

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 14 October 2019

PRESENT: Councillors Karen McGowan (Chair) and Bob Pullin

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from Councillor Adam Hurst. Councillor Vickie Priestley attended the meeting, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1972 - STREET TRADING - STATIC STREET TRADING CONSENTS - BOTANICAL GARDENS, CLARKEHOUSE ROAD

4.1 The Chief Licensing Officer submitted reports to consider the revocation of two Static Street Trading Consents outside Botanical Gardens, Clarkehouse Road, following the implementation of a new Traffic Regulation Order at the current consent site.

4.2 Present at the meeting were Andrew Cuneo, Inglanga Saqlani (Consent Holders), Peter Devoti and Zoe Devoti (on behalf of Mrs Heath and Mrs Vilela (Consent Holders), Jayne Gough (Licensing Strategy and Policy Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and Jennie Skiba (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

4.4 Jayne Gough informed the Sub-Committee that the site was shared, on different days, by Mr. and Mrs. Cuneo and Mrs Heath and Mrs Vilela and asked whether they were happy for both cases to be heard at the same time, to which they confirmed they were. Ms. Gough presented the reports to the Sub-Committee.

4.5 Andrew Cuneo stated that his family had sold ice cream in the city for 150 years and have been on this site for 50 years, 18 of those with a consent, and was well known in the area. He said that he had regular customers who visited the Botanical Gardens and bought ice cream from him. Mr. Cuneo said that one day in May 2019 he had parked as normal at the site and had received a parking ticket. He asked the Parking Services Operator why he had been given a ticket

and was told by the Officer that he had been instructed to issue a ticket to him. He then contacted the Licensing Service to enquire about this, to be told that they would deal with it and contact him. Since that time, he has been in regular contact with the Licensing and Highways Departments, and has received conflicting information regarding the situation he now faces. Mr. Cuneo said that six years ago, he had been parked in the bay and double yellow lines had been painted on the road to the front and rear of his van. When he returned the following day, the lines had been connected up in his absence, but he had always been allowed to park there. Mr Cuneo further stated that he was aggrieved because there had been a lack of consultation regarding the enforcement of the Traffic Regulation Order (TRO). Mr. Cuneo added that there was already a bus stand in the area with enough room for the ice cream van to be parked at the front of the bay and a coach to pull in behind and he didn't see the need for another stand to be created. He said that his partner rang the Highways Department to ask why the TRO had been made and was told that a pro-cyclists group within the city had said that Clarkehouse Road was an accident blackspot for cyclists. Mr. Cuneo also felt that the nearby school had complained about the van being parked up. He added that the TRO meant that no-one visiting the Botanical Gardens would be able to park.

- 4.6 In response to questions from Members of, and the Legal Adviser to, the Sub-Committee, Mr Cuneo stated that he could produce emails sent and received between himself and the Licensing Service. Jayne Gough responded to this by stating that the Licensing Service were unaware of the proposed TRO until Mr. Cuneo had sent the parking ticket to them. She stated that contact between the Highways Department and the Licensing Service regarding the Order had been sent to the email address of the Chief Licensing Officer who was away on extended sick leave and not the generic Licensing Service inbox, so no-one was aware of the Order. Mr. Cuneo said that ice cream pitches were built up over the years and there wasn't anywhere else within the area to move to, so if a compromise could not be reached there was a threat to the livelihood not only to himself, but also a threat to the other consent holder. He added that, in his opinion, if other unlicensed traders saw the empty space, they would risk a parking ticket and trade there.
- 4.7 Jayne Gough, on behalf of the Licensing Service, apologised to the consent holders and said that the matter had gone under their radar. She said that the Notices had been displayed on the appropriate dates, but the Service had been unaware of the first one, and the Licensing Authority has no power to override a Traffic Regulation Order. She said that the Service would assist Mr. and Mrs. Cuneo and Mrs. Heath and Mrs. Vilela in finding an alternative site if necessary.
- 4.8 Jayne Gough reported on the options available to the Sub-Committee.
- 4.9 **RESOLVED:** That the public and press and attendees involved in the application, be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

- 4.10 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the applications.
- 4.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.12 RESOLVED: That, following consideration of the information contained in the reports now submitted, and the representations now made, the Sub-Committee deferred the matter subject to a meeting being arranged between the consent holders and officers of the Licensing Service, the Highways Department, Parking Services and the Parks and Countryside Service to reach an agreement in this case.

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