

## Licensing Sub-Committee - Miscellaneous

Wednesday, 7th April, 2021

4.00 - 5.25 pm

Attendees	
<b>Councillors:</b>	David Willingham (Chair), Mike Collins, Wendy Flynn (Vice-Chair), Diggory Seacome and Simon Wheeler
<b>Also in attendance:</b>	Jason Kirkwood and Vicki Hanstock

### Minutes

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

Cllrs Willingham and Seacome declared they had visited the site with the Licensing Officer.

**3. APPLICATION FOR A STREET TRADING CONSENT - THE BEECHES CHARLTON KINGS**

The Senior Licensing Officer presented the report relating to a street trading consent from Melissa Hobbs to sell drinks and refreshments from a mobile unit at The Beeches Playing Fields, Charlton Kings. The consent was for 9 months and to operate from 07.00 to 18.00 hours every day. One objection had been received from a local business trader. The application was before committee as the Council's policy had permitted locations which were entirely within the town centre and this proposal was away from the town centre. An Officer recommendation was not given on this occasion and members were reminded to act in the public interest by considering the potential benefits for the wider community.

In reply to members' questions, the Officer confirmed:-

- That an initial charge of £113 was required to determine the application and if consent was granted there would be an additional charge to pay which was somewhat higher than in other places.
- That the lease was for a 9 month trial period and any effect or risk to existing nearby businesses would be monitored during this time.
- That pages 9 and 11 of the report had been duplicated.
- The normal process was that consultation with the Parish Councils was not undertaken, but they had been consulted on the disposal of the lease and were happy with this.

The objector, Mr Raymond Dowling was invited to address the committee. He said that members had seen his correspondence and objections so would not

dwelt on those but wished to refer to some points in the Officer's report. He stated that his ward councillors had raised concerns about the whole process and that he was not aware if the parish council had been consulted, nor had he been aware of any risk assessment having been carried out and thus it had not addressed any effect on the local economy. Regarding the disposal of the land for street trading, Mr Dowling had objected to this but not being au fait with the process may have done so incorrectly. He drew members attention to some points in the policy, namely to sustain established shop keepers and felt there was some unconscious bias in the report. He said that people did currently make the 10 minute round trip from the playing fields to his café for refreshments, but if there was a kiosk on the field then they would not and this highlighted the negative impact this would have on his business. He stated he had custom from all parts of the village and Sixways as he was situated in the hub of the community, but felt customers might by-pass him if there was another kiosk in the playing fields. He said he was all for competition but that the margins were so tight, especially recently with the pandemic, and even a small negative trade impact could result in him folding and could also not be sufficient to sustain the kiosk. He stated his café was in a good location and was a community asset, they had opened during the pandemic and had managed to keep going with support from the Council, and were just beginning to see light at the end of the tunnel which was being taken away by the opening up of a kiosk selling similar items.

In reply to a member question, the objector stated that his custom came largely from all around Charlton Kings, especially recently with the lockdown travel restrictions, as they were not a destination attraction.

The Chair invited the applicant's representative, Emma, to address the committee. Emma stated she fully understood the objector's concerns as it was a difficult time for all businesses, and said the applicant herself would normally be travelling around to festivals and events but that all her business had dried up. The applicant had approached the Council regarding several sites and this one was put forward which seemed favourable as she was from Charlton Kings and knew the area. During the tender process they looked to see if there would be enough trade to support the kiosk and they felt there was, as a shop closed down which children went to after school so felt this was a draw for youngsters at the back of the Beeches. Emma felt a lot of Mr Dowling's business came from the sheltered housing and felt people with mobility issues would not make the round trip to the kiosk along an uneven surface. She informed members they had joined Charlton Kings Business Connect Group and were keen to work together to increase footfall within Charlton Kings and support other local businesses. They had looked at Moosh's offering so that theirs would be different and felt local walkers in the field wouldn't necessarily go into the centre of Charlton Kings so would attract more spending locally. She acknowledged it was hard to work out exact figures at the moment with the pandemic and suggested it would change again as children went back to school and into the playing fields. She concluded by saying she felt a presence in the Beeches may help alleviate the antisocial behaviour that occurred in that area.

A member raised a point of order on equality and fairness in that the applicant's representative, Emma, and objector, Mr Dowling, should both be referred to in a similar manner. The Chair acknowledged this and apologised, but said it was

how the names appeared in his script and on the Web-ex screen. Emma did not offer her surname to amend how she was to be addressed.

A member asked a question about the disposal of litter, as this was an area of great concern at the moment in parks and open spaces. The applicant stated that at their kiosk in Burrows playing fields they supplied additional bins to those provided by the council, encouraged patrons to use the bins and recycled everything, which they would do at The Beeches. Prior to lockdown they had offered loyalty cards to encourage teenagers to litter pick in return for free drinks and they planned to do this again. Also at the end of each day they would clear their litter and that of others from the site. She also confirmed that all products would be sold in recyclable material, all cups being bio-degradable.

Another member asked the Objector about price comparability of products on sale, to which he replied that they appeared pretty much the same with some prices at the kiosk higher than his on some products and lower on others and vice versa.

The Objector asked the Applicant what evidence there was that the shop, The Forge, had been a thriving business, which closed down because of the pandemic resulting in a gap that needed to be filled. However, the Chair said this meeting was about looking at this application and although his representations could be taken into account, other businesses were not a material consideration.

The Licensing Officer summed up and clarified that this was not a re-run of the process to dispose of the lease. These were two completely separate processes and members must have regard to the Licensing Policy and act in the public interest. Additionally, concerning comments on competition, he pointed out that street trading guidance was not to regulate competition but not to promote unfair competition.

The Chair reiterated to members that they were considering the street trading consent only and that any decision made should be rational, reasonable and proportionate. If members wished to add any conditions, for example the applicant supplying litter bins, then this should demonstrate that this would prevent public nuisance and enhance the environment, with clear reasons given for that decision.

During the debate, members made the following comments:-

- Sympathised with both the Objector and Applicant. In these unprecedented times, we have a new business trying to make its way and an established business trying to keep going.
- Believed there was a clientele for both because of their locations, unless the quality of the offer varied.
- Think the kiosk would draw on a new clientele that would not necessarily go down to Moosh to get refreshments.
- As prices were deemed to be very similar, could not see this as being unfair, although there was obviously competition.
- Citing visits to other parks as examples, speculation on numbers of customers was pointless; the issue was the legality or otherwise of the kiosk being situated there and not the people patronising it.
- Did not believe the kiosk was unfair competition.

The Chair summed up stating that the Licensing Policy did not prohibit street trading outside of the town centre and consent had been granted in the past, so he was happy to vary that part. He thought that on balance the kiosk would be beneficial to the area and would serve people who used that part of the playing fields and also that he did not think this represented unfair competition. He felt the street trading kiosk was unlikely to cause an increase in public nuisance but that the presence of a business overlooking a skate park could deter anti-social behaviour in the area. He stated the appearance of the kiosk was acceptable and in keeping with guidelines and that the packaging and waste met the environmental credentials. Finally, he asked that if it were not already a standard condition of consent, that a condition be added stating that a bin must be provided by the applicant and litter taken away. He could see no material reasons to object and suggested it might improve the area and was happy to support it.

There being no further comments or questions, the Chair moved to vote on 1.5.1 of the report to approve the application.

For : 5

Against : 0

Abstain : 0

#### **GRANTED UNANIMOUSLY**

The condition to provide a litter bin was stated in the contract and therefore no vote on this was needed.

#### **4. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

The Chair wished to advise members of two points:-

- The current Licensing Policy did not require Parish Councils to comment and he recommended that this be re-considered at the next full licensing committee.
- In his role as Chair, he had received an anonymous complaint about an app based private hire operator. He stated that anonymous complaints could not be investigated, so if someone had evidence of wrong doing, they needed to make a complaint in writing to the Licensing Team.

David Willingham  
**Chairman**