

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 26th July, 2011.

Present: Cllr Paul Kirton (Chairman); Cllr Michael Clark, Cllr David Coleman (Vice Cllr David Wilburn), Cllr Evaline Cunningham, Cllr Phillip Dennis, Cllr Ken Dixon, Cllr Eileen Johnson, Cllr Jean Kirby, Cllr Miss Tina Large, Cllr Alan Lewis, Cllr Ray McCall, Cllr Maurice Perry and Cllr Bill Woodhead.

Officers: M Vaines (DNS); J Nertney, P K Bell (LD).

Also in attendance: For agenda item 3 - Application for Street Trading Consent - Mr and Mrs Mirza; For agenda item 4 - Application for Street Trading Consent - Sweets - Ms Cooper, Mr Cooper (Father of Ms Cooper), Mr N Laws (Stockton on Tees Borough Council - Town Centre Manager); For agenda item 7 - Application for Street Trading Consent - Sweets - Ms Cooper, Mr Cooper (Father of Ms Cooper), Mr N Laws (Stockton on Tees Borough Council - Town Centre Manager).

Apologies: Cllr Mrs Kath Nelson and Cllr David Wilburn.

L Declarations of Interest

14/11

There were no interests declared.

L Application For Street Trading Consent - Mr Mirza

15/11

Consideration was given to a report on an application for the grant of a Street Trading Consent in respect of a trader who wanted to sell ice cream in Stockton High Street for one day during the Riverside Festival and to which a letter of objection had been received.

An application had been received from Mr Mohammed Akram Mirza of 36 Elliott Terrace, Newcastle-upon-Tyne, for the grant of a Street Trading Consent to permit the sale of ice cream from a purpose built vehicle in Stockton High Street. A copy of the application was attached to the report.

The applicant wanted to trade between the hours of 11.00am and Midnight on Sunday 7th August 2011, and had identified preferred trading locations as follows:-

- either (i) outside 123 High Street, Stockton on Tees; or
- (ii) outside 127/128 High Street, Stockton on Tees.

A plan showing these locations was attached to the report.

The Town Centre Manager, the Environmental Health Manager and Trading Standards and Licensing Manager had no objections to the application.

The Enforcement Surveillance Co-ordinator, Traffic and Road Safety Officer and Cleveland Police also had no objection to the application.

The Events Manager had no objection to the application as long as the location did not encroach on performance areas.

Ward Councillors and local businesses had been consulted on the application and one e-mail of objection had been received from a local trader, Wholesales UK Ltd, who sold soft drinks, confectionary and paper from their shop at The

Kiosk, 120 High Street, Stockton on Tees. A copy of their letter was attached to the report.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

The applicant and objector had been invited to attend this meeting. Mr and Mrs Mirza were in attendance at the meeting and were given the opportunity to state their case for allowing the application. The objector was not in attendance at the meeting.

Members agreed the application at the following location:-

outside 127/128 High Street, Stockton on Tees

RESOLVED that the application for street trading consent for Mr Mirza to sell ice cream between the hours of 11.00am and Midnight on Sunday, 7 August 2011 during the Riverside Festival be approved at the following location:-

Members agreed the application at the following location subject to the site being agreed with the organisers of SIRF:-

outside 127/128 High Street, Stockton on Tees

L Application For Street Trading Consent - Ms Cooper - Sweets

16/11

Consideration was given to a report on an application for the grant of a Street Trading Consent in respect of a trader who wanted to sell sweets in Stockton High Street for one day during the Riverside Festival and to which objections had been received.

An application had been received from Ms Natalie Cooper, Glengarry, Firtree Lane, Hetton-le-Hole, Tyne & Wear, for the grant of a Street Trading Consent to permit the sale of sweets from a purpose built vehicle in Stockton High Street. A copy of the application was attached to the report.

The applicant wanted to trade between the hours of 12 Noon and 7.00pm on Sunday 7th August 2011, and had identified preferred trading locations as follows:-

either (i) Stockton High Street, south of the Shambles;or
(ii) any other location in the High Street

The Enforcement Surveillance Co-ordinator, the Environmental Health Manager, the Traffic and Road Safety Officer, the Trading Standards and Licensing Manager and Cleveland Police have no objections to this application.

The Town Centre Manager and the Events Manager objected to this application and a copy of their objections were attached to the report.

Ward Councillors and local businesses had been consulted on the application and one e-mail of objection had been received from the Castlegate Shopping Centre Manager. A copy of his e-mail was attached to the report. The Licensing

Officer also read out an email from the Castlegate Shopping Centre Manager outlining that he had withdrawn his objection.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

The applicant and objectors had been invited to attend the meeting. Ms Cooper (Applicant), Mr Cooper (Applicants Father) and Mr N Laws (SBC Town Centre Manager - Objector) were in attendance at the meeting and were given the opportunity to make representation.

RESOLVED that the application for Street Trading Consent for Ms Cooper to sell sweets between the hours of 12 Noon and 7.00pm on Sunday 7th August 2011, at the following location be approved subject to the site being agreed with the SIRF organisers:-

Stockton High Street, south of the Shambles

**L
17/11** **Licensing Of Sexual Entertainment Venues Draft Policy**

Consideration was given to a report that sought Members views on a draft Sex Establishment Licensing policy which had been prepared for consultation with relevant stakeholders prior to submission to Cabinet.

At the meeting held on 21 October 2010 Members resolved that Council be requested to adopt the amendments to the Local Government (Miscellaneous Provisions) Act 1976 to allow the licensing of sexual entertainment venues and that a draft licensing policy be prepared for consultation with relevant parties. A copy of Minute L 60/10 that referred was attached to the report.

Council resolved to adopt the new powers (minute C 240/10 referred) and following the statutory period of advertising the implementation date was agreed as 1 April 2011.

A copy of the draft regulations and policy were attached to the report.

RESOLVED that:-

1. Members views be noted
2. The Corporate Director of Development and Neighbourhood Services carry out consultation on the draft policy document with all relevant stakeholders.
3. The draft Sex Establishment Policy together with the results of the consultation exercise be referred to Cabinet for approval.

**L
18/11** **Application For Renewal Of Street Trading Consent - Casper & Gambini**

Consideration was given to a report an application for renewal of a street trading consent for a coffee kiosk located in Stockton High Street to which an objection had been received from the Council's Environmental Health Manager.

An Application had been received from Casper and Gambini Ltd of 15 Lockton Crescent, Thornaby for the renewal of a street trading consent for a 3 month period to permit the sale of hot and cold drinks and food from a semi-permanent structure consisting of a kiosk and a glass terrace unit with seating and umbrellas in Stockton High Street. The kiosk unit is 6m x 2.8m and the terrace 12m x 6m. A copy of the application was attached to the report.

The applicant wanted to continue trading daily between the hours of 6.00 am and 9.00 pm, Monday to Saturday and 9.00 am to 6.00 pm on a Sunday and Members were respectfully reminded that the trading location was on the former public toilet site between the Town Hall and the Shambles. Members were advised that the premises had held a licence since September 2007.

The Chief Planning Officer, Enforcement Surveillance Co-ordinator, Senior Engineer (Traffic Management) and the Town Centre Manager had no objections to the application.

The Environmental Health Manager objected to the application due to the premises not having a mains water supply. A copy of his email was attached to the report. Members were informed that subsequently to this the Environment Health Manager had come to an agreement with the applicant and withdrawn his objection.

Ward Councillors and local businesses had also been consulted on the application and no objections had been received.

Members were respectfully reminded that if they were minded to approve the application then it would be for non-market days only as separate permission from the Town Centre Manager, who supported the application, would be required to continue to trade on market days.

A copy of the Council's adopted guidelines in respect of street trading consent was attached to the for Members information.

Members were also advised that under the provisions of Schedule 4 The Local Government (Miscellaneous Provisions) Act 1982 the Council may grant a consent if they think fit and may attach such conditions to it as they consider reasonably necessary.

The applicant had been invited to attend the meeting but was not in attendance.

RESOLVED that the application for Renewal Of Street Trading Consent from Casper & Gambini be approved subject to the site being agreed with the organisers of SIRF.

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19/11

Application For Street Trading Consent - Ms Cooper - Hot Food

Consideration was given to a report on an application for the grant of a Street Trading Consent in respect of a trader who wanted to sell hot food and drinks in Stockton High Street for one day during the Riverside Festival and to which objections have been received.

An application had been received from Ms Natalie Cooper, Glengarry, Firtree Lane, Hetton-le-Hole, Tyne & Wear, for the grant of a Street Trading Consent to permit the sale of hot food and drinks from a purpose built vehicle in Stockton High Street. A copy of the application was attached to the report.

The applicant wanted to trade between the hours of 12 Noon and 7.00pm on Sunday 7th August 2011, and had identified preferred trading locations as follows:-

either (i) Stockton High Street, south of the Shambles; or
(ii) any other location in the High Street

The Enforcement Surveillance Co-ordinator, the Environmental Health Manager, the Traffic and Road Safety Officer, the Trading Standards and Licensing Manager and Cleveland Police had no objections to the application.

The Town Centre Manager and the Events Manager objected to the application and a copy of their objections were attached to the report.

Ward Councillors and local businesses had been consulted on the application and two e-mails of objection had been received, one from a local trader and the other from the Castlegate Shopping Centre Manager. A copy of their e-mails were attached to the report.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

The applicant and objectors had been invited to attend the meeting. Ms Cooper (Applicant), Mr Cooper (Applicants Father) and Mr N Laws (SBC Town Centre Manager - Objector) were in attendance at the meeting and were given the opportunity to make representation.

Members agreed that the street trading consent be granted as a special occasion as the number of street trading consents went above the policy which can only be exceeded if Members agree it was a special occasion.

RESOLVED that the application for Street Trading Consent for Ms Cooper to sell hot food and drinks between the hours of 12 Noon and 7.00pm on Sunday 7th August 2011, at the following location be approved subject to the site being agreed with the organisers if SIRF:-

Stockton High Street, south of the Shambles

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20/11 **Exclusion of the Public**

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

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21/11 **Hackney Carriage & Private Hire Driver - M.S.**

Consideration was given to a report on a licensed combined hackney carriage and private hire driver who had failed to submit an application to enable his three yearly criminal record check to be carried out and who was, as a result, currently suspended.

This item was originally considered by Members at the Committee held on Monday 27 June 2011. Members decided to defer the matter to their next full hearing to allow Mr M S a further opportunity to comply with the request to submit his application for a CRB check, otherwise it was agreed that Members would have no alternative but to revoke his drivers licence.

Mr M S was a licensed combined hackney carriage and private hire driver. He had held a licence since 1992 and his current licence was due to expire on 29 February 2012.

As part of the process to ensure drivers were still considered to be a fit and proper person to hold their licence, they were required to submit an enhanced criminal record check with the Criminal Records Bureau (CRB) every 3 years.

On 4 February 2011, Mr M S was written to and advised that his next check was due on 14 March 2011 and requested to complete and submit the appropriate form to enable this check to be carried out. A copy of this letter was attached to the report. As he failed to complete the application, a reminder letter was sent to him on 7 March 2011. A copy of this letter was attached to the report.

Despite these letters Mr M S failed to return his completed forms and this resulted in his hackney carriage and private hire drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 31 March 2011. A copy of the notice of suspension was attached to the report.

Mr M S returned his driver badges on 26 April 2011.

The Licensing records also showed that Mr M S failed to complete his CRB application on time in 2004, despite advisory letters sent on 8 September 2004 and 18 October 2004. This resulted in his hackney carriage and private hire drivers' licence being suspended on 16 November 2004. A copy of this notice of suspension was attached to the report. Mr M S then completed the CRB disclosure process on 24 November 2004.

In addition, Mr M S failed to complete his CRB application on time in 2007, despite advisory letters sent on 29 October 2007 and 4 December 2007. This resulted in his hackney carriage and private hire drivers' licence being suspended on 2 January 2008. A copy of this notice of suspension was attached to the report.

The matter was subsequently referred to the Licensing Committee on 26 February 2008, where the matter was deferred pending the return of Mr M S's CRB disclosure. Mr M S completed the CRB disclosure process on 14 March 2008.

The matter was then referred back to the Licensing Committee on 8 April 2008, where Mr M S's renewal application was subsequently approved. A copy of the

minutes of the meeting were attached to the report.

Following the Licensing Committee meeting, a letter dated 23 April 2008, was sent to Mr M S warning that in future any request made in the proper manner by the Council should be complied with without delay. A copy of this warning letter was attached to the report.

Members were reminded that under the provisions of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on any of the following grounds:-

(a) that he has since the grant of the licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:-

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr M S had been invited to attend the meeting but was not in attendance.

The Licensing Officer gave a verbal update that Mr M S had submitted his application for a CRB check on 25 July 2011.

Members felt that Mr M S should remain suspended until the outcome of Mr M S's CRB check. Members also felt that Mr M S should receive a warning letter outlining the importance of the CRB check and how by not completing the CRB check not only on this occasion but on previous occasions had wasted Member and Officer time.

RESOLVED that:-

1. Mr M S remain suspended until the outcome of Mr M S's CRB check.

2. Mr M S receive a warning letter outlining the importance of the CRB check and how by not completing the CRB check not only on this occasion but on previous occasions had wasted Member and Officer time.

