

LICENSING COMMITTEE

27 March 2018

Present:

Councillor Keith Owen (Chair)

Councillors Sheldon, Branston, Hannan, Holland, Mitchell, Newby, Pearson, Sills and Vizard M

Apologies:

Councillors Brimble, Foale, D Henson and Keen

Also present:

Environmental Health and Licensing Manager, Litigation Solicitor, Solicitor, Principal Licensing Officer and Democratic Services Officer

1 Minutes

The minutes of the meeting held on 6 February 2018 were taken as read and signed by the Chair as a correct record.

2 Declarations of Interest

No declarations of interest were made by Members.

3 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 it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

4 Application for Street Trading Consent

The Chair introduced the Committee and set out the procedure. The Litigation Solicitor set out the Council's policy and the requirements under the Local Government (Miscellaneous Provisions) Act 1982.

The Principal Licensing Officer presented the report advising the Committee that, Mr B was seeking approval to engage in street trading with a roving consent. The applicant proposed to sell vape items, such as e-cigarettes and e-liquid from a converted Ford Transit van and had applied to trade for a 12 month period.

The Principal Licensing Officer advised that Mr B had an established vape business in Exeter, which operated a challenge 25 age verification policy in the existing shop, which would also apply to the mobile shop and no representations had been received.

Mr B was in attendance and spoke in support of their application, notifying Members that there was an established vape shop in Pinhoe, which used the van to make deliveries to elderly and disabled customers and had operated at markets and car boot sales. The licence would allow more accessibility for customers to sell items other than making deliveries.

In response to questions from Members, Mr B responded:-

- The van would spend about 15 minutes in each area and would develop a customer base for repeat business;
- Existing disabled customers order deliveries from the store, which the van would park at the customers' homes. The shop had a website and Facebook page which would provide details of when the van would be operating in a particular area;
- The planned trading locations would be Sowton Village, Sowton Industrial Estate and Marsh Barton, but would trial difference areas;
- The roving licence would provide a service for customers who could not get to a shop;
- Vaping was supported by Cancer UK and NHS to assist people to quit smoking. The Government public health website stated that vaping was 95% better than cigarettes and had supported people in stopping smoking;
- There would be a fire extinguisher in the van;
- Would welcome a condition on no trading within a distance from schools;
- There were no plans to have chimes or bells, similar to those on an ice-cream van but could look into it if it were allowed;
- The business does not encourage people to start vaping, focussing on existing smokers to help them stay off cigarettes and work with them;
- All employees in both the shop and van would be fully trained.

The Environmental Health and Licensing Manager notified the applicant that Sowton Village was under East Devon District Councils administrative boundary.

RESOLVED that the application be approved for 12 months with the following conditions:

- (a) That all of the conditions contained within Appendix A of the Street Trading Policy dated June 2015 should be included on the consent;
- (b) That the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- (c) The use of A boards and flags is prohibited;
- (d) The consent holder will not conduct fly posting;
- (e) In the event that issues do arise from this consent, then they should be referred back to the Licensing Committee at the first available opportunity;
- (f) No trading within 400m of a school, between Monday and Friday;
- (g) No audible advertising to be installed on the van.

5 **Application for Street Trading Consent**

The Chair introduced the Committee and set out the procedure. The Litigation Solicitor set out the Council's policy and the requirements under the Local Government (Miscellaneous Provisions) Act 1982.

The Principal Licensing Officer presented the report that advised the Committee that Mr B and Mr S were seeking approval to engage in street trading at a number of locations within the city, selling artisan coffee and individually wrapped pre-packaged cakes and biscuits from a converted Smart Car, measuring 240cm x 120cm.

Mr B and Mr S had applied for a roving consent to trade for a 12 month period specifically at Pynes Hill, Sowton Industrial Estate and the Marsh Barton Industrial Estate areas. The proposed trading days and times would be Monday to Friday, from 08.00 to 14.00. No representations had been received and the applicants business had received a 5 star rating from Environmental Health Department in October 2017.

Mr B and Mr S were in attendance and spoke in support of their application. They had started the business in September 2017 selling coffee. They operated a quirky and unique business operating Monday to Friday selling locally sourced products at affordable prices. They commented that they had operated at events in the city including the food festival.

In response to questions from Members, Mr B and Mr S responded:-

- The coffee cups would be 100% recyclable and bio-degradable. They would also provide a further incentive of discounted coffee for customers who brought their own mugs;
- Refuse would mainly consist of coffee stirrers, but everything would 100% recyclable and rubbish would be taken away when the car moved on;
- There was a support car available if required to cater for larger events;
- The coffee grounded and locally sourced for freshness. The car was a convertible with an attached steel compartment to trade from. The passenger seat would be fitted with a fridge but the car would remain road worthy;
- The Pynes Hill and Marsh Barton areas had a demand for the services and would be ideal locations to trade at. The car would park, allowing customers to come and buy tea, coffee and cakes;
- The discount for customers providing their own mugs would be displayed on the menu, through social media and word of mouth;
- The cakes were locally made by Devon Foods in Honiton;
- There were no specific locations or confines for the roving licence, the option to trade anywhere would be ideal.

RESOLVED that the application be approved for 12 months with the following conditions:

- (a) In the event that issues do arise from this consent, then they should be referred back to the Licensing Committee at the first available opportunity;
- (b) That all of the conditions contained within Appendix A of the Street Trading Policy dated June 2015 should be included on the consent;
- (c) That the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- (d) The use of A boards and flags is prohibited;
- (e) The consent holder will not conduct fly posting.

6 Applications for Consent to Street Trade in Castle Street

The following two applications for consent to street trade had been received for the vacant pitch on Castle Street.

Both of the applicants, Mr G (Min. No. 7) and Mr B (Min. No. 8) were in attendance.

Both were informed by the Chair 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 Solicitor set out the statutory provisions and the Council's street trading policy as set out below.

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

7 Application for Street Trading Consent

The Principal Licensing Officer presented the report advising the Committee that, Mr G was seeking approval to engage in street trading at Castle Street, Exeter selling Vietnamese 'Bahn Mi' Fast Food. The applicant had proposed to use a mobile hand cart made from galvanised steel and timber, which would be mobile and towable. The applicant had applied to trade on Monday to Saturday from 08.30 to 16.30.

He explained that no representations had been received and the applicants business had been registered with the Environmental Health department and awaiting inspection. All food would be prepared in the applicant's home kitchen and put together on site on the hand cart. All food on the cart would be stored in refrigerated or heated compartments and all packaging would be bio degradable.

Mr G was in attendance and spoke in support of his application, explaining that he had noted that there was a gap in the market for quality, filling and freshly made food for people on the go. This would be the first 'Bahn Mi' retailer in the South West and one of a few within the UK and was expected it would grow in demand. He explained he was currently unemployed and this would be a good opportunity for Exeter.

In response to questions from Members, Mr G responded

- A sandwich would cost £5 at a set price for all available options including a vegetarian option;
- Ingredients would be bought locally ;
- The cart was not currently built, but be constructed should approval be given by the Licensing Committee. It would take up to ten days to build and get the food hygiene certificate. He hoped to commence trading within two weeks;
- The cart would not weigh more than 150kg, which could be reduced if installed solar panels, however the weight would not be an issue;

- Although he lived in Okehampton, there wasn't a market for 'Bahn Mi' food, compared to Exeter;
- He would be operating from 8:30 to 16:30, six days a week;
- Waste and refuse could be collected by a commercial trade waste collector.

The Environmental Health and Licensing Manager notified Members and Mr G that Exeter City Council provided trade waste and recycling service for a set fee, which was collected in the morning, six days a week. Mr G advised he would hold refuse overnight in his car and put out for collection each morning or arrange collection from his home address.

In response to a question from the Solicitor, the Principal Licensing Officer stated that if approved, the application would be subject to a site inspection and submission of the food hygiene certificate.

8 **Application for Street Trading Consent**

The Principal Licensing Officer presented the report advising the Committee that, Mr B was seeking approval to engage in street trading at Castle Street, for six months (season), selling ice cream and sorbets in individual pots from a purpose built ice cream tricycle. The tricycle would use a purpose built freezer on the front and have a parasol and trade between Mondays to Saturday from 08.30 to 16.30.

He explained that no representations had been received and the applicants business had been registered with the Environmental Health department and awaiting inspection. The applicant would also use a thermal water tank and use a Milton solution to sterilise any utensils used.

Mr B was in attendance and spoke in support of their application, explaining they had purchased the tricycle in January 2018, with the intention of trading in Exmouth. However the market was too big in the seaside town, and demographics showed Exeter as a viable option. The tri-cycle would be environmentally friendly, with no gas cylinders and minimal waste. He considered there was a good market for ice-cream in Exeter which the majority of outlets selling hot food.

In response to questions from Members, Mr B responded:-

- The six month season ran between April and October;
- The ice-cream would be made locally in Taunton, using only 100% natural ingredients and no artificial flavourings. All nutrient information would be detailed on the tubs;
- During the tourism season, ice cream was a big seller and he wouldn't expect there to be any issues with selling;
- The pots were bio-degradable, however the lids were made of plastic, which he would request this be changed;
- Although there would be alcohol in the ice-cream, it would be a minimal amount and within legal limits;
- He confirmed he was currently a delivery cyclist, on a zero hour contract and was looking to establish his own business;
- The ice-cream would cost between £2- £2.50 with a three for £5 offer available;
- He was unaware of the facility to rove on his bike, but would prefer to stay in a central location. He had looked at other locations in the city including the quay, but would be unable to trade there;
- If granted the licence he confirmed he would be able to commence trading within two weeks.

9 Resolutions for Applications for Street Trading Consent at Castle Street

The Committee retired to make its decision on the applications for street trading consent at Castle Street in the presence of the Litigation Solicitor, Solicitor and the Democratic Services Officer only.

RESOLVED that the application for street trading consent to sell ice cream and sorbets, be refused on the grounds that the pitch should be occupied for trading all year round.

RESOLVED that the application for street trading consent to sell Vietnamese 'Bahn Mi' sandwiches be approved with the following conditions:

- (a) That the consent should not exceed 2.5 meters by 2.5 meters;
- (b) That the pitch should be located to allow sufficient space for vehicular access should it be required. The exact location would be agreed by the Environmental Health and Licensing Manager;
- (c) In the event that issues do arise from this consent, then they should be referred back to the Licensing Committee at the first available opportunity;
- (d) That all of the conditions contained within Appendix A of the Street Trading Policy dated June 2015 should be included on the consent;
- (e) That the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- (f) The use of A boards and flags is prohibited;
- (g) The consent holder will not conduct fly posting;
- (h) That the use of diesel or petrol powered generators is prohibited;
- (i) That the business be operational on-site, by 28 April 2018.

The meeting commenced at 5.30 pm and closed at 8.00 pm

Chair