

**Report to: Licensing Sub-Committee (Street Trading), 30<sup>th</sup> May 2013**

**Report of: Head of Worcestershire Regulatory Services (on behalf of Worcester City Council)**

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**Subject: TO CONSIDER TWO APPLICATIONS FOR STREET TRADING LICENCES IN RESPECT OF MR JEFFREY BRIGHT, 10 BELMONT WALK, WORCESTER, WR3 7HY AND MR MACAULEY HAWKINS, 19 TROUTBECK DRIVE, WORCESTER WR4 9DB**

1. **Purpose of Report**

1.1 To consider two applications to grant street trading licences for Mr Jeffrey Bright and Mr Macauley Hawkins, trading as Piccadilly Whip.

2. **Background**

2.1 On 9<sup>th</sup> April 2013, the licensing department received two applications for street-trading (mobile) licences. The applications are attached as **Appendix 1**.

2.2 The applicants are applying to sell ice-cream from two ice-cream trikes (Monday–Sunday 12:00-19:00). The legislation requires that each individual tricycle applies for its own street trading licence, and hence the need for two applications.

2.3 Although the applications do not refer to the matter, the licensing department has had verbal communication from Mr Bright that the applications are to trade from two specific areas within the City Centre:-

- High Street vicinity of the City
- The vicinity of Quay Street adjacent to the fountains and the area of South Quay/Kleve Walk.

2.4 The licensing department has ensured that a number of responsible bodies have had an opportunity to make comment to the applications. These include – Police Traffic Management, Highways, Hereford & Worcester Fire Authority, and Environmental Health & Worcester BID.

2.5 The licensing department has received no objections from both Police Traffic Management and Environmental Health. Their comments are attached as **Appendix 2**. In addition, the licensing authority did not receive a response from Highways and Hereford & Worcester Fire Authority.

2.6 However, on 7<sup>th</sup> May 2013, the licensing department received a representation from Worcester BID on behalf of businesses within the City Centre. A copy of the representation is attached as **Appendix 3**.

2.7 In addition, the licensing department has received correspondence from several businesses within the City objecting to the granting of additional street trading licences. Their comments are attached as **Appendix 4**.

2.8 Members should note that currently Worcester City Council has issued 4 street trading (mobile) licences which relate to ice-cream tricycles, and which trade from the areas referred to in paragraph 2.3. Details of these and relevant conditions will be made available to Members at the hearing.

### 3. **Policy, Legal, Financial & Equality Implications**

3.1 The Licensing Committee should have regard to the Enforcement Concordant adopted by Worcester City Council on 29<sup>th</sup> September 1998 and the Licensing Enforcement Policy approved by the Council on 8<sup>th</sup> April 2003. This policy states "it is the Council's aim to ensure that premises, persons and activities licensed by the Council operate in a manner which will comply with relevant legislation and for the protection of the public."

3.2 The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, states that:-

#### Paragraph 3

1) it shall be 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) below.

2) the council may refuse an application on any of the following grounds:-

a) 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;

b) That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

c) That the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;

d) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

e) That the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay dues to them for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence holder;

f) That the applicant has at any time been granted a street trading consent by the council and had persistently refused or neglected to pay fees due to them for it;

g) That the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

3.3 The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, Paragraph 3(7) states that:-

If the council consider that grounds for refusal exist under sub paragraph (6) (a) (b) or (g) above, they may grant the applicant a licence which permits him-

a) to trade on fewer days or during a shorter period in each day than specified in the application; or

b) to trade only in one or more of the descriptions of goods specified in the application.

3.4 The Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 Paragraph 5 (1) states that a district council may at any time revoke a street trading licence if they consider:-

(a) that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street

(2) If the Council consider that they have ground for revoking a licence by virtue of sub-paragraph (1) (a) above, they may, instead of revoking it, vary its principal terms –

(a) by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade

6-(2) if the Council propose –

(e) to revoke the licence – they shall first serve notice on the applicant or, as the case may be, the licence-holder-

(i) specifying the grounds or grounds on which their decision would be based; and

(ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make a representation to them concerning it

6- (3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either –

(a) the person on whom it was served has made representations to them concerning their decision

6- (5) a person aggrieved

(c) (ii) by the decision to revoke a licence may at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates court.

3.5 The Licensing Sub-Committee will ensure it has regard to the desirability of exercising its functions with regard to the need to eliminate discrimination and to increase equality of opportunity. Applications received will be treated in accordance with Worcester City Council's Equal Opportunities policy.

#### 4. **The Hearing**

4.1. The applicants and representors have been invited to attend this meeting to present the applications and make representations.

5. **Conduct of Hearing**

5.1 The Sub Committee is recommended to conduct the hearing in accordance with the attached procedure **Appendix 5**.

6. **Recommendation of the Head of Worcestershire Regulatory Services:**

6.1 **That the Licensing Sub-Committee considers whether to grant street trading licences to applicants representing Piccadilly Whip.**

**Ward(s):** All  
**Contact Officer:** Carl Phillips 01527 548211  
**Background Papers:** None