

Minutes of the meeting of the **REGULATORY COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 1 December 2015 at 10.05 am.

Present:

Chairman: Councillor P S Le Chevalier

Councillors: B Gardner
S J Jones

Officers: Head of Legal Services
Head of Regulatory Services
Licensing Team Leader
Licensing Enforcement Officer
Democratic Support Officer

Also present: Mr W Humphrey (Minute no 23)
Mr J Prendergast (Minute no 23)
Mr G Holmes (Minute no 25)
Mr N Stevens (Minute no 25)
Miss L Phillips (Minute no 26)
Ms L Jackson (Minute no 26)

18 APOLOGIES

An apology for absence was received from Councillor B W Butcher.

19 APPOINTMENT OF SUBSTITUTE MEMBERS

The Committee was advised that Councillor D P Murphy had been appointed as a replacement for Councillor S C Manion on the Regulatory committee by the full Council at its meeting held on 25 November 2015.

There were no substitute Members appointed.

20 DECLARATIONS OF INTEREST

In respect of Minute no 24, Councillor B Gardner advised that having withdrawn his objection to the application and notwithstanding legal advice, it was his intention to remain present for consideration of the item, but in his capacity as a Member representing a ward/parish affected by the matter under consideration.

Councillor P S Le Chevalier declared a Voluntary Announcement of Other Interests (VAOI) in Minute no 24 by reason that he knew the applicant and would voluntarily withdraw from the meeting for consideration of the item.

In respect of Minute no 31, Councillor P S Le Chevalier declared a VAOI by reason that the applicant was known to him in his previous occupation and had decided that he would withdraw from the meeting for the consideration of the item.

21 MINUTES

The Minutes of the meetings of the Committee held on 15 July and 18 August 2015 were approved as a correct record and signed by the Chairman.

22 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION TO LICENCE A VEHICLE OUTSIDE OF POLICY GUIDELINES

The Committee considered an application by Mr Lamb of Relyon Transport who had applied for permission to licence a Ford Transit Minibus as a Private Hire Vehicle. The vehicle was outside of the current vehicle age policy, being registered on 19 June 2007, although it fell within the current mileage limit. The Licensing Team Leader advised the Committee that the 8 seated vehicle would be used to transport passengers to and from Dover Port/Cruise Terminal and the parking facilities operated by the company in Poulton Close, Dover.

The Committee adjourned to inspect the vehicle accompanied by the applicant's representative (Ms J Milner) and officers and upon reconvening it was

RESOLVED: That, notwithstanding the Council's current policy guidelines in respect of age of vehicles, Mr D Lamb of Relyon Transport be granted a Private Hire Vehicle Licence in respect of a Ford Transit minibus (GM07 ABO) by reason that the vehicle was in very good condition and had low mileage.

23 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION FOR STREET TRADING CONSENT, DEAL SEAFRONT

The Committee considered an application by Mr William Humphrey of Will's Catering to trade from a converted vehicle on the Deal Promenade, north of Deal Pier, Beach Street, Deal. The application was to trade Monday to Sunday from 8.00am to 11.00pm and to sell French sticks, Burgers, Egg, Sausage, Bacon, Snack and hot and cold drinks.

The Licensing Team Leader advised the Committee that following the 28 day consultation period, 45 objections had been received including one from Kent County Council (KCC) Highways who would not approve the application by reason that the application location was the national cycle route 1 and was a pedestrianised high amenity footway.

In accordance with the approved procedure Mr Humphrey presented his case to the Committee and addressed some of the concerns raised by the objectors, which included: providing a spring loaded waste bin lid to prevent pests; purchasing a 60 decibel generator or less to prevent noise nuisance; and reducing opening hours to address anti-social behaviour concerns. If Members were minded to grant the application, the applicant would be willing to meet any other conditions they would deem necessary to approve the application.

With the consent of the Committee, Mr Humphrey presented photos of the proposed location and neighbouring businesses, including the shellfish stall. The applicant was of the opinion that it could not be assumed that his customers would park on the yellow lines which were located on the highway running alongside the proposed location and that once the trailer was in place there was 29 feet of pedestrian highway remaining which he believed was sufficient for pedestrians and wheelchairs.

In accordance with the approved procedure the Committee and the Head of Legal Services withdrew to consider the application and upon returning it was

- RESOLVED:
- (a) That, having considered the application, the objections and the legal advice in relation to the Local Government (Miscellaneous Provisions) Act 1982 - Schedule 4, paragraph 7 and the Council's Policy Guidelines in relation to Street Trading Consents, the application for street trading consent be REFUSED by reason that there was not sufficient reason to depart from criteria (c), that is, that consent should not be granted if there is insufficient space and undue inconvenience and interference to pedestrians or road users will be caused or where to do so would be prejudicial to highway safety. The Kent County Council Highways concerns remained and had not been satisfied by the applicant's representation.
 - (b) That the Council's Licensing Team Leader should work with the applicant and Kent County Council Highways, in so far as she can assist to find a suitable location to run the business from.
 - (c) That a review of the Council's Street Trading Guidance Notes (Policy) document be carried out by February 2016.

24 HIGHWAYS ACT 1980 - SECTION 115E - BLOODY MARY'S, 160-162 HIGH STREET, DEAL

Given that Councillor P S Le Chevalier declared a Voluntary Announcement of Other Interests at the start of the meeting in respect of Minute no 7 and would leave the meeting for consideration of the item, the Head of Legal Services advised that the meeting would be inquorate in accordance with Council Procedure Rule 8 which required a quorum of at least three Members to consider an item.

Members were advised that the item would be considered at a future meeting of the Regulatory Committee to be held on a date to be arranged by the Licensing Team Leader.

25 HIGHWAYS ACT 1980 - SECTION 115E - ROUTE 1 (DEAL) LTD, BEACH STREET, DEAL

The Committee considered the report of the Licensing Team Leader on an application by Mr Nicholas Stevens of Route 1 (Deal) Ltd, Beach Street, Deal for the siting of 10 tables and 40 chairs on the highway immediately in front of the premises. The Committee was advised that 8 representations had been received including a comment from Kent County Council (KCC) Highways requesting that if the application were to be granted, a condition be added to the permission that the footway leading to and in front of the Royal Hotel be clear at all times. Members were advised by the applicant that the pathway on the seafront was not within their responsibility as the leaseholders.

The applicant advised the Committee that since the report had been written an amended plan had been submitted to the Planning Department which had reduced the number of tables and chairs to 7 and 28 respectively. The Committee was being asked to consider this amendment and a copy of the revised seating area plan was provided to the Committee.

Having adjourned to consider the application in accordance with the approved procedure, Members and the Head of Legal Services returned to the meeting to query the raised area which appeared to abut the sea wall on the revised plan and could potentially prevent public access. Having spoken with the architect, the applicant confirmed the area of the plan in question was part of the lease and therefore not public access although a ramp could be installed.

The Committee withdrew to consider the application and upon resuming the meeting the Head of Legal Services explained that she had advised the Committee in relation to the powers available to the Committee in relation to Section 115E of the Highways Act 1980.

- RESOLVED: (a) That, having regard to S115E of the Highways Act 1980 the application to site a maximum of 7 tables and 28 chairs on the highway by Route 1 (Deal) Ltd, Beach Street, Deal be approved subject to:
- (i) The tables, chairs and retractable rope and support posts being removed at the end of each trading day.
 - (ii) The gap between the sea wall and roped off area must be equidistant to a minimum of the distance between the sea wall and the south east corner of the building.

26 HIGHWAYS ACT 1980 - SECTION 115E - THE CLARENDON HOTEL, 51-53 BEACH STREET, DEAL

The Committee considered an application by Mr R Norris of The Clarendon Hotel, 51-53 High Street, Deal to place 6 tables and 12 chairs on the highway immediately in front of the premises. Six representations had been received including one representation made by Kent County Council (KCC) Highways requesting that if the application were to be granted, a condition be included that a minimum of 1.2m of clear footway be achieved at all times.

Members were advised by the applicants representatives (Miss L Phillips and Ms L Jackson), that the hours for the siting of the tables and chairs would be from 09.00hrs and the furniture would be secured to the walls at all times to prevent it encroaching into the 1.2m of clear footway.

In accordance with the approved procedure the Committee and the Head of Legal Services withdrew to consider the application and upon returning it was

- RESOLVED: (a) That having regard to Section 115E of the Highways Act 1980, the application by Mr R Norris of The Clarendon Hotel, 51-53 High Street, Deal to place 6 tables and 12 chairs on the highway immediately in front of the premises be approved, subject to:

- (i) All tables and chairs must be secured to the wall at all times.
- (ii) The tables and chairs must be placed outside no earlier than 09.00hrs and removed no later than 19.00hrs each day.
- (iii) A minimum of 1.2 metres of clear footway must be achieved at all times whilst the tables and chairs are in situ.

27 HIGHWAYS ACT 1980 - SECTION 115E - THE DUCHESS, 1 BENCH STREET, DOVER

The Committee considered an application by Funky Monkey Leisure Ltd for the siting of 6 tables and 18 chairs on the highway immediately in front of The Duchess, 1 Bench Street, Dover.

One representation had been received from Dover Town Council and Kent County Council (KCC) Highways had commented that a minimum of 2 metres width for pedestrians must remain in Bench Street, preferably divided by a barrier/roped off area between the tables and pedestrians. KCC Highways also recommended that no tables and chairs were to be sited in Queen Street.

RESOLVED: (a) That, having regard to Section 115E of the Highways Act 1980, the application by Funky Monkey Leisure Ltd to place 6 tables and 18 chairs on the highway immediately in front of The Duchess, 1 Bench Street, Dover be approved subject to:

- (i) A physical barrier being placed between the pedestrian highway and seating area to run across the width of the premises, but allowing for customer access to the premises.
- (ii) A minimum of 2 metres of pavement for pedestrians must remain beyond the seating area in Bench Street at all times.
- (iii) No tables and chairs to be placed in Queen Street at any time.

28 HIGHWAYS ACT 1980 - SECTION 115E - THE SEAGULL, 33 HIGH STREET, DEAL

The Committee considered an application by Ms P Mousley of The Seagull, 33 High Street, Deal for the siting of 4 tables and 12 chairs on the highway immediately in front of the premises.

One representation was received from Deal Town Council who objected to the application should the tables and chairs merge into the pedestrian area. Kent County Council (KCC) Highways had carried out a site visit and requested that the seating area would run from the pillar to the left of the building up to the rain water channel. The seating area should also be defined by a barrier and customers should not encroach any further onto the highway.

RESOLVED: (a) That, having regard to S115E of the Highways Act 1980, the application by Pamela Mousley of The Seagull, 33 High Street, Deal for the siting of 4 tables and 12 chairs on the highway immediately in front of the premises be approved and the seating area will be identified by a barrier on both sides which will run from the building up to the rain water channel.

29 FEES AND CHARGES 2016/17

The Committee received the report of the Head of Regulatory Services which set out the fees and charges for 2016/17 relevant to the Regulatory Committee.

Members were advised the majority of the proposed fees and charges remained the same with the exception of those outlined in appendix 6 of the report, which were due to changes in legislation and guidance.

- RESOLVED: (a) That the Fees and Charges for 2016/17 as set out in Appendix 4 be approved.
- (b) That Members approved the general principle that fees are set at an appropriate inclusive level, irrespective of VAT status, and that the VAT element within the overall fee level is then determined.
- (c) That Members approved the general principle that, unless the fee is set by statute, licensing fees will be set on a cost recovery basis.
- (d) That the Head of Regulatory Services be authorised to adopt fees at, or close to government directed levels without the need for further reporting, in cases where the Council is awaiting Government guidance and it has not been possible to set a fee level at this stage.
- (e) That the Head of Regulatory Services be authorised in consultation with the Director of Governance and the Director of Finance, Housing and Community to make minor adjustments to the fees and charges as necessary.

30 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor P S Le Chevalier, duly seconded and

RESOLVED: That, under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the items to be considered involve the likely disclosure of exempt information as defined in the paragraph of Part I of Schedule 12A of the Act.

31 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - JOINT DRIVER'S LICENCE

Councillor P S Le Chevalier declared a Voluntary Announcement of Other Interests in the item to be considered and withdrew from the meeting whereupon the Head of

Legal Services advised that the meeting was inquorate in accordance with Council Procedure Rule 8 which required a quorum of at least three Members to be present.

The meeting ended at 12.54 pm.