

## Bath & North East Somerset Council

MEETING: **Licensing (Taxis, Street Trading and Miscellaneous) Sub Committee**

DATE: **3 April 2012**

AGENDA  
ITEM  
NUMBER

TITLE: **Application for permission to provide facilities on the highway for recreation/refreshment at Moles Bath Ltd, 14 George Street, Bath.**

WARD: **Abbey**

### AN OPEN PUBLIC ITEM

#### 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 Objections

## 1 THE ISSUE

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

## 2 RECOMMENDATION

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

## 3 FINANCIAL IMPLICATIONS

3.1 There are no financial implications arising from this report.

## 4 THE REPORT

4.1 An application has been received for permission to provide facilities on the highway in respect of Moles Bath Ltd, 14 George Street, Bath, (Annex A).

4.2 The application is for permission to place 5 tables on the highway outside the premises, along with appropriate seating (site plan attached at Annex B).

4.3 The size of the area applied for is 11.4m x 0.75m.

4.4 The times applied for are:

Every Day from 11:00 to 22:00 hours

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

## **5 RISK MANAGEMENT**

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

## **6 EQUALITIES**

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

## **7 CONSULTATION**

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

## **8 ISSUES TO CONSIDER IN REACHING THE DECISION**

- 8.1 Human rights

## 9 ADVICE SOUGHT

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

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

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

**Bath & North East  
Somerset Council**

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

**PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY**

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

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

**NEW applicants only to complete the following section**

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

**Applicants REAPPLYING only to complete the following section**

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

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

**ALL applicants to complete the following section**

- I/We enclose the fee as follows:

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

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

Signed by the applicant(s)

J W R. YERBURY

Dated

3/2/12

Dated

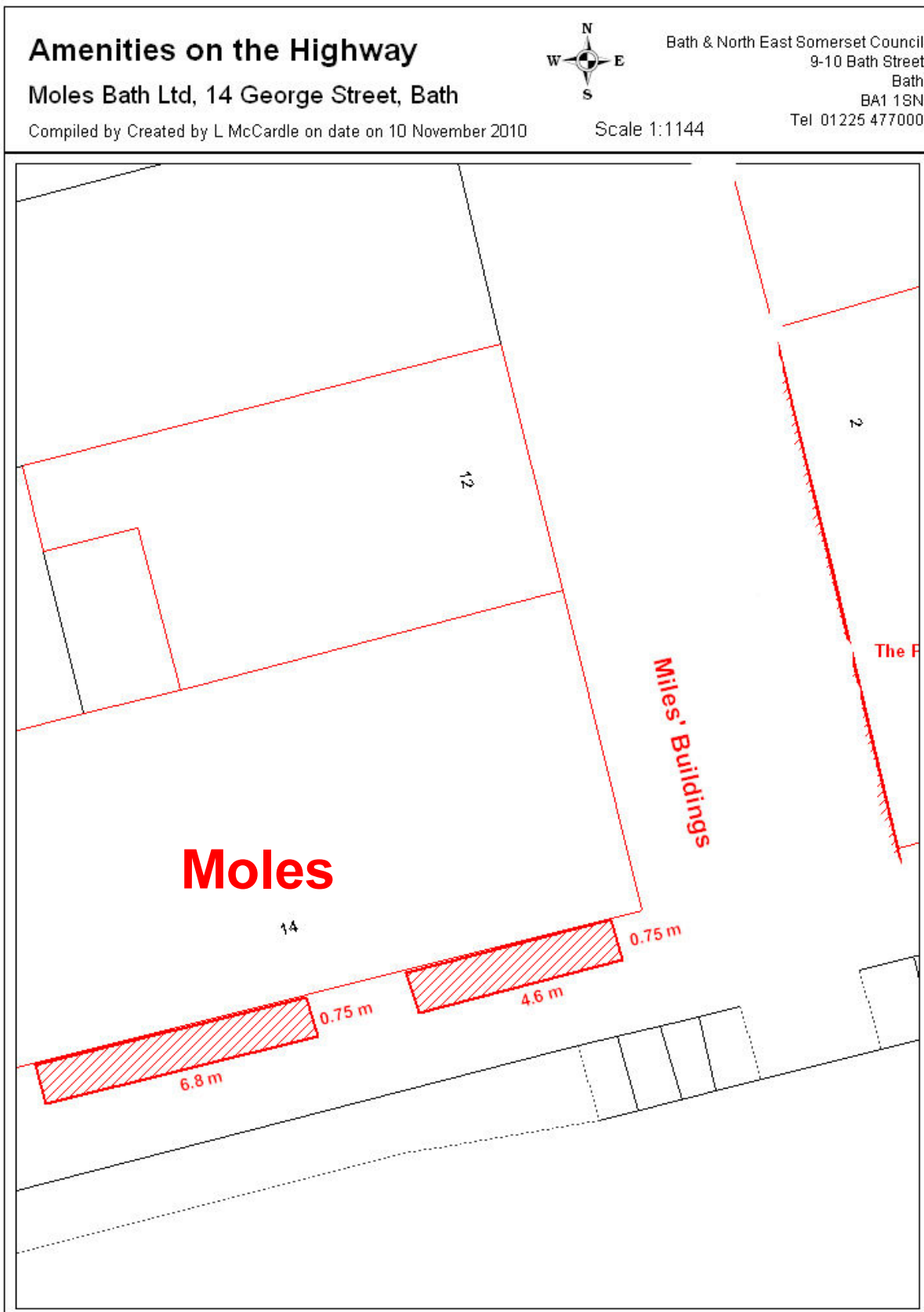
Please return the completed application to:

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

**Bath & North East  
Somerset Council**

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

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



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

**CONDITIONS**

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

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

Notes:

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



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

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

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

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

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

**PART VIIA HIGHWAYS ACT 1980**

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**MOLES BATH LTD 14 GEORGE STREET BATH BA1 2EN**

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

**31 March 2013**

and at the following times:

**Every Day 11:00 - 22:00 hours**

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

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

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

Dated 6 February 2012



Andrew Jones  
Environmental Monitoring and Licensing Manager

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

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

Sir,

12/00369/table

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

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

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

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

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

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

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

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

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

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

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

Thank you for considering our opinions.

Sheila Lamble

BA1

Bath UK

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

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

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

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

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

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

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

Regards,

Patricia and Robin Davies  
18 Gay Street  
Bath.

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

**Sent:** 15 February 2012 16:21

**To:** Development Control

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

Dear Sir

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

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

I hope these factors will be taken into consideration

Yours faithfully

Lawrence D JONES 20 Gay Street Bath BA1 2PD