

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 7th January, 2014, 10.00 am

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

Officers in attendance: Alan Bartlett (Principal Public Protection Officer), John Dowding (Senior Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor)

79 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

80 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

81 DECLARATIONS OF INTEREST

There were none.

82 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

83 MINUTES - 3RD DECEMBER 2013

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

84 LICENSING PROCEDURE - COMPLAINT HEARING

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

85 EXCLUSION OF THE PUBLIC

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 Committee **RESOLVED** that the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act as amended.

86 CONSIDERATION OF CAUTION OBTAINED:- MR R M

The Sub-Committee considered the report, which sought consideration of a caution obtained by Mr RM 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 RM was present. He confirmed that he had read and understood the procedure.

The Senior Public Protection Officer presented the report and stated that on renewal of the licence part of the process was a Disclosure and Barring Service check. Copies of this and a written statement from Mr RM were circulated to Members, and then the officer and Mr RM left the room. After Members had studied the documents, they returned to the room.

Mr RM put his case and was questioned. The Senior Public Protection Officer noted that there had been no complaints from members of the public about Mr RM. Mr RM made a closing statement.

Following and adjournment it was

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

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 been cautioned for an offence of violence against the person whilst he was intoxicated. Members listened carefully to his representations and took account of his written statement. Whilst taking a dim view of the offence and his failure to inform the Authority within 7 days, Members found this was an isolated occurrence and accordingly found no reason to deviate from the policy. Therefore, 4 points are endorsed on his private hire vehicle driver's licence.

87 RETURN TO OPEN SESSION

The Committee returned to open session.

88 LICENSING PROCEDURE - MISCELLANEOUS LICENSES, PERMITS, CONSENTS

RESOLVED to note the procedure for this part of the meeting.

89 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT THE NEST, 7 BLADUD BUILDINGS BATH BA1 5LS.

Applicant: Rod Johnson

Objector: Patrick Rotherham (Chair, Vineyard Residents' Association)

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

The Public Protection Officer summarised the application.

Mr Johnson stated his case. He said that his premises, a bar, were part of Bladud Buildings. The front of the premises faced south and so caught the sun, and he wished to take advantage of this by locating 2 tables and chairs on the pavement in front of the premises until 22.00 every day. The pavement at this point was 10 feet wide. He stated that his Licensing Act 2003 premises licence already authorised drinking outside the premises, that the area in front of the premises was also used as a smoking area and that other licensed premises in the vicinity already had tables and chairs outside.

Members put questions to Mr Johnson, in response to which he stated:

- 60% of his customers were aged 18-25, but there were no restrictions on who could enter the premises; the premises were a bar, not a nightclub, and there was no admission charge
- food was not served at present, though this was being considered as an option in the longer term

Mr Rotherham stated his case. He introduced himself as Chair of the Vineyard Residents' Association. He said that activities of the late night economy had impacted on residents over the years. This application represented a further extension into the daytime of drinking on the street. A great many retired people and children resided in the area, so there were many people around during the day. Residents felt under constant pressure. There was traffic congestion, air pollution and impacts from the night-time economy. This application was one more imposition on local residents. He requested the Committee either to refuse it, or to make the terminal hour 20.00.

The Principal Solicitor advised that the all the Sub-Committee could take account was the extent to which this application would result in an obstruction on the highway that would constitute a hazard for users of the highway.

The Chair asked Mr Johnson whether he would still be prepared to accept a terminal hour of 20.00, as offered in his supporting statement (Annex F to the agenda). He confirmed he would.

Following an adjournment, it was **RESOLVED** to grant the application with a terminal hour of 20.00.

Reasons for decision

In determining an application to place 2 tables with 8 chairs on the highway Members took account of the Highways Act and representations from the applicant and objectors.

Members approach this matter in terms of whether the application was likely to cause a public nuisance in highway terms. In doing so they had to decide whether these tables and chairs in this location were likely to obstruct the free passage of pedestrians or cause a hazard. In this regard Members noted the Highway Authority had not objected and the pavement width at the premises varied between 4 and 6 meters.

Whilst noting the objections were mainly on public nuisance grounds these related in general to matters arising from the late night economy. Accordingly, these fall to be dealt with by other statutory provisions rather than as in highway obstruction terms.

In all the circumstances Members considered the application reasonable and grant the application limited to 8 pm as suggested by the objector and agreed with the applicant. Authority is delegated to the Public Protection Officer to issue the permit with the attachment of the standard terms and conditions.

The meeting ended at 10.51 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services