

Appeals Committee – 16 December 2013

Minutes of the meeting of the **Appeals Committee** held on **16 December 2013**
when there were present:-

Chairman: Cllr J E Grey
Vice-Chairman: Cllr Mrs H L A Glynn

Cllr M Maddocks

Cllr Mrs C A Weston

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs K H Hudson and R A Oatham.

OFFICERS PRESENT

N Khan	- Principal Solicitor
E Hanlon	- Principal Environmental Health Officer
J Fowler	- Senior Licensing Officer
C Todman	- Trainee Solicitor
S Worthington	- Committee Administrator

257 MINUTES

The Minutes of the meeting held on 16 July 2012 were approved as a correct record and signed by the Chairman.

258 PROCEDURAL NOTE

The Committee noted the procedure to be following in hearing the appeal.

259 APPLICATION FOR STREET TRADING CONSENT – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Committee considered the report of the Head of Environmental Services providing details of an application for the grant of a Street Trading Consent.

The Committee noted that the applicant was unable to attend the hearing; the application was accordingly considered on the basis of the written documents received from him. The Committee also took into consideration the written representations made by various interested parties also not present at the hearing.

The Police licensing officer circulated to all present copies of a plan of Rayleigh High Street, which highlighted all premises that were licensed up to midnight, from midnight to 2.00 am and after 2.00 am, which all co-operated with the Police and the Council and operated CCTV and cleared up outside their premises upon closing at night. The officer stressed that the Police would favour the possibility of one of these premises highlighted on the plan opening later in order to meet customer demand, rather than the proposed application being approved.

The Police licensing officer confirmed that the Police objected to the application primarily on grounds of public safety. The applicant proposed to park the mobile burger van in a narrow layby opposite the Spread Eagle public house in Rayleigh High Street. The Police considered the proposed location to be unsuitable for serving late night refreshments late at night. There was a narrow walk way in that vicinity and the proposed operation could encourage people to congregate in the area, rather than dispersing; there was a high probability that fights could develop in this area, as a result of people congregating there, under the influence of alcohol.

The Police licensing officer further emphasised that the proposed location was in close proximity to a busy road junction. It was possible that large groups of people congregating outside a burger van parked in this location could spill out onto the road late at night, which constituted a public safety risk.

In response to questions the following points were noted:-

- There is a night-time economy problem in Rayleigh.
- There have been instances of anti-social behaviour in the high street, which resulted in the establishment of Rayleigh Pubwatch. Rayleigh Pubwatch and the Police have worked closely together, resulting in known trouble makers being banned from the centre of Rayleigh.
- There was a side access to the car park of Eden financial advisers and to residential properties opposite the layby.

The representative from Eden financial advisers emphasised that Rayleigh was becoming increasingly busy at night. Eden was open for business from 9.00 am on Saturdays and staff were currently forced to clean up the area outside their premises, where people had urinated in the dark side access, or where broken glass had been left. Vandalism was already a problem, with windows broken on two previous occasions; a burger van operating late at night in this location would lead to an increase in these problems. He considered that a burger van located at the other end of the High Street would be preferable; one had operated in Websters Way car park in the past and this had been a safer location.

The representative from Pubwatch advised that new venues had brought more people into Rayleigh from outside the town. Rayleigh Pubwatch had been set up to deal with the increased numbers of people in the town centre, particularly at weekends and had worked hard during the past six months with the Police and with Pubwatches from other areas, pooling intelligence. Approximately 25 people had been barred from the town centre, the majority of whom were not local residents. Rayleigh Pubwatch believed that allowing this application would undo all that the Police and Pubwatch were trying to achieve in terms of making Rayleigh safer at night. The proposed activity would be uncontrolled and unregulated; there would be no door supervisors and it was inevitable that fights would erupt in that location, which would have a negative impact on neighbouring licensed premises.

In response to a Member question relating to the applicant's registration for food health and safety, officers confirmed that the applicant was a resident within the borough of Castle Point and accordingly was registered with Castle Point Borough Council for food health and safety.

The Committee placed considerable weight on the potential for public nuisance being caused, if this application was to be granted. The Committee was also mindful of the fact that a mobile burger van operating in this location could undermine the work being undertaken by the Police and Pubwatch in controlling nuisance and public disorder issues in the town centre. It considered that there would be considerable difficulty in controlling numbers frequenting the business and in controlling disorder and general nuisance due to the nature and operation of the business.

The Committee did consider imposing conditions to control the problems that had been highlighted, but decided that it would not be possible to impose any conditions that would adequately address these issues, given the nature and operation of the premises in that location.

The Committee considered that the proposed location was unsuitable, being located in a narrow layby on a major road junction. It would accordingly give rise to problems associated with public safety due to the expected large numbers of customers congregating in this location.

The Committee was also sensitive to the concerns raised by local businesses with respect to this application and the detrimental effect it would have on the area in the vicinity of their premises and the negative impact on their business. The Committee therefore deemed it appropriate to reject the application.

Resolved

That the application be refused. (HES)

The meeting commenced at 10.00 am and closed at 11.20 am.

Chairman

Date

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