

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 6th July, 2017, 11.30 am

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

Officers in attendance: Carrie-Ann Evans (Legal Adviser), John Dowding (Senior Public Protection Officer) and Andrew Tapper (Public Protection Officer)

1 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

3 DECLARATIONS OF INTEREST

There were none.

4 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

5 MINUTES OF THE MEETING OF 25TH MAY 2017

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

6 EXCLUSION OF THE PUBLIC

RESOLVED that the Committee having been satisfied that the public interest would be better served by not disclosing relevant information the public shall be excluded from the meeting in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972 for agenda item 8 and the reporting of that part of the meeting shall be prevented under section 100A(5A) of the Act, 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.

7 TAXI PROCEDURE

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

8 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR WRW

Mr WRW, who was accompanied by his wife, confirmed that he understood the procedure to be followed for this hearing.

The Senior Public Protection Officer presented the report. He then circulated a DBS statement in respect of the applicant and a statement submitted by him. The Sub-Committee adjourned to allow Members time to study these documents.

When the hearing resumed, Mr WRW stated his case and was questioned by Members. He did not wish to make a closing statement.

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

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 the oral representations made by him and his partner and balanced these against the information disclosed by Disclosure and Barring Service checks.

The applicant indicated that his previous convictions followed the death of his mother during a period when he went off the rails and did not have the support of his father and the most recent offences, albeit over 30 years ago, were a case of being "in the wrong place at the wrong time". He has had a stable home life and been conviction free ever since.

Members noted that Mr W R W's convictions were historic and that he had remained conviction free for the period anticipated in the Council's Policy. Members found Mr W R W 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.

9 RETURN TO OPEN SESSION

The Sub-Committee returned to public session.

10 STREET TRADING PROCEDURE

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

11 APPLICATION FOR STREET TRADING - PITCH 6C UNION STREET, BATH

Applicant: Mr Levente Hadnagy and Mr Daniel Balica

Interested Parties: Louise Prynne (Chief Executive, Bath Business Improvement District) (present), Gemma Haines, Yvonne O'Neil, Daniel Carter and Peter Adlington (not present).

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

The Senior Public Protection Officer presented the report. He explained that the application was for a change of use of an existing street pitch from selling non-alcoholic hot drinks to Hot Food (Burgers).

Mr Balica stated the case for the applicant. He explained that the pitch was operated by HAVE!, a small family business. The business wanted to offer burgers at the pitch, using locally-sourced meat, cheese and bread buns. He summarised the letter of support from the applicant (agenda pages 56-60). He drew attention to the great similarity between the five representations. The first two were actually identical. The third contained a verbatim extract from the Council's terms and conditions. He summarised the applicant's response to the objections as set out in the letter of support, and emphasised that the applicant would have to abide by the terms and conditions of the Street Trading Consent.

Mrs Prynne stated the case for the Interested Parties. She said that she had not attended one of these hearings before, but she did not apologise if some the letters of objection were the same. She and her colleague, John Raby, had consulted a number of businesses, who had all said that they were concerned about this application. One of the reasons for objecting to the application is that there is an ongoing review by B&NES Economic Development Team of market provision in Bath, and it is important that the right strategy should be found. The business rate revaluation poses a significant challenge for local businesses. There are a number of businesses in very close proximity who are facing business rate increases; they are concerned about the potential impact of this application on their trade. There was significant footfall in the area near the pitch; the street could be very congested and it could be difficult to get past. Cooking food in the street would give to rise to odours.

A Member commented that five representations were five representations, even if they were identical.

In reply to questions from Members Mrs Prynne said that BBID was currently involved in discussion about how street traders could complement shops. Some shops were paying £2,000 per week in rates compared with the much lower charges paid by street traders. She was not opposed to street trading, but it needed to be managed strategically.

A Member commented on the problem with seagulls in Bath. The Applicant responded that the problems of seagulls and street cleaning remained the same irrespective of whether people bought food from shops or a street stall.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application.

Reasons

Members have had to determine an application for a Street Trading Consent at existing pitch 6C Union Street. This application involves a proposed change of use from selling non-alcoholic hot drinks to selling hot food (burgers). In determining the application members have taken into account the Local Government (Miscellaneous Provisions) Act 1982, the Council's Policy on Street Trading and the Human Rights Act 1998.

The Applicant

Mr Balica on behalf of his business Have! indicated that the business is a small, independent and enthusiastic family business already trading selling crepes and hot drinks at another pitch in BANES. He acknowledged that their operation of that pitch is relatively new but the company a background of 15 years working in the food and service industry. The burgers that they propose to sell will be made using quality produce from independent local retailers. The applicant cited what they believe to be the burgeoning street food market, alongside the feedback they have received as reasons for applying for the pitch.

The Interested Parties

The Chief Executive of Bath BID Mrs Prynne, expressed concerns that the proposed use would not satisfy BANES' vision for street trading as set out in the Policy and said that the proposal would not be in keeping with the quality of shops; would not promote healthy eating; would cause shops close to the pitch to suffer from the smell coming from the stall and suggested that there are many retailers in Union Street already serving food and beverages. Mrs Prynne expressed concerns relating to the congestion that could be caused by the street trading pitch in that location. Whilst Mrs Prynne was not against street trading in principle, she expressed the view that it should be managed in a strategic manner.

4 retailers made written representations citing smells; waste management issues; the proposed use not being in keeping with the quality of shops in the street and competition with existing food and beverage retailers; as reasons upon which they invited the Committee to refuse the application.

Members

Members were careful to only take into account matters of relevance and to disregard matters which were irrelevant. Members were mindful of the fact that they had to determine the application in accordance with the current legislative and policy framework and noted that the principle of a pitch in this location had already been established.

Members noted that there had been no objection to the application from the Highways Team or Environmental Services.

In reaching a decision Members took account of all the relevant oral and written representations and balanced the competing interests of the applicant and the interested parties.

Whilst they carefully noted the objections raised by the BID and 4 retailers they found, in the exercise of their discretion, that the proposed use of the pitch for the

sale of burgers using quality produce sourced from local, independent retailers would provide vibrancy and interest to the local environment and that they had the scope within the Policy to consider the goods to be sold on a pitch by pitch basis. Members noted that the standard conditions would ensure that a bin or similar was made available for the disposal of waste and the applicant would be obliged to keep the immediate adjacent area clean and tidy during the permitted hours, amongst other conditions. Accordingly, Members saw fit to grant the street trading consent as proposed.

Authority delegated to the Public Protection Officer to grant the consent subject to the Standard Conditions and with the additional specific conditions, such as are reasonable and necessary.

The meeting ended at 12.50 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services