

LICENSING SUB-COMMITTEE (STREET TRADING)

30th May 2013

Present: Councillors Amos, Cawthorne and Knight

Officers: Vanessa Brown, Solicitor
Carl Phillips, Licensing Officer
Julian Pugh, Democratic Services
Administrator

1 Public Participation

None.

2 Election of Chairman

RESOLVED: That Councillor Amos be elected Chairman for the meeting.

COUNCILLOR AMOS IN THE CHAIR

3 Applications for Street Trading Licences

The Sub-Committee considered two applications for Street Trading Licences. The applications had been made by Mr Jeffrey Bright for an ice cream trike to operate Monday to Sunday from 12 noon – 7pm.; and by Mrs Lydia Bright for an ice cream trike to operate Monday to Sunday from 12 noon – 7pm. It was clarified at the meeting that Mrs Bright was applying instead of Mr Macauley Hawkins, in whose name the original application, as set out in the agenda papers, had been made. The application had been made initially in the name of Mr Hawkins because Licensing Officers had advised Mr Bright that each trike needed to be licensed separately. Mr Hawkins was an employee of Mr Bright.

At the start of the hearing, the Chairman made the following statement:-

“Presentations to this Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee.”

The Chairman introduced the members of the Sub-Committee, all other parties to the hearing introduced themselves.

The following representors were in attendance:

- Nadja von Dahlen on behalf of Worcester BID
- Mr. Connelly on behalf of Bearsgratescapes Ltd.

Mrs Brown, for the Legal Services Manager, summarised the matter for consideration. She explained that the application had been referred to the Sub-Committee for determination because representations on the application had been made by Worcester BID on behalf of businesses within the City Centre. In addition, the Licensing Department had received several objections to the application from local businesses.

Mrs Brown clarified that the two applications must be considered separately and determined on their own merits.

Mr Phillips, Licensing Officer, presented his report. He explained that Mr Bright disputed the description of the proposed trading areas set out in paragraph 2.3 of the report and that Mr Bright would clarify this point later in the meeting. Mr Phillips explained that the Council currently licensed four ice cream tricycles, all for the same business, which was authorised to trade in High Street, by the riverside from South Quay to Diglis, and at Pitchcroft.

In response to questions, Mr Phillips explained that Mr Bright had been licensed as a mobile ice cream trader for many years. In that time, over 100 complaints had been received to the effect that Mr Bright was operating an ice cream van as a static trader. Mr Phillips had not personally witnessed Mr Bright committing an offence and the Council had not taken proceedings against Mr Bright in relation to the allegations.

Mr Bright and Mrs Bright were given the opportunity to present their applications in turn. Mr Bright explained that he wished to trade along the east side of the riverside from South Quay to the Diglis Bridge, and back along the west side as far as the Sabrina Bridge. He did not wish to trade in the High Street. There was an adjournment to produce a map, on which Mr Bright clarified the route. There was a further adjournment to clarify whether consent to trade from the footpath on the west of the riverside would be required from the Parks Section. Upon reconvening, Mr Phillips stated that consent would be required. Mrs Brown clarified that the granting of any such consent was a separate matter outside the remit of the Sub-Committee.

In response to questions from the Sub-Committee, Mr Bright explained that he hoped to operate both trikes at the same time, one in a clockwise direction and the other anti-clockwise. They were mobile vehicles and would stop upon request. Mr Bright circulated details of the trike from which ice cream would be sold.

The representors were given the opportunity to put questions to Mr Bright. In response to questions, it was established, *inter alia*, that Mr Bright did not wish to trade on the main Worcester Bridge.

In response to questions from Mr Phillips, Mr Bright confirmed that he did not intend to operate as a static trader.

The representors were given the opportunity to comment. Nadja van Dahlen explained that, although the trading area had been clarified, many of the comments made were transferrable to other trading locations. She gave further background to the representations that had been made in writing by Adrian Field, Worcester BID Manager.

The representors answered questions from Sub-Committee members.

The parties were given the opportunity to make a final statement and Mrs Brown also asked questions for clarification. Mr Phillips clarified that individual trikes

were identified by a display card on the vehicle and licences were not transferrable between vehicles.

Mrs Bright was given the opportunity to present her application. She confirmed that the details were the same as Mr Bright's application, apart from the fact that in addition she was seeking a licence to trade in Gheluveld Park. This was because a street trading licence was required for the park area in order to be able to tender to trade there. She did not wish to trade in High Street or on any bridge.

There was an opportunity for all parties to put questions to Mrs Bright and for the representors to make representations in respect of Mrs Bright's application.

Mr and Mrs Bright were both given the opportunity to sum up, following which all parties, with the exception of the members of the Sub-Committee and the Solicitor and Democratic Services Administrator, then withdrew to enable the Sub-Committee to consider its decision.

The following legal advice was given by the Solicitor:

- Members must consider each application on its own merits.
- Members must be mindful of the legislation which requires a licence to be granted unless they consider that the application ought to be refused on one or more of the grounds specified in the legislation namely The Local Government (Miscellaneous Provisions) Act 1982 Schedule 4, Paragraph 3(6).
- If additional conditions are to be attached they must be considered to be "reasonable".

In reaching their decision the Sub-Committee had regard to the following:

- The report presented on behalf of the Head of Worcestershire Regulatory Services and the representations made at the Hearing by Mr Phillips.
- The Local Government (Miscellaneous Provisions) Act 1982 Section 3 and Schedule 4, Paragraphs 3 (5 and 6) and 4(4).
- The Council's Policy on Street Trading and Standard Conditions.
- The representations made in writing and at the Hearing by Mr Bright and Mrs Bright.
- The representations made by Representors in writing and at the hearing by Nadja von Dahlen on behalf of Worcester BID and Mr. Connelly on behalf of Bearsgreatescapes Ltd.

All parties were recalled and it was

RESOLVED: That the Sub-Committee:-

1. Grant the application from Mr Bright in the following terms:

Mr Bright's application for a Street Trading Licence is granted for a mobile ice cream trike to trade between the hours of 12 noon until 7pm, 7 days a week.

The trading area is defined on the map as agreed by Mr Bright at the Sub-Committee meeting.

The Licence is granted subject to the Council's Standard Conditions and additional Conditions set out as follows:

- **Trading must not take place on any bridge within the designated trading area.**
- **Trading must not take place within 50 metres of any other ice cream trader.**

The Sub-Committee would expect Mr Bright to make himself aware of the conditions attached to the licence and to have regard to the spirit and letter of the law in the conduct of his business.

2. Grant the application for a Street Trading Licence made by Mrs Lydia Bright in the following terms:

Mrs Bright's application for a Street Trading Licence is granted for a mobile ice cream trike to trade between the hours of 12 noon until 7pm, 7 days a week.

The trading area is defined on the map a copy of which will be made available to Mrs. Bright.

The Licence is granted subject to the Council's Standard Conditions and additional Conditions set out as follows:

- **Trading must not take place on any bridge within the designated trading area.**
- **Trading must not take place within 50 metres of any other ice cream trader.**

The Sub-Committee does not consider that the area of Gheluvelt Park should be included in this licence and that it should be the subject of a separate application.

Duration of the meeting: 10.00a.m. – 2.55p.m.

30th May 2013