

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 3 October 2013

**PRESENT:** Councillors Clive Skelton (Deputy Chair), Nikki Bond and Cliff Woodcraft

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#### **1. APOLOGIES FOR ABSENCE**

- 1.1 An apology for absence was received from the Chair, Councillor John Robson. Councillor Stuart Wattam attended as a Reserve, but was not required to stay.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

- 2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on Item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

#### **3. DECLARATIONS OF INTEREST**

- 3.1 There were no declarations of interest.

#### **4. LICENSING ACT 2003 - PERSONAL LICENCE APPLICATION**

- 4.1 The Chief Licensing Officer submitted a report to consider an application for a Personal Licence made under Section 117 of the Licensing Act 2003 (Case No. 58/13).
- 4.2 Present at the meeting were the applicant, the applicant's prospective employer, Benita Mumby (South Yorkshire Police Licensing - Objector), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Harry Clarke (Democratic Services).
- 4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.
- 4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that an objection had been received from the South Yorkshire Police Licensing Section and this was attached at Appendix 'B' to the report.
- 4.5 Benita Mumby made representations on behalf of South Yorkshire Police, referring to the applicant's relevant offences and convictions. She made specific reference to the seriousness of the offences and explained that the convictions were unspent under the terms of Section 5 of the Rehabilitation of Offenders Act 1974. In the light of this, the Police did not believe that the applicant was a fit and proper person to hold a Personal Licence. Benita Mumby also responded to questions raised by Members of the Sub-Committee and the Senior Licensing

Officer.

- 4.6 The applicant addressed the Sub-Committee, emphasising the length of time which had elapsed since he had committed the relevant offences and outlining the employment which he had undertaken since then. He also placed before the Sub-Committee a letter of support. The applicant added that he was trying to better himself and saw the lack of having a Personal Licence as holding him back in this respect. He then responded to a number of questions raised by Members of, and the Solicitor to, the Sub-Committee and the Senior Licensing Officer.
- 4.7 The applicant's prospective employer also addressed the Sub-Committee, stating that he was buying a business, which the applicant had experience of, and was willing to give him an opportunity for employment.
- 4.8 RESOLVED: That the attendees involved in the hearing 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.
- 4.9 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.10 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.11 RESOLVED: That the application for a Personal Licence be rejected on the grounds that, in the light of the representations made, the nature of the offences reported and the applicant's responses to the questions asked, the Sub-Committee considered that granting a Personal Licence in this case (Case No. 58/13) would not be beneficial for the promotion of the licensing objectives.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press.

## **5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING APPLICATIONS**

- 5.1 The Chief Licensing Officer submitted a report to consider two applications for a Static and Football Street Trading Consent to trade outside at the B&Q Car Park, Queens Road, Sheffield (Case No. 59/13).
- 5.2 Present at the meeting were Russell Price (Applicant), Denise McKenna (Objector), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and Harry Clarke (Democratic Services).
- 5.3 Carolyn Forster outlined the procedure which would be followed during the hearing.
- 5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that an objection had been received from a local business concerning both applications

and this was attached at Appendix 'D' to the report.

- 5.5 Denise McKenna stated that her son owned a sandwich shop which was directly across the road from the proposed site, which he had built up into a successful business employing two people. She questioned the need to have another outlet of the same nature in such close proximity and commented on health issues at the site, whilst conceding that these related to a previous operator. Denise McKenna went on to explain that the new business would be in direct competition with her son's business and also with the café in the B&Q store. She also claimed that, with the new business proposing to open at 7.30 am, this would affect their trade with the tradesmen who were picking up supplies at B&Q around that time. In addition, she cited the abundance of sandwich shops in the area and also reported that the proposed unit had been open for business on 28<sup>th</sup> August 2013, before any permission had been granted.
- 5.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Denise McKenna questioned the need for a similar business in such close proximity to her son's, but indicated that she was willing to consider both businesses operating at different hours if the applications were granted. She added that her son's business had only just started opening on a Saturday and that he had had the business for approximately 18 months. She also confirmed that her son's business was located on the opposite side of Queens Road to the B&Q store and that the proposed unit had not operated again since 28<sup>th</sup> August 2013. She further confirmed that her son's business operated from 6.30 am to 2.00 pm on Monday to Friday and 8.00 am until 1.00 pm on Saturday, adding that other similar businesses in the area were not as close to her son's premises as the proposed unit and expressing further concern at the loss of trade from tradesmen who were collecting supplies from B&Q. She didn't know the hours of the café in B&Q, but felt that this was aimed more at people shopping there. In relation to the operation of a unit at the location previously, Denise McKenna indicated that there had been two previous ones there since her son's shop had opened, but there had been nothing there for a while, which had helped increase his trade. She repeated her concern that the proposed unit was more convenient for tradesmen visiting B&Q and confirmed that her son's business did not operate any loyalty incentives.
- 5.7 Russell Price addressed the Sub-Committee, stating that there had always been competition at the site, with a previous similar business to his own being located there, adding that it was B&Q's intention to provide a better level of service to their customers by having his business there. He went on to refer to the investment in his new trailer and the employment of two people to run it and the strict rules which the agents for B&Q imposed on the operation of outlets such as his. He assured the Sub-Committee that there would be no deliveries unless the trailer was open and that he complied with street trading policy at all times. He would use local suppliers and considered that there were enough customers to give people a choice, with both businesses being able to succeed in this competitive environment.
- 5.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the objector, Russell Price explained that he thought he could

trade on 28<sup>th</sup> August 2013, as he already had the necessary consent for other sites such as the B&Q on Penistone Road. In relation to waste management, he confirmed that all recyclable materials were placed in an appropriate bin, with everything else being collected by B&Q. A waste bin was provided and this was not left out overnight. As part of his relationship with B&Q, he would not only provide a service to their customers but would also offer their staff a discount. The unit would be open 7 days a week and he was expecting that his busiest time would be between 7.30 am and 2.00 pm. In addition, his business would open to accommodate those attending football matches at Bramall Lane. There had been no objections to his operation at the B&Q, Penistone Road and he would consider different hours of opening, but B&Q wanted him there for their core time. He conceded that his trade reduced between 2.00 pm and 4.00 pm. With regard to the football application, he explained that this had been made so that he could still trade on a Saturday, adding that his main focus remained on B&Q. A formal agreement existed between himself and Retail Concessions Management, who were B&Q's agent, who issued operating guidelines and undertook checks on his trailer, electricity supply, hygiene and procedures and conducted audits. This agreement also governed opening times which could not be varied. This agreement also required him to give B&Q staff a discount and he confirmed that staff also got a discount at the café in the B&Q store. The new opening time was 7.30 am and different arrangements operated at different sites, with the Queens Road B&Q being classed as a depot.

- 5.9 As a point of clarification in relation to the Football Consent, Andy Ruston stated that the unit could operate under the Static Consent from 7.30 am to 11.00 am on a Saturday and thereafter would be covered by the Football Consent.
- 5.10 In summary, Denise McKenna reiterated her concerns at the early morning opening and felt that B&Q were concerned more with gaining rental income rather than the service aspect and considered that the applicant could operate his mobile unit elsewhere.
- 5.11 Russell Price summed up by commenting on the risk of customers crossing a busy road and felt that both businesses could survive on the loyalty of their customer base, with enough trade being available for both businesses. He added that his trailer was just replacing one that had been there for a number of years and emphasised that his business hours needed to coincide with those of the B&Q store. Finally, he stated that he had spent £30,000 on a trailer and had trained staff to operate his business at that site.
- 5.12 RESOLVED: That the public and press and attendees involved in the hearing 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.
- 5.13 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 5.14 At this stage in the proceedings, the meeting was re-opened to the public and

press and attendees.

- 5.15 RESOLVED: That, following consideration of the information contained in the submitted report and the representations made, the applications for a Static and Football Street Trading Consent to trade outside at the B&Q Car Park, Queens Road, Sheffield (Reference No. 59/13) be granted.

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

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