

Licensing Sub-Committee - Miscellaneous

Wednesday, 8th May, 2019

6.00 - 7.30 pm

Attendees	
Councillors:	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Simon Wheeler
Also in attendance:	Louis Krog, Vikki Fennell and Sophie McGough

Minutes

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

Members noted that the minutes from the meeting on 3rd April 2019 had comments attributed to Members which was not standard practice with committee minutes. A grammatical error was also noted. The Democracy Officer agreed to amend the minutes as discussed.

Subject to the agreed changes the minutes of the last meeting on 3rd April 2019 were approved and signed as a correct record.

4. REVIEW OF STREET TRADING CONSENT

Mr Wayne Parker was in attendance as a representative for the applicant, Miss McDonnell.

The Licensing Team Leader introduced the report, he explained that the application was for the review of a street trading consent in respect of Miss Melissa Jane McDonnell who was trading from Bence's car park on Sherborne Place.

He confirmed that the consent was issued on 05.09.2018 and Miss McDonnell had an arrangement with the council to pay her consent fee on a monthly basis. However, Miss McDonnell had failed to pay her consent fee on a number of occasions resulting in her consent being suspended and requiring officer

resource to chase payments. He highlighted that it is a condition of the consent that the monthly fee must be paid on time following receipt of the monthly invoice. In light of the repeated failure by the consent holder to do so, officers had referred the consent to the "Miscellaneous" sub-committee for a review.

He advised the committee that their options were not limited to those outlined at section 1.4.1 of the report.

Following a question from Members he confirmed that the fees for November, December and January had been paid in February and that the fees for March and April had been paid on the 24th April. He advised that the most recent invoice for May was currently 3 days overdue.

Mr Wayne Parker explained that he regularly worked on the van and hoped to take over the business although he had experienced a number of family issues recently which had prevented him from doing so. He explained that they were a small business and trade had been slow recently due to an increase in healthy eating and also the business' location which was situated on a one way street and tucked behind a building. He explained that the business had experienced a number of issues recently that had resulted in cash flow problems as their van had been broken in to and gas bottles stolen and they had been let down by their delivery driver. He explained that since they had started doing deliveries trade had picked up and they wouldn't be able to operate without it. He questioned whether the rates could be decreased as they also had to pay a percentage to Bence's as it was their car park.

The Chair explained that it was not at the Committee's discretion to amend the fee as this was set in law by the Council each year.

In response to Members questions, Mr Parker explained that:

- From a business point of view if they couldn't do deliveries he would have to sell the van and close the business. However, he wished to keep the business in operation because they had an agreement with Bence's.
- He highlighted that the issues would be rectified once they had a delivery driver and they had been exploring the option of paying extra to Just Eat so that they could use their delivery drivers.
- He advised that the van was an extremely clean van and they used good quality produce.
- His family issues were being rectified and he hoped to be in a position to take over the business in the next couple of months.

The Chair advised Mr Parker would need to have further discussions with the licensing officers to transfer the business in to his name.

The Licensing Officer confirmed that:

- When the business' consent had been suspended they had been unable to trade, however, it was not suspended at the moment.

In the debate that followed, Members made the following comments:

- Some Members felt that Miss McDonnell was evidently not capable of running a business in a way that generates enough business to pay the licence fee. They suggested that should Mr Parker wish to run the business he come back and apply for a consent in his name. They felt it wasn't the Council's responsibility to bail out failing businesses.
- Other Members felt that they should give Mr Parker the opportunity to get in contact with the Council to transfer the consent to himself and ensure payments were made on time.
- A Member was concerned that by not revoking the licence they would be condoning non-payment of consent fees and could damage the reputation of the Council.
- Members highlighted that if they were minded to revoke the consent, the business could still do deliveries until a new licence was applied for in a different name.
- Members noted that they were determining whether Miss McDonnell was a fit and proper person to hold a consent and given the number of late payments several Members did not agree she was.
- One Member suggested giving Mr Parker an opportunity to transfer the consent to himself and rectify any late payments and then revoke the licence if this was not adhered to.

The Licensing Team Leader confirmed that if Mr Parker was to apply for a new consent the time to obtain it would depend on if there were any objections to the application and it would be subject to a 2 week consultation period. If Mr Parker wished to transfer the consent it was a relatively straightforward administrative process and would just require him to provide the necessary paperwork so they could conduct the relevant checks.

Some Members did not feel satisfied that Mr Parker would be able to turn the business around and sought reassurance that if they did give him the opportunity to transfer the licence they would not be in the same position in several months' time.

One Member proposed giving Mr Parker until the 31st May 2019 to transfer the consent in to his name and pay any outstanding fees. If he did not comply with these conditions they would then revoke the consent. They felt that this was not a public safety matter and so it was not necessary to revoke the consent immediately.

In his final right of reply, Mr Parker explained that:

- They had not yet been able to pay the fee for May as they had paid several months in one chunk.

- He ran a number of other successful businesses;
- As long as they could continue with the deliveries he could not foresee any issues with paying the fees.

Vote to revoke the consent

2 in favour
3 against

Vote on amending section 1.4.1 of the report to revoke the consent if the licence had not been transferred and outstanding payments made by 31st May.

3 in favour
2 against

Vote on amendment

3 in favour
1 against
1 abstention

RESOLVED THAT

Mr Parker be given until the 31st May 2019 to transfer the consent in to his name and make an outstanding payments, failure to do so would result in the licence being revoked.

The committee agreed to delegate revocation of the consent to officers so that the case would not have to come back before the committee.

5. APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - 'A' BOARD

The applicant was not present, however, the committee agreed to proceed and determine the application in her absence given she had confirmed that she was aware of the hearing and had stated to officers that she would be in attendance.

The Licensing Team Leader introduced the report, he explained that Miss My Dung Pham based at Cheltenham Nails Ltd, 2A Regent Street, Cheltenham had made an application to place an advertising board outside the address. He advised that the proposed advertising board was 860mm (h) x 575mm (w) and would be displayed at the times as outlined at paragraph 1.2 of the officers report.

He highlighted that the size of the advertising board did not comply with the standard sizes recommended in the Council's policy in that the width exceeds the policy stipulation. He advised that the width of the footpath available is in

excess of 3 meters. He also confirmed that A boards were not permitted on premises with a shopfront at street level. He confirmed that no objections had been received.

He noted that as per the Council's policy, all new applications for 'A' boards/display stands are considered by the Licensing Committee and that the Committee must determine the application with a view to promoting the Council's adopted policy. The officer recommendation is that this application be refused.

Members noted that an A board was already being displayed outside of the premises. The Licensing Team Leader highlighted that the A board displayed was different to what had been applied for. He also confirmed that the nearby premises displaying A boards were subject to enforcement action, although this was not a material consideration to this application.

In the debate Members made the following comments:

- This area was often congested with pedestrians and they saw no real need for the board given the premises location. They acknowledged that the policy states A boards are not permitted on premises with street frontage.
- One Member had concerns about enforcement of A boards across the town and requested that at next month's full licensing committee they look at the council's A board enforcement policy.
- They felt the A board was a hazard for those who were visually impaired.

Vote on section 1.7.1 of the report to approve the application because Members are satisfied that the location is suitable notwithstanding the policy requirements

0 in favour

5 against

RESOLVED THAT

The application be refused because it does not comply with the provision of the Street Scene policy.

6. REVIEW OF SEXUAL ENTERTAINMENT VENUE LICENSING POLICY

The Licensing Team Leader introduced the report, he explained that the Council's Sexual Entertainment Venue (SEV) policy statement was due to be reviewed and that sexual entertainment falls within the remit of the Miscellaneous Licensing Sub-committee. As such, it was within the remit of this committee to take a lead on the review of this policy.

He noted that in order to facilitate the review, and taking into account the sensitivities around the licensing of sexual entertainment venues, the committee had recommended that the review of the policy also include the ability for key stakeholders to provide an insight and view on the licensing and regulation of sexual entertainment in the town. The reports therefore sought endorsement from the Miscellaneous Licensing Sub-committee of this approach.

The Licensing Team Leader confirmed that the key stakeholders they intended to engage with included performers, operators, police and those who had expressed views against such venues in past. The review would also be subject to wider consultation. Following a query from Members, he confirmed that interested religious groups would be consulted as part of the wider consultation to be undertaken on the policy.

Members suggested that female Members of the licencing committee should also sit on the panel. The Chair and Licensing Team Leader confirmed that they intended to have as much diversity as possible on the panel.

The committee endorsed the approach as outlined in the officer's report.

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

The Chair informed the committee that One Legal had looked in to what powers exist for dealing with objects on the highway and had advised that the County Council as the highways authority could delegate powers to the borough so that they could remove objects form the highway. They reasoned that this needed further discussions and for a policy to be developed around this.

David Willingham
Chairman