

AGENDA ITEM NO 8

BRISTOL CITY COUNCIL PUBLIC SAFETY AND PROTECTION COMMITTEE 7 June 2016

Report to consider an application for the Grant of Street Trading Consent(s) at Sea Walls, Adjacent To Public Conveniences Circular Road, Durdham Down

Applicant: Steve Bellot

Report of the Service Manager – Regulatory Services

Purpose of Report

To determine an application for the grant of a Street Trading Consent at the following location: **Sea Walls, Adjacent To Public Conveniences, Circular Road, Durdham Down**

Background

1. With effect from 1 May 2009 the above location is designated as a consent street for the purpose of street trading legislation. Any street trading at that location other than under a street trading consent issued by the Council would constitute a criminal offence.
2. The land is owned by Bristol City Council.
3. This location is part of an area known as Durdham Down which, together with Clifton Down are managed by the Downs Committee, a statutory body, established by an Act of Parliament known as The Clifton and Durdham Downs (Bristol) Act 1861 (Downs Act). This body are empowered to ask the council to make byelaws to help them fulfil their statutory duties to manage the land under the Downs Act. The council has made byelaws.

4. Byelaw 6 states *'No person shall on the Downs, without the consent of the Downs Committee, sell or offer or expose for sale, or let to hire, or offer or expose for letting to hire, any commodity or article.'*
5. The Downs Committee have given consent for trading to take place at this location and the Council as landowner has granted a contract for use of its land which includes conditions governing matters such as prevention of litter and rubbish accumulation, quality and design of product and vehicle, and power supply to be electricity only.
6. General conditions which would normally be attached to a licence/consent if granted are at Appendix A, however the position in relation to The Downs is unusual in that the council has made a byelaw that enables another public body (the Downs committee) to regulate street trading on most of the Downs. It is not clear that the council has ever had cause to consider the effect of there being two street trading regimes operating on the Downs and it may be that Members will wish to revisit in due course whether it is necessary and proportionate for street trading controls to remain in place for this area given the issue is covered by the byelaw referred to in paragraph 4 above. Meanwhile the controls exist and the application must be determined, but the Committee is advised that:
 - a. If a street trading consent is granted the Council should take care not to impose conditions that are inconsistent with the conditions imposed through the consent already given by The Downs Committee;
 - b. when deciding whether or not to grant a street trading consent, the views of the The Downs committee, being the body with a statutory duty to manage The Downs, should be afforded appropriate weight; and
 - c. given the objections that have been received and that do not appear to have been before the Downs Committee, Members may wish to seek the observations of the Downs Committee prior to making their decision.
7. Photographs of the proposed trading site are attached at Appendix B and a site location plan at Appendix C.
8. On 18 January 2015 Mr Steve Bellot applied to sell the following goods:
Burgers, Chips, Hotdogs, Roasted Meat, Sandwiches, Hot

pressed bread, paninis, rice dishes, charcuterie, kebabs, soup, tea, coffee, soft drinks

During the hours of 0600 – 2200 Monday to Sunday

Photographs of Mr Bellots's trading unit are attached at Appendix D

The applicant has demonstrated that consent exists for the activity from both the landowner (Bristol City Council) and under the byelaw (from the Downs Committee); however it appears that those two permissions do not extend to the hours between 6 and 7 a.m. Trading between 6 and 7 a.m. would be a criminal offence, therefore if the applicant maintains the application to commence from 6 a.m. Furthermore those consents are not in given in favour of the applicant, but refer to a company. Whilst it is appreciated that the applicant and the company may be related it is important that this committee does not give consent to trade that would be contrary to the byelaw.

Members are therefore advised to defer determination to obtain the observations of the Downs Committee in relation to the application

Consultation

9. The Council's policy states that normally consultation will take place with the following interested parties:-
 - a. Local Residents
 - b. Local businesses
 - c. Bristol City Council – Highways officer
 - d. Bristol City Council – Planning Team
 - e. Bristol City Council – Food Safety Team
 - f. Bristol City Council – Pollution Control Team
 - g. Bristol City Council – Councillor
 - h. Avon and Somerset Police

Standard consultation was undertaken in respect of this application

Consultation Responses

10. The following responses have been received.

A high number of representations from local residents and local councillors were received in respect of this application, which are included at Appendix E.

Officer Considerations

In light of the comments received the committee may wish to seek the observations of the Downs Committee on this application prior to determining it

11. Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 deals with street trading consents. Subject to certain exemptions that do not apply to this application, Paragraph 7 enables the council to grant a licence/consent if they think fit. The council may attach such conditions as they consider necessary, which may include among other things conditions to prevent obstruction of the street or danger to persons using it, nuisance or annoyance etc. Consent may include permission for its holder to trade in a consent street from to trade from a stationery van, car, barrow or other vehicle, or from a portable stall. Unless such permission is included the act prohibits a consent holder trading from a van or other vehicle or from a stall, barrow or cart.
 - i. If such a permission is included then the council may include conditions
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
 - j. A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time. The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.
12. The applicant has been provided with a copy of the report and has been invited to the meeting.

RECOMMENDED The committee is recommended to seek observations on the application and objections received from the Downs Committee including clarification of whether the trading applied for, at the times sought and by this particular applicant has the necessary consent under the street trading byelaw for which the Downs Committee is the regulator.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background papers

Contact Officer: Ms A Holman, Senior Licensing Officer

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Appendices:

Appendix A	General Conditions
Appendix B	Photos of site
Appendix C	Location Plan
Appendix D	Photos of trading unit
Appendix E	Representations received