

Licensing Committee

Friday, 6th March, 2015

2.00 - 3.10 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton, Jon Walklett, Tim Harman (Reserve) and Helena McCloskey (Reserve)
Also in attendance:	Vikki Fennell and Phil Cooper

Minutes

1. APOLOGIES

Apologies had been received from Councillor Barnes and Councillor Chard. Councillor McCloskey was in attendance as substitute for Councillor Barnes and Councillor Harman as substitute for Councillor Chard.

2. DECLARATIONS OF INTEREST

Councillor Walklett declared an interest in agenda item 5, the application for tables and chairs outside Turtle Bay, having been invited to the opening launch.

With regard to agenda item 6, the application for a street trading consent by Mr Bambas Shaouna, Councillors Regan and Lillywhite declared an interest being ward councillors for the areas being discussed, and Councillor Whyborn declared a personal and prejudicial interest as he knew the applicant and had had financial dealings with him.

3. PUBLIC QUESTIONS

There were no public questions.

4. MINUTES OF MEETING HELD ON 6 FEBRUARY 2015

The minutes of the Licensing Committee held on 6 February 2015 were approved and signed as a true record.

5. APPLICATION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY - TURTLE BAY, 20-26 PITTVILLE STREET

The Licensing Officer, Phil Cooper, introduced the report concerning an application received from Mr Brynn Macek of Fusion Design and Architecture in respect of Turtle Bay (a new bar and restaurant), 20-26 Pittville Street, seeking permission to place 10 tables and 30 chairs on the highway outside the premises from 11.30 am to midnight Sunday to Thursday and 11.30 am to 1 am on Friday and Saturday. He informed members that the applicants had sent their apologies and that they knew the application would be determined in their absence.

Appendix A to the report showed photographs of the furniture, Appendix B showed a plan of how the tables and chairs would be positioned and Appendix C showed the location of the premises.

The Officer informed members that no objections had been received from nearby businesses or members of the public. However, objections had been received from the council's planning enforcement officer, health and safety officer and environmental health (noise control) officer. Their objections related to the amount of space available at the location and the potential for noise disturbance if the tables and chairs were being used after 11pm.

The Officer advised that members having considered all the relevant matters needed to decide whether to approve the application, to refuse the application or to modify the quantity of furniture and / or the times applied for.

In answer to a question from a member, the Officer re-confirmed that the time the chairs stayed out till could be altered. In view of this Councillor Thornton proposed that the tables and chairs stayed out until 11pm Sunday to Thursday and 11.30pm on Friday and Saturday. Councillor Walklett seconded this. Another councillor proposed midnight on Friday and Saturday.

A Councillor asked the Officer whether there were plans for more trees to be planted in the tree pit outside the premises. The Officer said he was not aware of any such plans, but as Highways had been consulted on the application and did not comment, he assumed there were no such plans.

Members expressed concern about the distances between the tables and chairs and the various obstacles on the paved area and the lack of information on the canvas barriers or planters that would be used. Many felt the distance measured should be from the barrier to the obstacles and not from the tables and also felt it was unclear whether the barriers would fence off all the tables and chairs. The chairman advised that the applicant was not proposing barriers along the whole length, as this would make the entire width too narrow. The Officer confirmed that details about the canvas barriers had not been specified as yet, but would have to conform to the standard policy. One member proposed refusing the application on lack of information on the barriers and tables and chairs.

Concern was expressed by many members on the layout of the tables and chairs and the impact it would have on other street users and several combinations on the number of tables and chairs were suggested, including no tables at all opposite obstacles. It was felt that chairs would be moved from the tables of four to the tables of two, thus reducing the minimum prescribed clearance distance of 1.8m, especially on the paved areas near the obstacles. One member commented that there was no service walkway and thus waiting staff would be on the pavement and also creating more footfall through the main entrance. There was concern also about the volume of footfall near the dropped kerb on the corner of a busy road by the entrance to the premises and thus felt that a table for 4 was not appropriate at this point either.

The Chairman reminded members that the recommended 1.8m minimum clearance distance was advised as good practice to ensure safety and physical space for passing, but that local variations of 1.5m could be acceptable.

In general, members welcomed this relaxed café culture addition on the edge of the shopping area and its added value to this part of the town and the night time economy. However they were mindful of how busy this street was with traffic and footfall and the noise impact to local residents.

It was agreed that 30 chairs was too many and that 2 chairs to a table the entire length of the proposed area was reasonable.

An amendment was therefore proposed by Councillor Whyborn and seconded by Councillor Seacome to allow 10 tables with 2 chairs per table in a single row width along the side of the premises, subject to the canvas barriers being inspected and approved by Officers.

Upon a vote on this amendment, it was 7 for, 2 against.

A vote was then taken on an amendment to the times that the tables and chairs could be placed on the highway outside the premises, with the proposal that they be there from 11.30am to 11pm Sunday to Thursday and 11.30am to 11.30pm on Friday and Saturday.

Upon a vote on this further amendment, it was 8 for, 1 against.

The Chairman then referred to the recommendation in the report, subject to the above amendments, and

Upon a vote it was 6 for, 3 against.

RESOLVED, that the application be approved subject to the amendments just passed, because the members felt the application was compatible with the current Street Scene Policy.

6. APPLICATION FOR A STREET TRADING CONSENT - MR BAMBAS SHAOUNA

The Vice Chairman took the Chair for this item as the Chairman had expressed a prejudicial interest in this agenda item.

The Licensing Officer, Phil Cooper, introduced the report concerning an application from Mr Bambas Shaouna who had applied for street trading consent for three ice cream units. The first application was for a static unit to be located on the pedestrianized area of the Promenade and no objections had been received in respect of that application. The other two applications related to mobile ice cream vans. The Officer reported that no objections to the applications had been received in principle, however objections had been received to the applicant's request to be exempted from two standard conditions which the Council applied to all mobile ice cream units.

Images of the three trading units were attached at Appendix A and a location plan of the static unit was attached at Appendix B. The applicants statement of reasons for dispensation to two of the council's standard conditions was attached at Appendix C and Appendix D showed the proposed location of where the applicant intended to trade in Pittville Park.

The Officer advised members that the first condition that the applicant had asked to be exempted from was the prohibition to trade in Evesham Road and roads adjacent to Pittville Park. His statement at Appendix D explained this and this had attracted an objection from the council's green space manager.

The second condition that the applicant had asked to disapply related to the prohibition to trade within 75 metres of the gates of all schools and in the case of Bournside school within 100 metres. Again the applicant had submitted a statement of reasons and this had attracted objections from the council's health and safety officer and planning enforcement officer.

Members were advised that in respect of all three applications, that they needed to recommend to either approve or refuse the applications and in the case of the two mobile units, members were recommended to consider the applicant's request to disapply conditions.

The applicant Mr Shaouna and his business partner attended the meeting and were invited to speak. The Chairman wished to take the application for the static unit first.

The business partner said there was a gap in the market for an ice cream unit in the town, with only one on the High Street and none in the Promenade. He confirmed that the unit used would be identical to the one shown in the appendix and that it would be static and trade opposite Radleys on the pedestrianized part of the Promenade as shown on the location plan. He said it was an eye catching tricycle and was more appealing to members of the public than standing in a café. In reply to a question he confirmed the ice cream was Marshfield ice cream, soft scoop and that they would be offering a choice of 5 or 6 flavours. He also confirmed that he had the list of when events were on in that part of the Promenade, eg. the farmers' market, and was aware that they could not trade at those times.

The Chairman decided to take the vote on this first application on whether to grant street trading consent to the static tricycle at this point.

Upon a vote it was 7 for, 1 abstention.

RESOLVED, that the application for street trading consent for the static unit to be located on the pedestrianized area of the Promenade be approved as members were satisfied that the application complied with the provisions of the Street Scene Policy and that the location was deemed suitable in enhancing the town's reputation as a tourist and leisure destination and in keeping with the streetscape.

The Chairman advised members that he would take the other two applications for the vehicles trading consent and the alterations to the policy that had been requested together.

The applicant Mr Shaouna was invited to speak. He informed members that he had been in the ice cream business for 20 years and had been very popular both at the beer gardens and in Pittville Park. He explained that when he was moved on from Pittville Park where he had traded for 8 years, many people were upset and articles were in the local paper and on television. He said that

children liked ice cream from a van, rather than a hut, and he didn't see it as taking business away from the huts in Pittville Park, as market forces dictated business. He suggested that cars only moved very slowly in the area of Pittville Park where he was proposing to trade as it was on a bend and that he would even be happy to donate a certain amount of his profit towards keeping the facilities at Pittville Park. With regard to the distances from schools, Mr Shaouna felt it was wiser to be nearer a school than for children to have to cross a road and risk getting hurt.

In reply to a question from a member as to why Mr Shaouna was moved from Pittville Park, the Officer informed members that the Council changed its policy some years ago and as street trading consents have to be re-applied for annually, when Mr Shaouna re-applied the new approved conditions would have applied. Some members requested an explanation on the distance from the schools as stated in the policy, but members were reminded that that was the condition agreed by the Council at the time and was not subject to scrutiny at this meeting.

The Council's policy listed the roads where trading was not allowed and members felt if they allowed Mr Shaouna exemption then this could set a precedent. It was also pointed out to Mr Shaouna that his vans were subject to road regulations wherever he parked.

Members expressed concern about the dangers to children particularly in the vicinity of schools when a mobile ice cream van was present and the congestion with school traffic. The ward councillor for Warden Hill expressed particular concern about Mr Shaouna trading around the Bournside School area with so many children and so much traffic and asked him if he intended to park in this area. Mr Shaouna replied that he could park in the layby and that he would be happy to speak to Bournside School about this. He said that some schools were happy for him to park within the 75 metre limit and other schools allowed him to park on the premises.

Members suggested that Mr Shaouna could approach schools individually to see if he could operate within school grounds and maybe give a percentage of his takings to the relevant school.

In summing up Mr Shaouna felt there was no danger to children in where he was proposing to trade in Pittville Park and that it was more about the council wanting the business in their own huts there. With regard to parking nearer schools he felt it was safer to be nearer schools than for children to have to cross a road and that he wasn't asking for a huge change, just permission to park closer as some schools were happy with this.

The Chairman proposed to approve the application to grant street trading consent to the two mobile ice cream vans.

Upon a vote it was 8 for, 0 against.

The Chairman proposed to approve the special dispensations requested to the Council's special conditions for mobile ice cream traders.

Upon a vote it was 0 for, 8 against.

RESOLVED, that the applications for street trading consent for the two mobile units be approved, but that the application to disapply standard conditions in respect of the two mobile units be refused.

7. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

None

8. DATE OF NEXT MEETING

10 April 2015

Roger Whyborn
Chairman