

## LICENSING COMMITTEE

1 November 2016

### Present:

Councillor Spackman (Chair)

Councillors Brimble, Mitchell, Holland, Pearson, Owen, Sheldon and Sills

### Apologies:

Councillors Hannan, Henson and Newby

### Also present:

Environmental Health and Licensing Manager, Litigation Solicitor, Solicitor, Acting Principal Licensing Officer and Democratic Services Officer (Committees) (HB)

### 25 **Minutes**

The minutes of the meetings held on 19 July and 20 September 2016 were taken as read and signed by the Chair as correct records.

### 26 **Declarations of Interest**

No declarations of interest were made by Members.

### 27 **Updated compilation of Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators**

The Acting Principal Licensing Officer presented the report of the Assistant Director Environment seeking to introduce amendments to the current policy relating to Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators.

It was reported that the Driving and Vehicle Standards Agency (DVSA) had advised that, effective from 31 December 2016, they would no longer be offering a taxi driving assessment. It was the requirement of the current policy for applicants to pass this assessment prior to the Licensing Authority issuing them with a taxi drivers' licence. Licensing Authorities across Devon were working together to find a suitable alternative to the DVSA taxi test and, as such, the policy had been amended to reflect the change in test provider.

**RESOLVED** that the following change to Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators be approved:-

Section 4.3 of the policy be amended as follows (amended text highlighted in italics):

The Council shall not grant a licence to drive a hackney carriage unless it is satisfied that the applicant is a fit and proper person. In order to determine such fitness, the applicant shall be required to undertake the following tests as to the applicant's ability:

- i. Local geography (knowledge test);
- ii. To communicate effectively with passengers and customers
- iii. A medical examination to the Group II standard;
- iv. *Driving standard assessment equivalent to the Driving Vehicle Standards Agency taxi driving assessment.*

28 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

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

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

29 **Application for Consent to Street Trade in Bonhay Road**

The Acting Principal Licensing Officer presented an application from Ms H for consent to relocate her catering trailer from its present location outside the Great Western Hotel where she possessed a consent to trade for a period of twelve months, to the parking bay opposite the Speedway Garage on Bonhay Road. She had been informed by the land owner of her current consent trading location, that she must relocate the trailer to an alternative trading location

The applicant did not attend to make representations.

Following enquiries Devon County Council the land owner had not given consent for the use of the parking bay for trading and in any event trading from a parking bay is prohibited.

**RESOLVED** that street trading consent to relocate the catering trailer from its present location outside the Great Western Hotel, to the parking bay opposite the Speedway Garage on Bonhay Road be refused.

30 **Application for Consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application from Mr D for consent to amend his current consent to street trade in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Mr D currently held a consent to trade for twelve months in Castle Street selling Tibetan food from a 2.2 metre by 1.8 metre stall, the consent having been granted by this Committee on 2 February 2016. Mr D proposed to increase the size of his stall to 2.5 metres by 2.5 metres in order to allow him to increase his menu and to provide for improved hygiene facilities, in particular an enlarged sink area. The times and days requested were from 09.00 hours to 17:00 hours Monday to Sunday.

He proposed to continue with his current food offering and also to extend his menu to include Beef Momo (beef dumplings) and Tibetan Noodles. He used a gas fuelled ring system and would not be using a generator, and planned to continue to provide his own refuse bins for customers to dispose of their litter. Rubbish would continue to be taken to his home address where he disposed of his waste through an appropriate

trade waste collection service. No complaints about Mr D had been received since he had started trading.

**RESOLVED** that consent be granted for an enlarged pitch for the existing period of twelve months, subject to the conditions set out in the report.

### 31 **Application for consent to transfer a Street Trading Consent**

The Acting Principal Licensing Officer presented an application for consent to transfer the name on a street trading consent in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982. .

Mr E had operated the Hot Sausage Company barrow from the current location at the side of Pret A Manger for 17 years on behalf of Mr M, the owner from whom he held a franchise. Mr M had advised that he was prepared to surrender the street trading consent in order for it to be transferred to Mr E.

Mr M and Mr E attended the meeting.

Mr M advised that the Hot Sausage Company operated across the country but that not all of the Barrows were licensed in the name of the operators. Because of the hard work and diligent approach of Mr E over the 17 year period, Mr M considered it appropriate for the transfer to take place. He was also supportive as he believed that it was better for the consent to be issued in the name of a local person.

Mr E outlined his future intentions for the business. At present, he worked six or seven days a week and he was looking to take on part time support on Saturdays, possibly by means of work experience for Exeter College students and also to take on another person for two or three days a week.

The Committee retired to make its decision in the presence of the Litigation Solicitor, Solicitor and the Democratic Services Officer only.

**RESOLVED** that the street trading consent be transferred from Mr M to Mr E for a period of twelve months from 16 December, the date when the current consent to Mr M expired, subject to the conditions set out in the report.

### 32 **Applications for Consent to Street Trade in Castle Street**

The following five applications for consent to street trade had been received for the pitch at the front of Castle Street recently vacated by Mr C who had previously sold 'Chunk' pasties.

Of the five, two of the applicants, Mr M and Mr E (Min. No. 31 above refers) and Mr M (Min. No. above 36 refers) were in attendance.

All were informed by the Litigation Solicitor on the proposed procedure for considering each application in turn and to determine which, if any, would be the most appropriate for the pitch in question. The Litigation Solicitor also set out the statutory provisions and the Council's street trading policy as set out below.

The Litigation Solicitor advised that the Committee is convened under the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') to hear applications for Street Trading Consents. Schedule 4, Section 7 of the Act states under section 7(2) that the Council may grant a street trading consent if they think fit and section 7(4)

when granting or renewing a street trading consent, the Council may attach such conditions to it as they consider reasonably necessary. The Council is under no duty to grant a street trading consent and does not have to specify grounds for refusal. Under section 7(10) a street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time. There is no right of appeal against the Council's refusal to grant a consent.

The Council's Street Trading Policy and Conditions section 1.1 states Exeter City Council's street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of customer choice and seeks to enhance the character and ambiance of local environments. Section 1.2 states the policy recognises the importance of street trading in the city and that it can add to the vibrancy and vitality whilst not necessarily adding to nuisance and crime and disorder.

The applicants were informed that the Council would shortly be undertaking a comprehensive review of its street trading policy which would include the number and location of pitches, both in Castle Street itself and across the City.

### 33 **Application for Consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application from Mr E for consent to relocate a current street trading location in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Mr E, who operated the Hot Sausage Company barrow from the current location at the side of Pret A Manger, wished to relocate to the pitch at the front of Castle Street, the transfer of the street trading consent to himself from Mr M of the Hot Sausage Company having been agreed at this meeting, effective from 16 December (Min. No. 31 above refers)

Mr E proposed to use the same 2.3 metre by 2.0 metre barrow currently used and to continue with his current food offering. The times and days requested were from 09.00 hours to 17.30 hours Monday to Sunday and 09.00 hours to 20.00 hours on Christmas late night shopping nights.

Mr E attended the meeting and spoke in support of his application. He detailed his background and experience in business and in the catering industry. Mr M spoke in support of Mr E and stated that the exact location of the barrow could be critical in terms of generating custom which was the reason behind the request to transfer from the existing pitch.

The Committee retired to make its decision in the presence of the Litigation Solicitor, Solicitor and Democratic Services Officer only.

**RESOLVED** that street trading consent, involving the move from a current pitch in Castle Street, be refused on the grounds that it would not enhance the diversity of customer choice in the location.

### 34 **Application for Consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application for consent to street trade for a period of twelve months in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Ms B proposed to use a 1.6 meters by 3.5 meters catering trailer and to specialise in jacket potatoes with a range of Mediterranean style fillings. The times and days requested were 11.00 hours to 16.00 hours Monday to Saturday.

Ms B was not in attendance.

**RESOLVED** that street trading consent be refused on the grounds that it would not enhance the diversity of customer choice in the area.

### 35 **Application for Consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application from Mr T for consent to street trade for a period of twelve months in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Mr T proposed to use a 3 metre by 3 metre catering tent and to specialise in Greek cuisine. The times and days requested were 09.00 hours to 18.30 hours Monday to Sunday.

Mr T was not in attendance.

**RESOLVED** that the application for street trading consent be refused as it was considered that the catering tent was overbearing and would hinder safe access in emergencies as it was a static structure rather than a mobile vehicle.

### 36 **Application for Consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application from Mr M for consent to street trade for a period of twelve months in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Mr M's company, Chunk Pasties, had previously supplied pasties and pies to a previous stall holder who had recently surrendered his consent. Mr M proposed to trade with these items using a 4.0 meter by 2.0 meter catering vehicle. The times and days requested were from 10.00 hours to 03.00 hours Tuesday to Saturday.

Mr M attended the meeting and spoke in support of his application. He detailed his background and experience in business and in the catering industry. He stated that his company had won a number of awards for the quality of their produce which, as far as possible, was locally sourced.

The Committee retired to make its decision in the presence of the Litigation Solicitor, Solicitor and Democratic Services Officer only.

**RESOLVED** that street trading consent be granted for a period of six months, subject to the conditions set out in the report.

### 37 **Application for consent to Street Trade in Castle Street**

The Acting Principal Licensing Officer presented an application from Ms H for consent to street trade for a period of twelve months in Castle Street (adjacent to High Street), Exeter, which was a designated Consent Street under the provisions of the Local Government Act 1982.

Ms H's company, The Hairy Barista Ltd., was a family owned business specialising in artisan coffee. She proposed to trade from a small coffee stall and to sell speciality coffee as hot beverages, beans and ground coffee. Other goods for sale would include speciality teas, hot chocolate and cakes from local Devon bakeries.

The proposed trading unit was a stationary, portable, ridged market umbrella frame, to withstand all weathers. Ms Harris intended to trade Monday to Sunday, but stated that weekends would be occasional and subject to trade. The earliest starting time requested was 10.00 hours with the latest terminal hour being 18.00 hours.

Ms H was not in attendance.

**RESOLVED** that street trading consent be refused on the grounds that it would not enhance the diversity of customer choice in the area and the Council's Policy states it would not normally grant a consent of goods which conflict with those provided by nearby traders.

The meeting commenced at 5.30 pm and closed at 7.20 pm

Chair