

# Bristol City Council

## Minutes of the Public Safety and Protection Sub-Committee A

8 January 2019 at 10.00 am



**Members Present:-** Councillor Christopher Davies, Councillor Richard Eddy (for items 1-10) and Councillor Sultan Khan

**Also in attendance:** Councillor Claire Hiscott (for item 8), Ashley Clark – Legal Services (Items 8 and 9), Lynne Harvey – Legal (Items 10-14), Abigail Holman – Licensing Officer, Sue Long – Parks and Markets Team (Items 8 and 9), James Roberts – Licensing Officer (observing) Corrina Haskins – Democratic Services

### 1. ELECTION OF CHAIR

**RESOLVED** that Councillor Richard Eddy be elected Chair for items 1-10 and Councillor Chris Davies be elected Chair for items 11-14)

### 2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mike Langley and Estella Tincknell.

### 3. DECLARATION OF INTEREST

There were no declarations of interest.

### 4. PUBLIC FORUM

Members of the Committee received 57 Public Forum Statements objecting to the application for a street trading licence at Monks Park open space from the following members of the public.

The statements were heard before the application it related to and were taken fully into consideration by the Committee prior to reaching a decision.

### 5. SUSPENSION OF COMMITTEE PROCEDURE RULES CMR10 AND CMR11 RELATING TO THE MOVING OF MOTIONS AND RULES OF DEBATE

**RESOLVED** – that having regard to the quasi-judicial nature of the business on the Agenda, those Committee Procedure Rules relating to the moving of motions and the rules of debate (CMR10 and 11) be suspended for the duration of the meeting.



**6. TO CONSIDER APPLICATIONS FOR THE GRANT OF A STREET TRADING CONSENT IN PRINCIPLE AT THE FOLLOWING LOCATIONS: SOUTH CORNER OF COTHAM GARDENS, REDLAND GROVE**

The Licensing Officer outlined the background to the application as follows:

- The application had been made on behalf of the Parks and Markets team;
- The process was to apply for a provisional consent application in the first instance to gauge issues around the city and see if each location was appropriate;
- The process provided a seamless route for applicants as it addressed any issues at an early stage and allowed a more streamline application process;
- Anyone applying for the concession would also need to persuade the Council that they were a fit and proper person to hold a street trading licence;
- If the Committee was minded to grant consent, the Licensing Team recommended two additional conditions (as well as the usual standard conditions) relating to preventing the use of either a diesel or petrol generator and ensuring the concession could not operate if another event was taking place without the prior permission of the event organiser.

The Parks and Markets Officer outlined the background for the application:

- The Parks and Markets Team had identified a need to reduce expenditure by £3m and following a citywide consultation about ways of generating income, one of the options identified was to increase the number of concessions in parks;
- The team had worked with the procurement and public health teams with a view to achieving a gold standard in terms of environment and quality in addition to price;
- The team was mindful of what would work within a park, and the current successful concessions were usually limited to tea, coffee and ice cream rather than fast food.
- Concerns had been raised about litter, but the licence would contain a clause about litter and the successful applicant consent holder would need to provide a rubbish receptacle;
- Concerns had also been expressed about driving on the grass, but there was a paved area that a concession could use to reach the location;
- There was a mobile ice cream van which often traded in this area, but this was not associated with Bristol City Council.

At this point in the meeting, everyone withdrew with the exception of the Committee Members, Legal Advisor to the Committee and Democratic Services Officer while the Committee considered the application. Everyone returned to the meeting to hear the decision.

It was proposed, seconded and;

**RESOLVED** (unanimously) that consent be granted in principle for a street trading licence at South Corner of Cotham Gardens, Redland Grove, subject to the following conditions (in addition to standard conditions normally attached):



- The consent holder will be required to install an electric charging point (or gas alternative) before any concession is in place;
- The maximum hours of operation will be Monday to Sunday 09 00 – 20 00;
- The consent will exclude any such items deemed to cause offence and/or harm, such as alcohol, weapons, fireworks, vaping, tobacco, knives or legal highs.
- The consent holder shall not be permitted to use either a diesel or petrol generator. The unit may be powered by an alternative energy source, however it must be of a 'silent running' nature.
- The consent holder will not be permitted to trade on occasions when other events, or festivals take place at the site, or which encompass the site, without the explicit written permission of the event or festival organiser.

**7. TO CONSIDER APPLICATIONS FOR THE GRANT OF A STREET TRADING CONSENT IN PRINCIPLE AT THE FOLLOWING LOCATIONS: MONKS PARK OPEN SPACE, BIDDESTONE ROAD (AGENDA ITEM 7)**

The Licensing Officer outlined the background to the application as follows:

- The application had been made on behalf of the Parks and Markets team;
- The process was to apply for a provisional consent application in the first instance to gauge issues around the city and see if each location was appropriate;
- The process provided a seamless route for applicants as it addressed any issues at an early stage and allowed a more streamline application process;
- Anyone applying for the concession would also need to persuade the Council that they were a fit and proper person to hold a street trading licence;
- If the Committee was minded to grant consent, the Licensing Team recommended two additional conditions (as well as the usual standard conditions) relating to preventing the use of either a diesel or petrol generator and ensuring the concession could not operate if another event was taking place without the prior permission of the event organiser.

In response to questioning, the Licensing Officer summarised the objections as below:

- Concern about the use of the park in general and the potential for anti-social behaviour;
- Concern that school children will purchase unhealthy food;
- Concern about the proposed hours of operation;
- Concern about potential for litter.

She confirmed that conditions could be applied in relation to litter, food options and restricting the hours of operation.

The Parks and Markets Officer outlined the background for the application:

- The Parks and Markets Team had identified a need to reduce expenditure by £3m and following a citywide consultation about ways of generating income, one of the options identified was to increase the number of concessions in parks;



- The team had worked with the procurement and public health teams with a view to achieving a gold standard in terms of environment and quality in addition to price;
- The team was mindful of what would work within a park, and the current successful concessions were usually limited to tea, coffee and ice cream rather than fast food;
- The licence would contain a clause about litter and the successful applicant would need to provide a rubbish receptacle;
- The Committee could include a condition not to have hot food if appropriate;
- A concern had been raised about gates being opened, but operators would have a key.

In response to Member questioning, officers confirmed the following:

- The consultation did not specify a particular food option, as the application covered all areas in the city and different options may work in different areas;
- This area would probably attract a tea/coffee/ice cream concession and this would attract adults rather than school children and could discourage anti-social behaviour;
- The concession could act as the “eyes and ears” of the Council and report back on any anti-social behaviour;
- There was no “Friends of” Group associated with this park, but the Council had ensured that the Parks Forum was updated in relation to the applications;
- Orchard School had submitted an objection as part of the Public Forum statement, but there had been no representations from the police.

The Committee invited Councillor Hiscock, local member, to speak in relation to the application and she raised the following points:

- Although not opposed to all food concessions, as the Chair of the Public Health Scrutiny Commission, and a Health Professional for 25 years, she was concerned that this could be an outlet for fast food and this was a particular concern due to the proximity of the park to a Primary and Secondary School;
- In order for a concession to be profitable it would need to sell a lot of food and this was likely to be an unhealthy option;
- The concessions could encourage children to spend money on unhealthy food and gather in the park which could lead to anti-social behaviour;
- Orchard Secondary School had a problem with attendance and the food concession could encourage children to absent themselves from school;
- The School had made a lot of effort to encourage healthy lifestyles and this concession would not help their efforts;
- There was a national problem with childhood obesity and this was something the council were trying to address in Bristol;
- Although there wasn't a “Friends of” group, there was a neighbourhood group which had undertaken a lot of work on litter collection;
- There had been problems in the past with anti-social behaviour and young adults causing a disturbance and the concession could encourage this again by being a gathering point;



- The local residents were not consulted about the proposal and were concerned about the implications for the local area;
- This was a residential area and a school route and a concession would not benefit the area.

At this point in the meeting, everyone withdrew with the exception of the Committee Members, Legal Advisor to the Committee and Democratic Services Officer while the Committee considered the application. Everyone returned to hear the decision.

The Committee noted the concerns of local residents but considered that the majority of concerns could be mitigated by appropriate conditions.

Cllr Eddy proposed, it was seconded and;

**RESOLVED** (unanimously) that consent be granted in principle for a street trading licence at Monks Park Open Space, Biddestone Road, subject to the following conditions (in addition to standard conditions normally attached):

- The consent holder will be required to install an electric charging point (or gas alternative) before any concession is in place;
- The consent holder will be permitted to sell hot/cold drinks, cold food and ice cream and will not be permitted to sell any hot food;
- The maximum hours of operation will be Monday to Sunday 09 00 – 18 00;
- The consent will exclude any such items deemed to cause offence and/or harm, such as alcohol, weapons, fireworks, vaping, tobacco, knives or legal highs.
- The consent holder shall not be permitted to use either a diesel or petrol generator. The unit may be powered by an alternative energy source, however it must be of a 'silent running' nature.
- The consent holder will not be permitted to trade on occasions when other events, or festivals take place at the site, or which encompass the site, without the explicit written permission of the event or festival organiser.

## **8. EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED** that under Section 11A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the ground that involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.

## **9. TO DETERMINE AN APPLICATION FOR THE GRANT OF A STREET TRADING LICENCE AT THE FOLLOWING LOCATION: REAR OF EAST STREET AT THE JUNCTION WITH CHURCH ROAD, BEDMINSTER (AGENDA ITEM 9)**

It was noted that the applicant was not in attendance.

**RESOLVED** that the application be adjourned.



**10. TO DETERMINE AN APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT AT THE FOLLOWING LOCATION: REAR OF 13 DRUETTS CLOSE ON THE ROAD, KELLAWAY AVENUE (MM) (AGENDA ITEM 10)**

The Licensing Officer confirmed that the applicant was not in attendance and had failed to respond to attempts to contact him to discuss the application.

The Committee expressed disappointment that the applicant had not engaged with the Council and noted that representations had been received from the Local Councillor and the police expressing concerns about the application.

At this point in the meeting, the Licensing Officers withdrew while the Committee considered the application. Following the Committee deliberations, the Licensing Officers returned to hear the decision.

**RESOLVED** that the application be refused for the following reasons:

- Having regard to the concerns raised by the police, local Councillor and residents;
- The failure of the applicant to engage with the Council to discuss the application and address concerns;
- Risk of littering and subsequent impact on the local environment;
- potential safety risk to the public due to the nature of the location, being a busy road with no pavement on one side.

**11. TO DETERMINE AN APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT AT THE FOLLOWING LOCATION: SILVERTHORNE LANE BY FEEDER COMMERCIALS, BRISTOL (CI) (AGENDA ITEM 11)**

The applicant was in attendance along with his legal advisor, Duncan Craig, and an interpreter. The Licensing Officer raised a concern that the applicant had been accompanied by an interpreter, as the usual procedure was for the Council to appoint an independent Interpreter. The applicant agreed that his knowledge of the English language was sufficient to not use his interpreter.

The Licensing Officer outlined the background to the application as follows:

- the application was to serve fast food between 21.30-5.30 and if the committee were minded to grant the application a premises licence issued under the Licensing Act 2003 would be needed to sell hot food and hot drinks between 2300 and 0500.
- the Police had raised concerns about the application.

In response to questioning from Members, it was confirmed that the location was outside the Cumulative Impact Area (CIA) and so this was not directly relevant to the application.

The Applicant's representative made the following points:



- the police objection had referred to the CIA and although the location was close to the zone, it was not inside the CIA;
- the van would not obstruct the 1.2m of footway required by the Highways Authority;
- the client was aware that he was required to have a premises licence after 23.00 and this would be subject to a further application;
- the client had 15 years' experience of working as a manager in a street trading food outlet for 15 years, had lived in the UK since 2001 and was of good character.

In response to a question of clarification about the type of van, it was clarified that consultation had taken place on the van detailed in the report and the applicant confirmed that he would be running the trading unit.

At this point in the meeting, the Applicant and his representatives and the Licensing Officers withdrew while the Committee considered the application. Following the Committee deliberations, the Licensing Officers, Applicant and his representatives returned to hear the decision.

**RESOLVED** that the application be granted for the following reasons:

- The Committee had no issues with the suitability of the Applicant or the trading unit;
- The Committee had initial concerns about the location of the trading unit because it would be situated very close to a large nightclub, however, these were allayed as it would not be located in a cumulative impact area nor in a densely populated residential area;
- The Committee noted that no objections had been received from Pollution Control or any of the other consultees;
- The Applicant was aware that he would also need to apply for a Premises Licence under the Licensing Act 2003 in respect of which the Police could make further representations and the Committee believed that this was the more appropriate forum to look at issues such as the potential for Crime and Disorder, public nuisance and the like.
- The Committee considered there was a commercial need for the unit at this location and was therefore prepared to grant the application.
- The Committee also noted that the Applicant had over 15 years' experience of working in the late night catering trade and that he would be working from and managing the unit himself. If however, the problems did arise as a result of a trading unit at this location, the consent could either be revoked or not renewed.

**12. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE NUMBER SEEKING DEPARTURE FROM COUNCIL POLICY (JH) (AGENDA ITEM 12)**

The Applicant (JH) was in attendance.

The Licensing Officer outlined the background to the application as follows:



- The Applicant had a number of convictions, the most recent being April 2010 for battery and June 2013 for dishonestly using electricity and producing a controlled drug.
- The Applicant had previously held a licence in 2002 but it had been revoked in 2006, following complaints about the applicant plying for hire and an incident involving an argument and assault on passengers which was reported to the police, but no action taken;
- Previous applications had been made, but had been refused by the Committee;
- There was an incident where crack cocaine was found at the applicant's address but the police had not been able to link the incident to the Applicant;
- The Applicant had circulated additional information to the Committee relating to his attendance at an anger management course and relating to his drugs test;
- The Licensing Policy stated that an applicant should be 5 years free of conviction after an incident involving drugs, 5-10 years free after battery/violence and 5 years free after theft;
- The Licensing Officer was recommending refusal and if the Committee were minded to approve the application, they needed to be convinced that JH was a fit and proper person who would not pose a risk to the safety of the public.

The Applicant made the following points in support of his application:

- He had not been tried/convicted or charged in relation to the crack cocaine incident and denied involvement in the possession of the drug;
- He had tried to be honest by presenting all the documentation relating to his prosecution papers and drugs results;
- He was asked by the previous committee to attend an anger management course and undertake a drugs test and he had done both of these things;
- The drugs test had proved that he had not consumed drugs but that there was a small trace caused by environmental contamination.

In response to questioning, the Applicant confirmed that he was working as a fitness trainer but wanted to return to his previous job as a Private Hire Driver.

At this point in the meeting, the Applicant and the Licensing Officers withdrew while the Committee considered the application and subsequently returned to hear the decision.

**RESOLVED** that the application be REFUSED for the grant of a private hire driver (PHD) licence in that in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 the Committee were not satisfied that the Applicant (JH) was a fit and proper person to hold such a licence for the following reasons:

- Although the last conviction was dated June 2013 the policy guides that there should be a period of at least 5 years free of conviction before an application will be entertained in respect of drug related convictions – a period of 5 –10 years free of conviction is needed before an application should be entertained.
- The Committee is not satisfied that he should be treated as an exception to Council policy without undermining it or the reasons that underlie it.





- The Results of the drug test were inconclusive as there was evidence of traces of drugs in the test.
- A series of offences over a period of time is more of a cause for concern as it shows a pattern of behaviour.
- The Committee expected to see more evidence to support that the applicant was fully rehabilitated as he had not discharged the burden of proving that he was a fit and proper person at this time.

### **13. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PHD LICENCE (IM) (AGENDA ITEM 13)**

The Applicant was in attendance for the item.

The Licensing Officer outlined the background to the application as follows:

- The Applicant had previously applied in 2016 and had been refused a licence by the Public Safety and Protection Committee at that time.
- The Applicant had applied again in August 2018 and had failed to disclose that he had a police caution for soliciting and that he had previously had an application refused by Bristol City Council.
- The officer recommendation was to refuse the application in line with policy, but if the Committee were minded to approve, the applicant would need to complete the knowledge test.

The Applicant made the following case in support of his application:

- He had not declared his police caution as he understood that he did not have to do so after five years;
- He had told someone in the Licensing Office that he had an application refused and thought that this information was already in the system;
- He was currently working as a security officer but he wanted to apply for a licence as he believed that being a PHD was a more stable job

In response to questioning the applicant:

- clarified that he had not been told by anyone in the Licensing Office that he did not need to declare an offence after 5 years;
- stated that he did not know that soliciting was illegal and had not done it again since his police caution;
- he was not arrested, but was stopped by the police after the incident and later received a caution;
- he was not driving a taxi at the time of the incident;
- he had filled in the form himself.

In response to questioning of the Licensing Officer, it was confirmed that the Applicant had never been licensed as a PHD by Bristol City Council.



At this point in the meeting, the Applicant and his representatives and the Licensing Officers withdrew while the Committee considered the application. Following the Committee's deliberations, the Licensing Officer and Applicant returned to hear the decision.

**RESOLVED** that the application be REFUSED in that in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976 the Committee was not satisfied that the applicant was a fit and proper person to hold such a licence for the following reasons:

- As a result of the offence of a serious sexual nature the Committee could not be satisfied that the applicant was a fit and proper person to hold a PHD's licence. A period of 5 – 15 years free of offending conduct was usually required before an applicant can be regarded as suitable.
- The offending conduct falls within the policy and the Applicant had not satisfied the committee that he should be treated as an exception to the policy.
- The Committee was also concerned that the applicant had made an incorrect declaration on the application form and although he contended he had misunderstood the form, the Committee had doubts about this.
- The Applicant produced no supporting information, such as references, to satisfy the Committee that he was a suitable person to be licensed by this Council.

**14. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER (PHD) LICENCE: (SH) (AGENDA ITEM 14)**

The Licensing Officer recommended that the application be adjourned pending further information.

**RESOLVED** that the application for the grant of a private hire driver licence (SH) be adjourned.

The meeting ended at 14.44

