

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 10 September 2019

PRESENT: Councillors Andy Bainbridge (Chair), Douglas Johnson and Josie Paszek

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from Councillor Joe Otten.

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 - STREET TRADING - STATIC STREET TRADING CONSENT - PEACE GARDENS, SHEFFIELD CITY CENTRE

4.1 The Chief Licensing Officer submitted a report to consider an application, under the Local Government (Miscellaneous Provisions) Act 1982, to move a static street trading consent to an alternative trading site, at the top of Cheney Row, outside the Town Hall, from an existing site in the Peace Gardens (Ref No. 87/19).

4.2 Present at the meeting were Andrew Cuneo (Applicant), Angela Gower (City Centre Management Team, Objector), Paul Turner (Highway Licences and Regulation, Objector), Jayne Gough (Licensing Strategy and Policy Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

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

4.4 Jayne Gough presented the report, and it was noted that objections to the application had been received from the Highways Service and City Centre Management Team, and were attached at Appendix 'B' to the report.

4.5 Andrew Cuneo reported that his business was in its 14th year of trading in the Peace Gardens, and that during this time, he had noticed a number of changes, notably the increase in events and the siting of tables and chairs from cafes, bars and restaurants. Whilst he stressed that the changes were mainly positive, in that they resulted in a more vibrant atmosphere, the tables and chairs, as well as A-

boards, predominantly relating to Browns, had made it very difficult for him to drive off the site in the evenings. Mr Cuneo stated that he had asked staff at Browns to move the tables, chairs and A-boards, on a number of occasions, but they had refused. He stated that he had also asked the City Centre Management Team if, on those occasions when fairground rides were to be sited in the Peace Gardens, in conjunction with special events, they could be moved further away from the trading van on the grounds that it created health and safety issues for customers queuing for ice creams, but such requests had also been turned down. Mr Cuneo pointed out, by referring to the photographs in the report and additional photographs he circulated at the hearing, the difficulties he faced when leaving the site, stating that the issue was made more difficult when there were people outside Browns, drinking alcohol. He also stated that the site at the top of Cheney Row would be a lot safer to drive on and off as it was only around 20 feet from Pinstone Street, and there was a dropped kerb adjacent to the trading site. Mr Cuneo concluded by referring to the numerous problems he had encountered, both in terms of access and egress from the Peace Gardens, and the lack of co-operation he had received from the City Centre Management Team.

- 4.6 In response to questions from Members of the Sub-Committee, Mr Cuneo stated that he traded from the site at the top of Cheney Row on those occasions when there were special events in the City Centre, at a cost of £200 a day. He believed the problems, which mainly related to leaving the Peace Gardens from his current trading site, started around eight years ago, presumably when Browns started putting tables and chairs outside. Mr Cuneo stated that he could not understand why he was not allowed to move to his preferred site, particularly when he was allowed to trade from this site when there were special events in the City Centre. He also pointed out that there would be sufficient room for people to walk past the trading van and use the dropped kerb to cross Pinstone Street. Mr Cuneo believed that, as well as making it a lot easier getting on and off the site, the preferred site would also be better from a health and safety point of view.
- 4.7 Angela Gower referred to the decision of this Sub-Committee, at a previous meeting, to agree to Mr Cuneo's request to change from a trailer-style unit to a motorised van to allow for ease of access and egress, and confirmed that the trading site being requested was not a permanent trading pitch. Ms Gower stated that it would not be suitable having an ice cream van in such close proximity to the Town Hall, and that it could potentially obstruct access to Cheney Row and have an adverse impact on weddings being held at the Town Hall.
- 4.8 Paul Turner stated that the main focus of the objections of the Highways Service was that driving on and off the trading site at the top of Cheney Row would mean driving on a public highway which, as well as being illegal, could be very dangerous, particularly given the level of footfall in that area. Mr Turner pointed out that the dropped kerb referred to by Mr Cuneo was for pedestrian access, and not motor vehicles. Mr Turner also concurred with the views of the City Centre Management Team in terms of the backdrop of the Town Hall not being an appropriate location for an ice cream van, and that it could have an adverse impact on those wedding guests who exited the Town Hall in that area to use the Peace Gardens.

- 4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee, it was stated that, following contact with the Licensing Service during the hearing, it had been confirmed that the area directly outside Browns was not licensed, so Enforcement Officers would be visiting the premises to discuss this issue with the venue. It was also pointed out that, under current Council policy, A-boards were not legally licensable, and that the Highways Service only responded as and when they received specific complaints. Angela Gower indicated that the City Centre Management Team would be happy to look into the issues facing Mr Cuneo when leaving the site in the evenings. Paul Turner confirmed that, in his opinion, the trading site currently being used by Mr Cuneo was the site that posed the lesser risk in terms of pedestrian safety.
- 4.10 Angela Gower, Paul Turner and Andrew Cuneo summarised their cases.
- 4.11 Jayne Gough reported on the options available to the Sub-Committee.
- 4.12 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.
- 4.13 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.14 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.15 RESOLVED: That in light of the information contained in the report now submitted, together with the representations now made and the responses to the questions raised, the application for the grant of a City Centre Static Street Trading Consent, to move to an alternative trading site, at the top of Cheney Row, outside the Town Hall, from an alternative site in the Peace Gardens (Ref No. 87/19), be refused on the grounds that:-
- (a) it was illegal for any motor vehicle to mount the highway footway at the point the applicant intended to access and leave the trading site; and
 - (b) trading at this site would be contrary to the Council's Qualitative Criteria relating to Static Street Trading Consents, in that an ice cream van, at this location, would detract from the visual impact of the area.

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

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