

## **Licensing and Appeals Sub Committee Hearing Panel**

### **Minutes of the meeting held on Thursday, 11 October 2018**

**Present:** Councillor Grimshaw – in the Chair

**Councillors:** Jeavons and C Paul

#### **LACHP/18/78. Exclusion of the Public**

A recommendation was made that the public is excluded during consideration of the items of business.

#### **Decision**

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

#### **LACHP/18/79. Application for a Street Trading Consent for Mobile Unit, Corner of Mosely Street and Market Street, outside the Santander entrance.**

In reaching its decision the Committee also considered the Council's Street Trading Policy, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and Article 1 of Protocol 1 of the European Convention of Human Rights.

#### **Legal Matters**

Councillor Grimshaw who was sitting as Chairman of the Sub Committee advised all parties at the commencement of the hearing that he knew the street trader making representations.

It was established that Cllr Grimshaw knew the objector as a 'passing acquaintance' from years ago when he was a street trader himself, as he did many of the street traders. There was no social, family or close connection and no pecuniary interest in relation to her. Cllr Grimshaw had also reassured there was no bias.

The Applicant and his business partner were advised it was their right to request a fresh sub-committee be constituted and they were advised they could have a period of time to discuss and make their decision. If so the matter would be adjourned for that to take place.

The Applicant, (and his business partner who was present), advised they did not need to discuss matters and were happy for the hearing to continue with the current Sub Committee.

## Evidence

The Applicant had applied for various street licences previously and been refused; this application was made a couple of months ago; they were selling something completely different.

They were aware another applicant had been granted a licence in March 2016 to sell sweets and chocolate but that was on the left hand side, (of the Metrolink tracks). The applicant was asking for the right hand side of those tracks and next to an existing street trader.

Photographs were provided of the site.

The applicant stated the site was not right in front of Santander and there was three to four metres available next to the objectors unit, (the street trader making representations).

The applicant did not want to place any members of the public in danger.

When questioned, the applicant confirmed the following: -

- He hadn't run a business like this before but had been trying to obtain a licence for the last twelve months; he had previously tried for one on Oxford Road but due to the saturation of outlets in the area they had refused to accept his application;
- There would be two people working in the unit at all times;
- He had obtained quotes for the installation of an electricity supply; the documentation was provided and it was unlikely any closure of the Metrolink would be required as the nearby supply could be connected to and separately metered;
- He had taken steps in respect of waste management and produced documentation relating to 'Cheaperwaste.co.uk);
- The unit itself would be painted to meet the required colour specification;

The Out of Hours team set out in their representation the application applied for and stated their main concern was the location proposed which was right on edge of the corner/bend of the tramlines. This was a heavy footfall area and whereas it was accepted there were other businesses in the vicinity, this particular sight presented a further obstruction to the trams and pedestrians, particularly on that corner as it minimalised the space further. This presented a further risk to pedestrians.

There was a further concern regarding the congestion from any queues from the unit go on to state they object to the Application.

Their further concern was the lack of Public Indemnity insurance although they accepted this could be obtained quickly and it would be unfair to expect this to be put in place with the payment of premiums prior to any licence being granted.

The objector set out in her representations to the application applied for and confirmed her objections were the same as those raised by LOOH in relation to the

location. She also confirmed that the spaces were in fact loading bays and were used by cash vans to deliver and collect cash from the various premises.

The Committee paid regard to the efforts made by the applicant in respect of the waste management arrangements, electricity supply, the unit itself and to address the objections/representations made. However, one of the main objectives of the licensing regime is to ensure that trading is carried out in a manner that protects public health/safety and the Committee's concern was in relation to the proposed location of the unit in that: -

1. Its proximity to the tram/Metrolink tracks;
2. Its obstruction to the view of the trams and pedestrians which impacted on public safety;
3. The heavy footfall in the area in relation to (1) and (2).

The application was therefore refused under the provisions of paragraph 6(a), Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and section 3.1.1 of the City Council's Street Trading Policy: -

6(a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street.

### **Decision**

To refuse to grant the application.