

LICENSING SUB-COMMITTEE - STREET TRADING

26th April 2019

Present: Councillors Griffiths, Knight and Squires

Officers:

Niall McMenamin	–	Senior Practitioner – Licensing, Worcestershire Regulatory Services
Clare Flanagan	–	Principal Solicitor
Ellen Meachen	–	Democratic and Electoral Services Assistant

7 Election of Chairman

RESOLVED: That Councillor Knight be appointed Chairman.

COUNCILLOR KNIGHT IN THE CHAIR.

8 Declarations of Interest

None.

9 Application for Renewal of a Street Trading Licence

The Sub-Committee considered an application for the renewal of a Static Street Trading Licence in respect of a street trading unit trading as Habaneros located on The Shambles, Worcester, submitted by Mr Ben Fisher.

At the start of the meeting the Chairman made the following statement:

“Presentations to the 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 parties at the hearing introduced themselves. The Licensing Officer informed the Sub-Committee that the Applicant had advised that he would not be attending the hearing due to work commitments. Mr Hywel Pontin was present to support the objection submitted by The Churches Conservation Trust. There were no representatives of the Worcestershire County Council Highways department or the City Council’s Economic Development & Regeneration Team, which had both submitted objections and it was noted that this was due to the relevant officers being on annual leave. A previous hearing had been adjourned when the Applicant had not attended and on that basis the Sub-Committee was prepared to proceed with the hearing.

The Senior Practitioner - Licensing presented the report on behalf of Worcestershire Regulatory Services. The Council currently controls street trading

within the City; all streets within the City have been designated as Licensed Streets. The applicant, Mr Fisher has been licensed by the Council to trade in a static capacity on the Shambles since October 2015. The Licensing Office processed a completed street trading renewal application which had been submitted by Mr Fisher in respect of the static street trading unit.

The Council received three representations objecting to the grant of a renewed street trading licence. Representations were made by Worcestershire County Council Highways Authority, Worcester City Council Planning & Economic Development Department and the Churches Conservation Trust. All three representations cite the location of the street trading unit as the main point of objection; the area of the Shambles pertaining to this application forms part of the Public Realm redevelopment improvement works for the City. Following the completion of these works, any street trading unit operating in this location would not have enough space in the street to trade without causing undue interference or inconvenience to any persons using the street.

The Senior Practitioner - Licensing informed the Sub-Committee that Mr Fisher was offered an alternate trading location within the City, however Mr Fisher declined the offer as he did not feel this was a viable alternative.

The Senior Practitioner - Licensing further explained that Mr Fisher had been trading intermittently over the previous two years. Licensing Officers contacted Mr Fisher following evidence of another unit operating on the site under the trading name "The Northfield Grill". Mr Fisher had confirmed that the unit was his and the person trading was under his employment.

All parties were given the opportunity to ask questions the Senior Practitioner - Licensing.

The Senior Practitioner - Licensing informed the Sub-Committee that he had received late correspondence from the County Council that they will be removing certain facilities from the location pertaining to the application including the power point that would support a street trading unit operating in that location. The County Council install power points on behalf of the City Council. The Senior Practitioner - Licensing advised he had not yet been in contact with the applicant about this as he was expecting to be able to discuss this in person on the day of the hearing.

The Sub-Committee discussed at length the repercussions of this new information and whether or not it was appropriate to continue with the hearing to determine the application. The Chair concluded to continue with the hearing to determine the application.

Mr Fisher had been invited to make a written representation in support of his application and was given formal notice to attend the hearing, but no representation from Mr Fisher was received.

The Legal Representative summarised the written representations made by Worcestershire County Council Highways Authority and Worcester City Council Planning & Economic Development Department. Members discussed and noted the representations.

Mr Pontin presented the written representation on behalf of the Churches Conservation Trust. Mr Pontin highlighted that planning permission obtained by the Church would reopen a blocked doorway which would need to be kept free as a fire evacuation point; this doorway would currently be blocked by the street trading unit. Furthermore, the Churches Conservation Trust believe the street trading unit would have a negative impact on the Church's setting aesthetically and is not in keeping with the Public Realm Improvement Scheme objectives for the area.

Members took the opportunity to ask Mr Pontin questions relating to the Churches Conservation Trust representation.

All parties were given the opportunity to make a final statement.

In considering the decision the following legal advice was given:

- That the Sub-Committee should have regards to the legislation which states that "it is the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub paragraph (6)".
- That the Sub-Committee must consider only those matters relevant to this business and its operation.

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

All parties were then recalled and the Chairman gave the decision of the Sub-Committee.

RESOLVED: That the application ought to be refused based on the objections of the County Council Highways and the Worcester City Council's Economic Development & Regeneration Team and the change in the layout of the location, as inappropriate for the safe passage of the public at this particular site on the Shambles.

The reasons for the Decision are as follows:

- The Sub-Committee noted the Worcestershire Highways objection to the location of the unit as reducing the available width of the dedicated footway and concerns that this may restrict access to pedestrians with visual and mobility difficulties, especially during delivery times.
- The Worcester City Economic Development & Regeneration Team Leader's objection related to the public realm works to be carried on in the area where there would be conflict between pedestrians and motor vehicles during the times that motor vehicles are permitted in the area.

- Members noted that it would not be possible to trade while those works were being carried out (March – August 2019). This had also been the case during the Severn Trent works at the Shambles during 2018.
- Members noted the objection submitted by The Churches Conservation trust, recognising that they relate to future arrangements after planned works at the building have been completed and accordingly not material to the decision to be made today.
- The Sub-Committee noted the provisions of The Local Government (Miscellaneous Provisions) Act 1982 Schedule 4, section 3 (6)(a) states, as one of the grounds for refusal:

“That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street”.

An appeal to the Magistrates’ Court against the Sub-Committee’s decision must be lodged within 21 days of the date on which written confirmation of the decision is received by the Applicant.

Duration of the meeting: 11.30 am to 12.30 pm

Chairman at the meeting on
26th April 2019