

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 3rd June, 2014, 10.00 am

Councillors: Roger Symonds (Chair), Anthony Clarke and Gerry Curran

Officers in attendance: Kirsty Morgan (Public Protection Officer) and Carrie-Ann Rawlings (Senior Legal Adviser)

23 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

24 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Manda Rigby. Councillor Gerry Curran substituted for her.

25 DECLARATIONS OF INTEREST

There were none.

26 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

27 LICENSING PROCEDURE

Members noted the procedure to be followed for the next item of business.

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

Applicant: Rosario Shaw

Objector: Highways Department, Bath and North East Somerset Council, represented by Alan Sperring (Highways Inspector)

The parties confirmed that they understood the procedure that would be followed for the meeting. The Public Protection Officer summarised the report.

The Applicant stated his case. He said that the objection from the Highways Department stated that a minimum clearance of 2 metres was generally required. Mr Shaw said that as he measured it, the distance between the tables and chair and area and the wall of the opposite premises was 2.2 metres. He submitted that obstruction in Northumberland Place came was caused by the trestle tables displaying merchandise for the Bag Shop and not by his tables and chairs. In response to questions from Members he stated:

- he had applied for an increase in the area for tables and chairs in order to provide more comfort and convenience for his customers; he employed 7 staff, had lost trade to restaurants and needed more customers to make the business sustainable
- his tables and chairs and the trestle tables from the bag shop had been in Northumberland Place for 5 years without causing problems; it was not a main thoroughfare

The Highways Inspector stated the case for the objector. He said that crowding occurred in Northumberland Place when people lingered to inspect the goods on the trestle tables outside the Bag Shop. In reply to questions from Members he stated

- he did not know whether the Bag Shop paid a fee for having the trestle tables outside;
- the extension of Roscoff's tables and chairs area had the potential for causing a bottleneck, as the clearance would become narrower
- the figure of 2 metres for generally required clearance had no legal basis, but was local guidance
- there was not a serious congestion problem in Northumberland Place, though sometimes people had to wait before they were able to move on

The Sub-Committee **RESOLVED** to adjourn for a site visit.

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

Reasons

Members have had to determine an application to place 3 tables along with appropriate seating on the highway to the front of the premises at 18 Northumberland Place, Bath. In doing so they took account of the Highways Act 1980 and the Human Rights Act 1998 and balanced the representations from the objector against the application and its background.

Members noted that the application is for renewal of the tables and appropriate seating to the front of 18 Northumberland Place, Bath with times permitted remaining the same, i.e. Monday to Saturday from 07:00 to 19.00 hours and Sunday from 09:00 to 19.00 hours. The change since the last permit was issued is an increase in size of the area for placing the tables and seating from 3.3m by 1.06m to 3.3m by 1.90m. 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.

Members had regard to the oral representations of the Applicant Mr Rosario Shaw. Mr Shaw addressed the objection from the Highways Department saying that having conducted his own measurement he believed there was a gap of 2.2m from the location of his proposed tables and chairs to the wall of the opposite premises but in any event his view was that there was sufficient room for people to pass through

Northumberland Place. Mr Shaw explained that the purpose of the increased area was to make it more comfortable and operational for customers and without such a provision his business would struggle to survive.

Members had regard to the written objection from Highways Department and the oral representations of Alan Sperring also from the Highways Department. He described issues if people are browsing the trestle table at the opposite premises and that that could cause a bottleneck. Mr Sperring explained that the 2m gap expected for people to pass is more of a local practice rather than being prescribed in the Highways Act. He also explained that he had been to the site on occasions when you do have to wait to get through due to obstruction.

Members decided to grant the licence as proposed on the basis that they did not find that the application was likely to obstruct the free passage of pedestrians, cause a public nuisance in highways terms or be a hazard in its real sense. They noted that there was a local practice of trying to allow a 2m width for passage of pedestrians but exercised their discretion in this instance.

Authority is delegated to the Public Protection Officer to issue the permit with the attachment of the standard terms and conditions.

The meeting ended at 10.55 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services