

## Licensing Sub-Committee - Miscellaneous

Wednesday, 4th April, 2018

6.00 - 6.45 pm

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Adam Lillywhite, Diggory Seacome and Pat Thornton
<b>Also in attendance:</b>	Phil Cooper and Donna Marks

### Minutes

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES OF THE LAST MEETING**

The minutes of the last meeting held on 7<sup>th</sup> February were signed as a correct record.

**4. APPLICATION FOR STREET TRADING CONSENT**

The Chair welcomed the group and explained that they were there to determine an application for a street trading consent. He proceeded to outline the procedure for the meeting and questioned whether Members had conducted a site visit to the location in question, 3 Members confirmed that they had visited the site and 2 stated that they knew the area well.

The Licensing Officer began by introducing the report, he explained that Mr Piotr Pawet Kazieczko had made an application for a street trading consent at a location on Redmarley Road, Cheltenham, the location was highlighted at Appendix A of the report. The Licensing Officer also distributed a google image of the location in question for Members. He stated that Mr Kazieczko had applied to sell hot and cold food and drinks from an Iveco vehicle, the timings he was proposing to trade were 7:30-15:30 Monday to Friday, 07:30 – 14:00 Saturday and he did not propose to trade on Sundays. Mr Kazieczko had produced a statement in support of his application which was included at section 4.1 of the Officer's report. The Licensing Officer explained that objections had been received from Cheltenham Borough Council's Townscape and Planning team, as well as a nearby resident. He confirmed that the application complies with Council policy as it is located outside of the town centre zone where restrictions apply, and as such, each application outside of the zone must be determined on its own merits.

He reminded the sub-committee that they could:

- Approve the application because it is compliant with the council's policy and Members are satisfied that the location, size of unit and type of goods are suitable; or
- Refuse the application because Members feel that the location, size of unit and/ or type of goods are not suitable.

The Licensing Officer also confirmed that should they be minded to, the sub-committee could grant the application for shorter than a year although they were not permitted to grant for longer.

The Members proceeded to ask the Licensing Officer a series of questions. He confirmed that:

- The image of the van included within the report was the van that Mr Kazieczko was proposing to use to trade. Mr Kazieczko confirmed that it was.
- He believed that Mr Kazieczko was planning to park on the road with the serving hatch facing out on to the pavement.

One Member then raised a query regarding parking restrictions in the area, as they had recently visited the location and believed it had double yellow lines where Mr Kazieczko was proposing to trade. Following a short discussion regarding the parking restrictions, the Legal Officer confirmed that Gloucestershire 'Highways' County Council could grant him an exemption, although this would be unusual. If this did happen the legal officer reminded the sub-committee that this could set a precedent for future applications, if a trader was able to obtain an exemption from Gloucestershire Highways to allow a vehicle to be sited on double yellow lines.

Some Members felt that should the application be granted there could be considerable reputational damage to the Council. Members sought to find out whether any parking restrictions were in place but in the meantime agreed to proceed in determining the application and should they be minded to grant then a condition could be applied that the licence be subject to no parking restrictions being in place.

Mr Kazieczko was then invited to speak in support of his application. He explained that at the time when he was monitoring the area there were no double yellow lines and so they must be a recent thing. He explained that he had been seeking a suitable location to trade for some time and felt that the location on Redmarley Road was fairly busy and had a lot of passing customers and so would be a suitable location to run a business.

The applicant was then asked to show on the map in the Officer's report and on the google image provided, the exact location in which he was proposing to trade. He confirmed that he planned to park his van by the bus stop at the beginning of the road, he explained that this was the widest part of the road at 8.5 metres and he felt this would be the easiest location to find a parking space in the mornings.

The meeting was adjourned whilst one Member sought to confirm whether any parking restrictions were in place, following a short telephone conversation the Member confirmed that there were yellow lines at the location.

The Legal Officer explained that approving street trading consent in this location could be in breach of the Highways Act and the council could receive complaints from both Sainsbury's and local residents.

Some Members felt that in light of the legal advice, coupled with the objectors' concerns and the fact that Sainsbury's lorries also had to manoeuvre along the road that parking a van there could be dangerous.

The Legal Officer advised the sub-committee that they had 3 options, to:

- Debate and vote on the application;
- Adjourn/defer the meeting; or
- Refuse the licence and allow the applicant to provide a new application in a different location.

Following this advice the Licensing Officer confirmed that should the sub-committee be minded to adjourn/defer then the application would simply come back in its current state. If the applicant were to find a new suitable site then consultation would again need to take place and there would be another fee of £100. He therefore advised that the sub committee to make the decision to either grant or refuse the application not adjourn/defer.

The Chair apologised to the applicant for the confusion [in relation to the double yellow lines as this was clearly an unseen event by the Licensing Sub-committee and the Licensing Officers], during the meeting but reasoned that given the legal grounds and the unsuitable location the Committee would be minded to refuse the application

In his final right of reply the applicant explained the following:

- Lorries only unloaded during the night not during day time when he would be trading;
- Other vehicles were always parked on Redmarley Road and these did not cause obstructions;
- He had chosen the widest part of the road to park his van:
- The area was not overly busy during the hours he was proposing to trade and so would not cause a nuisance.

The sub committee then proceeded to vote on section 1.4.1 of the report to:

*Approve the application because it is compliant with the council's policy and Members are satisfied that the location, size of unit and type of goods are suitable.*

The sub-committee voted unanimously against section 1.4.1.

They then voted on section 1.4.2 to:

*Refuse the application because Members feel that the location, size of unit and/or type of goods are not suitable.*

The sub-committee voted unanimously for section 1.4.2.

**Resolved that**

**The application be refused.**

The Legal Officer advised the applicant that he did not have the right of appeal but reminded him that the Licensing Officer would be available for pre-application advice for any future applications.

**5. LOCAL GOVERNMENT ACT 1972- EXEMPT INFORMATION**

Upon a vote it was unanimously

**RESOLVED** that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:

Information relating to any individual,

Information which is likely to reveal the identity of an individual,

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**6. EXEMPT MINUTES OF THE LAST MEETING**

The exempt minutes of the last meeting held on 7<sup>th</sup> February were signed as a correct record.

David Willingham  
**Chairman**