



Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Thursday 22nd August 2019 at 11:00am.

P R E S E N T

Councillor Julia Huffer (Chairman)
Councillor Alec Jones
Councillor Alan Sharp
Councillor Alison Whelan

OFFICERS

Stewart Broome – Senior Licensing Officer
Maggie Camp – Legal Services Manager
Adrian Scaites-Stokes – Democratic Services Officer

OTHERS PRESENT

Mr Ozgur Petkas – Applicant
Mrs J Bethell - Supporter
Parish Councillor T Branson – Supporter
Ms J Clark – Supporter
Chris Smith – Environmental Health Officer
Mrs Yasan – Applicant’s Supporter
Angela Tyrrell - Senior Legal Assistant
Russell Wignall - Legal Assistant
3 other members of the public

APOLOGIES

Councillor Sue Austen

1. ELECTION OF CHAIRMAN

Councillor Julia Huffer was duly nominated as Chairman, by Councillor Alan Sharp seconded by Councillor Alec Jones, and there being no other nominations was elected as Chairman.

It was resolved:

That Councillor Julia Huffer be elected as Chairman of the Licensing Sub-Committee for the municipal year.

2. APPOINTMENT OF VICE CHAIRMAN

Councillor Alan Sharp was duly nominated by Councillor Julia Huffer, seconded by Councillor Alec Jones, as Vice Chairman and there being no other nominations was appointed as Vice Chairman.

It was resolved:

That Councillor Alan Sharp be appointed as Vice Chairman of the Licensing Sub-Committee for the municipal year.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made.

4. DETERMINATION OF AN APPLICATION FOR CONSENT TO TRADE FROM A LOCATION DEFINED AS A CONSENT STREET IN ACCORDANCE WITH THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Sub-Committee considered a report, reference U51 previously circulated, which detailed an application to trade from a location defined as a Consent Street within the East Cambridgeshire district boundary.

The Chairman welcomed everyone to the meeting and those in attendance introduced themselves.

The Applicant confirmed that he had received the report and the additional papers.

The Senior Licensing Officer presented his report and made the following comments:

- The application was consent to trade in a 'consent street'.
- The 1982 Act allowed the Council to determine such applications.
- The Council's Street Trading Policy stated that if an objection was received about an application then the matter had to be determined by Members.
- The new application was for a permanent licence to trade in Haddenham.
- The application asked for trading hours of 4pm to 10pm Monday to Sunday, detailed in Appendix 1 to the report.
- During the consultation period 6 objections, 9 supporting submission and 1 neutral submission had been received.
- The objections related to noise, odour, rubbish and traffic issues.
- The supporting comments welcomed the facility as an addition to existing outlets and noted the requirement to travel elsewhere for such a service.
- The Applicant had made use of temporary licences previously and only one complaint, relating to noise, smells and litter, had been received during that time.
- In considering the application the Sub-Committee had to take note of the Council's Street Trading Policy, the number and type of local traders, public order or nuisance, highway restrictions and the legal requirements.

- Applications such as this were usually granted unless there would be significant impacts on highway and public safety.
- The application was for a site located by the Social Club, whose car park was open at all times providing access to the club, and a pre-school and nursery.
- The Club itself has a Certificate allowing entertainment and alcohol for members and guests of members.
- The Applicant had been trading from the car park but had proposed moving to Chewells Lane.
- Chewells Lane leads to allotments, the cemetery and residential farm buildings. No issues had been raised about this location from the County Highways Department.
- Chewells Lane had been measured by officers, as the facility van would be parked on the road, on the left hand side near to where the road narrows
- Schedule 4 of the 1982 Act gave mandatory grounds for refusing applications, but these were not relevant in this case. Therefore the granting or refusal was at the discretion of the Sub-Committee.
- If granted, standard conditions could be applied or these could be amended to suit the circumstances.

The Applicant confirmed that the report was accurate.

Councillor Julia Huffer asked whether the Social Club had activities most evenings. Was the smoking area near the original location of the van? Mr Petkas tabled a list of forthcoming events at the Club. The Senior Licensing Officer informed the Sub-Committee that the Club was allowed to show films, have live and recorded music, performances of dance, alcohol, as well as deregulated entertainment. There were no objections about the smoking area.

No objectors attended the meeting, so no further comments were made in objection, but the further written submissions from two objectors were read by Members.

The Democratic Services Officer had been handed additional information from the Social Club in support of the application, just before the meeting started and asked the Chairman whether it was permissible to submit it as additional evidence. The Senior Licensing Officer and Legal Services Manager checked the statement. The Legal Services Manager advised that the statement be rejected due to it not being submitted within the consultation period and as other late submissions had also been rejected for similar reasons, it should not be accepted. The Chairman concurred. Members did not see the statement.

The Chairman invited the Applicant to support their case. Mrs Yasan, on behalf of the Applicant, read out a statement tabled at the meeting which included the following points:

- The business had been in operation for 23 years so was experienced and professional.

- They had operated a mobile van in Arbury since 2002 until its sale very recently.
- Collaboration with the residents would be dealt with.
- They would deal with any complaints.
- Extra efforts are made to clear litter, including regularly emptying bins.
- Not all rubbish was caused by the business's customers.
- Efforts also taken to reduce light and noise nuisance.
- The van used an extraction unit which was comparatively quiet.
- No generator was used, thereby no noise, as an electricity supply was available via the Social Club and would be made permanent.
- They will be opposed to any anti-social behaviour at the vicinity.
- They could not be held responsible for the Social Club's customers' behaviour.
- More odours were created by the nearby Chinese shop.
- The van would be parked facing the wall so people could use the walkway safely.

Councillor Alan Sharp questioned the use of electricity from the Social Club to the van and was concerned about safety if it was decided to re-locate permanently to Chewells Lane. Would the business be viable if it were not to open seven days a week? The application stated a working time of 4pm to 10pm but would this include time for setting up and clearing down?

Mrs Yasan explained that the supply of electricity had already been discussed and agreed with the Social Club. The Applicant would work round any restrictions in operating times. Although 4pm was the start time requested, usually the van was not operational until 5pm and started to close down from 9pm to allow time to tidy up. Times would be negotiable.

The Senior Licensing Officer reminded the Sub-Committee that it could include conditions relating to the timings of the van's arrival and departure.

Councillor Alec Jones asked about the other facility in Arbury and asked whether this application referred to an additional operation. Reference had been made to the Chinese takeaway creating odours but where was it located?

The Sub-Committee was informed that the application was for an additional business to the one in Arbury and the Chinese, although not very close as it was located in the High Street, produced a constant smell along with the Fish & Chip Shop.

The Chairman asked if any other supporters wished to make a statement, but only to supplement their previous comments and not to introduce new arguments.

Mrs J Bethell, who worked at the Social Club, had no objections to the van being in the Social Club car park nor to it be re-located as suggested.

Councillor Alec Jones asked for clarification whether the Social Club provided food. Mrs Bethell revealed that the Club only provided rolls or sandwiches usually and was happy for the van to provide other food. Hot food could be provided but this would be unusual.

Ms J Clark reiterated that the Applicant did clear up the rubbish but the bins further down were rarely emptied.

The Chairman asked if Council officers had any further comments to make. The Senior Licensing Officer asked the question, was it not possible for the applicant to use the Social Club's kitchen. . In response it was disclosed that the location of the Club's kitchen was unsuitable as food would have to be transported through the main hall where other functions would be taking place.

The Chairman invited the Applicant to make a closing statement. The Applicant had nothing further to add.

The Chairman asked all parties whether they considered the hearing to have been fair and all agreed that it had.

The Sub-Committee then went into closed session, and the Council officers, excepting the Legal Services Manager, and other participants left the meeting at 11:55am.

The Sub-Committee reconvened in public session at 1:05pm with all parties returning to the Chamber.

The Chairman invited the Legal Services Manager to read out the Sub-Committee's decision.

The Sub-Committee made the following decision:

Members are minded to grant the application subject to some modifications to address the representations in respect of visibility, noise and the solution suggested by the Senior Environmental Health Officer to position the van away from residential properties, as follows:

- Trading hours will be restricted to Monday to Saturday, to trade between the hours of 4 pm and 10 pm. No arrival on site before 4 pm with trading to cease at 10 pm and the van to have left the site by 10.30 pm as set out in Standard Condition 16;

- The van is to be positioned on Chewell's Lane, Haddenham with the service area facing the wall in a position to be agreed with the Senior Licensing Officer;
- The van must not be kept on site at night; and
- Standard Condition 22 is to be amended to state that the consent holder will be responsible for ensuring the Social Club car park and the immediate area around the van is cleared of rubbish, which may have emanated from their business prior to leaving the site each day.

In reaching their decision, Members have taken into account the report from the Senior Licensing Officer, together with the full written submissions of the objectors and supporters, including those received post report from objectors. Members have listened to the concerns of the objectors, the representations, and the statement read by the applicant and feel that the above amendments are a fair balance between the request of the applicant, the consultees and the needs of the residents.

The meeting concluded at 1:07pm.