

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Thursday 2 March 2023, at 10.15am.

Present: Councillors Cullinan, Murphy and Syson.

Also Present: Rob Edwards (Principal Committee Services Officer); Alaa Cronin (Council's Solicitor); Rachael Russell (Licensing Team Leader); and Jack Henson (Licensing Enforcement Officer – observing only).

1. Appointment of Chairman

Resolved that Councillor Murphy be appointed as Chairman for the hearing.

2. Declarations of Interest

There were no declarations of interest made.

3. Objections received by Responsible Authorities for Static Street Trading Consent application

The Panel considered a report from Safer Communities, Leisure and Environment which brought forward a new application for a Street Trading Consent. Objections had been received regarding the application.

The Chairman introduced the Panel and officers present.

At the Chairman's request, the Licensing Team Leader introduced the report.

Anyone who exposed goods for sale within the District needed a Street Trading Consent issued by the Council. Upon receiving the application officers referred to the current Street Trading Consent Policy which permitted trading between the hours of 06:00 and 18:00.

Mrs Danielle Pike had applied for a Street Trading Consent to trade from a lay by on Ufton Hill/A425 to sell hot food. The application and photos of the site and trailer were attached as Appendix 1 to the report.

Warwickshire County Council Highways department and Warwickshire Police had objected to the application. Their objections were attached as Appendix 2 to the report.

There had previously been a static street trader trading from this location from 2020 to 2022. During previous consultation periods, there were no objections. The previous trader sold hot food and drink from a trailer throughout the week from 07:00 to 14:30. Licensing did not receive any complaints or concerns regarding this previous Street trader.

Warwickshire County Council were asked as to why there had not been previous objections at the site from 2020-2022. Their response was within Appendix 2 to the report.

The applicant, Mrs Pike, did not attend the meeting and at 10.15am the Panel agreed to begin the meeting in her absence. The Licensing Team Leader took questions from the Panel in the absence of Mrs Pike. In response to those questions, she advised that:

- the previous trader was a different person to the applicant; and
- there was no set width a lay-by needed to be to have a food trader; each application was treated on its own merit which would go to Environmental Health, Warwickshire County Council Highways and Warwickshire Police for consultation. In this case, Warwickshire County Council Highways and Warwickshire Police had objected.

The Panel had no further questions to ask of the Licensing Team Leader.

At 10.20am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Principal Committee Services Officer to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be communicated in writing via email to the applicant later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the application be **refused**.

In reaching this decision the Licencing Panel have considered the written report from the Licensing Officer which included Ms Pike's application and the objections from two of the consultees, namely Warwickshire County Council Highways Department and Warwickshire Police, as well as the Licencing Officer's presentation of the report at the hearing.

The Panel has also taken into account the Council's "Street Trading Consent Policy" dated 2016 and the provisions of Schedule 4 Local Government (Miscellaneous Provisions Act) 1982.

The Panel did not consider that there was sufficient evidence to refute the representations made by Warwickshire Highway Authority and Warwickshire Police that the presence of a Street Trader on the proposed site (the Lay by on Ufton Hill/ A425) would pose a risk to public safety. The Panel placed significance on the fact that both Warwickshire County Council's Highways Department and Warwickshire Police cited similar reasons in objecting to the application, stating that the layby was too narrow to safely accommodate street trading whilst maintain highway safety. The Panel was concerned that both the applicant and the general public may be at risk if it were to grant the Street Trading Consent.

The Panel noted that there had previously been a static street trader trading from the same site between 2020 and 2022 and that the Licensing Department did not receive any complaints or concerns regarding this previous Street Trader. However, it accepted the evidence of Warwickshire

County Council's Highway Department that there had since been an increased number of HGVs using the A425 possibly resulting from works related to HS2.

In the circumstances, the Panel resolved to refuse the Street Trading Consent.

(The meeting ended at 10.30am)

CHAIRMAN
20 March 2023