

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 10 January 2023

PRESENT: Councillors David Barker (Chair) and Lewis Chinchon

1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received.

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 1982 - STATIC STREET TRADING - RUSTLINGS ROAD

4.1 The Chief Licensing Officer submitted a report to consider an application, made under the Local Government (Miscellaneous Provisions) Act 1982, for the renewal of a Static Street Trading Consent on Rustlings Road, Sheffield (Ref No.01/23).

4.2 Present at the meeting were Andrew Cuneo (Applicant), Neale Gibson (Applicant's Representative), Jo Pearce (Parks and Countryside Service), Shimla Finch (Licensing Strategy and Policy Officer), Carol Curtin and Jack Riseley Boyt (Legal Advisers) and Jennie Skiba (Democratic Services).

4.3 The Chair outlined the procedure which would be followed during the hearing.

4.4 Shimla Finch presented the report, and it was noted that an objection had been received from the Sheffield Parks and Countryside Service and was attached at Appendix 'B' to the report. In addition, a number of letters of support had been received in connection with the application, which had been circulated prior to the hearing, and also a petition was submitted to the meeting.

4.5 Neale Gibson stated that Andrew Cuneo had traded locally at Endcliffe Park both inside and out for more than 20 years and had always complied with the terms of the licence and now has a new Euro 6 standard van. Neale Gibson said that when Andrew Cuneo had submitted his tender last year, he thought that the amount was reasonable and fair, however the new vendor for the pitch submitted

a tender which was considerably higher than Mr. Cuneo's. It was felt that the new vendor cannot now afford the higher, tendered fee. Neale Gibson believed that the Parks and Countryside Service were now objecting to the renewal of the licence due to the fact that they were no longer receiving sufficient income from the new vendor. He said that, historically, traders were allowed to pitch outside of 500 metres of an existing business, selling similar products, which was considered to be "fair competition". Neale Gibson said that the café and the ice cream van, parked adjacent to the playground, both sold ice products in direct competition to each other, however, prior to the new vendor adjacent to the playground, the applicant stated that he had a long-term relationship with the Café and they agreed not to cross sell. He then referred to the letters and emails of public support to Andrew Cuneo's application, many stating that they felt they should have a choice of vendors when visiting the area. He asked Members to take account of the many years of trading in the area and the positive comments received in support of the application.

- 4.6 In response to questions from Members of the Sub-Committee, the applicant stated that the bid of approximately £6,500, which he considered was a sufficient amount for the concession, was not enough. Mr. Gibson said that a tender for double that amount had been granted, however he thought that the vendor was not achieving the sales he thought he would have done, therefore the Parks and Countryside Service, as Trustees for the Park, were not receiving the income they anticipated as a direct result of trade from outside of the park.
- 4.7 Jo Pearce said that the Parks and Countryside Service had received a number of higher bids for the pitch than Mr Cuneo's and believed that the new vendor was of good quality. She said the Service knew the market value of the area and the footfall of the park. She said that Mr. Cuneo's bid for both sites was lower than other tenders received. She said the Service objected to the application as they felt that having another street trader operating adjacent to Endcliffe Park, selling the same food products, conflicted with established arrangements with two operators, both of whom pay market rental value for their sites. She said that there was clear evidence of the ongoing annual loss of Charity Park income of at least £15,000 as a direct result, stating that there were sufficient traders in the locality and there was no public benefit to there being an ice cream van so close to others. Jo Pearce said that the Council's budget situation at present was challenging and the Parks and Countryside Service was doing what it could to balance increased demand for services and pressures, whilst generating income within popular sites such as Endcliffe Park, as some of the other parks in the city had a lower income stream. She said that Endcliffe Park costs £100,000 annually to maintain.
- 4.8 In response to questions from Members of the Sub-Committee and the applicant's representative, Jo Pearce stated that she felt the tender process had been fair for all and that the pitch on Rustlings Road was a matter for the Highways Department, not the Parks and Countryside Service, although her Service would be consulted on this. She said the tender had another two years left to run and, dependant upon the conditions of the licence, terms could be re-negotiated. It should be noted that the tender process was completely separate to licence applications.

- 4.9 The applicant's representative summarised the applicant's case, stating that the public should be able to have the choice where they bought their refreshments from when visiting the park and the fact that they had received a lot of positive comments from the public as they had got to know many of the locals and regular visitors to the park over the many years of trading there.
- 4.10 Shimla Finch outlined the options available to the Sub-Committee.
- 4.11 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.
- 4.12 Carol Curtin and Jack Risely Boyt reported orally, giving legal advice on various aspects of the application.
- 4.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees involved in the application.
- 4.14 RESOLVED: That in the light of the information contained in the report now submitted and the additional information circulated prior to, and at, the meeting, together with the representations now made and the responses to the questions raised, approval be given for the renewal of a Static Street Trading Consent at Rustlings Road, Sheffield (Case No. 01/23).

(NOTE: The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination).