

LICENSING SUB COMMITTEE - APPEAL AGAINST STREET TRADING CONSENT DECISION

**DRAFT MINUTES OF THE LICENSING SUB COMMITTEE - APPEAL AGAINST
STREET TRADING CONSENT DECISION MEETING HELD ON 20 MARCH 2014
AT PITMAN ROOM, CIVIC CENTRE, ST STEPHENS PLACE, TROWBRIDGE.**

Present:

Cllr Trevor Carbin, Cllr Ernie Clark and Cllr Sue Evans

Also Present:

Mr Paul Harris (Principal Highways Enforcement Officer), Mr Kieran Elliott (Senior Democratic Services Officer), Mr Paul Taylor (Senior Solicitor), Mr Priyantha Balasooriya (Appellant) and Mr Paul Knight (On behalf of Appellant)

1 Election of Chairman

Nominations for a Chairman were sought, and it was,

Resolved:

To elect Councillor Ernie Clark as Chairman of the Sub-Committee for one meeting only.

2 Declarations of Interest

There were no declarations.

3 Meeting Procedure

The Chairman explained the meeting procedure that would be followed as detailed in the agenda papers.

4 Consideration of Exclusion of the Press and Public

Following input from those present, and with no members of the press or public in attendance, the Sub-Committee determined there was no need to formally pass a resolution excluding any other attendees.

5 Appeal Against Street Trading Consent Decision

Mr Paul Harris, Principal Highways Enforcement Officer, presented a report detailing the decision to refuse Mr Priyantha Balasooriya street trading consent for a fruit and vegetable stall in the Market Square, Chippenham, on days which had not been designated as 'Market Days'. No witnesses were called in addition to the written submissions.

The appellant, Mr Balasooriya, along with his representative at the hearing, Mr Paul Knight, was given the opportunity to ask questions of Mr Harris, where points including the following were raised:

If the objections to the proposed stall from local retailers on the grounds of competition and the impact to their businesses had been dismissed as not valid by the officer, how could the impact to the market as a whole be sustained as a valid objection. Mr Harris clarified that the Market as a whole was considered a community asset, such that while objections due to the increased competition from other retailers had been dismissed, greater weight had been given to Chippenham Town Council's concerns that to permit trading in the Market on days which had not been designated for that purpose, would undermine the Market as an asset.

Questions were raised about the presence of designated 'Market Days' and whether this was protectionist. It was stated that such a designation was a policy decision of a council, and therefore not determined by the officer.

Members of the Sub-Committee then had the opportunity to ask questions of Mr Harris as the presenting officer. Clarity was sought on the distinction between licensed streets which had been designated such that permission for specific licenses was presumed unless inappropriate, and consent streets where permission could be denied for any valid reason. It was also confirmed that while it was a council policy to create arrangements for applicants to appeal against refusal of street trading consent, there was no requirement in law for an appeal process.

It was also stated in response to queries that Chippenham Town Council had no objection to specific applications, but that they had a standing objection to use of the market square for stalls on days not designated as 'Market Days' as a council policy.

Mr Knight, on behalf of Mr Balasooriya, then had the opportunity to present the case of the applicant against refusal of street trading consent.

The rise in popularity of market trading as customers and proprietors sought cheaper methods of distribution with less overhead costs was mentioned, with a need to encourage as much business as possible to revitalise town centres, with a restriction of use on specific days hindering this.

It was also stated the application process and the policy explanation had been frustrating and hard to follow, particularly for those applicants for whom English was a second language, as many traders in local markets were.

Mr Harris had no additional questions to put to the appellant. The Sub-Committee then had the opportunity to ask questions, where questions were raised with regards possible alternate locations and the removal of litter. In response it was stated that the appellant had investigated other sites around the county and was flexible on the specific location in Chippenham and would trade wherever it was permitted, and was fully aware of his responsibilities to ensure any site used was kept in an acceptable condition. It was also confirmed that the appellant was currently trading one day a week at the market square on a designated 'market day'.

Mr Harris then had the opportunity to sum up his case, followed by Mr Balasooriya and Mr Knight.

The Sub-Committee then retired with the Committee Lawyer and Committee Manager at 11:30 and returned at 11:45, where it was,

Resolved

To dismiss the appeal against the refusal of street trading consent for the following reason:

While the Sub-Committee did not consider the impact of the proposed stall on existing businesses to be a valid objection, they supported the determination of the Town Council which had been relied on by the deciding officer, that the presence of market style stalls should be restricted to designated Market Days as part of the established market.

Note: The Sub-Committee did, however, resolve to recommend to the Licensing Committee that the policy and procedures on Street Trading should be reviewed.

(Duration of meeting: 10.30 am - 12.00 pm)

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