



## Regulatory Subcommittee

14:00 to 16:15

9 July 2018

Present: Councillors Malik (chair), Fulton-McAlister (E), Huntley, Price and Stutely (substitute for Councillor Maxwell)

Apologies: Councillor Maxwell

### 1. Declarations of Interest

There were no declarations of interest.

### 2. Highways Act 1980 – Application to Place Tables and Chairs on the Highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich

(Paul Stagg, applicant, attended the meeting for this item.)

The environmental protection, licensing and markets manager presented the report and circulated an amended plan of the seating area which had addressed the concerns raised by the council's highways officers. He advised members that all objections to the proposal had now been withdrawn with the exception of the objections received from the Maids Head as set out on page 44 of the agenda papers.

During discussion, the applicant together with the environmental protection, licensing and markets manager referred to the application and the revised plan, and answered questions from members. Members commented that they were not satisfied that the kerb would not be a trip hazard to patrons of the premises, despite the assertion from the environmental protection, licensing and markets manager that environment health had withdrawn its objections following the publication of the report. Members considered the revised plan in the light of amendments to the proposed licence application. The subcommittee considered that the amended plan of the seating area was not to scale. Members viewed a Google map view of the area but this was considered to be inadmissible as it was an out of date version.

The subcommittee was particularly concerned that the conditions reflected the changes to the proposed licenced area. This included amending conditions 9 to 15 to include 1 parasol/umbrella: additional conditions relating to ensuring that the parasol did not overhang any part of the licensed seating area; that a minimum of 1 metre distance was maintained between the licensed area and the bike racks and to amend the plans or condition that the seating area would be reduced accordingly,

and, an additional condition to maintain a minimum 1.5 metre distance between the licensed seating area and the edge of the layby.

The chair asked that members could see the email, dated 2 July 2018, from environmental health withdrawing its concerns relating to the kerb as a trip hazard.

The chair moved that the subcommittee went into private session so that members could review the email from the environmental health protection officer and to seek the advice of its legal adviser as set out in paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972, and on putting the motion to the vote, the subcommittee resolved to exclude the public.

(The applicant and the environmental protection, licensing and markets manager withdrew from the meeting during this private session. The applicant and environmental protection, licensing and markets manager were then readmitted to the meeting.)

The chair moved and Councillor Price seconded that the subcommittee deferred further consideration of this application to the next meeting of the regulatory subcommittee to enable more detailed information to be presented to the members determining the application to include: an accurate, scaled plan of the licensed seating area; presentation with photographs of the site and its location, or an opportunity for members to undertake a site visit prior to the subcommittee meeting; a revised and updated report and clarification on the withdrawal of the objections from environmental health in relation to the kerb being considered a trip hazard. On being put to the vote, it was:

**RESOLVED**, unanimously, to defer consideration of the application to place tables and chairs on the highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich, under the Highways Act, 1980. to the next meeting of the regulatory subcommittee. for further information as detailed above.

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

(The subcommittee adjourned for a short break. The subcommittee reconvened with all members listed above as present.)

### **3. Exclusion of the Public**

**RESOLVED** to exclude the public from the meeting during consideration of item 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.

#### **4\*. Application for Grant of Private Hire Drivers' Licence – Application reference no: 18/00069/DRIV (Paragraphs 1 and 3)**

(The applicant accompanied by his wife, and the environmental protection, licensing and markets manager were admitted to the meeting. The wife requested to speak on his behalf. She confirmed that the applicant had been informed of his right to be legally represented at the meeting but had chosen not to be. The applicant produced his DVLA licence inspection by the committee and confirmed that he had

been provided with a copy of the report before the meeting. A full copy of the committee report was provided to the applicant at the meeting).

The environmental protection, licensing and markets manager presented the report. During the presentation, he pointed out that on 31 July 2016, the applicant had received a conviction SP50 (exceeding the speed limit on a motorway). In reply to a question from a subcommittee member, the applicant confirmed he had not received any further convictions or formal cautions and was not aware of any pending prosecutions since his application for a private hire drivers' licence had been made.

The applicant's wife explained the circumstances that had led to the applicant receiving a police caution in November 2016 and answered questions from members and the legal adviser. The applicant confirmed that he did not have a current job offer as a private hire driver in the city. During discussion a member commented on the council's responsibility to safeguard the general public and ensure that the grant of a private hire drivers' licence should be to *fit and proper* persons only.

(The applicant and his wife left the meeting at this point).

**RESOLVED**, unanimously, to refuse the grant of a private hire driver's licence to the applicant (application reference 18/00069/DRIV) as the committee considered that the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976, for the reasons as set out in the statement below:

"The subcommittee notes that you have received a positive testimony from your wife but you have a caution for a matter of violence (assault) in November 2016. We note that you also have a speeding offence for an SP50 dated 31 July 2016.

The guidance to this committee notes that for a matter of assault a period of three years should elapse before a person with such a conviction has a licence granted and the committee has considered the caution an equivalent matter of concern. By accepting a caution you have admitted that you acted in a way to cause another to apprehend immediate unlawful violence.

Your wife has said that this is an isolated incident. We are however concerned about the risk of you responding similarly with members of the public and therefore cannot be satisfied that at this time you are a fit and proper to hold a Private Hire Drivers' licence."

(The applicant and the environmental protection, licensing and markets manager were readmitted to the meeting. The chair informed the applicant of the subcommittee's decision and the legal adviser read out the statement minuted above. 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. The chair advised the applicant that he could make a further application for a licence in November 2019. The applicant and the environmental protection, licensing and markets manager then left the meeting.)

CHAIR