

LICENSING SUB-COMMITTEE (STREET TRADING)

3rd July 2015

Present: Councillors P. Denham, Mitchell and Riaz

Officers: Kevin Barnett, Solicitor
Niall McMenamin, Senior Licensing Practitioner
Julian Pugh, Democratic Services Administrator

1 Election of Chairman

RESOLVED: That Councillor P. Denham be appointed Chairman.

COUNCILLOR P. DENHAM IN THE CHAIR

2 Declarations of Interest

None.

3 Application to Grant a Street Trading Licence

The Sub-Committee considered an application to grant a street trading licence (static) for Mr Stephen Connelly, on behalf of Bears Great Escapes Limited, in the vicinity of the Riverside and Fountains Area.

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."

All the parties to the hearing introduced themselves. Mr Connelly was in attendance and was represented by Mr Heath Thomas, solicitor. They were satisfied with the proposed procedure.

Kevin Barnett, for the Legal Services Manager, summarised the matter for consideration. He explained that the matter had been referred to the Sub-Committee for determination by Worcestershire Regulatory Services because two representations had been received in respect of the application.

Niall McMenamin, Senior Licensing Practitioner on behalf of Worcestershire Regulatory Services, was then invited to make representations. In summary, he set out the background to the application, as set out in the agenda report. In response to questions from Sub-Committee Members, he clarified that market rights were a separate matter dealt with by the City Council and that it was common for street trading rights to be suspended when markets were in operation.

Mr Thomas then spoke in support of the application. In summary, he explained the proposed method of operation. He clarified that the market in this area only operated on Bank Holiday Mondays and that Mr Connelly would remove those days from his application and seek consent from the market operators should he wish to have a pitch when the market was in operation. With regard to the trade objection from Mr Bright, in his view many of the points raised were not relevant to the application. Environmental Health had not raised any objection and in his view the comments about food hygiene therefore carried little weight. There was no evidence to substantiate the allegation that Mr Connelly disregarded the Council's street trading regulations.

In response to questions from Sub-Committee Members, Mr Thomas confirmed that any waste arising from this operation would be appropriately disposed of at the end of each trading day.

In response to questions raised for clarification, there was a short adjournment to establish the position regarding conditions attached to mobile street trading licences in the vicinity. Upon reconvening, Mr Barnett stated that the existing condition applied to similar mobile street trading licences, that there shall be no trading within 50 metres of any other ice cream vendor, should be disregarded in relation to this proposed static trading site so as not to affect the rights of existing licence holders.

All parties were given the opportunity to make a final statement. Mr McMenamin stated that he had nothing further to add. Mr Thomas stated that Mr Connelly had already demonstrated his ability to trade in accordance with the Council's street trading licence conditions. He asked the Sub-Committee to attach little weight to the representations from Mr Bright as most of the points were not relevant to the application.

All parties, with the exception of the Members of the Sub-Committee and the representatives of Legal and Democratic Services, then withdrew to enable the Sub-Committee to consider its decision.

In considering the decision, the following legal advice was given:

- 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".

All parties were then recalled and the Chairman explained that the Sub-Committee had had regard to:

- The report presented on behalf of the Head of Worcestershire Regulatory Services and the information provided at the hearing by Niall McMenamin, Senior Licensing Practitioner.

- The Local Government (Miscellaneous Provisions) Act 1982 Section 3 and Schedule 4, Paragraphs 3 to 6.
- The Council's Policy on Street Trading and Standard Conditions.
- The representations made in writing and at the hearing by Mr Heath Thomas on behalf of Mr Connelly.
- The representations made in writing by statutory consultees and businesses that could be affected by the grant of the licence.

Having considered all of the above, it was

RESOLVED: That the Sub-Committee grant the application subject to the following terms and conditions:

The licence is to sell ice-cream, sorbets and yoghurts from Monday – Sunday 10:00-22:00, except for those days when the Council's approved market operators have events in the area of the trading site.

The trading site is the pitch in the Riverside and Fountains area as identified on the map accompanying the application.

Trading must take place from an ice-cream trike, as defined in the application.

The licence holder must ensure that suitable rubbish bins are provided and that any waste therefrom is appropriately disposed of at the end of each trading day.

The existing condition applied to similar mobile street trading licences, that there shall be no trading within 50 metres of any other ice cream vendor, is to be disregarded in relation to this static trading site and, therefore, existing mobile licence holders shall be permitted to trade within 50 metres of this static site, subject to all other conditions of their licence.

The Council's standard conditions in relation to street trading licences shall also apply.

Duration of the meeting: 10.00a.m. – 11.30a.m.

Chairman at the meeting on
3rd July 2015