

LICENSING COMMITTEE

17 September 2019

Present:

Councillor Keith Owen (Chair)

Councillors Buswell, Begley, Henson, D, Mitchell, K, Newby, Oliver, Quance, I, Vizard, Wood and Wright

Apologies:

Councillor Branston

Also present:

Litigation Solicitor, Principal Licensing Officer and Democratic Services Officer (SLS)

15 **Minutes**

The minutes of the meeting held on 16 July 2019 were taken as read, approved and signed by the Chair as correct.

16 **Declarations of Interest**

No declarations of interest were made by Members.

17 **Mike Winter**

The Chair advised that Mr Mike Winter passed away recently and he wished to offer both his and fellow Members condolences and also pay tribute to him as he was a well respected and influential member of the taxi trade community.

18 **Proposed Hackney Carriage (Taxi) Fare Tariff Changes**

The Principal Licensing Officer submitted a report which sought to inform Members of a request from the Chair of the Exeter St David's Hackney Carriage Association, for an increase to the Hackney Carriage Fare Tariff. He advised that Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allowed Licensing Authorities to set the tariff fares for Licensed Hackney Carriages (taxis), in their area, and set the maximum fares, in which a taxi could charge the public when using their vehicles.

The request included the following changes be made to the tariff:-

- a charge of £100 be made to customers who soiled the taxi, the increased charge would more realistically compensate the operator for the cost of cleaning the vehicle's interior and loss of earnings whilst the taxi was off the road;
- an additional charge for carrying dogs (excluding assistance dogs which travel free of charge), to rise to £1.00 per dog; and
- the extra charges for luggage and additional persons be removed and be replaced with a separate tariff for over four passengers.

The Chair confirmed that he had been advised by the trade that they believed that factual information in the report; which related to the existing tariffs was not correct and there was also some doubt about support for the proposed changes that had been put forward by the trade representatives.

The Litigation Solicitor confirmed that there had been a conflicting message about the proposed changes which included a request to consult members of the Hackney Carriage taxi trade that had been conducted by the Trade Representatives.

The Chair set out the options for Members to consider, which were to proceed with the request and consider the circulated report, postpone the consideration until the next meeting; or to reject the request for consideration of the tariff in respect of the Hackney Carriage trade. It was important to ensure that any such request had the support of the trade and Members were properly consulted.

RESOLVED that Members unanimously voted to reject the request made by the Exeter St David's Hackney Carriage Association for an increase in the Hackney Carriage Fare Tariff.

19 **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 item 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.

20 **Application for Consent to Street Trade in Glasshouse Lane**

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 which advised the Committee that the applicants were seeking approval to engage in street trading on Glasshouse Lane, Exeter, using a purpose-built mobile food van, selling kebabs and other fast food, for a 12 month period. The applicants had supplied photographs of the van and details of the proposed menu, location, the van's extraction certificate, gas installation safety record and liability insurance. The applicants had applied for a consent to trade between 16:00hrs and 23:00hrs, between Monday and Sunday.

The Principal Licensing Officer stated that the applicants considered the location to be the only suitable space for trading, and that Devon County Highways had raised no concerns in relation to the proposed siting of the van, which would be parked adjacent to the footpath in the free parking area. He drew Members' attention to a number of conditions and also to a representation received during the fourteen day consultation period, which related to competition between other existing food outlets. The conditions in the application included the provision of a bin, no use of A Boards, or to conduct any flyposting and to be aware of the Council resolution in respect of Single Use Plastics.

The applicants were in attendance, and spoke with the assistance of an interpreter in support of the application. They had previously provided evidence of the van registration with Environmental Health for food hygiene purposes. They wished to provide a service and serve the people near the area, and welcomed the opportunity

to create a business to benefit their family. The applicant agreed to abide with the requirements and conditions of any street trading consent that might be granted.

In response to questions from Members, the applicant responded in the following terms:-

- having noted a Member's comments about the potential for increased rubbish, anti-social behaviour and general levels of noise, they confirmed they already ran a very clean site for their existing car wash business;
- they had chosen a quieter generator and it would be sited inside the van;
- they would only be serving french fries and not traditional fish and chips
- they considered there was no direct competition and it was a suitable site for the business;
- a fire blanket and fire extinguisher were available in the van;
- the extractor fan eliminated the smells but were retained within the van;
- the extraction certificate would be renewed if they obtained a street trading licence;
- they would consider extending the range of vegetarian items on the menu in time;
- the lights were inside the van only; and
- they had not carried out any door to door research but some customers who had used their other business had expressed an interest in their new venture.

The Litigation Solicitor also referred to the Council's policy under the Local Government (Miscellaneous Provisions) Act 1982 and commented on the enhancement of a local area by any business. The applicant advised they would work to ensure that they adhered to the prescribed opening times, were mindful of noise levels and health and safety requirements. The Litigation Solicitor referred to the proposed trading hours from 16.00hrs until 23:00hrs, Monday to Sunday and if that may be considered as attractive or deemed as marketing to students coming home from school. The applicant said that they had not considered that when considering the hours of operation.

The Principal Licensing Officer responded to Member enquiries, stating:-

- he was not aware of any direct consultation with the existing food outlets in the vicinity;
- the generator to be used by the applicant was small and they did not typically receive complaints about that model, although they were still capable of emitting a low level noise;
- the applicants were mindful of the potential for anti-social behaviour and the effect on the neighbourhood.

The applicants and the Principal Licensing Officer withdrew from the room whilst Members debated the application.

Members discussed the viability and hours of operation and proposed business model at the location. They also discussed the hours of operation and a Member considered that a later start time would not include the potential to attract the school trade, but they would still be able to attract the later evening trade.

RESOLVED that the application be approved for 12 months for the amended times of 17:00hrs until 23:00hrs with the following conditions:

- a) that all of the conditions contained within Appendix A of the Street Trading Policy dated 2015 should be included in 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 this consent may be revoked by the Environmental Health and Licensing Manager in consultation with the Chair of the Licensing Committee; and
- f) that, in line with the Council's resolution of 24 April 2018, any cutlery, food/ drink containers, and drinking straws used should not be made from single use plastics.

The Chair also reiterated that if any complaints should be received from members of the public that the matter could come back for consideration in the intervening period to be debated by Licensing Manager in consultation with the Chair.

The meeting commenced at 5.40 pm and closed at 6.45 pm

Chair