



REGULATORY SUB COMMITTEE

14:00 to 16:40

12 June 2017

Present: Councillors Button (chair), Bradford , Brociek-Coulton, Jones (B) and Jones (T)

1. Declarations of interest

There were no declarations of interest.

2. Application for Licence to Place Tables and Chairs on the Highway – Bella Italia, 3 Red Lion Street, Norwich, NR1 3QF

(The agent, area manager and general manager (Bella Pasta) and a local resident who had objected to the application attended the meeting for this item.)

The licensing manager presented the report. He explained that following consultation the applicant had amended the application (as set out in paragraph 5 of the report).

The agent then addressed the committee in support of the application. He explained that the original application had been amended in response to comments from the county council's highways officer and to mitigate concerns raised in objection to the proposal. This had included reducing the number of tables and chairs and revising the layout, removing Sundays from the application because of reduced bus services on Sundays and longer queues, and seasonal hours of operation. Given the concerns raised, the applicants asked the committee if it was minded to grant the licence to do so for a year rather than the usual three years so that it could operate for a shorter time before it was reviewed. He then referred to the consultation responses and the positive response from Norwich Access Group and other statutory consultees.

The agent then commented on the representations raised in objection to the application. People eating and drinking at the tables would be served by waiting staff under the direction of the management team. The agent had ensured that all objectors had been made aware of the amendments to the plans in response to comments. He pointed out that the access at 4.1 to 5.5 metres was double the minimum access of 1.8 to 2.2 metres. He did not accept the comments from "close-by businesses" and said that tables and chairs would be removed outside the hours of operation to a storage area. Bella Italia and its other groups, Café Rouge and La

Tasca operated around the country and had developed good training and policies to operate tables and chairs.

The agent then reiterated that the applicant asked that condition 7 be changed to one year so that the licence could be reviewed earlier to mitigate the concerns of the objectors and that condition 10 should be delegated to the licensing manager to check the details of the barriers with the council's highways engineer.

The agent then responded to questions from members of the subcommittee. He explained that Bella Italia did have an A-board but it was on their land and not on the highway or creating a pinch-point.

The objector attending the meeting said that she did not have any further comments to make to her representation.

In reply from a question from the chair, the licensing manager said that there was no indication of the time of day that the photographs, submitted by an objector, were taken. The agent said that he considered that the photographs were "most likely" taken on a Sunday and that the application had been amended in response to this "local knowledge".

The legal advisor to the subcommittee asked members to consider the allegation that there would be an increase in noise and smoking from the people seated in the licenced area. The agent said that he considered that there would be no effect. Due to the no smoking legislation people did smoke outside the premises with no more than eight peoples smoking at one time. There had never been any complaints about this. The application was for a space for people to eat and drink. With regard to noise, the licensing manager said that Red Lion Street was a busy thorough fare and that the latest the area would be used would be to 21:00 in the summer months.

During discussion members were reassured that the barriers would be put in place and that the applicants would not exceed the proposed seating area. The legal advisor recommended that condition 3 be amended to clarify the area covered by the licence. It was suggested that this should be the area shown in the amended plan on page 27 of the agenda.

RESOLVED, unanimously, to grant the application to place tables and chair on the highway in respect of Bella Italia, 3 Red Lion Street, Norwich, NR1 3QF, as set out in paragraph 5 of the report, and subject to the standard conditions being amended as follows:

- (1) the insertion of the measurements of the seating area and attaching the plan of the area, into the wording for condition 3;
- (2) that the licence will be for a period of one year and amend condition 7 accordingly;
- (3) that the licensing manager and applicant will agree with the highways officer the extent of the barriers as set out in condition 10.

3. Application for Licence to Place Tables and Chairs on the Highway – Warings Lifestyle, 20 Westlegate, Norwich, NR1 3LR

(The applicants and a local resident who had objected to the application attended the meeting for this item.)

The licensing manager presented the report.

The applicant explained that the purpose of the application was not to increase trade but to provide a pleasant area for their customers to sit outside. She then said that her solicitor had advised her that the seating area was not part of the highway.

During discussion, members noted that the information about the applicant's view that the land was not public highway was new and subsequent to the publication of the report. Members were recommended to adjourn consideration of this application to a further meeting to establish whether the seating area was on public highway land. A licence for tables and chairs would not be required if it was private land.

RESOLVED to defer consideration of this application to a further meeting to establish whether the proposed seating area is on public highway.

4. Exclusion of public

RESOLVED to exclude the public from the meeting during consideration of items 3 to 5 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. Complaint against Norwich City Council Hackney carriage driver (paragraphs 1 and 3)**

(The following minute has been edited to maintain the identity of third parties. A more detailed version of the minute is available but not for publication.)

(The hackney carriage driver (licence holder) (subject of the report) and two of the complainants attended the meeting for this item.)

The licence holder said that he was aware that he could be legally represented and that as the allegations against him were serious, he would like to defer to a later date so that he could arrange legal representation. The licence holder could not produce his DVLA licence but it was agreed that the licensing manager could inspect this at a later date. The licence holder and the licensing manager answered questions about notice of the meeting. The legal representative had not been available at the subcommittee on 8 May but had been sent the date of this meeting by the licensing manager. The licence holder had not contacted his legal representative.

(The committee officer confirmed the order of the appendices which had been misprinted in the wrong order and that this was the same report that had been given to the licence holder for the regulatory subcommittee meeting on 13 March 2017.)

(The licence holder and the complainants left the meeting whilst the subcommittee considered whether to postpone consideration of this item to enable the licence holder to arrange legal representation. The licence holder and the complainants were readmitted to the meeting.)

Following discussion the subcommittee:

RESOLVED, unanimously, to proceed with the hearing for the following reasons:

1. The licence holder had several weeks' notice of the date and time of the subcommittee meeting and had not taken up the opportunity to arrange legal representation.
2. It was in the public interest to consider the complaint against the licence holder.

The licensing manager presented the report.

The licence holder explained the circumstances of the incident and asked questions of the complainants. Members of the committee put questions to the licence holder.

(The licence holder and complainants left the meeting at this point. All parties were readmitted to the meeting.)

The licence holder was informed of the subcommittee's decision:

The subcommittee therefore:

RESOLVED, unanimously, to suspend the licence holder's hackney carriage driver's licence for 21 days in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 to come into effect 21 days from the notice given.

The subcommittee's legal advisor informed the licence holder that he would receive written notification of the committee's decision and that he had the right to appeal against the decision at the Magistrates' Court within twenty-one days of the date of the meeting.

(The licence holder and the complainants then left the meeting.)

CHAIR