

## **Licensing Committee**

**16<sup>th</sup> October, 2013**

### **Extract of Minutes**

#### **Competing Applications for a Stationary Street Trading Licence - Shaw's Bridge Car Park**

The Head of Building Control informed the Committee that competing applications had been received from three persons wishing to trade from a designated site at the above-mentioned location. He provided an overview of the applications, the first of which had been submitted by Mr Kenneth Chivers, the current licensee of the site, who had, since July 2012, been selling ice cream, non-alcoholic beverages and confectionery from Monday to Sunday between the hours of 11.00 a.m. and 8.00 p.m. The second applicant, Mr. Paul Chivers, who was an uncle of Mr. Kenneth Chivers, had applied to sell ice cream, non-alcoholic beverages and confectionery from Monday to Sunday between the hours of 10.00 a.m. and 8.00 p.m. Mr. P. Chivers held a Mobile Street Trading Licence for the Finaghy, Ladybrook, Suffolk and Taughmonagh areas and had operated in accordance with the Street Trading Act (Northern Ireland) 2001. The final applicant, namely, Mr. Robert Adair, was seeking to sell ice cream, candy floss, non-alcoholic beverages and confectionery from Monday to Sunday between 12.00 noon and 8.00 p.m. Mr. Adair had, from 2008 till 2011, held a Street Trading Licence to sell ice cream from a site in Berry Street. However, he had traded there for only one month before vacating the site, once it had been established that his stall was substantially larger than that permitted.

He reported that Mr. K. Chivers, Mr. P. Chivers and Mr. W. Adair, the brother of Mr. R. Adair, were in attendance in order to brief the Committee on the applications and Mr. K. Chivers was admitted to the meeting.

Mr. Chivers reported that he had, since 2012, held a Stationary Street Trading Licence permitting him to sell ice cream, confectionery and non-alcoholic drinks from the car park at Shaw's Bridge. For four years prior to that, he had been employed there by his father, who had been the licensee at that time. He explained that he strove to provide a high quality service and he circulated for the Members' attention a list of customers, all of whom had affirmed that assertion. He pointed out that his business had attained consistently a 5-star rating from the Council in terms of its food hygiene and that his van had been specially adapted to reduce fuel emissions and was maintained regularly. In addition, he provided, during peak times, additional receptacles for waste and ensured that all litter generated by the operation of his business was removed from the site when he ceased trading.

Mr. Chivers thanked the Committee for receiving him and he left the meeting.

Mr. P. Chivers, together with Mr. O. Friel, his legal representative and Mr. B. Topping, his employee, were welcomed to the meeting.

Mr. Friel informed the Committee that Mr. P. Chivers had, for the past two years, been licensed as a mobile street trader to sell ice cream and other products in Finaghy, Taughmonagh and the surrounding areas. In July of this year, he had secured a contract to trade within the Sir Thomas and Lady Dixon Park, which had necessitated the purchase of a second van. He made the point that his client provided his customers with a high standard of service, which had been reinforced within a letter of support from a local community development association, and that his business had been awarded a 5-star rating by the Council in recognition of the strict hygiene standards which he maintained. He explained that

his client was seeking to expand his business to sell ice cream, confectionery and hot beverages within the car park at Shaw's Bridge, which would require the acquisition of a third van and the recruitment of another employee. The fact that he retained an interest in the site, despite being unsuccessful with a previous application, demonstrated his continued desire to provide a service to customers at that location.

The Chairman thanked the delegation for being in attendance and they retired from the meeting.

Mr. W. Adair was then admitted to the meeting and welcomed by the Chairman.

Mr. Adair reported that his brother, who had been unable to attend the meeting, had approximately thirty years' experience of trading and that he had operated previously for twelve years in the Botanic Gardens. In addition, he held mobile Street Trading Licences in two other council areas and had achieved accreditation in recognition of his high hygiene standards. He explained that the applicant was proposing to sell locally produced ice cream and other commodities such as fruit, juices, milk shakes and hot drinks and that no illegal products would be stocked. In addition, the site would be kept clean and any rubbish would be removed at the end of each day.

Mr. Adair was thanked for his contribution and he left the meeting.

After discussion, the Committee, agreed, in its capacity as Licensing Authority, that it was minded, in view of the fact that he was the current licensee and that he had operated the site in accordance with the Street Trading legislation, to grant to Mr. Kenneth Chivers a Stationary Street Trading Licence to sell, from a van measuring 4 metres by 2 metres, ice cream, non-alcoholic beverages and confectionery from Monday to Sunday between the hours of 11.00 a.m. and 8.00 p.m. in the car park at Shaw's Bridge, at a pitch which had been designated previously for the sale of those commodities, subject to:

- (i) the applicant providing all necessary documentation; and
- (ii) the receipt of the appropriate licensing fees.

As a consequence of the decision to grant the Licence to Mr. Kenneth Chivers and the fact that there was only one designated site available, the Committee agreed that it was minded to refuse the applications which had been submitted by Mr. P. Chivers and Mr. R. Adair, on the grounds set out in Sections 9(i) and 9(iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which they wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which they wished to trade.

The Head of Building Control informed the Members that the unsuccessful applicants would be advised that, as required under Section 12 (2)(b) of the Street Trading Act (Northern Ireland) 2001, they would be permitted to make written representation to the Council within twenty-one days from the date of notice.