



Regulatory Subcommittee

10:00 to 16:15

13 May 2019

Present: Councillors Stutely (chair), Ackroyd, Brociek-Coulton

Apologies: Councillor Thomas (Va)

1. Declarations of Interest

There were no declarations of interest.

2. Highways act 1980: application for licence to place tables and chairs on the highway - Gardeners Arms, 2-8 Timberhill, Norwich, NR1 3LB.

Phil Cutter, the landlord of the Gardeners Arms attended for this item.

The environmental protection, licensing and markets manager presented the report. The application was to place 10 tables and 30 chairs in an area adjacent to the Gardeners Arms on Timberhill, between the hours of 08:00 and 21:00 from March to October. The police had provided a representation detailing a number of suggested conditions to which the applicant agreed.

The applicant, Phil Cutter, landlord of the Gardeners Arms addressed the committee, he had been the landlord for 32 years and highlighted that the Gardeners Arms had an existing tables and chairs licence in place since September 1995. The area in the application was redeveloped by the city council 5 years ago but was underused, it was the location of street drinking and this precluded others from wanting to use the space. The intention was to use the area as an extension of the business's food operation. Local traders he had spoken with were positive about the application.

In response to member questions Mr Cutter said the application did not include umbrellas and that the impact of birds in the area would be monitored. The lectern in the plans would be used to mark an entrance point to the seating area; there would be two dedicated staff for the seating area which would allow one member of staff to bring out food. A bookings system would operate for tables. All food and drink would be served to those seated. The intention was to implement an electronic ordering system if the application was successful.

David Foskett, managing director of Moss and Leakey opticians, asked why no operational plan detailing how the area would work had been included with the application. He had no confidence the area would be adequately staffed.

Mr Cutter said the intention was to serve substantial meals to those in the seating area. Mr Foskett asked how this would be managed, what if friends joined those seated, what stage were meals considered to be finished, would people stay and drink after their meals at the table.

Mr Foskett asserted that there were a number of issues with the operation of the current tables and chairs area that the business already operated.

(The meeting was suspended for ten minutes to allow the committee to take legal advice.)

The environmental protection, licensing and markets manager said that no complaints had been brought to his attention within the last four to five years in reference to the Gardeners Arms current tables and chairs licence. Before that period there had been complaints and these had been dealt with by offering advice to the licensee on the placement of barriers surrounding the area. The committee asked the police licensing officer if she was aware of any complaints in relation to the current licence. She confirmed that there were no complaints this year, there had been one complaint on the day of the Lord Mayor's celebration last year and the licensee had been offered advice in response to this complaint. There had been issues previously but nothing in the last couple of years.

Mr Cutter said in 2012/13 the current licence for tables and chairs was granted, he approached Mr Foskett and asked him if he experienced any issues to contact him directly. Mr Foskett said that they felt their complaints were not listened to and had admitted defeat.

(The committee adjourned for ten minutes to allow order to resume.)

In response to the committee's question Mr Cutter said people turning up at the licence area with a drink in hand wanting to sit down would be directed back to the pub or the current tables and chairs area directly outside the pub. When they finished their meal and were finishing a bottle of wine they would be allowed to remain at the table but not to buy further drinks. In terms of responding to people standing around outside the permitted area, they would be asked to move back up to the pub or the other tables and chairs area. Most people were very reasonable when asked to move on but if any problems they would call the police for assistance. Security staff were employed on the day of big events such as the world cup but the new application did not seek to have tables and chairs out on these days. If people overspill from the current tables and chairs area they were asked to come back into the barriered licenced area.

Mr Foskett stated that the current licenced tables and chairs area was not well managed. They experienced lots of mess outside the business which they attributed to people drinking in the licenced area.

In response to members questions regarding managing those leaving the area to smoke, Mr Cutter said there was adequate seating in the area with three benches and two trees with brick surrounds. The application was for an area of seating on a slope and sturdy furniture would be used to combat any problems with this as it would be cut to sit on the slope adequately. Food would be served until 21:00 with the last food order taken at 19:00.

The police licensing officer said that this application represented a first for Norwich, it was accepted that it would need to be managed closely. The application came from a business operating successfully for number of years which had not received any recent complaints. Concerns relating to crime and disorder could be addressed in the conditions.

Mr Foskett said 16 years ago, he opened his business on Timberhill as a flagship store. Since the smoking ban, smokers had moved out on to the street causing problems with mess, damage to the front of the business, dirty glass, drinks on windowsills, broken glass and this had deterred people from walking along Timberhill. They considered nothing got done when they complained and therefore admitted defeated and stopped complaining.

Mr Foskett raised an earlier tables and chairs application for another business from 2008. The chair took advice from the legal advisor to the committee that it was not relevant to the application being heard in that it was a different application, relating to a different location and did not constitute a precedent for the committee to consider.

He asked Mr Foskett to summarise the points he wished to highlight from the application and these were agreed as:

- Erosion of highway space
- Highway obstruction
- Noise nuisance

Mr Foskett presented his concerns to the committee, he was surprised the application included no environmental report as there was a pigeon and rat problem in the area. He considered that the business and operation plan for the area should have been presented with the application to provide clarity. He was not certain how many staff would be in place and how tables and chairs would work on sloping ground. People would travel between the two tables and chairs areas with glasses in their hands and this would be intimidating and deter people from using Timberhill.

Mr Cutter acknowledged that this had never been done before and said there might be initial problems but these would be worked through with the police and licensing officers.

RESOLVED, unanimously to defer consideration of the application to 10 June 10:15 and ask the applicant to provide a more detailed operational plan to include:

- (1) The conditions suggested by Norfolk Constabulary;
- (2) Maintenance of the area and where the lectern would sit;
- (3) Reference to a guaranteed number of staff;
- (4) How the area would work in practical terms;
 - a) Including how parties with some eating and some not would be managed, what happened when customers tried to enter the area with drinks, and what happened once a meal had finished.

- b) Details of the furniture to be used and lectern, including how health and safety issues of being on a slope would be resolved;
- c) Details of finish time, set up and where the furniture would go when it was packed away

***3. EXCLUSION OF THE PUBLIC**

RESOLVED to exclude the public from the meeting during consideration of items *4 to *7 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***4. Suspension or revocation of Norwich City Council private hire drivers licence number No. 16/01887/HACKD - (Paragraphs 1 and 3)**

The applicant attended with his legal representative and requested an adjournment of the item to a later date. The applicant's legal representative requested more time in order to conduct enquires on his client's behalf.

RESOLVED, unanimously, to adjourn the suspension or revocation of Norwich City Council private hire drivers licence number no. 16/01887/hackd to the next meeting of regulatory subcommittee.

***5. Application for renewal of a hackney carriage drivers licence – application ref: 19/00123 HACKD (Paragraphs 1 and 3)**

The applicant attended and requested an adjournment of the item to a later date. The applicant requested more time in order to seek legal advice.

RESOLVED, unanimously, to adjourn application for renewal of a hackney carriage drivers licence – application ref: 19/00123 hackd to the next meeting of the regulatory subcommittee.

***6. Application for grant private hire drivers licence – application ref: 19/00241 PHDRIV (Paragraphs 1 and 3)**

(The applicant and the environmental protection, licensing and markets manager were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the allegation against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the environmental protection, licensing and markets manager left the meeting at this point.)

The subcommittee considered the circumstances surrounding the allegation against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

RESOLVED, unanimously, to grant private hire drivers licence – application ref: 19/00241 PHDRIV until August 2019.

(The applicant and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the environmental protection, licensing and markets manager then left the meeting.)

***7. Application for grant private hire drivers licence – application ref: 18/01776 PHDRIV (Paragraphs 1 and 3)**

(The applicant and the environmental protection, licensing and markets manager were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The environmental protection, licensing and markets manager presented the report.

The applicant explained the circumstances of the convictions against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the environmental protection, licensing and markets manager left the meeting at this point.)

The subcommittee considered the circumstances surrounding the convictions against the applicant and considered the actions were now outside the current character of the applicant, and was a single occurrence over an eight year period which was unlikely to be repeated.

RESOLVED, unanimously, to grant private hire drivers licence – application ref: 18/01776 PHDRIV.

(The applicant and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the environmental protection, licensing and markets manager then left the meeting.)

(The public were readmitted to the meeting at this point)

8. Town Police Clauses Act 1847/ Local Government (Miscellaneous Provisions) Act 1976: application to licence as a hackney carriage a Ford ProCab fitted with 8 passenger seats.

Natasha Morrison of A2B Taxis and Lucy Bradley of Cab Direct attended for this item

Members of the committee inspected the proposed hackney carriage.

The environmental protection, licensing and markets manager presented the report. In response to a member question he said there were no safety concerns with the seats in the vehicle.

Natasha Morrison explained that the business A2B taxis specialised in offering provision to individuals with disabilities. They purchased a Ford Procab as it was very disability friendly, older styles of hackney carriage allowed wheelchairs users to enter in reverse position along running boards and many users expressed anxiety about entering a taxi in this manner. The Procab offered a solid ramp which could be used to enter the taxi face forward by a wheelchair user.

The Procab also offered the ability to separate the front of the cab from the back of the cab, offering two seats in the front as well as the driver's seat. The company operated a number of contracts to taxi disabled children whom were accompanied by a carer or personal assistant to school. This ability to separate passengers enabled them to transport two children with assistants.

RESOLVED, unanimously, to grant a hackney carriage vehicle licence for a maximum of 8 passengers with the current 8 seat configuration and to take no enforcement action under the relevant byelaw as detailed in the report until the byelaws can be altered.

CHAIR



Regulatory Subcommittee

14:00 to 15:45

10 February 2020

Present: Councillors Stutely (chair), Maxwell, McCartney-Gray, Oliver (item *4 onwards) and Schmierer

1. Declarations of Interest

There were no declarations of interest.

***2. Exclusion of the Public**

RESOLVED to exclude the public from the meeting during consideration of items *3 and *4 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Application for renewal of a private hire drivers licence: case numbers 19/01617/PHDRIV**

(The applicant, the licensing assistant and the public protection team leader were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the endorsements against him and answered member's questions. He understood he was able to seek legal representation and have a representative attend with him. The applicant advised he had no pending matters outstanding.

The legal advisor noted that the report stated the applicant had failed to declare his convictions to the council but that he had no convictions which required declaring within the Green Book rules.

(The applicant, the licensing assistant and the public protection team leader left the meeting at this point.)

The subcommittee considered the circumstances surrounding the endorsements against the applicant. The committee reviewed the evidence and did not speculate on information they did not have.

RESOLVED, unanimously, to renew private hire driver's licence: case number 19/01617/PHDRIV

(The applicant, the licensing assistant and the public protection team leader were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for the decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant, the licensing assistant and the public protection team leader then left the meeting.)

(Councillor Oliver joined the meeting at this point)

***4. Application for renewal of a hackney carriage driver's licence – application ref: 19/01465/HACKD**

(The applicant, the licensing assistant and the public protection team leader were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He understood he was able to seek legal representation and have a representative attend with him. The applicant advised he had no pending matters outstanding.

The chair asked the applicant why he had failed to disclose his convictions to the council as he was obliged to. The applicant stated that he had emailed and produced a screen shot print out of an email. The licensing assistant advised there was no record of an email being received.

It was noted that the applicant had been before committee on 10 June 2019 and members had reviewed the report and minutes of that meeting. It was noted that the caution relating to this incident was still shown on the applicant's full disclosure list. The applicant advised in June that the caution was not valid and would be removed. The applicant advised that he did not know that he was required to do anything in order to have the caution removed. The chair advised he recalled the discussion from June's committee and the applicant had advised that this would be actioned.

Regarding the applicant's convictions the legal adviser asked if he pleaded guilty at court and the applicant confirmed he had, the legal adviser asked if he accepted he had not notified the council of his convictions or his change of address within the required seven day period which the applicant accepted he had not.

(The applicant, the licensing assistant and the public protection team leader left the meeting at this point.)

The committee considered the applicant had not declared his two convictions to the council as required to by his licence. The committee considered the council's conviction policy and took account of the committee report and minutes from the June 2019 committee.

The subcommittee considered the circumstances surrounding the convictions against the applicant. The committee reviewed the evidence and did not speculate on information they did not have.

RESOLVED, unanimously, to refuse the renewal of Hackney Carriage driver's licence to the applicant (application reference 19/01465/HACKD) as the committee considered that the applicant did not satisfy the test of being a fit and proper person to hold such a licence under s51 LG(MP)Act 1976.

(The applicant, the licensing assistant and the public protection team leader were readmitted to the meeting. The chair informed the applicant of the subcommittee's decision. The legal adviser advised the applicant that he would receive written notification of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. If the applicant chose not to appeal, he could apply again for a licence in the future).

(On being told of the decision the applicant shouted at members of the committee, he said his treatment by the committee was "double standards" and shouted "shame" repeatedly at members. The committee officer asked the applicant to leave and he left still shouting.)

CHAIR