

Democratic Services

Riverside, Temple Street, Keynsham, Bristol BS31 1LA

Telephone: (01225) 477000 *main switchboard*

Direct Lines - Tel: democratic_services@bathnes.gov.uk

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

Date: 1 January 2014

E-mail: Democratic_Services@bathnes.gov.uk

To: All Members of the Licensing Sub-Committee

Councillors:- Manda Rigby, Gabriel Batt and Roger Symonds

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Sub-Committee: Tuesday, 7th January, 2014

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 7th January, 2014 at 10.00 am** in the **Kaposvar Room - Guildhall, Bath.**

Briefing

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

The agenda is set out overleaf.

Yours sincerely

Enfys Hughes, 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.

Licensing Sub-Committee - Tuesday, 7th January, 2014

at 10.00 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 - 3RD DECEMBER 2013 (Pages 7 - 12)

6. 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”.

7. LICENSING PROCEDURE - COMPLAINT HEARING (Pages 13 - 16)
8. CONSIDERATION OF CAUTION OBTAINED:- MR R M (Pages 17 - 26)
9. RETURN TO OPEN SESSION
10. LICENSING PROCEDURE - MISCELLANEOUS LICENSES, PERMITS, CONSENTS (Pages 27 - 30)

The Chair will, if required, explain the licensing procedure.
11. APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT THE NEST, 7 BLADUD BUILDINGS BATH BA1 5LS. (Pages 31 - 46)

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

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.

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 3rd December, 2013, 10.00 am

Councillors: Manda Rigby (Chair), Anthony Clarke and Ian Gilchrist

56 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

57 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Gabriel Batt sent his apologies, Councillor Anthony Clarke was his substitute. Councillor Roger Symonds sent his apologies, Councillor Ian Gilchrist was his substitute.

58 DECLARATIONS OF INTEREST

Councillor Ian Gilchrist declared an interest in item 12, Minute Number 67 - Mr PLT as a member of a local speedwatch patrol but it was not a pecuniary interest and he remained in the meeting.

59 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

60 MINUTES - 1ST OCTOBER AND 15TH OCTOBER 2013

RESOLVED that the minutes of the 1st October 2013 and 15th October 2013 be confirmed as a correct record and be signed by the Chair(person).

61 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(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended."

62 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVER APPLICATION

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

63 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR L G E-N

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

Mr LGEN was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken which had revealed previous convictions. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr LGEN. The applicant and Licensing Officer withdrew from the meeting while Members took some time to consider these documents.

Mr LGEN put his case and was questioned. Then he made a closing statement.

Following an adjournment it was

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

Reasons for decision

Members have had to determine an application for a combined licence to drive hackney carriages and private hire vehicles. 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 had to consider whether the applicant was a fit and proper person and asked themselves whether they would allow their son, daughter, spouse, partner of any one they cared about to travel alone in a vehicle driven by the applicant.

In making a determination Members took account of the applicant's oral representations, written reference, statement and balanced these against the information provided by the Disclosure and Barring Service which showed the applicant had a number of previous convictions. Members found the applicant presented himself honestly and had accepted he had made mistakes in his youth but that he had put his behaviour behind him. Members considered that as the offences were historic and fell outside of the Council's policy the applicant was a fit and proper person to hold a combined PHV/Hackney carriage licence.

64 CONSIDERATION OF CAUTION OBTAINED:- MR P D

The Sub-Committee deliberated on the report which sought consideration of a caution obtained by Mr PD during the term of his hackney carriage/private hire driver's licence. The caution had not been disclosed to the Licensing section as required by the standard conditions.

Mr PD was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that on renewal of the licence, part of the process was a Disclosure and Barring Service check which had revealed a caution. He circulated the Disclosure and Barring Service check and personal

statement. Mr PD and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr PD put his case and was questioned. The Licensing Officer noted that there had been no complaints from members of the public in respect of Mr PD. Then Mr PD made a closing statement.

Following an adjournment it was

RESOLVED that 4 penalty points be issued on the hackney carriage/private hire driver's licence of Mr PD.

Reasons for decision

Members have had to determine whether to take any action against the licensee having obtained a caution during the duration of his licence, which he had failed to declare in accordance with the standard conditions attached to his combined hackney carriage and private hire driver's 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. In the circumstances Members resolved to endorse his licence with 4 penalty points, warned as to his future conduct and reminded him of his obligation to declare any such matters in accordance with the terms of his licence.

65 CONSIDERATION OF CAUTION OBTAINED:- MR R K

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

Mr RK was present with his friend Mr BH, Chair of Bath Taxis Association. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that Mr RK had informed the Licensing section that he had been cautioned. The Licensing Officer circulated a letter and the caution and informed Members that he had not received any complaints from members of the public in respect of Mr RK. The Licensee, his friend and the Licensing Officer withdrew from the meeting while Members took some time to consider these documents.

Mr RK put his case and was questioned, Mr BH also spoke, then Mr RK made a closing statement.

Following an adjournment it was

RESOLVED that Mr RK be issued with a warning as to his future conduct as a hackney carriage/private hire driver.

Reasons for decision

Members have had to determine whether to take any action against the licensee having obtained a caution during the duration of his 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 buckled under a stressful situation which led him to make serious errors of judgement. Whilst taking a very dim view of the offences Members found it admirable that he was the one who alerted the police to his offending and therefore gave him full credit for making a full and frank confession and reparation. In the circumstances Members therefore resolved to warn him as to his future conduct.

66 CONSIDERATION OF CAUTION OBTAINED:- MR R M

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

Mr RM was not present. The Licensing Officer stated that the licensee was not driving at the moment and had informed the Licensing section that he was on a funded course learning to drive larger vehicles which took place on Tuesdays.

Following an adjournment it was

RESOLVED that the case in respect of Mr RM be deferred until a meeting in January.

67 CONSIDERATION OF CONVICTION OBTAINED:- MR P L T

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

Mr PLT was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that Mr PLT had informed the Licensing section he had a conviction. He circulated a copy of the letters and the Licensee and Licensing Officer withdrew from the meeting while Members took some time to consider these documents. A Member noted that in his letter Mr PLT referred to another issue of speeding. The Legal Adviser stated that this should not be considered as it was a minor traffic offence and would not normally be put before the Sub-Committee on renewal.

Councillor Ian Gilchrist declared an interest as he was a Member of another local speedwatch patrol but stated that it was not pecuniary and he would remain in the meeting.

Mr PLT put his case setting out the circumstance of both offences. He stated with regard to the speeding matter he was off duty at the time and was fined £145 and given 3 points on his licence. He stated these were the first points he had received in 30 years. Mr PLT stated with regard to the theft he had found a wallet on the floor of a petrol station and had put it in his car. When subsequently waiting at traffic lights he noticed it contained £270 cash, credit cards and personal details. Rather than returning to the garage and handing it in, however, he chose to discard it

together with its content in a nearby lane. When asked why he had not handed it in, Mr PLT replied he did not know, stating only that he had cooperated with police in the area having been identified as its finder from the garage CCTV system. Mr PLT produced a leaflet relating to the Passenger Service Vehicle (PSV) Licensing process which he wanted Members to take account of. The Legal Adviser stated PSV Licensing was a separate process and that that process was irrelevant to the matter before them. Members were therefore directed to the law, guidance and policy on Taxi Licensing contained in their papers. Mr PLT made reference to a letter received from the Licensing Officer which he did not produce and drew Members attention to an additional previously undisclosed offence. The Legal Adviser stated that Members must consider whether Mr PLT continued to be a fit and proper person on the information contained in the papers and the Licensee's representations on those papers namely the conviction for theft by finding and speeding. Nevertheless Mr PLT went on to discuss this further conviction. The Legal Adviser advised Mr PLT that the Members had not hitherto been made aware of this conviction and stated that Members should disregard this as it had been dealt with previously and was not for consideration at this meeting. Mr PLT then made a closing statement.

Following an adjournment it was

RESOLVED that the hackney carriage/private hire driver's licence in respect of Mr PLT be suspended for a period of one month.

Reasons for decision

Members have had to determine what action to take against the licensee who had obtained a conviction for theft by finding whilst the holder of a combined hackney carriage and private hire driver's licence. During the hearing the licensee voluntarily disclosed an historic offence of possessing a firearm Members were careful to disregard this as the matter had been dealt with on a previous occasion.

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. Members noted that case law stated hearsay evidence is admissible, the merits of a conviction must not be reviewed or re-opened, the economic wellbeing of the applicant is irrelevant and when considering any action the protection of the public is of the utmost importance.

With regard to the theft Members heard that the licensee had found a gentleman's wallet on the ground at a filling station, he had taken it and discarded it out of his vehicle's window. Notwithstanding he had established it contained credit cards and £270. Members took a dim view of him not returning to the filling station to hand it in or handing it to the police. Members considered that taxi drivers carry many people in the course of their business, as was stated by the licensee in his representation, and noted the widespread practice of delivering unaccompanied property in taxis is indicative of the trust placed in licensed drivers. Members were unconvinced by the licensee's account and in the circumstances considered that his conduct called into question whether anyone getting into a taxi driven by him and losing property would ever see that property again. In reaching a determination Members considered a warning as to future conduct would be inappropriate in these circumstances but that revocation would be disproportionate. Accordingly, Members considered a period of suspension of the licence would be appropriate and that suspension for a period of 1

month would be proportionate and give the licensee an opportunity to reflect on his conduct.

Accordingly the licence was suspended for 1 month.

The meeting ended at 12.17 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Licensing Sub Committee Hackney Carriage and Private Hire Drivers Complaint Hearing 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 Complainant presents their case, may call witnesses and may be questioned by the Committee and other parties. Where a written complaint has been made the complaint will be read by the Committee. The procedure will be repeated should there be more than one complainant.
4. The Licensee presents their case, may call witnesses and may be questioned by the Committee and other parties.
5. The Chair will ask the Licensing Officers present whether they wish to comment. An Officer making comment may be asked questions.
6. The Complainant is invited to make a closing statement
7. The Licensee is invited to make a closing statement.
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 Services 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.

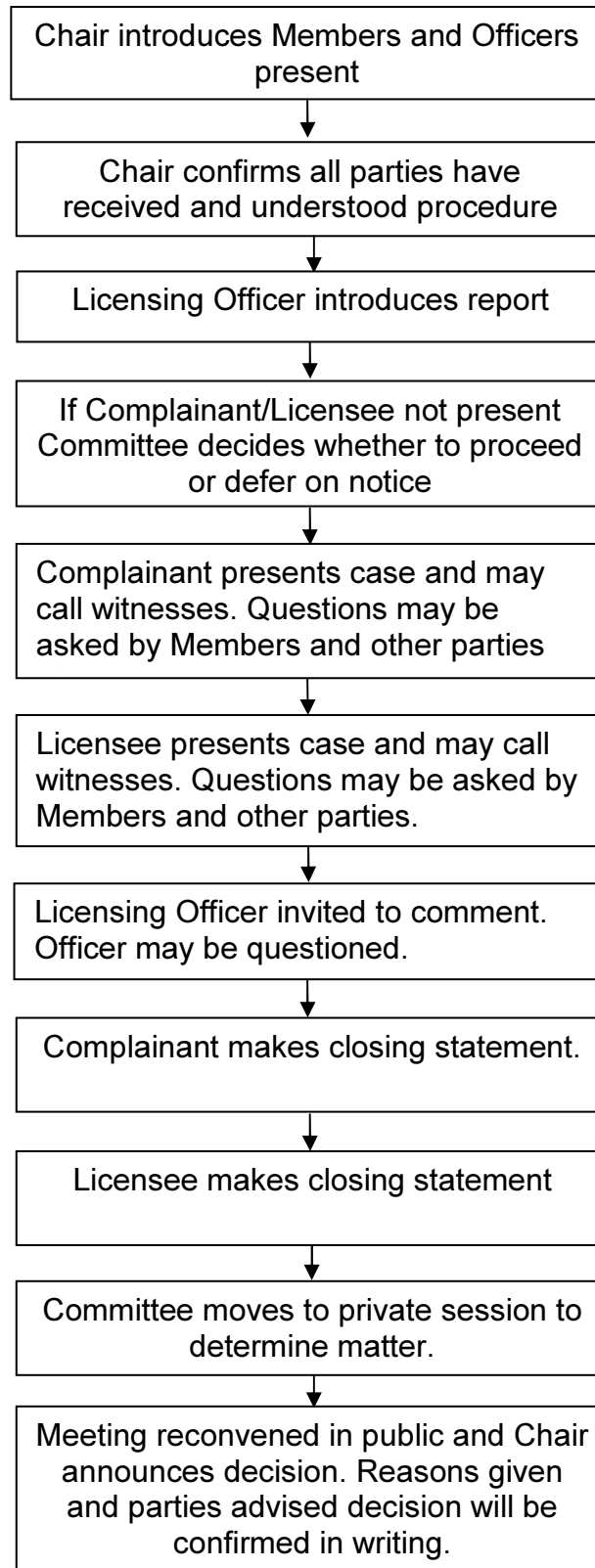
PLEASE NOTE:

- 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
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE VEHICLES COMPLAINT PROCEDURE**



This page is intentionally left blank

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1517-13

Meeting / Decision: Licensing Sub-Committee

Date: 7 January 2014

Author: John Dowding

Exempt Report Title: Consideration of caution obtained

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 regarding the caution 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.

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

**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:

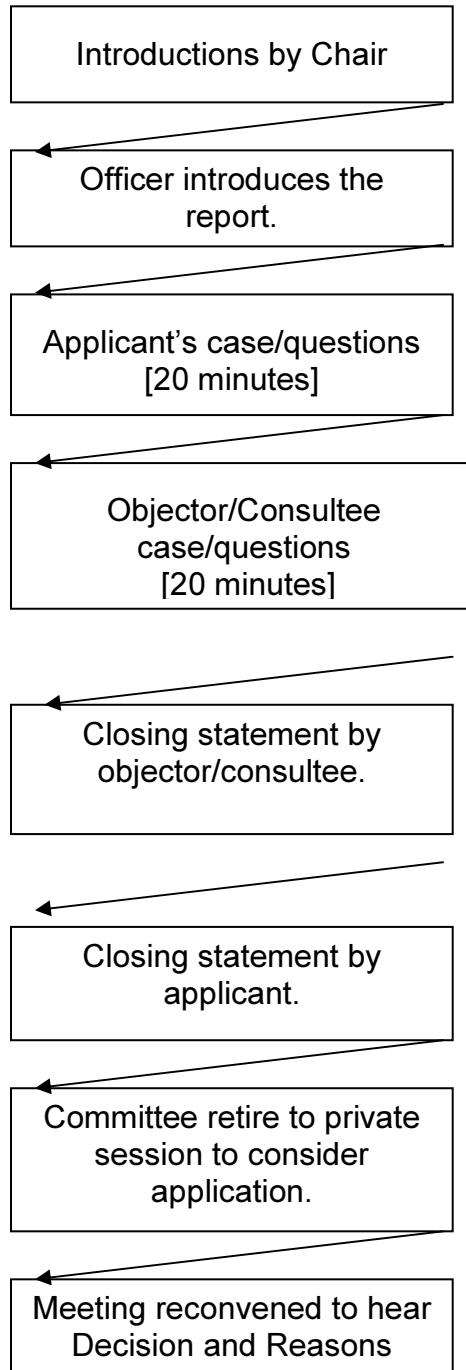
- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in 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



This page is intentionally left blank

Bath & North East Somerset Council	
MEETING: Licensing Sub Committee	
DATE: Tuesday 7th January 2014	AGENDA ITEM NUMBER
TITLE: Application for permission to provide facilities on the highway for recreation/refreshment at The Nest 7 Bladud Buildings Bath BA1 5LS	
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	
Annex F Supporting statement from applicant	

1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of The Nest 7 Bladud Buildings Bath BA1 5LS.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLICATIONS

- 3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £246.

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 The Nest 7 Bladud Buildings Bath BA1 5LS (Annex A).
- 5.2 The application is for permission to place 2 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 3m 67cm x 1m 50cm.
The times applied for are:

Every Day from 11:00 to 22:00 hours
- 5.5 A notice was placed on the highway on 22 October 2013 (Annex D). The application was also placed on the Council's website.
- 5.6 Objections have been received from the Vineyards Residents' Association and a local resident. The grounds for objection allege that public nuisance, in particular noise issues will occur.

(Copies attached at Annex E).
- 5.7 A supporting statement has been received from the applicant; this can be found in Annex F.

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 SORT

- 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, Licensing Officer Telephone: 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

BAROQUE NIGHTCLUB 7 BLADUD BUILDINGS BATH BA1 5LS

I/We RODERICK JOHNSON

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>£246.00</u>
▪ Number of tables	<u>2</u> @ £66 per table	<u>£132.00</u>
▪ Number of other items (e.g. planters, boundary markers)	_____ @ £33 per item	_____
OR IF NO TABLES USED		
▪ Number of chairs, parasols, etc.)	_____ @ £33 per item	_____

Total enclosed

£378.00

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

Signed by the applicant(s)

Dated 22/10/13

Dated ENVIRONMENTAL SERVICES

Please return the completed application to:

Licensing Services, Lewis House, Manvers Street, Bath BA1 1JG

22 OCT 2013
Post Log No:
Receipt No: <u>40910</u>
CH/CA e... <u>378.00</u> 13/02059/TABLE

APPLICATION

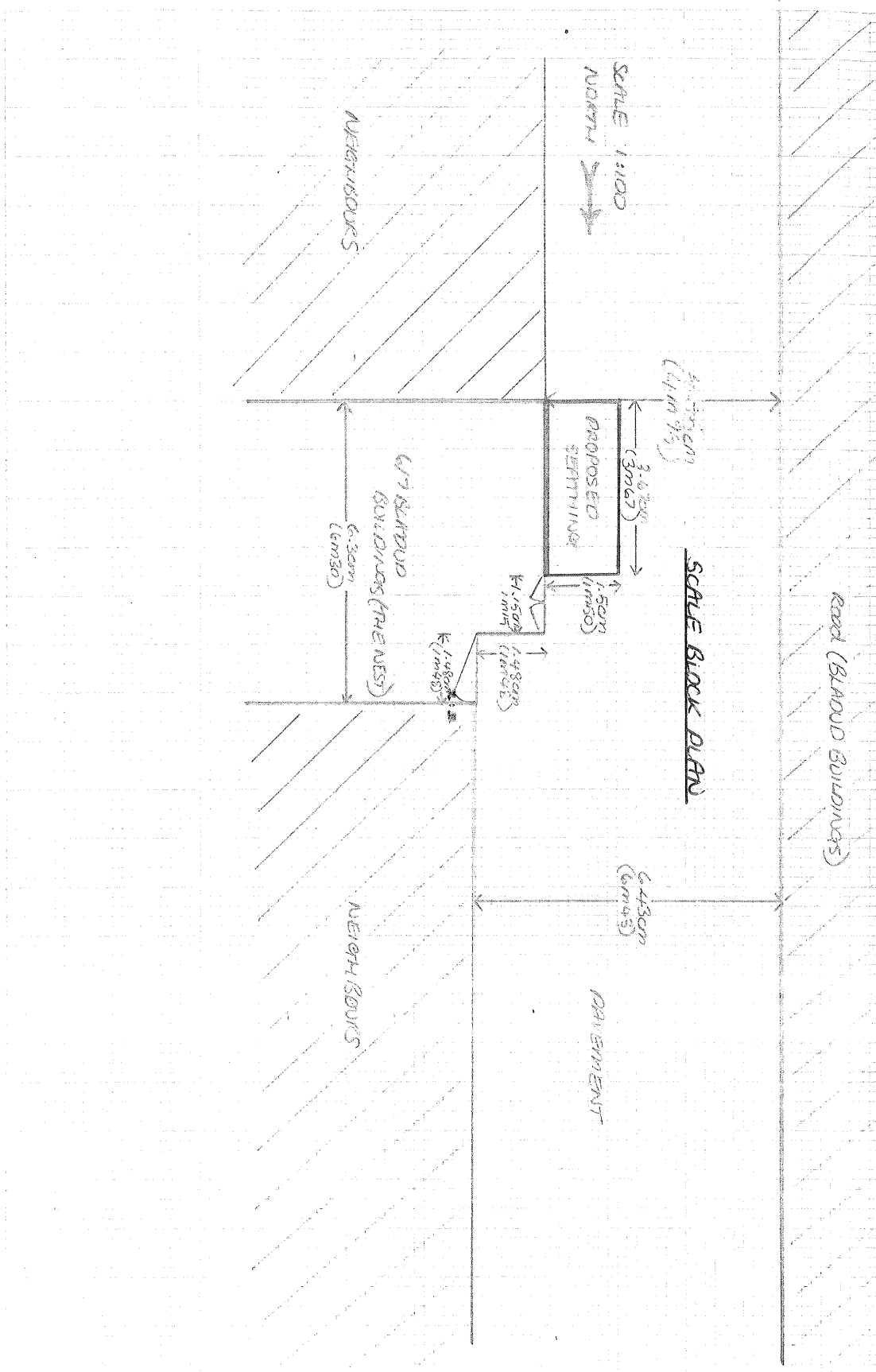
**Bath & North East
Somerset Council**

Local Government (Miscellaneous Provisions) Act 1982
Part VIIA Highways Act 1980
Permission to Place Amenities on the Highway at Baroque Nightclub
7 Bladud Buildings Bath BA1 5LS

1	Full name and address of each applicant	RODERICK JOHNSON 18 KELSTON BATH BA1 9AG
2	Contact telephone number	0788 4077334
3	The date or dates, or the period of time for which the permit is required (maximum one year)	From: 1/11/13 To: 31/03/14
4	Number of tables Number of barriers/planters	2
5	Size/Dimensions of area	3m 67c x 1m50cm
6	The Council must notify any "affected frontages" of this application. Please provide details of the adjoining premises.	6 Bladud Blds - 8 Bladud Blds - Vacant shop
7	Days of the week and hours of operation on those days	7 Days a week ### From 11am to 10pm
8	Specific part of the premises proposed to be used	FRONT
9	Alcohol permitted	YES
10	If yes, please state your premises licence number	13/00801/LAPRE

13/02059/TABLE

APPLICATION



APPLICATION



2 x Tables — 600mm Diameter
8 x Chairs

APPLICATION



SITE PLAN

The Nest, 7 Bladud Buildings, Bath

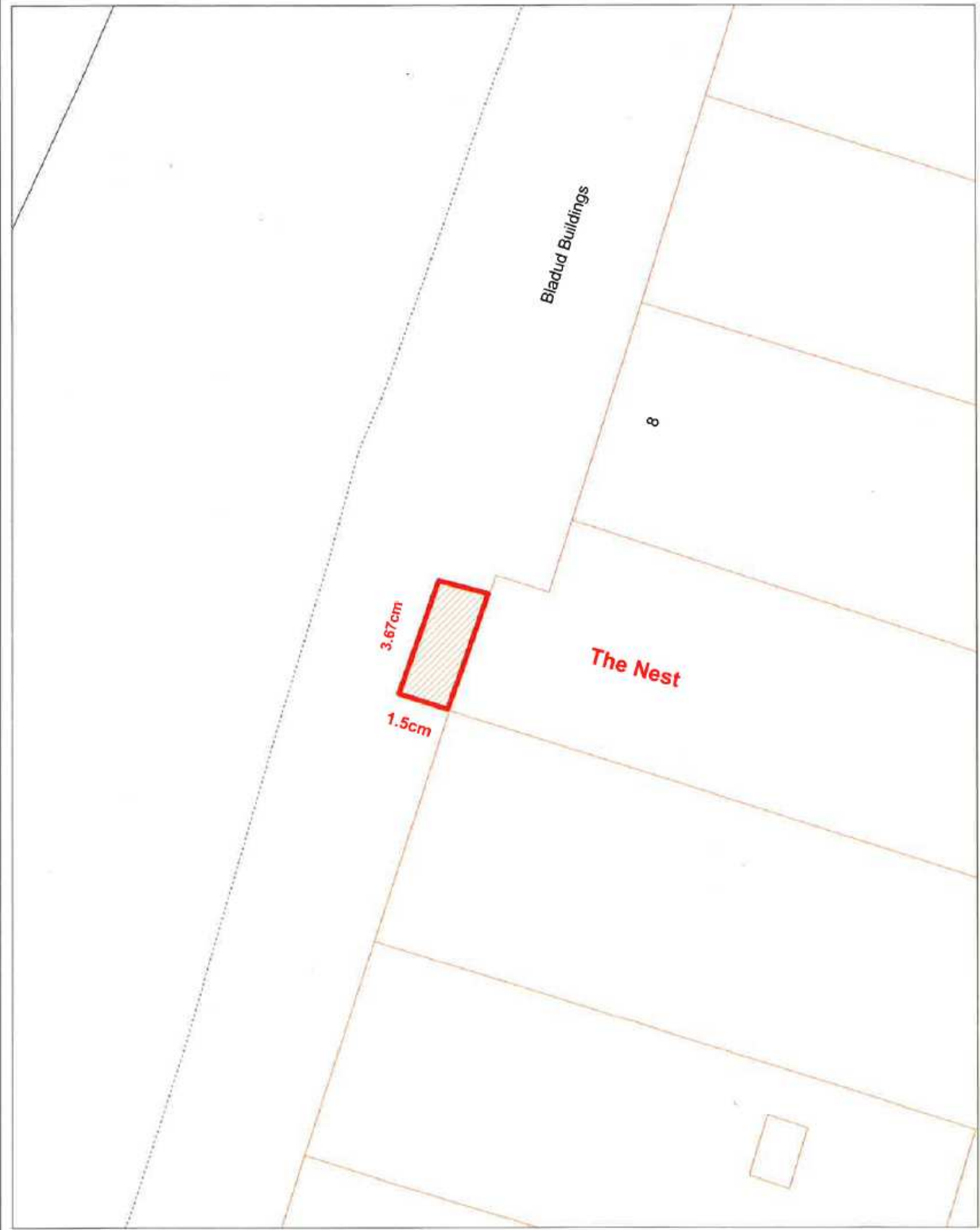
Amenities on the Highway



Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA1 1JG

Compiled by Kirsty Morgan on 9 December 2013

Scale 1:2500



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. License number 100023334
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

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

CONDITIONS

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

ANNEX C

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

Notes:

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

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

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

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

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

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

PART VIIA HIGHWAYS ACT 1980

THE NEST 7 BLADUD BUILDINGS BATH BA1 5LS

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 2014

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 22 October 2013



Andrew Jones
Environmental Monitoring and Licensing Manager

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

OBJECTIONS

From: Patrick Rotheram [<mailto:vineyards@btinternet.com>]
Sent: 19 November 2013 14:27
To: Licensing
Subject: Licensing Application Reference: 13/02059/TABLE

The Vineyards Residents' Association objects to this application on the grounds of the detriment to residential amenity.

This club is surrounded by residential houses. Residents at the south end of Vineyards already suffer noise and disturbance from people using the club. People mill around noisily outside late at night. Having a table outside would encourage more people to remain outside in daytime and evenings and create additional disturbance to residents.

Yours sincerely
Patrick Rotheram
Chairman, Vineyards Residents' Association

OBJECTIONS

From: Paul Golden
Sent: 19 November 2013 14:34
To: Licensing
Subject: Application reference: 13/02059/TABLE
Importance: High

Dear Ms Stokes

I wish to object to the application by Mr Roderick Johnson t/a The Nest at 7 Bladud Buildings, Bath, BA1 5LS to locate two tables plus chairs at the front of the premises from 11am-10pm every day - application reference: 13/02059/TABLE

Since these premises opened there has been an increase in anti-social behaviour on The Paragon/The Vineyards, including urine/vomit on the street, glasses being left on walls, steps and railings (often broken) and higher noise levels, especially later at night. The Nest has already appropriated part of the pavement for its use by roping it off for customers to use as a smoking area. This has led to continuous, high levels of noise in the street between 10pm and 3am. During the summer, customers were allowed to drink outside in this area and the doors were left open, further raising noise levels.

The noise generated by customers of The Nest is exacerbated by people gathering outside at closing time waiting for taxis. No attempt is made to disperse these groups or to minimise the noise they make and this has already been the location of one serious assault as reported in the Bath Chronicle on 25 October - see <http://www.bathchronicle.co.uk/Man-suffers-broken-jaw-attack-outside-Nest/st>

In my opinion the staff and management of The Nest have made no effort to minimise the disturbance caused by its clientele and I am concerned that if customers are further encouraged to drink outside, life for residents will become miserable all day. The Paragon/The Vineyards is a residential area with a considerable number of young families living on either side of the road. Placing tables outside these premises at night will merely further increase already excessive levels of noise and general anti-social behaviour.

Should you wish to discuss any aspects of this objection in more detail, please don't hesitate to contact me.

Kind regards

Paul

Paul Golden
8 Vineyards
Bath
BA1 5NA
paulfgolden@gmail.com

SUPPORTING STATEMENT BY APPLICANT

Dear Sirs

Application Reference: 13/02059/TABLE

Regarding the objections to our application for two tables and eight chairs to be situated at the front of our premises from 11:00hrs to 22:00hrs by The Vineyards Association. We are a bar that is at the end of a row of shops including a restaurant, hairdressers and book shop with two estate agents opposite so we would see ourselves as part of the shopping, cafe and bar area at the end of George Street and therefore would hope to enjoy the same rights as Jika Jika, Adventure Cafe and Revolutions Bar all of which have tables and chairs at the front of their premises and all of which are no more than thirty yards from The Nest.

We are wanting to attract customers to our bar earlier in the day especially in the summer months as we get the sun on our building all afternoon and evening. In the immediate future we will be getting a coffee machine installed so people can enjoy hot drinks as well as cold ones. We will then look to open at 13:00hrs on Saturdays with a view to doing food in the future.

As you may already know the pavement at the front is very wide and will easily accommodate passing footfall and our tables and chairs.

At 22:00hrs the tables and chairs will be taken in by the staff, the area swept and all drinks prohibited from being taken outside thereafter.

If you are concerned about this still I would be happy to have the license granted till 20:00hrs with a view to extending it to 22:00hrs in the future if the various parties are happy with it.

I hope our application is to your satisfaction.

Kind Regards

Roderick Johnson