bands, art exhibitions and they worked with the University. They also stated they have a live music work shop on Broad Street introducing children to live musical instruments.

The majority of crime at the premises was lost or stolen telephones and these were reported for insurance claim purposes. Local residents have had very little contact with management in relation to crime and disorder or complaint and managers are happy to make telephone numbers available so people can contact them. Whilst an incident book was maintained it was stated opening later would have a better impact on dispersal in the area and this was evidenced by their use of the maximum number of TENS. They stated that the conditions suggested in the operating schedule and offered by them this morning would address any concerns about Cumulative Impact and whilst noting the police representations the police did accept there been some improvement and had not produced any evidence directly attributable to the premises.

The application was refused as Members considered the suggested conditions or any additional conditions would be ineffective in ensuring the premises would not have a detrimental effect on the licensing objectives. This is because the dispersal policy referred to had not as yet been drafted and the applicant could not demonstrate going forward that its current dispersal methods were sufficient to ensure streets would not be flooded with patrons on closure if granted causing nuisance, crime and disorder. This was particularly relevant as the proposed closing time would coincide with other premises in the area.

Whilst members welcome the progress the premises have made the premises are nevertheless situated in a crime and disorder hot spot. Moreover, it was also noticeable that the majority of the steps taken were taken during the application process and are still on-going. In the circumstances, and given the levels of crime and disorder already associated with the area and evidenced by police and residents today, members found the application premature and the premises somewhat a work in progress. Members therefore found until a full programme of steps has been formalised and implemented, extended hours at this time would undermine the licensing objectives, add to cumulative impact and further conditions in these circumstances would not mitigate any detrimental impact the premises had on the area.

144 LICENSING PROCEDURE - MISCELLANEOUS

RESOLVED that the procedure for the meeting be noted.

145 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT THE PORTER, 2 MILES'S BUILDINGS BATH BA1 2QS

The Sub-Committee considered a report which sought permission to provide facilities on the highway in respect of The Porter.

The applicant was present and the objectors Sally Rothwell, Ian Perkins and Councillor Brian Webber were also present.

The Public Protection Officer presented the report and explained that permission was sought for 16 tables with appropriate seating (the same number as last year) and three planters outside the basement entrance.

The applicant put his case and confirmed the only change was the three planters by the basement entrance. The numbers of tables had been reduced last year and he had received no further complaints. His employees started work each day with a checklist of things to do and further problems had been eradicated. The lower pavement tended to be used for wheelie bins. There had been no objection from highways.

Questions followed and the applicant confirmed that the lower entrance was very crowded on Thursday/Friday/Saturday. There were barriers in front of the entrance and a doorman. They encouraged smokers to use the upper pavement. The number of tables applied for was confirmed as 16. With regard to affecting residential amenity the applicant stated that there were no residents above the premises. He ensured the area was kept tidy and they were very child friendly.

Objectors case

Sally Rothwell stated that the Porter had improved greatly since the new owner. However the tables were sometimes put out earlier and left out later. the pavement was very narrow and there was an A board so sometimes people had to step into the road which was busy. The tables and chairs at the front of the premises caused a real problem and the planters would cause a problem on the lower pavement due to the large numbers using the lower entrance and it was an accident waiting to happen.

Ian Perkins confirmed that the Porter was better run than previously. He had been pleased when Moles had stopped using the lower entrance which was opposite his property. The traffic came round very fast at that point and to have planters would reduce the space which was already limited, as there were already problems there.

Councillor Brian Webber stated that he objected to the tables and chairs on the upper pavement at the front of the premises. He liked the 'cafe society' however the owners had to consider the pedestrian traffic. He was aware there was no highways objection. George Street was very busy with little space to move and at that point there was also the restriction by the railings.

Summing up

The objectors briefly summed up their cases. The applicant stated that the tables and chairs were stacked ready to put out at the appointed times. He was aware that Moles had changed the entrance but since he

had taken over barriers were now used to help the situation. the planters did not take up much room and there had been no highways objection.

The Legal Adviser stated that the Sub-Committee should consider the application in highway terms and whether there was an obstruction, hazard or nuisance caused. Amenity was a planning issue.

Following an adjournment it was

RESOLVED that the application for permission to provide facilities on the highway in respect of The Porter - be granted in respect of the tables and chairs and be refused in respect of the three planters.

Reasons for decision

Members have determined an application to place 16 tables with appropriate seating, boundary markers and 3 planters on the highway. In doing so they took account of the Highways Act and balanced the representations from objectors against the application and its background.

Members noted the application was a renewal of the tables, chairs and boundary markers to the front and side of the premises together with 3 planters on the highway outside the premises' basement entrance. In reaching a determination members had to decide whether the application was likely to obstruct the free passage of pedestrians, cause a public nuisance in highway terms or be a hazard in its real sense.

Objectors accepted the premises were an improvement in the area. However, they stated the pavement was narrow and the use of the tables caused noise and nuisance issues. Members noted that the use of the existing permit had not been subject of complaint or incident and no objection to the application had been made by the Highways Authority.

In all the circumstances therefore members considered that, as there had been no material change in the table, chair and boundary marker application this would be granted. The matter therefore falls to be decided on 3 planters. Members considered that the planters in this area, whilst they might tidy up the look of the area, were likely to be hazardous in highway terms as people might have cause to step into a live carriage way at busy periods. Accordingly this part of the application was refused.

146 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT; ROSCOFF DELI, 18 NORTHUMBERLAND PLACE, BATH BA1 5AR

Councillor Manda Rigby declared an interest in this item as she was a frequent customer. Therefore this item was deferred until a future meeting.

The meeting ended at 1.42 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 13th May, 2014, 10.00 am

Councillors: Manda Rigby (Chair), Anthony Clarke and Roger Symonds

Officers in attendance: Alan Bartlett (Principal Public Protection Officer), John Dowding (Senior Public Protection Officer), Michael Dando (Public Protection Officer), Kirsty Morgan (Public Protection Officer), Shaine Lewis (Principal Solicitor) and Carrie-Ann Rawlings (Senior Legal Adviser)

147 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

148 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

149 DECLARATIONS OF INTEREST

The Chair declared an other interest in relation to agenda item 11 (application for a premises licence for Bath Rugby Football Club) because the two witnesses to be called by the Other Person were well known to her.

150 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

151 TAXI LICENSING PROCEDURE - APPROVAL OF VEHICLE

Members noted the procedure to be followed for the next part of the meeting.

152 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR D SCARAMANGA

Applicant: Mr D Scaramanga

The Senior Public Protection Officer presented the report. He explained that this application had been brought to the Sub-Committee because the age of the vehicle (7 years and 11 months) fell outside the Council's general policy that a private hire vehicle should not be more than 5 years old.

The Sub-Committee, accompanied by the Principal Solicitor and the Senior Public Protection Officer, adjourned to inspect the vehicle. After the Committee had reconvened, the applicant stated his case. He said that the vehicle was fully accessible to wheelchair users and had a hearing loop and aids for those with impaired vision. He said that only 2% of the private hire vehicles in Bath were fully accessible to disabled users, so that this vehicle would be a valuable addition to the facilities available to them. In reply to a question from a Member, he said that that the vehicle had formerly been in service as a taxi in Swindon. In his closing

statement he said that the cost of fully accessible vehicles was very high, so that not many were being brought into service.

Following a further adjournment, the Sub-Committee **RESOLVED** to grant the application.

Reasons

In determining the matter Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, the Council's Policy, Human Rights Act 1998 and case law. Having inspected the vehicle Members consider it is suitable in size, type and design to be granted a licence and delegated authority to the Licensing Officer to issue a Private Hire Vehicle licence subject to the 'taxi' signs being removed and the necessary safety inspections and certification.

153 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.

154 DRIVER LICENSING PROCEDURE - COMPLAINT HEARING

155 CONSIDERATION OF CONVICTION OBTAINED - CJ

The Sub-Committee considered the report which sought consideration of a conviction by C J during the term of her Hackney Carriage/Private Hire Driver's Licence.

The Licensee was present and accompanied by her father. She confirmed that she had read and understood the procedure for the meeting.

The Senior Public Protection presented the report and circulated the following documents to the Sub-Committee:

1. An email from a member of the public making a complaint against CJ's conduct while driving her licensed Hackney Carriage.
2. A statement from CJ to the Public Protection Service.
3. A letter from the Police to the complainant advising her of CJ's conviction at Bath Magistrate's Court.

The Licensee and Officer withdrew from the meeting for Members to have time to consider these.

When the Sub-Committee reconvened, CJ made a statement and was questioned by Members. She then made a closing statement.

Following an adjournment, it was **RESOLVED** that 4 penalty points be added to CJ's licence.

Reasons

Members have had to determine whether to take any action against the licensee having obtained a conviction during the duration of her licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members heard that the licensee had been convicted of a public order offence arising from a verbal altercation with a member of the public whilst driving her licensed vehicle. Members noted her representations, written statement and although taking a dim view of the offence gave her credit for disclosing the offence in compliance with the terms of the policy, credit for her driving history and noted the genuine remorse shown.

Whilst Members found her behaviour fell short of that expected from licensed drivers they resolved to add 4 points to her licence.

156 LICENSING ACT 2003 - PROCEDURE FOR APPLICATION FOR NEW PREMISES LICENCE

The Chair drew attention to the procedure to be followed for the next item of business.

157 APPLICATION FOR A PREMISES LICENCE FOR BATH RFC, LAMBRIDGE SPORTS GROUND, LONDON ROAD, BATH BA1 6BD

Applicant: Bath Rugby Football Club, represented by Mark Edwards (proposed Designated Premises Supervisor)

Other Person: Susan Traill

Witnesses for the Other Person: Alex Schlesinger and David Dunlop

The parties confirmed that they had received and understood the licensing procedure.

The Public Protection Officer summarised the report and invited the Sub-Committee to determine the application.

Mr Edwards stated the case for the applicant. He explained that he was currently the Chairman of Bath RFC, which was the amateur, not the professional Bath club. Bath RFC had returned to Lambridge after a 10-year absence, during which the Lambridge ground had been used exclusively for training for the professional club. He thought that the Lambridge club ground was probably the only rugby club ground in the country without a bar. All the other grounds he visited were able to offer hospitality and the club wanted to be able to do that at Lambridge. The alternative of having a club licence had been discussed with the Police, but the difficulties of administering it had been pointed out. As there was no admission charge, it would be

difficult to distinguish members from non-members; it therefore appeared simpler to have a premises licence. There was no intention of running a pub, or of using all the hours applied for. The application stated how the club intended to further the licensing objectives. He noted that there was a great deal of comment in the representations about the possibilities of drug sales and use at the premises, but the fact was that drugs were simply not tolerated in rugby. Most members of the club were aged 7-18, and adult members were mostly the parents of younger members. The club provided a well-ordered family environment. Strict controls were in place. Attendances were in the low 100s, not in the 1000s. A starting hour of 06.00 had been applied for because international matches in the southern hemisphere were often broadcast at this time, and the club would like to be able to provide hospitality for such events, without having to keep applying for Temporary Event Notices (TENs).

In response to questions from Members Mr Edwards stated:

- 3 TENs had been applied for in the past 6 months; in a normal season he expected that there would be a need for about 4 TENs a week
- full breakfast was available at early-morning events
- extensive discussions had taken place with the Police about the appropriate hours to be applied for; a high degree of flexibility was required because some internationals were retimed at short notice, which mean that it might not be possible to provide hospitality for a particular event at the club; it was also planned to have a regular Friday event at the club; the hours applied for would give the maximum flexibility, but there was absolutely no wish to serve alcohol from 06.00 to 23.00 every day

Ms Traill asked why off-sales had been applied for. Mr Edwards explained that this was simply to allow customers to take drinks to parts of the premises that were outside of the licensed area, such as the side of the pitch and the car park. Ms Traill asked how people who wandered into the ground or were under the influence of alcohol would be dealt with. Mr Edwards replied that in a club of 400 members a stranger would be noticed very quickly and that people who were acting in an unacceptable manner would be shown the door. He said that the club was a private premises, not a public park. No problems had been experienced at events for which TENs had been obtained. The Principal Solicitor pointed out that the club was described as a private premises on the application and that it was an offence to sell alcohol to intoxicated people.

Ms Traill stated her case. She said that lived quite close to the ground and that her concerns were not based on any problems that were currently occurring. She was objecting to such a wide-ranging licence, which could be passed on to another licence holder in the future. She wondered why the club was applying to sell alcohol for 18 hours a day if they did not intend to do this. The fact that the licence applied for did not require membership changed the situation and the outlook for the future. People who had been drinking could sometimes be very threatening. Residents of Grosvenor Place were already suffering from litter and broken glass left by drinkers. She was concerned about increased traffic congestion, which, among other things, would cause problems for the emergency services. There was a bus stop directly

opposite the ground at which there were sometimes large numbers of children, who could be drawn by the excitement surrounding events at the club and cross a very busy road. She was able to hear the noise from events in her flat and at her allotment. She didn't mind the occasional noise late at night, even though it kept her awake, but it would be unbearable if it happened every day. She was concerned about the possibility of drugs at the club. She felt the licence was quite unsuitable for the nature of the premises. She called her two witnesses.

Alex Schlesinger said that the licence applied allowed the premises to do practically anything, facilitating the creation of a social as well as sporting venue. This was not appropriate in a residential district and near a very busy road. The district was already suffering the impact of alcohol-related problems, particularly on young people. A local convenience store had had to be warned about selling alcohol to young people. Most users of the club would arrive by car, exacerbating traffic problems. It was perverse that at a time when alcohol misuse was a national concern a sports club should be seeking a licence to sell alcohol 18 hours a day.

David Dunlop said that it had been stated that the club grounds were private land. Yet the notice advertising the licence application had been fixed within the club grounds; it should have been fixed to the gate, where it would have been more accessible. No notice had been given to residents about the application. In the past the Rugby Club had communicated with residents about developments; their failure to do so on this occasion had naturally aroused suspicions. Residents had been alarmed when they had seen the hours applied for and the fact that it was not a club licence. The applicants had consulted the Police, but they should have consulted local residents as well. There was a possibility of noise pollution from the premises. There was a risk that intoxicated people could fall in the river. He noted that the proposed Dyson premises had been prohibited from admitting underage people because the land was subject to flooding; the same was the case here. There had been two drug and alcohol-related deaths in London Road in the past two years. It was somewhat naïve of Mr Edwards to say that there was a strict ban on drugs at the club because some Bath Rugby professional players had been charged with drug offences and it was impossible to control what five hundred people brought into the ground.

The Chair asked the Public Protection Officer to comment on the location of the notices advertising the application. She replied that they were clearly visible from the highway.

In reply to questions from Members Ms Traill stated:

- the previous club licence had not resulted in problems for residents; the club and its members were good neighbours
- drug problems would be more likely to arise from outsiders than club members
- the ground was easily accessible to the public; people walked their dogs there

The Principal Solicitor advised that highways issues and the safety of people away from the premises were not relevant to applications under the Licensing Act

In her summing up Ms Traill said that the hours applied for were too long and posed a risk to residents if the premises changed hands. She thought off-sales were unnecessary.

The Chair asked the Public Protection Officer to comment on the application for off sales. The Public Protection Officer explained that the area for which a licence was sought was less than the total area of the club grounds. If there were no provision for sales for consumption off the licensed premises, it would not be possible for people to take drinks to portions of the premises outside the licensed area. She noted that the applicant had offered a condition about the use of plastic glasses only in the outside area.

Mr Edwards summed up. He said there was no intention to operate an off-sales business. The only purpose of the off-sales provision was to allow people to take drinks to areas outside the licensed area, such as the car park. He acknowledged that there was the potential for non-members to enter the premises, but, he submitted, strict controls would be in place. He did not believe that there would be a significant increase in the number of coaches and cars coming to the premises. The purpose of applying for the hours of 06.00 till 23.00 was to provide flexibility and obviate the need for repeated applications for Temporary Event Notices.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application as applied for.

Reasons

Members have today determined an application for a new premises licence at Bath Rugby Football Club, Lambridge, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on information before them. Members were careful to disregard representations relating to public safety of those not on the premises, traffic and environmental issues, planning and did not speculate on what may or may not happen in the future should a licence be granted.

In reaching a decision Members were careful to take account of all the relevant oral and written representations and balanced the competing interests of the applicant and the interested party.

The applicant stated the club had been used for over 50 years and only in its recent history as a training ground for the professional club. The amateur club had now returned to the site and was hosting matches although mostly as a youth based club. However it would like to provide the usual facilities associated with a rugby club so people could have the option of a drink during or after matches. It was not the case that the application would lead to binge drinking as the club is family orientated and would be for the use of club members, visitors and guests rather than a public house. It was felt that given the club's location and the scope of the application it was

unlikely to have an effect on residents and very unlikely that there would be any drugs on the premises. It was said that the club were operating using TENs at present which although proving successful were limited in number and did not give the club the flexibility of a licence going forward.

The interested party accepted the club and its membership are very good neighbours. However, they feared the scope of the application was too wide and could be transferred to someone not as family orientated leading to an increase in public nuisance and disorder in the form of drunkenness, noise and disagreements between users of the premises and drug dealing. It was further stated that there would be an increase in traffic risks, a risk of people falling in the river and noise from late night events particularly if held in a marquee. It was therefore an unsuitable site for such activities.

Members note the police had not objected to the application and had assisted the club in formulating this application. In all the circumstances Members found there was nothing in the application leading them to think there would be a detrimental effect on the licensing objectives and therefore grant the application with conditions consistent with the operating schedule. Authority was therefore delegated to the Licensing Officer to issue the licence.

158 LICENSING SUB COMMITTEE MISCELLANEOUS PROCEDURE

The Chair drew attention to the procedure to be followed for the next item of business.

159 PRIVATE SHOP

Applicant: the Private Shop, represented by Mr Clive Sullivan (Management Consultant), Mr Colin Mason (Director), Miss Janice Singleton (Licensing Administrator)

Representation and Petitioners: Miss Jo-Ling Chew (making representation), Ms Charlotte Barnes (Petitioner), Ms Jona Wiskowski (Petitioner), Mr John Smythe (Petitioner)

The Senior Public Protection Officer summarised the report and invited the Sub-Committee to determine the application.

Mr Sullivan submitted that the procedure to be followed for this item was not compliant with a High Court judgement, that the objectors should not be present during the hearing of the application and should not be able to question the applicant. The Sub-Committee adjourned to consider his objection. When the Sub-Committee had reconvened, the Chair drew Mr Sullivan's attention to the statements in the Council's procedure that "the hearing will take the form of a discussion" and that "formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only". She said that she would allow the objectors to remain present and question the applicant after the statement of their case, but would not allow cross examination. Mr Sullivan accepted this.

Mr Sullivan submitted that the Court of Appeal had distinguished between an application for renewal and an application for grant and that in the case of a renewal due weight must be given to the fact that a licence has been granted. He said that there had been a sex shop on this site for thirty-five years. He further submitted that the Act distinguishes between mandatory grounds for refusal and discretionary grounds for refusal, and that in turn the discretionary grounds were subdivided into the suitability of the applicant and the suitability of the premises. As far as the suitability of the applicant was concerned, the Private Shop owned one hundred premises in the UK and had never received a conviction and had no prosecutions pending against it. Turning to the suitability of the premises, he submitted that to apply one of the discretionary grounds there had to be a more than ordinary degree of the condition to which the ground referred. For example, it was not sufficient reason to refuse an application because the premises would be passed by children, as this was usually the case with all such premises. He cited the statement of a Minister in the House of Lords to the effect that it was not for Local Authorities to decide whether or not sex shops should be permitted; Parliament had decided that they should be. The Private Shop was a legal operation selling legal products. He submitted that the only objection made by the objectors that the Sub-Committee could take into consideration was the proximity of schools to the shop. He submitted that in fact the schools were at some distance and pointed out that it was an offence to allow underage people to enter the shop. In conclusion he said that by granting the licence the Council kept the premises under control by being able to regulate its opening hours, its appearance and its staff. He requested the Sub-Committee to renew the licence.

Miss Chew put questions to Mr Sullivan. She asked whether Mr Sullivan considered it appropriated that a sex shop should be located in the same street as a charity to help victims of sexual trauma. Mr Sullivan replied that he suspected that the Private Shop had been in its present location for longer than the charity had. The Chair ruled that another question was not legally relevant.

Miss Chew stated her case. She said that the shop was close to two schools, and Oldfield Park Infants was only 453ft away. Its location so close to schools could give the impression to young people that pornography was acceptable and might encourage them to look at it at a young age. Young people might be able to circumvent the age restriction on entry to the shop or persuade adults to buy material for them. A number of Miss Chew's statements were ruled as legally irrelevant by the Chair. The Chair advised Miss Chew that she could only raise issues arising from the location of this specific establishment and not those relating to pornography in general.

In his closing statement Mr Sullivan submitted that the only relevant issue raised by the objectors was the proximity of the schools. He suggested that that they were sufficiently distant as not to make this an issue. He pointed out that no objections had been received from the schools themselves and that in fact that they had never made any objections to the premises. He urged the Sub-Committee to allow the Council to continue to exercise control over the premises by granting the renewal.

Following an adjournment the Sub-Committee **RESOLVED** to renew the licence of the Private Shop for one year.

Reasons

Members have today determined an application to renew a premises licence at The Private Shop, Lower Bristol Road, Bath. In doing so they have taken into consideration schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, the Council's Policy and the Human Rights Act 1998.

The applicant made a procedural point relating to the apparent adversarial nature of the proceedings. Turning to the application however, it was said the company was fit and proper in that it had not been convicted of any offences and there were none pending. They further stated that the grounds of the objection appeared to be based on policy and morals and were not matters to be considered by the committee. The conditions attached safeguard children and residents and were appropriate to the premises which had operated without concern for some 30 years.

The objections said a renewal would affect families moving to the area, have a negative impact on culture, objectify women and make it appear abuse was acceptable in relationships. Further the premises were close to schools which in turn could lead to children being interested in pornography.

Members were careful to note that the procedure to be followed clearly stated the process was not adversarial but rather designed to be a conversation where questions could be asked stopping short of formal cross examination.

Members were mindful that the application must be considered on its merits, in the context of schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 and with regard to the importance of consistency in the decision making process.

Members noted that these premises had operated since 1994 without complaint, breach of condition and that there had been no change in the extent, location or nature of the business. Whilst Members acknowledged the objection they placed little weight on it and therefore the application was granted with the attachment of the standard conditions. Authority was delegated to the Licensing Officer to issue the licence.

The meeting ended at 12.57 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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LICENSING SUB COMMITTEE PROCEDURE APPLICATIONS FOR MISCELLANEOUS LICENSES, PERMITS, CONSENTS

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Applicant and or representative present their case and may be questioned by the Committee and other parties.
4. The Applicant may call witnesses in support who may be questioned by the Committee and other parties.
5. The objecting parties address the Committee and can be questioned by the Committee and other parties on matters relevant to the application. Any person presenting evidence for an objecting party may also be questioned by Members and other parties.
6. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be questioned.
7. The parties are invited to make closing statements.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Service Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

PLEASE NOTE:

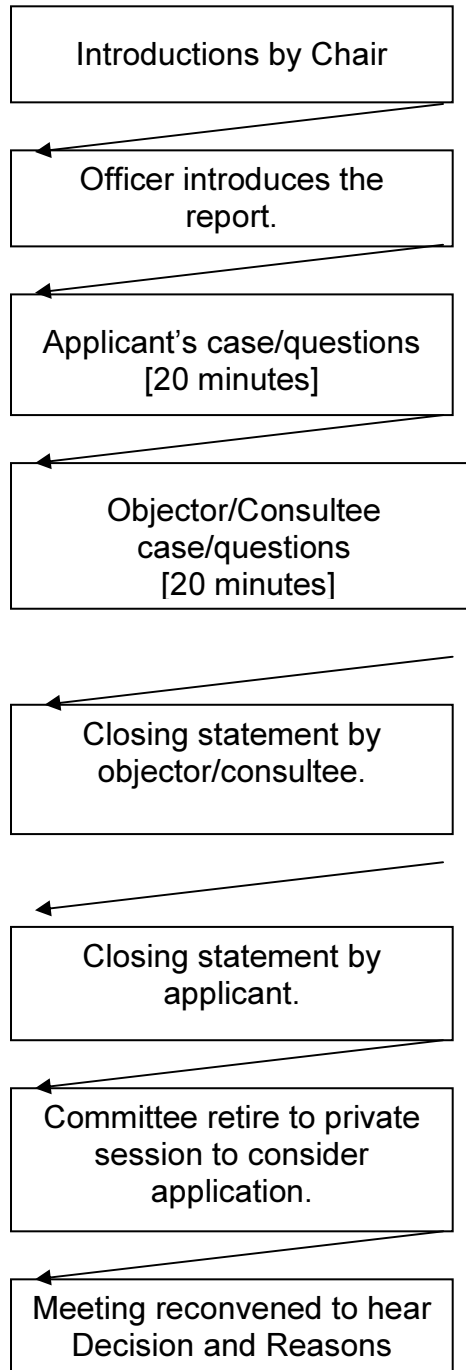
- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits 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.
 2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
 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 request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
 - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**LICENSING SUB COMMITTEE PROCEDURE
APPLICATIONS FOR
MISCELLANEOUS LICENSES, PERMITS, CONSENTS**

OVERVIEW



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Bath & North East Somerset Council			
MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	Tuesday 3rd June 2014	Agenda Item Number	
TITLE:	Bath Christmas Market – an application to increase the number of units from 155 (2013) to 172 for 2014.		
WARD:	Abbey		
AN OPEN PUBLIC ITEM			
<p>List of attachments to this report:</p> <p>Annex A – Copy of Application - Page 4</p> <p>Annex B – Copy of the Street Trading Policy – Page 5 to 8</p> <p>Annex C – Copy of the Standard Conditions – Page 9 to 11</p> <p>Annex D – Site Plan of Christmas Market – Page 12</p> <p>Annex E – Photographs of York Street – Page 13 to 14</p> <p>Annex F – Copy of the Highways Notice – Page 15</p> <p>Annex G – Letter of objection to the application – Page 16 to 17</p> <p>Annex H – Supporting Statement from applicant – Page 18 to 20</p> <p>Annex I – letters of support from others - Page 21 to 27</p> <p>Annex J – Copy of the Consultation email – Page 28</p>			

1 THE ISSUE.

1.1 An application has been received from Bath Tourism Plus to renew the Consent for the Bath Christmas Market for 172 individual units and 10 catering units, an increase of 17 individual units from 2013.

2 RECOMMENDATION

2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 As the application is for a renewal of the Consent the costs will be borne through the fees paid for in the Street Trading Consent.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 In accordance with section 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") Bath and North East Somerset Council have adopted Schedule 4 of that Act. In accordance with that Schedule the Council has designated all Streets / Highways within the authority as "consent street[s]" which means that street trading is prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.
- 4.2 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the council may grant a consent if they think fit. Sub-paragraph (3) provides that a street trading consent shall not be granted-
- (a) to a person under the age of 17 years; or
 - (b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- 4.3 Paragraph 7(4) of Schedule 4 to the 1982 Act provides that when granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- 4.4 Each application for a Street Trading Consent will be considered in line with the Council's current Policy on Street Trading (attached at Annex B).
- 4.5 Bath and North East Somerset Council has current Street Trading Standard Conditions (attached at Annex C) which are applicable to all Street Trading Consents issued by the Council.
- 4.6 This application has been brought to the committee as it represents a significant change from the Consent issued in 2013 and an objection has been received.
- 4.7 When making a decision consideration needs to be given to the Human Rights Act 1998.
- 4.8 An Equalities Impact assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 THE REPORT

- 5.1 An application has been received to vary the Street Trading Consent on its renewal for the Christmas Market taking place between Thursday 27th November and Sunday 14th December 2014. See Annex A
- 5.2 The variation is to increase the number of units from 155 in 2013 to 172.
- 5.3 The increase is split as follows:
- (1) 8 in York Street
 - (2) 4 in Bath Street
 - (3) 5 in Abbey Gate Street
- 5.4 A copy of the current Street Trading Policy is attached at Annex B
- 5.5 A copy of the current Standard Conditions are attached at Annex C
- 5.6 A plan of the area is included at Annex D.

- 5.7 Photographs of York Street are attached at Annex E
- 5.8 A Highways Notice of the application was placed in a prominent position in York Street, Bath Street and Abbey Gate Street (Annex F). The application was also placed on the Council's website.
- 5.9 An objection has been received from Aidan Quinn of Beaux Arts, a business premises in York Street regarding the additional units in York Street only. In particular he is objecting to the 6 new units proposed to be placed outside of the Friends Meeting House directly opposite his premises which will adversely affect his business. Copy of the letter is attached at Annex G.
- 5.10 A supporting statement has been received from the applicant. Copy attached at Annex H.
- 5.11 We have received 7 letters of support for the application that are attached at Annex I

6 RATIONALE

- 6.1 As an objection has been received the application is considered contentious and the Licensing Sub Committee must determine the application.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with the Police, the Council's Highways Department, Property Services, Environmental Services, Development Control Services, Ward Councillors and adjacent premises. A copy of the Consultation email is attached at Annex J.
- 8.2 The report has not been sent to the Trade Unions because they would have no involvement in this application.

9 RISK MANAGEMENT

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

Contact person	Andrew Tapper, Senior Licensing Officer. Tel: 01225 477533
Background papers	None.
Please contact the report author if you need to access this report in an alternative format	

Annex A

Name, address, date of birth and National Insurance number of each applicant	Bath Tourism Plus Abbey Chambers Abbey Churchyard Bath BA1 1LY Date of birth: NI No:
Contact: telephone email	01225322426 vicky_bunt@bathtourism.co.uk
Trading Name	Bath Christmas Market
Trading Dates	from: 27 November 2014 to: 14 December 2014
Trading days and hours	Monday to Wednesday from 10:00 to 19:00 Thursday to Saturday from 10:00 to 21:00 Sunday from 11:00 to 18:00
Articles for sale	Arts and crafts, handmade Christmas gifts, food and drink, mulled wine, ceramics, glass, clothing, wooden gifts, accessories and toys
Stall type	172 single retail units, 10 Catering Units
Dimensions	7' 6" x 5' 0" x 6' 6"
Details of <u>each</u> person authorised by you to work on your stall.	separate list to be supplied when available

Street Trading Policy

1 Purpose

1.1 The Council's street trading policy is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.

2 What is Street Trading?

2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.

2.2 Bath & North East Somerset has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'consent streets' for street trading purposes.

2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.

3 Exemptions from the need to obtain a Consent

3.1 Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station

4 Street Trading Consents for which fees are not payable

4.1 Bath & North East Somerset will not require the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events
- non-commercial or charitable events
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)
- sales of articles by householders on land contiguous with their homes

5 Site Assessment

5.1 The Council will identify suitable 'pitches' for street trading and will maintain a map showing their location.

5.2 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.

5.3 In determining whether to create a street trading pitch the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving
- any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians
- the safe access and egress of customers and staff from the pitch and immediate vicinity

6 Consultation

6.1 Before a new pitch is created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- ward councillors
- parish or town council
- Avon & Somerset Constabulary
- Development Control (B&NES)
- Highways (B&NES)
- existing holders of street trading consents in the immediate area

The Council will also consider any responses received in relation to public notices on the highway.

6.2 Any objection from consultees will be assessed against the criteria in 5.3 above and may be referred to the appropriate Sub Committee for determination.

6.3 Any proposed change to standard conditions (see 10.1 below) will be consulted with consent holders and others, if relevant.

7 Nature of Goods and Trading Hours

7.1 The nature of goods which may be sold from any pitch will be specified in the consultation process. Any subsequent substantial change will be subject to the level of consultation in 6.1 above.

7.2 The Council would not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops.

7.3 Goods will normally consist of craftwork, fresh flowers, ice cream or soft drinks. Other types including services will be considered on a pitch by pitch basis and have particular regard to local needs shopping, product/ service diversity and balance.

7.4 Street trading hours will normally mirror those of shops in the immediate vicinity. In the case of hot food takeaways trading hours will be determined on a pitch-by-pitch basis.

7.5 The design and appearance of the stall, barrow, van or cart etc. used must be agreed by the Council's Head of Environmental and Consumer Services.

8 Issue of Street Trading Consents

8.1 Street trading consents will normally be issued for a period of three months. Consents for shorter periods may be issued for block bookings for the purpose of organised street markets and for mobile street artists.

8.2 Consents will be issued for a minimum of six days per week, unless the applicant can provide an alternative scheme acceptable to the Head of Environmental and Consumer Services.

8.3 Fees for consents must be paid in full in advance. In the case of renewals, payments must be made on a quarterly basis and be due on or before the following dates:

- 1 January
- 1 April
- 1 July
- 1 October

8.4 Failure to maintain payments as above may result in the consent not being renewed.

8.5 Where a consent has expired the pitch will become subject to paragraphs 8.6 and 8.7 below.

8.6 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch. The notice will be carried by one or more of the following: local newspaper, local radio, Council website; it may also be carried by other local publications.

8.7 Applications will be determined by the Head of Environmental and Consumer Services in consultation with the Executive Members for Economic Development & Environment and for Community Safety, Housing and Consumer Services. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received the pitch will be re-advertised.

8.8 A consent cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent by reason of having been convicted of an offence or for any other reason.

9 Fee Structure

9.1 The fee structure will primarily reflect pitch location, trading days and hours. Other matters to be taken into consideration will include local needs shopping.

9.2 The Head of Environmental and Consumer Services in consultation with the Executive Member for Community Safety, Housing and Consumer Services has delegated authority to set fees and to annually review the fee structure.

10 Conditions and Enforcement

10.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

10.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

10.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.

10.4 Persons trading without a consent and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action in accordance with the Environmental and Consumer Services Enforcement Policy. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.

11 Social Inclusion

11.1 The Council will, where possible, give priority to the provision of consents to disabled persons and to those from minority ethnic groups.

12 General

12.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.

12.2 This policy will complement and inform other Council initiatives including those on street markets and life in the public realm.

12.3 This policy will be the subject of periodic monitoring and review.

12.4 This policy will inform the detailed conditions attached to every street trading consent.

12.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.

Annex C

STREET TRADING CONSENT - GENERAL CONDITIONS

- 1 The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading, shall produce it on demand when so required by a Police Officer or a duly authorised officer of the Bath & North East Somerset Council.
- 2 The holder shall return this Consent to the Bath & North East Somerset Council immediately on revocation or surrender of the Consent.
- 3 The holder shall not trade otherwise than strictly in accordance with this Consent.
- 4 The holder shall notify the Assistant Director Environmental Services at Bath & North East Somerset Council, 9-10 Bath Street, Bath BA1 1SN immediately of any convictions or proceedings arising out of the use or enjoyment by the holder of this Consent.
- 5 The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
- 6 The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent.
- 7 The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the previous consent in writing of the Assistant Director Environmental Services for the time being of the Council.
- 8 The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
- 9 The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
- 10 The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and he 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.
- 11 The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 12 The holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but he may surrender it at any time.
- 13 The holder shall observe and comply with any directions in relation to the use of the street given by the Assistant Director Environmental Services or the Director of Property and Engineering Services for the time being of the Council.

- 14 The holder shall keep his trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
- 15 The holder shall provide at his own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items if required by the Assistant Director Environmental Services, and remove them and their contents at the end of each daily period of use under this Consent.
- 16 The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.
- 17 The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) 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, his trading and the provision of facilities under this Consent.
- 18 This Consent may be revoked by the Council at any time and the Council shall not, in any circumstances whatsoever, be liable to pay any compensation to the holder in respect of such revocation.
- 19 The Consent holder or any person employed by him to assist him in his trading shall **at all times** wear the identification badge issued by Bath & North East Somerset Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
- 20 The holder shall return the identification badge(s) to the Bath & North East Somerset Council immediately on revocation or surrender of the Consent.
- 21 All street trading fees are due quarterly in advance on 1 January, 1 April, 1 July and 1 October each year.

Notes:

- 1 Street trading in a consent street without a Street Trading Consent, or from a van, cart etc. not specifically permitted by a Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.
- 2 A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order. In case of doubt about the effect of any such Order, enquire at the Environmental and Consumer Services, 9-10 Bath Street, Bath BA1 1SN .
- 3 The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

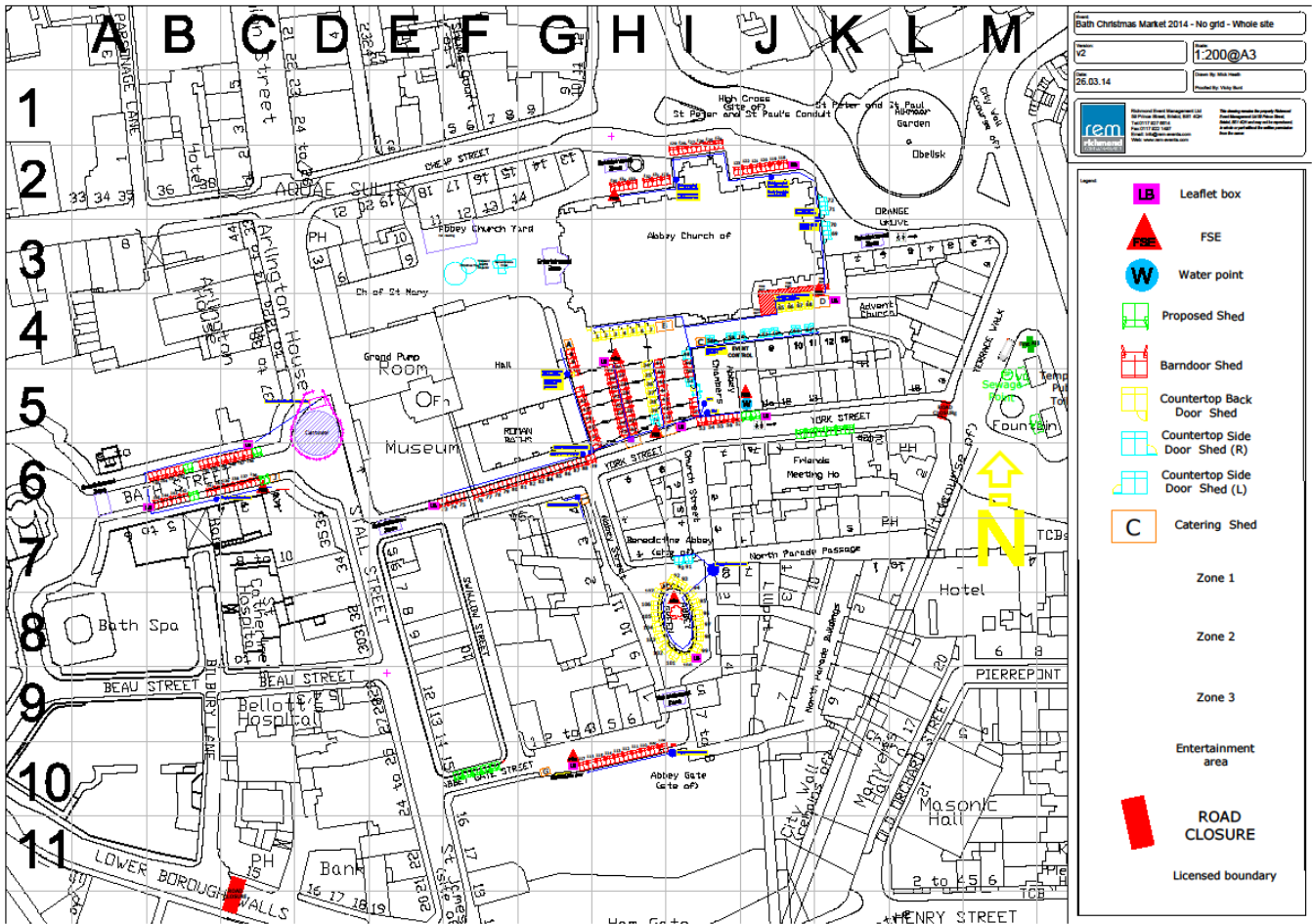
Schedule 4, Paragraph 10

- 1 A person who:

- b engages in street trading in a consent street without being authorised to do so under this Schedule; or
 - d being authorised by a street trading consent to trade in a consent street, trades in that street:
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
 - e contravenes a condition imposed under paragraph 7 (9) (of this Schedule),
- shall be guilty of an offence.

- 2 It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- 3 Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- 4 A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine.

Annex D



Full size copy of plan will be available at the hearing

Annex E

View along York Street from Terrace Walk



Location of 6 proposed units

Location of objector's premises

9. 5. 2014 13:51

View East along York Street



Location of objector's premises

Location of 6 proposed units

Annex F

Application Ref. 14/02778/STTRAD

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

BATH CHRISTMAS MARKET ABBEY CHURCHYARD, ABBEY GATE STREET, ABBEY GREEN, ABBEY STREET, BATH STREET, CHURCH STREET, KINGSTON BUILDINGS, KINGSTON PARADE & YORK STREET, BATH


NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council for the grant of a Street Trading Consent at the above location.

Name of each applicant	Bath Tourism Plus
Trading times	Monday to Wednesday from 10:00 to 19:00 Thursday to Saturday from 10:00 to 21:00 Sunday from 10:00 to 18:00
Articles for sale	Arts and crafts, handmade Christmas gifts, food and drink, mulled wine, ceramics, glass, clothing, wooden gifts, accessories and toys
Stall type	172 single retail units, 10 Catering Units (an increase from 155 in 2013 – to include the following new ones – 4 in Bath Street, 8 in York Street and 5 in Abbey Gate Street)

If you wish to make any objections to the Council regarding the above application you should do so in writing to the undersigned by 8 May 2014.

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

Dated 17 April 2014



Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath BA1 1JG

Email: licensing@bathnes.gov.uk

Annex G

Letter from Beaux Arts page 1

BEAUX ARTS

York Street, Bath BA1 1NG, t. 01225 464850, f. 01225 422256
e-mail info@beauxartsbath.co.uk www.beauxartsbath.co.uk

Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath BA1 1JG

Re Application Reference 14/02778/STTRAD

Dear Cathryn Humphries,

I am writing with regard to the planning application above, which has been proposed by Bath Tourism Plus for the erection of temporary retail units, and in particular those proposed for the York Street area, opposite the location of our place of business, the Beaux Arts Gallery, at 12-13 York Street, for the period covering the 'Christmas Market', i.e. 27 November to 14 December 2014

I wish to object in the strongest possible terms. The Christmas Market has grown in size year-on-year since it first started, with retail units springing up on every available patch of ground in and around the Abbey area. It is also now much longer in duration than when it first started. A few days inconvenience has now become a very significant aggravation and a hindrance to our ability to do business on York Street. This latest proposal, to extend the market so that the retail units are literally outside our door, is an unreasonable step too far.

The majority of our regular clientele will avoid York Street while the Christmas Market takes place, as the two most convenient routes to the gallery are (1) through the Abbey Courtyard or (2) from the junction of Stall Street and York Street, both of which are thronged with people such that it is impossible to pass comfortably through. We lose whatever passing trade we may have had were the market absent, as there is no overlap in terms of clientele. It is part of Bath's unique character that there is such a variety of shops and businesses in a relatively compact and architecturally beautiful environment. The sheer overwhelming nature of the market, especially if it is to spread its tentacles outside our very door, makes a mockery of any advantage we have as a business being located in a listed building, in this street, in this wonderful city.

In sum we lose what we pay for in quite substantial business rates, for the duration of the Christmas market. If one includes the week where the market sets up, plus the week it takes to dismantle the market, it amounts to nearly 5 weeks, i.e. one-tenth of the total trading time that we have in the year. Again you can see why this is not a minor inconvenience any longer, in actual fact it has become a significant restraint of trade.

1 | Page
Directors: Reg Singh, Patricia Singh, Anna-Liza Singh, Aidan Quinn.
BEAUX ARTS LONDON 22 Cork Street London W1S 3NA t. 020 7437 5799 f. 020 7437 5798 www.beauxartslondon.co.uk

BEAUX ARTS

York Street, Bath BA1 1NG, t. 01225 464850, f. 01225 422256
e-mail info@beauxartsbath.co.uk www.beauxartsbath.co.uk

We have been in business in York Street for nearly 34 years. We pay rates commensurate with a good position in the centre of Bath. The Christmas Market as it was causes considerable harm to our business, and this proposed application will undoubtedly make the situation worse for us, during a period that amounts to 10% of our year, at one of the potentially busiest times.

It appears grossly unwarranted that the ambience and character of the street should be so overwhelmingly transformed if not ruined, for us, and for other businesses along York Street for such a substantial period of time. Not to mention the practical implications in terms of delivery, and getting to and from the gallery. These new retail units are excessive, unnecessary, and completely out of keeping with York Street.

If the application is accepted, with regard to the York Street units, we will, together with other business people in the street, be seeking redress through legal representation, as, in essence, the Christmas market seriously hampers our ability to do business for its rather lengthy duration.

I look forward to hearing from you.



Aidan Quinn
Director
Beaux Arts Bath

Annex H



Nick Brooks-Sykes
Chief Executive
Bath Tourism Plus
Abbey Chambers
Abbey Church Yard
Bath
BA1 1YL

Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services - Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA1 1JG

Monday 12th May 2014

Dear Cathryn,

Bath Christmas Market 2014 – Street Trading Application

In response to the recent objection received against the 2014 Bath Christmas Market (BCM) Street Trading Application, I would like to outline the key objectives of the event and to take this opportunity to offer supporting evidence to demonstrate the operations of Bath Tourism Plus.

Since 2000, BCM has been an integral part of Bath's events calendar, with its popularity and reputation having grown over this time. Regularly recognised as one of the best Christmas Markets in the country, it is the only one to have been awarded the VisitEngland National Quality Marque. It is responsible for ensuring that Bath has significant profile as a premier retail destination in the key pre-Christmas period.

The economic impact of BCM is also significant and spreads beyond the Market itself: in 2013, visitors to BCM spent £36million in the local economy - £10million with BCM traders and a further £26million in businesses across the wider city.

Bath Christmas Market is renowned for its high quality and 'distinctly British' experience: in 2013, of the 155 traders on site, 70% were businesses from Bath and the surrounding region and 60% of goods were handmade in the UK. For the first time in 2013 we allocated 10 chalets for short term lets, allowing 22 small Bath businesses to trade for shorter periods. For 2014, we wish to increase this allocation to 14 chalets and support 28 small businesses. These 'incubator units' have successfully demonstrated how BCM can help develop and support local businesses in their early stages.

Each year, applications from local businesses to be part of BCM far exceeds the supply. This is at the forefront of our desire to apply to increase the number of chalets available, whilst maintaining the above objectives.

We have given great consideration to possible extensions to the event and how these may best be incorporated within and alongside the existing operation. A number of factors were considered during this process, including:

- Consideration of areas where road closures are already implemented in order to limit inconvenience to local businesses and residents
- Logical extensions to an existing and developed event footprint
- Areas where permanent retailers, catering outlets and attractions will benefit from BCM visitors
- Areas which still permit emergency vehicle access when chalets are constructed
- Locations where visitors can also experience Bath's Heritage sites

The Events Team at Bath Tourism Plus also work in partnership with the city's businesses and residents to ensure that the event is a success with as little disruption to daily activities as possible. As well as establishing a working group each year with local business representatives, Bath Tourism Plus remains committed to:

- Consultation throughout planning and delivery stages, with local residents, businesses and key stakeholders
- Developing and managing a high class visitor shopping experience with minimal disruption to local businesses and residents
- Engaging high quality retailers via a number of criteria to ensure a quality offer, which is also in keeping with the ambience of the Market and surrounding areas
- Engaging with local providers including; accommodation, restaurants, cafes etc.
- Facilitating the event build and operation in a manner which does not affect normal business activities, including ensuring designated walk ways are in place, creation of safe working areas which do not impact on members of the public, access for delivery vehicles, residents access etc.
- Providing a competent Event Management team to oversee the cooperation and coordination of third party contractors, stallholders and other event service providers
- Providing a dedicated 24hour telephone number during the event to allow for a fast response to any issues or concerns raised by local residents and businesses
- Engagement of reputable contractors, to ensure the provision of a range of services to maintain the integrity of the site, including security and stewarding providers, site cleansing teams etc.

The request for 6 additional retail units in front of the Friends Meeting House on York Street will allow us to include 6 more local businesses in BCM, in an area that since the beginning of the event has been subject to a road closure; has a mains power supply; is a logical extension to the chalets already located on York Street within the existing site footprint; accommodates vehicle access when required; and will encourage visitors to frequent local businesses on York Street within an area previously underutilised.

Our desire for this extension is certainly not to cause a detrimental effect to local businesses with whom we work consistently hard to build relationships, but, as stated above, to continue finding ways to improve the visitor experience to this wonderful historic City. To further complement our application, I have enclosed a number of letters of support from local businesses which I hope will be read in conjunction with our application. These help demonstrate the work that we are doing to ensure Bath continues to host and benefit from an award winning Christmas Market event in partnership with the local businesses with whom we engage.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nick Brooks-Sykes", written over a horizontal dotted line.

Nick Brooks-Sykes
Chief Executive

Annex I – page 1 of 7

Letter of support from Phil Hodge

Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA11JG

Dear Cathryn,

Having recently been made aware of the outline plans for the Christmas Market 2014, I was pleased to see that Nick and his Team at Bath Tourism Plus had continued to focus on improving this important event. I was particularly happy to see the market being expanded slightly both towards Stall Street and also York Street. My business is located very close to York Street and anything that is done to attract visitors from neighbouring streets towards the main centre is welcome. I believe this to also be the case for Stall Street. I consider that this will be of equal benefit to resident businesses and also the other Christmas Market traders.

There is also an argument that by increasing the foot print of the Christmas Market that it helps congestion in the central Abbey Church Yard area. Last year there were several occasions where due to the volume of people on a Saturday the streets almost became gridlocked. At times this made it difficult for people to get in and out of my shop. I know that the BTP Team are looking at ways of trying to spread the footfall more evenly between weekends and weekdays with promotions etc.

Christmas is the busiest time of the year for my store and without a vibrant, busy and well organised Christmas market the business would suffer greatly. There is a high level of competition between cities when it comes to Christmas markets and it is essential that Bath continues to develop. We cannot just assume that being in Bath that people will choose to flock here. The event needs to expand and change to remain attractive to traders and to shoppers.

Kind Regards

Phil Lodge (owner)
Charlotte Brunswick - Bath
3 Church Street
Bath
BA1 1NL
01225 287669

Annex I – Page 2 of 7

Letter of support from Laurence Swan

Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA11JG

Dear Cathryn,

We are the owners of the Bath Bun Tea Shoppe at 7 North Parade Passage and 2 Abbey Green.

We are firm supporters of the Bath Christmas Market and wish to register that we are in favour of the proposal to increase the size of the market at York street and Abbey Gate Street.

We believe that this will help business in these streets who up until now have not seen the benefit of the increased footfall and commensurate business that the Christmas market brings.

Please register our Full Support
Kind regards

Laurence Swan
The Bath Bun Tea Shoppe
2 Abbey Green, City Centre, Bath BA1 1NW

Annex I – Page 3 of 7

Letter of support from Ian Taylor

Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA11JG

Dear Cathryn,

Last year we set up our Apres ski bar outside the Abbey hotel which was very well received with visitors, hotel guests and local people in Bath. I would like to lend my support to increasing the footfall around Terrace walk and to see additional cabins positioned along York Street. This will greatly help to alleviate some of the congestion in the main square and generate a better experience for the visitor.

The additional cabins proposed on York Street we see would have a very positive effect on businesses in our area.

Kind regards
Ian

Ian Taylor
Managing Director, Abbey Hotel, Bath

Annex I – Page 4 of 7

Letter of support from Timothy Coffey

The Real Italian Pizza Co
16 York Street
Bath
BA1 1NG

17th May 2014

Planning Services
PO Box 5006
Bath
BA1 1JG

CC: Bath Tourism Plus

Re: Proposal to extend Bath Christmas Market further along York Street

Dear Sirs,

I am writing to express my support for the proposed extension of Bath Christmas Market further along the length of York Street.

The current closure of York Street during the period of Bath Christmas Market already results in no vehicular access during operating hours of the market. The proposal to place further chalets along York Street will therefore not result in any further disruption to our business and may in fact increase the footfall on York Street during the market period, therefore helping our business during this time.

Yours Faithfully

Timothy Coffey
Company Director
The Real Italian Pizza Co

Annex I – Page 5 of 7

Letter of support from Rosanna Addabbo

The Real Italian Ice Cream Co
17 York Street
Bath
BA1 1NG

17th May 2014

Planning Services
PO Box 5006
Bath
BA1 1JG

CC: Bath Tourism Plus

Re: Proposal to extend Bath Christmas Market further along York Street

Dear Sirs,

I am writing to express my support for the proposed extension of Bath Christmas Market further along the length of York Street.

The current closure of York Street during the period of Bath Christmas Market already results in no vehicular access during operating hours of the market. The proposal to place further chalets along York Street will therefore not result in any further disruption to our business and may in fact increase the footfall on York Street during the market period, therefore helping our business during this time.

Yours Faithfully

Rossana Addabbo
Manager
The Real Italian Ice Cream Co

Annex I – Page 6 of 7

Letter of support from Kinga Malich

The Bath Pantry
2 Church Street
Bath
BA1 1NL

17th May 2014

Planning Services
PO Box 5006
Bath
BA1 1JG

CC: Bath Tourism Plus

Re: Proposal to extend Bath Christmas Market further along York Street

Dear Sirs,

I am writing to express my support for the proposed extension of Bath Christmas Market further along the length of York Street.

The current closure of York Street during the period of Bath Christmas Market already results in no vehicular access during operating hours of the market. The proposal to place further chalets along York Street will therefore not result in any further disruption to our business and may in fact increase the footfall on York Street and consequently Church Street during the market period, therefore helping our business during this time.

Yours Faithfully

Kinga Malich
Manager
The Bath Pantry

Annex I – Page 7 of 7

Letter of support from Francesca Addabbo

Pinkart Gift Shop
9a York Street
Bath
BA1 1NH

17th May 2014

Planning Services
PO Box 5006
Bath
BA1 1JG

CC: Bath Tourism Plus

Re: Proposal to extend Bath Christmas Market further along York Street

Dear Sirs,

I am writing to express my support for the proposed extension of Bath Christmas Market further along the length of York Street.

The current closure of York Street during the period of Bath Christmas Market already results in no vehicular access during operating hours of the market. The proposal to place further chalets along York Street will therefore not result in any further disruption to our business and may in fact increase the footfall on York Street during the market period, therefore helping our business during this time.

Yours Faithfully

Francesca Addabbo
Company Director
Pinkart Gift Shop

Annex J

From: Andrew Tapper

Sent: 17 April 2014 09:38

To: Valuation Group; Manda Rigby (Cllr); Brian Webber (Cllr); Development Control; Trading Standards; Highways; Transportation; 'liquorlicensing@avonandsomerset.pnn.police.uk'; Valuation Group; 'Andrew.Cooper@bathbid.co.uk'; Katie Wilson; Martin Baker

Cc: 'Vicky Bunt (BTP - Christmas Market)'; Maria Pinches; Lynne Locker

Subject: Christmas Market 2014 - Street Trading renewal

Good morning all

Please find below details of an application for a street trading consent under the Local Government (Miscellaneous Provisions) Act 1982. This application is for the annual renewal of the Street Trading Consent.

PLEASE NOTE THERE ARE 17 ADDITIONAL PITCHES BEING APPLIED FOR – SEE STALL TYPES BELOW FOR DETAILS

Please forward any comments by 8 May 2014. If we do not hear from you by this date, we shall assume you have no objection to this consent being granted.

Reference No.	14/02778/STTRAD
Name of each applicant	Bath Tourism Plus
Contact telephone number	01225322426
Pitch number and address of street trading pitch	Abbey Churchyard, Abbey Gate Street, Abbey Green, Abbey Street, Bath Street, Church Street, Kingston Buildings, Kingston Parade & York Street, Bath
Trading Name	Bath Christmas Market
Trading days and times	Monday to Wednesday from 10:00 to 19:00 Thursday to Saturday from 10:00 to 21:00 Sunday from 10:00 to 18:00
Articles for sale	Arts and crafts, handmade Christmas gifts, food and drink, mulled wine, ceramics, glass, clothing, wooden gifts, accessories and toys
Stall type	172 single retail units, 10 Catering Units (an increase from 155 in 2013 – to include the following new ones – 4 in Bath Street, 8 in York Street and 5 in Abbey Gate Street)
Dimensions	7' 6" x 5' 0" x 6' 6"

For further information please contact:

Andrew Tapper
Senior Public Protection Officer – Street Trading
Public Protection and Health Improvement service
Bath and North East Somerset Council
Lewis House, Manvers St, Bath. BA1 1JG
Tel: 01225477533
Mob: 07530263368
Fax: 01225477596

Bath & North East Somerset Council	
MEETING: Licensing Sub Committee	
DATE: Tuesday 3rd June 2014	AGENDA ITEM NUMBER
TITLE: Application for permission to provide facilities on the highway for recreation/refreshment at Coeur De Lion, 17 Northumberland Place Bath BA1 5AR	
WARD: Abbey	
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
Annex A Application	
Annex B Site Plan	
Annex C Council's Standard Conditions	
Annex D Highways Notice	
Annex E Objection from Bath & North East Somerset Council, Highways Department	

1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of **Coeur De Lion**, 17 Northumberland Place, Bath BA1 5AR.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLACATIONS

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

4 STATUTORY CONSIDERATIONS

- 4.1 Sections 115 A-K Highways Act 1980 give the Council discretion to grant permission to provide, maintain and operate facilities for recreation and/or refreshments on the highways subject to any reasonable conditions the Council thinks fit.
- 4.2 When making a decision consideration needs to be given to the Human Rights Act 1998.

4.3 An Equalities Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 THE REPORT

5.1 An application has been received for permission to provide facilities on the highway in respect of **Coeur De Lion**, 17 Northumberland Place, Bath BA1 5AR (*Annex A*).

5.2 The application is for permission to place **3 tables** on the highway outside the premises, along with appropriate seating (site plan attached at *Annex B*).

5.3 The Council's standard conditions for permission to place tables and chairs on the highway are attached at *Annex C*.

5.4 The size of the area applied for is: **1.5 m x 4.5 m**.

5.5 The times applied for are:

Every day: 10:00 – 23:30 hours

5.6 The existing permit which expired on 31st March 2014 permitted the following:

3 tables on the highway outside the premises along with appropriate seating

Size of the area: **1.1 m x 4.5 m**

Times: **Every day: 10:00 – 23:30 hours**

5.7 The **changes** since the last permit issued are; an **increase in the size of the area** from 1.1 m x 4.5 m to 1.5 m x 4.5 m.

5.8 A notice was placed on the highway on 9th April 2014 (*Annex D*). The application was also placed on the Council's website.

5.9 An objection has been received from **Bath & North East Somerset Council, Highways Department**. The grounds for objection allege granting the application would lead to obstruction of the highway.

(Copy attached at Annex E).

6 RATIONALE

6.1 As objections have been received the Licensing Sub Committee must determine the application in accordance with Part VIIA, Highways Act 1980.

7 OTHER OPTIONS CONSIDERED

7.1 None

8 CONSULTATION

- 8.1 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 frontages. The Highways Agency was also consulted for applications involving trunk roads outside of the city centre.
- 8.2 This report has not been sent to the Trades Union because they would have no involvement in this application.

9 RISK MANAGEMENT

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

10 ADVICE SOUGHT

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

Contact person	Kirsty Morgan, Public Protection Officer (Licensing) 01225 396719
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**

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

PERMISSION TO PLACE AMENITIES ON THE HIGHWAY

COEUR DE LION 17 NORTHUMBERLAND PLACE BATH BA1 5AR

I/We Alan Morgan

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

To make the payment please call us on 01225 477556 and quote reference 14/00541/TABLE (NB there will be an additional charge of 2.5% for credit card payments).

- I/We are using tables and have paid the fee as follows:
- Application fee of £251
 - 3 tables @ £67 each
 - £34 if any other items are used
- 452 (please specify e.g. planters, boundary markers etc.)

TOTAL FEE £452

- I/We are not using tables and have paid the fee as follows:
- Application fee of £251
 - 0 other items @ £34 each
- (please specify e.g. chairs, parasols etc.)

TOTAL FEE £452

ENVIRONMENTAL SERVICES	
24 MAR 2014	
Post Log No:	
Receipt No:	BACS
CHEQA E.	452-00

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

Signed by the applicant(s)

A Morgan

Dated 20/03/14

Please email the completed application to licensing@bathnes.gov.uk

14/00541/TABLE

APPLICATION

**Bath & North East
Somerset Council**

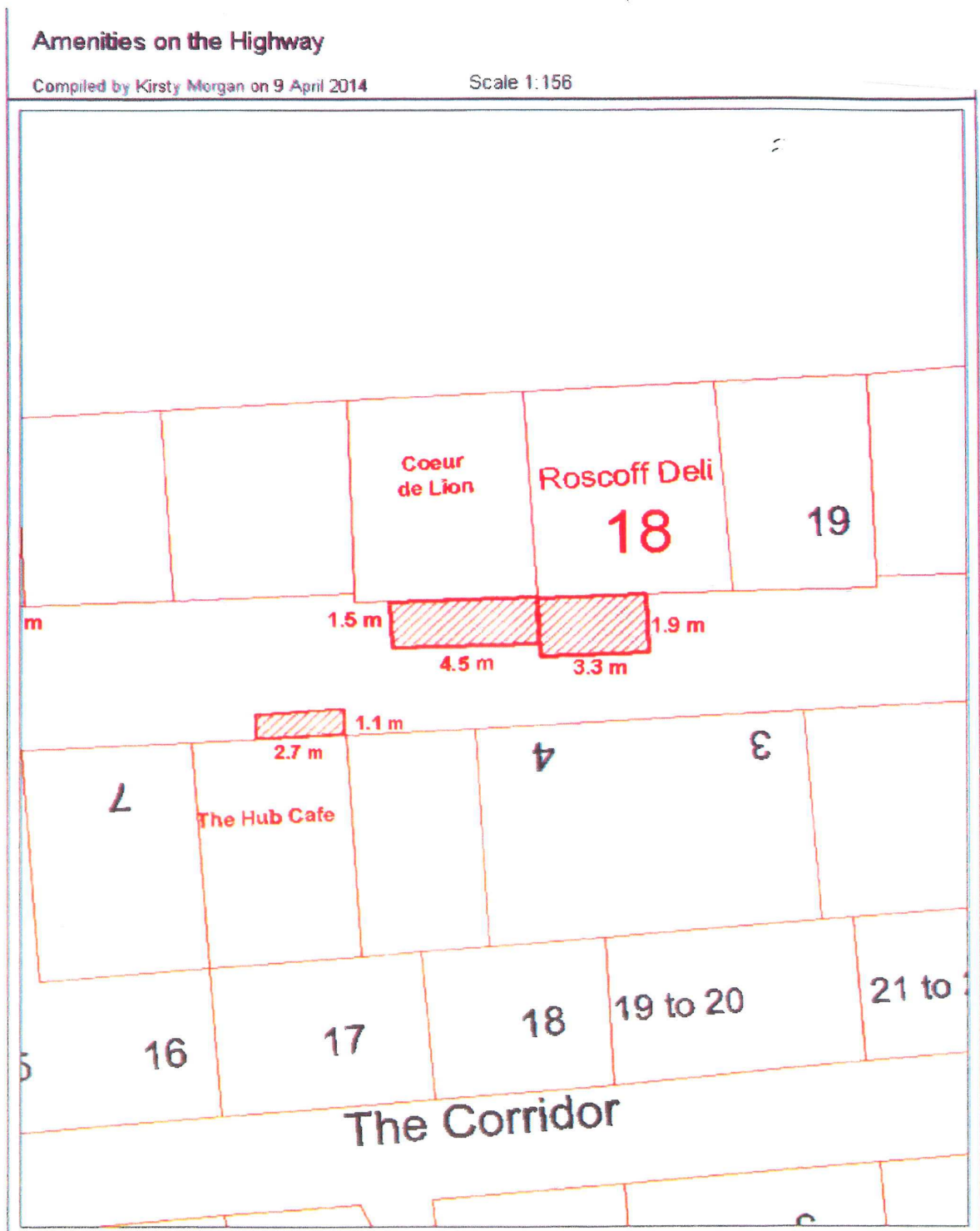
**Local Government (Miscellaneous Provisions) Act 1982
Part VIIA Highways Act 1980
Permission to Place Amenities on the Highway at Coeur De Lion
17 Northumberland Place Bath BA1 5AR**

1	Full name and address of each applicant	Mr Alan Morgan 17 Northumberland Place Bath BA1 5AR
2	Contact telephone number	spenceym7@gmail.com
3	Period of time for which the permit is required (maximum one year)	From: 1 April 2014 To: 31 March 2015
4	Number of tables	3
5	Number other items (e.g. planters, boundary markers)	0
6	If no tables used, number of chairs, parasols etc.	0
7	Size/Dimensions of area	1.5m x 4.5 m
8	The Council must notify any "affected frontagers" of this application. Please provide details of the adjoining premises.	The Makery Emporium 16 Northumberland Place Bath BA1 5AR Roscoff Delicatessen 18 Northumberland Place Bath BA1 5AR
9	Days of the week and hours of operation on those days	Every Day 10:00 - 23:30
10	Specific part of the premises proposed to be used	Front of premises
11	Alcohol permitted	Yes

14/00541/TABLE

SITE PLAN

Coeur De Lion, 17 Northumberland Place



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright License number 100023334
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SITE PLAN

Proposed tables and chairs 1.5 m x 4.5 m, as shown below (closest to the camera)



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 Service Manager 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 Service Manager, or the Head of Engineering Services for the time being of the Bath & North East Somerset Council. Examples include the temporary removal of amenities during road closures, parades etc.
- 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 Service Manager, 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).

HIGHWAYS NOTICE

Application Ref. 14/00541/TABLE

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

COEUR DE LION 17 NORTHUMBERLAND PLACE BATH BA1 5AR

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 and/or other items in or on that part of the highway specified above until:

31 March 2015

and at the following times:

Every Day 10:00 - 23:30 hours

Further information about the above application, including hours of operation, area of footpath or footway and other information, 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 by 2 May 2014.

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

Dated 7 April 2014



Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath BA1 1JG

Email: licensing@bathnes.gov.uk

OBJECTIONS

Objection from Bath & North East Somerset Council's Highway Department

From: Amanda Hall

Sent: 17 April 2014 11:39

To: Licensing

Subject: RE: LIC14-051 FW: Tables and Chairs - Coeur De Lion

Wendy

I have taken a look at this licence request, and discussed with the Highway Inspector. The issue is much the same as the next door premises, Roscof, in that it proposes extending the area for tables and chairs from 1.1m to 1.5m, in an area where there are tables outside the Italian Handbag shop opposite (Nos.3-4), A-boards and planters outside the Coeur De Lion and No.5, such that there would not be a clear 2m route for pedestrian movement across the frontage of the Coeur De Lion. The area is considered to be too cluttered, and therefore there is a **highway objection**.

Regards

Amanda

Amanda Hall

Senior Highway Development Control Engineer

Bath & North East Somerset Council

Telephone:01225 394326

Fax:01225 394335

Email:Amanda_hall@bathnes.gov.uk

www.bathnes.gov.uk

www.twitter.com/bathnes

Making Bath and North East Somerset an even better place to live, work and visit.

Licensing Sub Committee Hackney Carriage (taxi) and Private Hire Driver Application Procedure

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Applicant, representative and/or witness is asked to leave the room while the Committee consider the Disclosure and Barring Service report, references and statement.
4. The Applicant, representative and/or witness returns and presents the case to the Committee.
5. The Applicant may be questioned about the matter by the Committee.
6. The Applicant may call witnesses in support of their application and each witness may be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
10. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
11. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

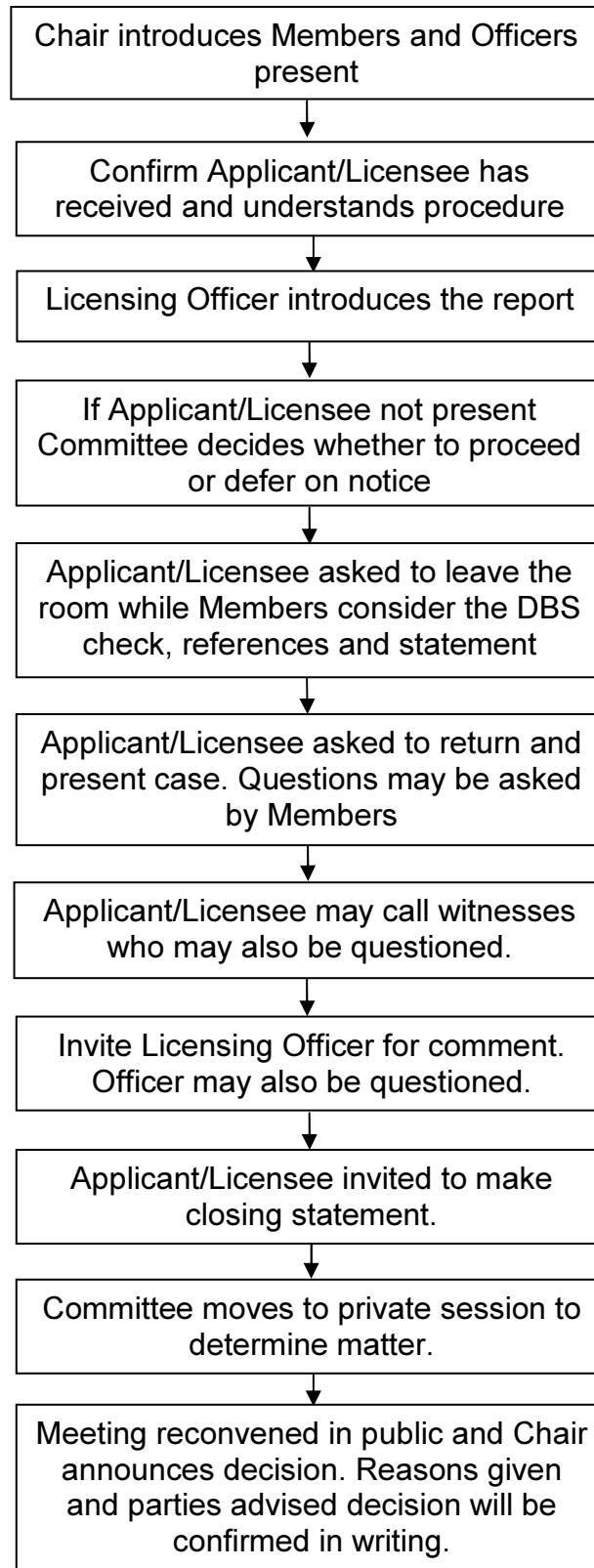
PLEASE NOTE:

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits 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.
 2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
 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 request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
 - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**LICENSING SUB-COMMITTEE
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE VEHICLES DRIVERS' LICENCE PROCEDURE**



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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 12

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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-0872-14

Meeting / Decision: Licensing Sub-Committee

Date: 3 June 2014

Author: John Dowding

Exempt Report Title: Application For Hackney Carriage/Private Hire Driver's Licence

Exempt Appendix Title:

Annex A – Application Form

Annex B – Policy on Convictions, Cautions and Fixed Penalty Notices

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed. Further, as any information revealed by the Criminal Records Bureau check is likely to constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand, and that the report be discussed in exempt session.

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 13

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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-0736-14

Meeting / Decision: Licensing Sub-Committee

Date: 6 May 2014

Author: John Dowding

Exempt Report Title: Consideration of Conviction Obtained

Exempt Appendix Title:

Annex A – Current Combined Hackney Carriage/Private Hire Drives Licence.

Annex B - Licensing Sub-Committee Resolution 3rd September 2013.

Annex C – Policy on Conviction, Cautions and Fixed Penalty Notices

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

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Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand, and that the report be discussed in exempt session.

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.