

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Thursday 14 November 2023, at 10.00am.

**Present:** Councillors Gorman, Matecki and Sinnott.

**Also Present:** Rob Edwards (Principal Committee Services Officer); Alaa Cronin (Council's Solicitor); and Rachael Russell (Licensing Team Leader).

## 1. Appointment of Chairman

**Resolved** that Councillor Gorman be appointed as Chairman for the hearing.

## 2. Substitutes

Councillor Gorman substituted for Councillor Syson.

## 3. Declarations of Interest

There were no declarations of interest made.

## 4. New Mobile Street Trading Consent holder wishes to trade outside of the restrictions set out within Warwick District Council's Street Trading Policy

The Panel considered a report from Safer Communities, Leisure and Environment which brought forward a new application for a Street Trading Consent to trade outside the hours and restrictions set out within Warwick District Council's Street Trading Policy.

The Panel was asked to consider the information contained in this report and decide whether the Street Trading Consents for Mr Chiles should be granted.

Mr Chiles currently had a touring street trading consent for his ice cream van (WDCSTC0001) Mr Chiles renewed his consent annually and the current consent had expired on 31 October 2023. Licensing Department records for Mr Chiles had gone as far back as 2008.

Mr Chiles had applied for two new static Street Trading Consents: one for Newbold Street, Royal Leamington Spa and one for Dormer Place, Royal Leamington Spa. The applications were attached as Appendix 1 to the report. Mr Chiles also wished to trade to 07.00pm.

Mr Chiles had previously appeared before a Licensing and Regulatory Panel in May 2022 to request that condition 5 of his touring street trading consent be removed. This request was refused. The decision letter was attached as Appendix 2 to the report.

By way of background information, and to explain the applications before the Panel, the Licensing Department had been undertaking proactive enforcement

during the summer months of 2023 and had witnessed Mr Chiles breaching his touring Street Trading Consent on occasions, specifically condition 5.

There were also three complaints received from residents on Newbold Terrace in March 2022 and June 2022 regarding ice cream vans parked for prolonged periods of time outside Jephson Gardens and on Newbold Street. Mr Chiles' ice cream van was identified as being one of those ice cream vans.

Both of the streets that Mr Chiles was applying to trade from had parking restrictions, limiting parking to two hours (unless a permit holder) and no return within four hours. Licensing Officers therefore felt it was appropriate that, should the Panel choose to grant the consents applied for, that a condition was added restricting the time Mr Chiles could trade at each location, to ensure that parking restrictions were not breached.

The Licensing team consulted with Warwickshire Police, Environmental Health, and Warwickshire County Council when a new application was received. No objections were received for either application.

A copy of the Street Trading Policy was attached as Appendix 3 to the report. Details of the procedure adopted by the Licensing Committee for Panel Hearings had been supplied to the applicant.

The Chairman introduced the Panel and officers present.

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

Mr Chiles was invited to give a statement. Mr Chiles explained that:

- He wished to amend the operating hours to trade between 12.00 and 18.00, which complied with the Council's guideline operating hours.
- He wanted to continue selling soft serve ice cream from his van, but he also applied for Static Consent as the standard conditions to Touring Consents were felt to be restrictive.
- Following complaints from residents, he started operating away from Newbold Terrace, Jephson Gardens, and Newbold Terrace, and had since had no further complaints.
- He would be happy to agree to a condition restricting the time he could trade at each location, to ensure parking restrictions were not breached.

At 10.20 am, 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 granted.

The Licencing Panel received a report from Warwick District Council's Licensing Department in respect of an application from Mr Dennis Chiles for two new Static Street Trading Consents ('Static Consent') - one for Newbold Street, Leamington Spa and one for Dormer Place, Leamington Spa.

In reaching this decision the Panel considered the written report, the Licensing Officer's presentation of the report and the oral representations made at the meeting by the Mr Chiles. The Panel took 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 noted Mr Chiles' representations that he has been trading within the district for several years and held a Touring Street Trading Consent ('Touring Consent') for his ice cream van since the introduction of such Consents within the district. The Panel also noted that the last Touring Consent issued to Mr Chiles expired on 31 October 2023.

With the consent of the Chair, Mr Chiles applied to amend the operating hours requested on his written application and asked that the Panel instead consider granting Street Trading Consents that permitted him to trade between 12:00 and 18:00 hours. The Panel noted that these hours comply with the Council's guideline operating hours. Mr Chiles' explained to the Panel that he intended to continue selling soft serve ice-cream from his ice-cream van, but on this occasion, he has decided to apply for Static Consents as he found the standard conditions attached to Touring Consents restrictive. Mr Chiles specifically referred to the condition prohibiting Touring Consent holders from trading from the same location for more than 15 minutes (or until queuing customers have been served) at any one time, explaining that it takes him 2 to 3 minutes to set up his soft-serve machine before he can start serving customers.

The Panel was concerned to note that the Council's Licensing Department had received three complaints from residents on Newbold Terrace in March 2022 and June 2022 regarding ice cream vans parked for prolonged periods of time outside Jephson Gardens and on Newbold Street and that Mr Chiles' ice cream van had been identified by Officers as being one of those ice cream vans. In response to questions from the Panel about this, Mr Chiles stated that following the complaints he started operating away from these areas and that as far as he is aware no further complaints had been received.

The Panel had regard to the fact that no objections were received by the Licensing Department from any of those consulted about the application. It did however note the Licensing Department's concerns that both the streets that Mr Chiles is applying to trade from have parking restrictions. The Panel also noted the request from Licensing Officers that should the Panel grant the Consents applied for, that consideration is given to adding a condition restricting the time Mr Chiles could trade at each

location, to ensure that parking restrictions are not breached. Mr Chiles' indication at the hearing that, he would be happy to agree to such condition was also taken into account by the Panel.

Accordingly, the Panel considered that, at the time of their decision, there were no relevant grounds on which to refuse the applications. In the circumstances, the Panel resolved to grant Mr Chiles two Static Street Trading Consents for his ice-cream van with the amended operating hours requested at the hearing (12:00 to 18:00 hours) for the following locations:

- Dormer Place, Royal Leamington Spa– Restricted to the parking area on the south side of road, adjacent to what is currently the Royal Pump Rooms Gardens.
- Newbold Street, Royal Leamington Spa– Restricted to the area West of Rosefield Street, i.e., the section of the street between Newbold Terrace and Rosefield Street outside what is currently the Royal Spa Centre.

In addition to the Council's standard conditions for Static Street Trading Consents the Panel considered it appropriate that the Static Consents for the above locations should also include the following condition:

- The consent holder shall not breach the parking restrictions in operation at the location permitted by the consent.

A copy of this Record of Decision will be served on all relevant parties.

Under Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 there is no statutory right of appeal against this decision. An aggrieved applicant may apply to the High Court for a judicial review to challenge any errors in the administrative process. Alternatively, applicants have recourse to the Council's complaints procedure.

(The meeting ended at 10.35am)

CHAIR  
29 May 2024