

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 17th August, 2017, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

Officers in attendance: Carrie-Ann Evans (Deputy Team Leader (Barrister)), John Dowding (Senior Public Protection Officer), Ian Nash (Public Protection Officer (Licensing)) and Andrew Tapper (Public Protection Officer)

12 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

13 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

14 DECLARATIONS OF INTEREST

There were none.

15 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

16 MINUTES OF 6TH JULY 2017

These were approved as a correct record and signed by the Chair.

17 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for agenda items 8 and 9.

18 EXCLUSION OF THE PUBLIC

The Committee 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, **RESOLVED** that the public should be excluded from the meeting for the following two items of business and the reporting of the meeting be prevented under Section 100A(5A), 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.

19 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR D A H

Mr D A H confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and circulated a DBS certificate in respect of Mr D A H, a printout of his DVLA record and a written

statement submitted by him. The meeting was adjourned to allow Members time to study these documents.

After the meeting was reconvened, Mr D A H made a statement and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr D A H was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, subject to the satisfactory completion of required tests. Authority was delegated to the Public Protection Officer accordingly.

Reasons

Members have had to determine an application for a Combined Hackney Carriage/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.

Members had to decide whether or not the applicant was a fit and proper person to hold a licence considering all relevant circumstances.

Members took account of the applicant's written statement, oral representations and balanced these against the information disclosed by Disclosure and Barring Service and DVLA checks.

The applicant indicated that his previous caution arose out of situation where he was protecting his family. In relation to the speeding convictions these were not obtained whilst he was acting as a BANES licensed driver and were unfortunate incidents where he was wrong about the speed limits that were in force and had thought he was driving within the limits. He also indicated that he was being put under pressure by his former employer to return from jobs quickly.

Members noted that Mr D A H's caution was from 2011 and was not therefore, caught by the policy; he had been caution free for the period anticipated in the Policy. In relation to the speeding convictions, Members noted that the Policy expects applicants will not have been convicted of three or more minor motoring offences during the previous three years however, Members also noted that they may depart from the Policy having had regard to the full facts of the case and having taken account of any mitigating or other circumstances put forward by the applicant.

In this case Members found that the speeding convictions were not obtained whilst Mr D A H was acting as a BANES licensed driver. Whilst Members take a dim view of motoring convictions, they were satisfied having heard from Mr D A H that he has learnt his lesson and would have to take extra care with his driving given that he has a number of DVLA penalty points hanging over him.

Accordingly, Members found Mr D A H is a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence.

Authority delegated to the Public Protection Officer to grant the licence subject to satisfactory completion of the required tests.

20 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR M A S

Mr M A S confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer pointed out that the title of the report was incorrect and should be "Consideration of Conviction obtained". He summarised the report and circulated a printout of Mr M A S's DVLA record which had been obtained that morning. The meeting was adjourned to allow Members time to study this document.

After the meeting was reconvened, Mr M A S made a statement and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr M A S continued to be a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence, but issued a warning as to his future conduct.

Reasons

Members have had to determine what action, if any, to take against the holder of a Combined Hackney Carriage/Private Hire Driver's Licence who it seemed had received three speeding convictions within a three year period. 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 decide whether or not the licensee was a fit and proper person to continue to hold a licence considering all relevant circumstances.

Members took account of the licensee's oral representations and balanced these against the information disclosed by the DVLA checks.

The licensee indicated that in relation to the speeding convictions he was only aware of having received two and had six DVLA penalty points on his licence. In relation to the complaint regarding his conduct he held his hands up for that and apologised for his wrongdoing.

Members noted that Mr M A S had received a written warning from BANES in February of this year for text messages that he had sent related to a contract he had been engaged in. In relation to the speeding convictions, Members found having considered an up to date DVLA print and oral representations from the licensee that on balance there only seem to be two motoring convictions on his DVLA licence and was not therefore, caught by the Policy. Members noted that Mr M A S had complied with the conditions of his licence by notifying the Council of a speeding conviction.

Accordingly, in all the circumstances Members found Mr M A S is a fit and proper person to continue to hold a Combined Hackney Carriage/Private Hire Driver's Licence but warned him to take care with his conduct whilst dealing with customers and in relation to speed limits.

21 RETURN TO PUBLIC SESSION

The Sub-Committee returned to public session.

22 LICENCE REVIEW PROCEDURE

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

23 APPLICATION FOR REVIEW OF A PREMISES LICENSE FOR RISING SUN, CHURCH STREET, PENSFORD, BRISTOL BS39 4AQ

Applicant for Review: Mr Kenneth Jones

Other Parties: Cllr Liz Richardson and Mr Stephen Thier

License Holder: Joanna Drury, accompanied by her husband Mike Radford

The parties confirmed that they had received and understood the procedure to be followed for the hearing.

The Public Protection Officer summarised the report. The Sub-Committee noted that the grounds for the review were the alleged undermining of the licensing objectives of the Prevention of Public Nuisance and the Prevention of Crime and Disorder. Two representations in support of the review and 102 representations in support of the premises had been received from Other Persons. There had been no representations from the Responsible Authorities. The Sub-Committee was invited to determine the application.

The Applicant for Review stated his case. He said that he was speaking on behalf of his wife and himself. Contrary to remarks made on social media by misinformed people, he did not wish the premises to lose its licence and be closed. However, the Rising Sun was a source of noise nuisance, which was impacting adversely on his wife and himself. People had moved away or had been deterred from purchasing property in the vicinity of the premises because of the noise. For three years he had requested the license holder and her husband in person and by telephone to close windows and doors when noisy events were taking place, or when amplified music was played. They had either ignored his requests, or had only closed doors and windows for a short period before reverting to the previous practice. New sash windows had been installed in about 2014, which had resulted in an increase in noise nuisance. The license holder appeared to have no regard or respect for those living in nearby properties. The volume of amplified music should be monitored and controlled. On one occasion the license holder told residents that the Environmental Health Team had advised that they should keep their own doors and windows shut, rather than the Rising Sun. This was unacceptable. Not even the application for a review had caused any change of behaviour at the Rising Sun; the previous day all the windows of the Rising Sun had been open. A wide variety of noise nuisance emanated from the premises. Some events, such as quiz nights, were accompanied by loud shouting and cheering. Sometimes he and his wife had to wear ear plugs in order to be able to sleep. They were also often woken by early-morning deliveries and waste collection vehicles, sometimes as early as 5.30am. These vehicles sometimes parked immediately outside his property and blocked the road, so that other vehicles had to mount the pavement causing damage to his property. On occasions customers coming from the pub had used his garden wall and front

window sills as a table for their drinks. Because he had no response to his requests to the licence holder, he had had no option but to apply for a review of the licence. He did not wish to affect the profitability of the business, but requested that conditions be imposed that mitigated the impact of activities at the premises on the health and wellbeing of wife and himself and on other residents.

The applicant for review was questioned by members.

Q: What activities had been taking place the previous day when the windows had been open?

A: Just ordinary pub activities, which were producing noise. People raising their voices. A loud general hum.

Q: You object to that kind of noise?

A: Yes, when it comes right into my front room, because the doors and windows of the Rising Sun are open. Activities like quiz nights give rise to noise nuisance.

Q: What kind of damage occurs to your property?

A: It's not the pub's fault. It's the result of the dray vehicle parking in the road. This forces other vehicles to mount the pavement right next to our bedroom window. Fire tenders have been stuck on the pavement near my property.

Other Persons stated their cases.

Cllr Liz Richardson made a statement on behalf of Cllr Paul May, the Ward Councillor for Publow and Whitchurch. Cllr May wished to support the continuance of the premises licence. He had received many expressions of support for the premises from members of the public. He believed that it is well-run establishment. It is recognised as being part of the community it serves. This review application had been discussed at the most recent parish council meeting of the 10th July, at which both the applicant for review and the licence holder had been present. The Parish Council agreed that the pub is now a great asset to the village and support its position in the community. It was suggested that the Parish Council support individually as residents of the Parish.

Cllr Richardson then made her own statement. She said that had resided within walking distance of the premises for just under six years. At the time she had moved in, the premises had been under different ownership and had been a very different establishment from what it is now. It had previously been rather grotty, to understate the situation. Jo Drury and her husband had really turned it round. It was now a thriving local rural business. As can be seen from the representations, it enjoys a high level of support from the local community. Many of the representations make very positive comments about the licence holders. The business had grown hugely under Jo and Mike's management, which shows the level of support from the community. When they took over, Jo worked in the kitchen and Mike served at the bar. Now the Rising Sun employs seventeen local people, not all full time. They have done this without impacting on the other three pubs in the area. She had never heard a bad word about the licence holder. She believed that it is a well-run pub. It is very friendly and offers excellent food, which they aim to source sustainably from the local area. It is not just a business; Jo and Mike are involved in the wider community. The Rising Sun is their family home, the place where they have chosen to live and raise their children. Events held at the premises are focussed on families having a nice

time. They hold a monthly supper club, to which people come from far and wide. There are two grounds for this review. As for public nuisance, pubs are made or lost by their licence holders. When they thrive they attract more customers, when they don't customers drift away and they can ultimately close and change use. This is a thriving pub and has many customers, mostly happy people enjoying recreation. Surely public nuisance only occurs if noise levels are excessive and there appears to be no evidence that that is the case. The pub is no different from others in having deliveries and waste collections. Like many other rural pubs it is in the centre of a village with cottages all around it. As in many villages there are activities in the pub garden. As far as crime and disorder is concerned, the Responsible Authorities have made no representations to this application. She concluded by requesting that no change be made to the premises licence.

Steve Thier stated his case. He said that he had been a customer of the premises for over thirty years. He said he wished to pay tribute to the value and enrichment that Jo and Mike had brought to the pub. The previous owner of the Rising Sun had been past pension age, and had not been particularly interested in continuing to invest in it. The Rising Sun had always been important as a community centre. It was now very family friendly, and he and his partner took their children there. He had never seen any unreasonable behaviour at the premises, or heard threatening language or anything loud or outrageous. He had attended a quiz night about a month ago, at which there were a total of about twenty people. It had been run by the local tennis club, with all proceeds going to charity, as was the usually the case with quiz nights. Several times he had to ask the quiz master, who was sat a few feet away, to repeat the question, as he could not hear him. He was unable to understand the assertions made about unreasonable disturbance from the premises. There were wide benefits to the community from the operation of the premises. Locally-sourced food products were used in the kitchen. Local breweries were used to supply beer. Jo and others had invested a lot of time in tidying up the footpath by the river to improve access in the village. He urged the Sub-Committee not to change the premises licence.

In response to a question from the Chair, Mr Thier said that twenty people was a typical attendance at a quiz night.

The Applicant for Review asked about amplified sound at the quiz night. Mr Thier said that a small microphone was used. In reply to a further question he said that he had never witnessed an event at which the windows and doors had been fully open.

The License Holder stated her case. With the agreement of the applicant for review and permission of Members she submitted a petition on behalf of the premises and a map of Pensford showing the location of the Rising Sign and of the homes of the applicant for review and other residents copies of which are attached as appendices to these minutes. She was not permitted to submit a number of photographs in evidence. She then read from a prepared statement, which addressed each of the points made in the application for review.

1. Loud Music in Garden and Inside the Premises

We have four types of music. There is background music inside the premises played during opening hours, which is kept at a low level. Generally there is no music in the garden. Secondly, we have music for one-off social events, such as wedding receptions. The first wedding reception was in 2013, when the music finished at

00:30 and at 00:00 for the next two. A neighbour complained about noise from the first event, so we agreed to finish earlier in future. No complaints were received about the next two wedding receptions. Thirdly, we have music at community events, which are free to attend and are generally held on a Bank Holiday weekend. Live music was played at this year's New Year's Eve event until 01:00, despite which Mr Jones informed me at mediation that none of our music events this year had disturbed him. Finally, we have a late afternoon music session on the last Sunday of each month. This is often acoustic music. These sessions take place in the pub usually between 17:00 till 19:00 and we have not had any complaints about them. It is difficult to comment further on the allegations without specific examples. The Council advises Applicants for Review to complete and submit a log report, but none has been provided.

2. Loud Voices shouting, jeering and swearing

I strongly reject this allegation. I have two young children and we live directly above the pub and I would not allow such behaviour. Occasionally customers do shout and swear, but either I or my staff address this directly with the customer at the time. We give a warning the first time, and if the behaviour continues or recurs, the customer is asked to leave the premises. Again no specific examples have been provided by the Applicant for Review.

3 Delivery Vehicles arriving as early as 06:30

Delivery vehicles do sometimes arrive early, typically to supply fresh fish and fruit, which are delivered 3-4 times a week. We have asked suppliers if they can change the delivery time, but they cannot do so, because we are the first drop on their routes. We also ask that drops be made to rear of the premises, but this is often impossible because of the difficult access. The Post Office/village shop and a café are not far from the Applicant for Review's home, and they also have deliveries outside of usual business hours. There is also a main road to the rear of the Applicant for Review's home, which starts to get busy at this time of day.

4. Waste Collection and recycling Vehicles picking up as early as 05:30

When I set up the contract with the waste removal company, I asked them not to remove waste before 09:00. I have emails in which I subsequently repeated this request. Early morning collections are also sometimes made from the Miners Coffee Shop. I was awoken at 06:15 on 14th August 2017 by a waste collection from the Coffee Shop.

5. Dray Deliveries can block the Road forcing Vehicles to mount the pavement, causing damage to the Applicant for Review's Property

I have photos showing that vehicles are able to pass the dray delivery without mounting the pavement. The road directly outside the Rising Sun is the widest part of Church Street. I have accepted Amazon deliveries for the Applicant for Review, and the delivery vehicles can park in the same way as the dray deliveries, so I am puzzled that he singles out the dray deliveries for comment. I am not aware of damage to his property and no evidence has been provided of this. Any decisions to drive on pavements are made by the driver of the vehicle.

6. We have not responded to requests from the Applicant for Review to close windows to contain noise

The Applicant for Review has spoken to my husband and myself on various occasions, but it is not true that we have not taken action in response to his requests. While he has sometimes been somewhat aggressive, it is important to us to try to keep our neighbours as happy as possible. We want to be comfortable in our own home, and we want our neighbours to be our customers. I have asked him how we could address his complaints, and he has asked us to have our windows and doors shut when music is being played. We did this for the next event, and yet he still complained about loud music. We kept our windows shut, but he had his open. At no time before this review had he or his wife approached us about their suffering discomfort on a 'near daily basis'.

7. The Mediation Meeting

I do not understand how his statement about this is related to any of the licensing objectives. I requested my husband to attend this meeting as he is a fellow director of the business. Mr Jones said at the meeting that on Christmas Eve he had been woken by someone knocking at the door and swearing, and, assuming it was my husband, he had called the Police. In fact it was Mr Jones' son-in-law who had been swearing. At the meeting Mr Jones said that at the review he would ask for restrictions on delivery and waste collection times, for a noise limiter to be put on for all outdoor music events, and for doors and windows to be kept closed when the pub is busy. But then Mr Jones explained that it is the "general noise" emitted when the pub is busy which is actually the subject of his grievance. We asked when he was last disturbed by our outdoor music, and he said this had been August Bank Holiday 2016. Since then we have four more events, none of which have disturbed him.

8. Applicant for Review said he would draft some conditions to be proposed at the Review

I have received no suggested conditions from him. He said he would propose conditions that would not have a serious impact on the pub's profitability. I submit that the profitability of the Rising Sun has no relevance to the Review or the licensing objectives. Mr Jones told me that he thought that stopping music earlier than midnight would not affect trade. I do not agree; we would be uncompetitive if we could not hold events at times that other venues do.

In reply to a question from the Applicant for Review the Licence Holder stated that, unlike most pubs, the Rising Sun does not have a beer cellar. This was filled in with concrete in about 1968. The beer storage area, which generates a lot of heat, is directly behind the bar room. The premises are also bordered by a stream, so there are no windows at the back of the public area. It gets very warm in the pub, so windows have to be opened to keep customers cool. They had examined the possibility of air conditioning, but the expense would be huge. It would have to be installed at the front of the pub and planning permission for this would be unlikely in a Conservation Area. The restored sash windows have been provided for the comfort of customers.

Members put questions to the License Holder.

Q: What type of background music is played at the premises?

A: Mostly folk and pop.

Q: What kind of music do you have in the garden?

A: For special events we have one or two bands playing pop music, not rock music. The bands would be amplified.

Q: What restrictions do you put on wedding events?

A: We have a wedding a week next Saturday. They are an older couple and they were happy to book it knowing that the music would finish at 22:00.

Q: How about a young couple?

A: We would stop the music at 00:00 (midnight).

Q: Would that be a disco?

A: The first one we held had a disco. We received complaints and have not had a disco since. The two after that were bands, which ceased at 00:00. Bands don't blare it out like a DJ. All music in the garden is provided by folk bands, and might be acoustic or amplified.

Q: How often has music been performed till 01:00 as permitted by the licence?

A: Never.

Q: Have you ever been contacted by Environmental Health about noise?

A: We did receive a letter from an Environmental Health Officer about an event which went on into the early hours of a Sunday morning, but this did not take place at the Rising Sun. We had been mistakenly blamed for a 21st birthday celebration taking place in a neighbour's garden.

Q: When are windows opened and when are they kept closed?

A: July was a lot cooler than May and June. When we had the conciliation meeting, it was admitted that no disturbance had been heard in the last couple of weeks. This was because it had been cooler and the windows had not been open so much. It can get very warm when twenty people are inside the pub. We open the windows a little, and the customers open them fully to get comfortable. We open the windows in the morning to allow fresh air, and perhaps the noise of the vacuum cleaner can be heard from outside. In September and October the windows are not open half so much.

The Licence Holder summed up. She submitted that the Applicant for Review had failed to supply details about specific examples of disturbance, which made it difficult for her to respond. A number of the points he had made could not be linked to the licensing objectives. She was not aware that he had made any specific proposals to address his concerns. She was extremely grateful for the many expressions of support she had received from the community. She drew attention to a representation of support from a neighbour with which the Rising Sun shared a party wall. She also submitted that the claim by one of the Other Persons that he had left the village because of noise from the premises was untrue, as he visited the premises daily until his departure. She also drew attention to the representation from Mr Gardner, the former licensee of the Rising Sun, which states that no complaints

about disturbance at the premises had been received until the Applicant for Review took up residence in the village. She requested the Sub-Committee to note the absence of representations from the Responsible Authorities. She said that she took her responsibilities as a licence holder very seriously. The Rising Sun was not just a livelihood, it was also a home. She requested that her premises licence be left as it was.

The Other persons did not wish to sum up their cases.

The Applicant for Review said that the opening of the sash windows at the premises was having a serious effect on his wife's and his own health. Noise was sometimes constant from 14:00 until the windows and doors were shut. Sometimes he and his wife stayed elsewhere when an event was to be held. He requested that the volume of music at the premises be reduced a little and doors and windows kept shut.

Following an adjournment the Sub-Committee **RESOLVED** to take no action in respect of this application.

Reasons

Members have had to determine an application by Mr Kenneth Jones for a review of The Rising Sun, Church Street, Pensford's premises licence. In doing so they took account of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing Policy and Human Rights Act 1998.

Members are aware that the proper approach under Licensing is to be reluctant to regulate in the absence of information that the Licensing Objectives raised are being undermined. Further, that they must only do what is appropriate and proportionate in the promotion of the Objectives.

The Applicant

Mr Jones applied for the review of the premises licence on the grounds of the prevention of crime and disorder and the prevention of public nuisance. Reasons cited included, very loud music being played in the gardens and inside the premises beyond midnight, loud voices shouting, jeering and swearing emanating from the premises on a near daily basis. Delivery vehicles arriving as early at 6.30am and waste and recycling collections picking up as early at 5.30am. Dray deliveries blocking the road forcing vehicles to mount the pavement to pass which is causing damage to his property.

Mr Jones stated however, that he was not suggesting a revocation of the licence and did not wish to affect the profitability of the premises.

The Other Persons

Councillor Liz Richardson and Mr Thier spoke in support of the premises. Councillor Richardson described the premises as very well run and said that the licence holders should be applauded. She expressed the view that she could not see how public nuisance was made out, and noted that there had been no representations from Responsible Authorities in relation to crime and disorder. Mr Thier described how he takes his family and children to the pub and what a valued community asset it is.

The Licensee

Ms Drury as Licence Holder responded to each of the 8 points made in Mr Jones' application for the review. She asserted that as Licence Holders they act to promote the licensing objectives and do not breach the terms of their licence. She noted that Mr Jones does not provide clear evidence of specific examples of how the premises are undermining the licensing objectives of prevention of public nuisance and prevention of crime and disorder. Ms Drury explained that as premises Licence Holders they do all they can to be considerate to their neighbours and have made arrangements so as to cause the least disruption possible with deliveries and waste collections. Ms Drury asserted that a number of alleged incidents referred to by Mr Jones could not be linked to her premises and that there are a number of other businesses in close proximity to the pub. Ms Drury did not accept that there was anti-social behaviour as described by Mr Jones and questioned how she could run a successful business if such behaviour was allowed to take place.

Ms Drury asked Members not to make any changes to their licence.

Members

Members were careful to take into account only relevant representations and to disregard irrelevant representations. With the consent of Mr Jones they allowed the petition in support of the premises and a location plan to be introduced as additional information at the hearing. Mr Jones had sight of the petition in advance of the hearing. Ms Drury sought to introduce photographs as additional information however Mr Jones did not consent to their introduction and they were not therefore, taken into account.

Members carefully balanced the representations made by the Applicant Mr Jones, the representations in support of the review application, the representations of the Licence Holder and Other Persons.

Members noted that there were no representations from Responsible Authorities.

Members noted that following changes made to the Licensing Act 2003 by deregulation legislation, no licence is required for live music and amplified music up until 2300 hours, in certain circumstances.

Members noted that there were 102 written representations from Other Persons in support of the premises. Within these representations the landlady and landlord were stated to be professional, conscientious and highly regarded. They were noted to be intolerant of drunken, loud and abusive behaviour. The premises were described as well run; not noisy or troublesome but instead a valued and a vibrant community asset. Other Persons stated that any music is concluded at times within the terms of the licence and often, well before the time permitted by the licence.

Having weighed in the balance the written and oral representations before them Members found that the Licensing Objectives of Prevention of Public Nuisance and Prevention of Crime and Disorder were not being undermined. Accordingly members have decided to take no steps on the review.

24 TABLES AND CHAIRS PROCEDURE

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

25 APPLICATION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT CAFFE NERO, 11 OLD BOND STREET, BATH BA1 1BP

Neither the applicant nor the objector was present. The objector had indicated that he would not be in attendance. Members heard from the Senior Public Protection Officer that the applicant had been notified of the hearing and had provided written representations in support of the application. Members considered whether or not they should proceed in the absence of the applicant and were satisfied that there was be no prejudice in doing so, as she was made aware of the hearing and had put her case in writing.

The Senior Public Protection Officer summarised the report and provided Members with a copy of the written representations from the applicant, which had been copied to the objector in advance of the hearing. This is attached as an Appendix.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application subject to the standard terms and conditions. Authority was delegated to the Public Protection Officer accordingly.

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 11 Old Bond Street, 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.

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 considered whether or not they should proceed in the absence of the applicant however, they were satisfied that they had received notice of the hearing, following which they had submitted written representations in respect of their application. The objector had indicated they would not be in attendance and had been sent a copy of the applicant's written representations. Whilst Members did not hear oral representations on behalf of the applicant or objector they took into account their written representations.

Members noted that there were no objections to the application from the highways authority.

Members noted that the conditions of the permit sought would address the concerns raised by the objector and in the event that those were not complied with, section 115K of the Highways Act 1980 makes provision for enforcing such non-compliance.

Members decided to grant the permit 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.

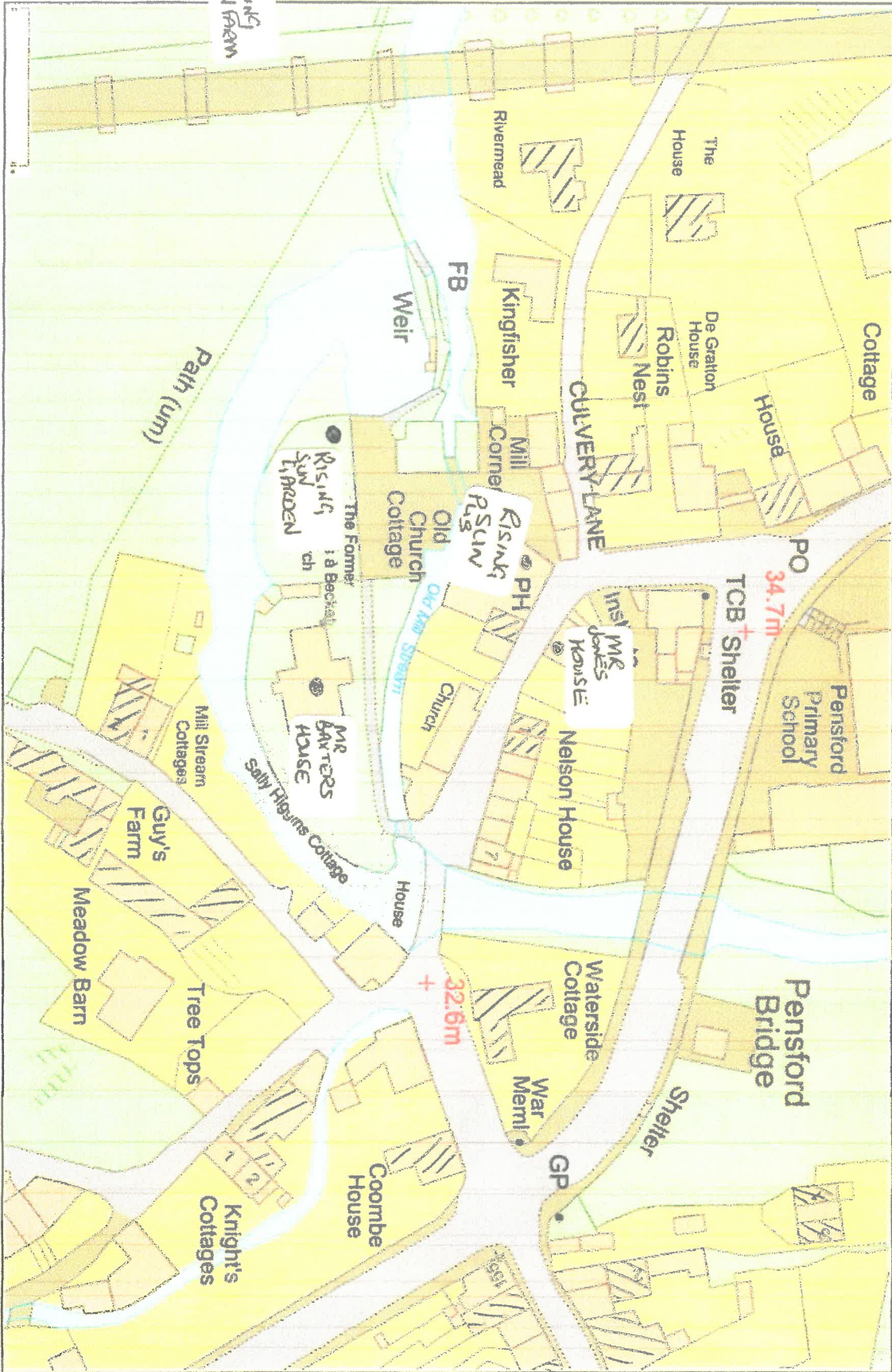
Authority is delegated to the Public Protection Officer to issue the permit subject to the standard terms and conditions.

The meeting ended at 1.17 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services



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ePetition details

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We the undersigned petition the council to maintain the Rising Sun, Pensford, Premises Licence with no changes. The Rising Sun will have a Review of Premises Licence under the Licencing Act 2003 as per an application made by one resident on 27th June 2017. We petition to maintain the Premises Licence with no changes and fully support The Rising Sun, Pensford as the very important hub of our community. Please note if you sign and comment on this petition you are giving permission for this to form part of a public document. This e-petition does not form part of the formal licensing review process for the premises licence held by The Rising Sun. Further information about submitting representations in respect of this review can be found at: <http://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment/representations>

Petition raised by
Jennie Jones
3, Wesley Terrace
Pensford
Bristol
BS39 4HL

This ePetition ran from 03/07/2017 to 28/07/2017 and has now finished.
116 people signed this ePetition.

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**Local Government (Miscellaneous Provisions) Act 1982
Part VIIA Highways Act 1980
Permission to Place Tables and Chairs on the Highway at Caffè Nero
11 Old Bond Street Bath BA1 1BP**

Background and site

The application relates to an existing coffee shop set within the designated city/town shopping area of Bath. The site is set on the corner of Old Bond Street and Upper Borough Walls, and is within the City of Bath Conservation Area and the World Heritage Site. It is a discreet corner location with just two small tables and chair.

The application is a renewal of a previous license for the siting the tables and chairs on the highway outside of 11 Old Bond Street. The pavement at this location is wide enough to accommodate the tables and chairs without resulting in a detrimental impact upon pedestrian or highway safety. There are therefore no highway objections to this scheme. There is a large public bench on the highway in front of the store.

The proposed tables are not uncommon in this context. Planning permission was granted for the tables and chairs that have been in position since 2010. Hence the use is longstanding. The LPA concluded that the two tables “are not considered to have a detrimental impact on the setting of the nearby listed buildings, the character and appearance of this part of the City of Bath Conservation Area or the World Heritage Site in which the site is set.”

The Caffè Nero use does not involve the sale of any alcohol. It trades from 06-30 to 19-30 with reduced hours on Sundays and Bank Holidays.

It is shown below;



The objection

The objection is copied in Appendix A but may be summarised as;

- Litter
- Any social behaviour

Caffe Nero response

Both of the objections are not a direct result of the use but rather anti-social behaviour by visitors to the area. As regards litter Caffe Nero offer to clean the area upon opening and then mirror the WC check list which has 6 periodic cleans on it. This will result in potentially up to six cleans per day being 1) Pre-open, 2) Pre – 10am, 3) Lunchtime, 4)3pm, 5)5pm and 6)at close. Caffe Nero would suggest this level of cleaning is greater than any other part of the public highway in the city.

We would note that if the table and chairs were removed customers are likely to relocate to public bench outside the store

As regard the urination on the public highway this too is unrelated to the use given Caffe Nero close at 19-30 , do not sell alcohol and when trading have freely available WC's. Their offer detailed above would involve an early morning wash down. They would stress that given the discreet corner location this anti-social activity could occur irrespective of the use and is totally unrelated to the table and chairs.

Conclusion

We would suggest there is no valid reason preventing the renewal of the licence as the objection is unrelated to the use but Caffe Nero offers to assist in keeping this part of the city clean and would be pleased to accept any conditions on the license as regard cleansing.

Appendix A



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09/06/2017

Environmental Information Officer
Ms Lauren Latta
Public Protection & Health Improvement
Lewis House, Manvers Street, Bath BA1 1JG



**Re: Local Government (Miscellaneous Provisions) Act 1982
Part V11A Highways Act 1980
Permission for Chairs and Other Items on the Highway at
Café Nero
11 Old Bond Street Bath BA1 1BP**

Thank you for your letter regarding the permission for tables and chairs at Café Nero, next door to our shop Christopher Barry. Whilst we appreciate that you are in favour of promoting a Café society in Bath, the lack of tables and chairs outside the café has been an absolute delight. No litter, no cigarette ends, no dirty tables and no creeping of seating in the entrance to our shop.

There seems to be no effort on Café Nero's part to take charge of the area and after many complaints on our part we are left to sweep and wash down the area ourselves in an attempt to keep it in order.

People urinate in the space at night and we find it incredible that there is no attempt to clean it before the Café opens. Their customers are subjected to an area, which is a smelly health hazard.

There are very rarely ashtrays on the tables so people extinguish their cigarettes on the floor, which are just left all day.

We would be very grateful if you take into consideration our comments before making a decision.

Sincerely,

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