

SCOTTISH BORDERS COUNCIL CIVIC GOVERNMENT LICENSING COMMITTEE

MINUTE of Meeting of the CIVIC
GOVERNMENT LICENSING COMMITTEE
held via Microsoft Teams on Friday, 19
February 2021 at 10.30 a.m.

Present:- Councillors J. Greenwell (Chairman), J. Brown, D. Paterson, N. Richards, S. Scott, E. Thornton-Nicol, R. Tatler, G. Turnbull, T. Weatherston.

In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader, Licensing Standards and Enforcement Officers (Mr M. Wynne and Mr. I Tunnah), Democratic Services Officer (F. Henderson), Sergeant James Morrison and PC S. Lackenby - Police Scotland.

1. **MINUTE**

The Minute of the Meeting of 22 January 2021 had been circulated.

DECISION

APPROVED and signed by the Chairman.

2. **LICENCES ISSUED UNDER DELEGATED POWERS**

There had been circulated copies of the Civic Government and Miscellaneous Licences issued under delegated powers between 1 January 2021 – 9 February 2021.

DECISION

NOTED.

3. **LICENSING OF STREET TRADER – GORDON BAIN**

There had been circulated copies of an application for the grant of a Street Traders Licence in respect of Tweedvalley Foods Ltd operating from Traquair Road, Innerleithen together with letters of objection and Street Trader Conditions.

3.1 Mr Bain, Applicant and those objectors who had indicated that they wished to attend the meeting were present via Microsoft Teams and the Clerk confirmed that they were aware of the procedure for the meeting.

3.2 The Licensing Standards and Enforcement Officer, Mr. Wynne provided an overview of the application. He advised that whilst a large catering van was currently stored on the site location, a much smaller catering unit (the size of an ice cream van) was to be used in relation to the street trader activity applied for. Mr Wynne summarised the objections which had been received which included noise, smell, increased traffic, litter and the potential for an increase in crime.

3.3 Police Scotland had no comments to make on the application. In response to objectors raising the matter of potential increase of criminal activity, the Police advised that in the past 6 months there had been 2 break-ins in Innerleithen but nothing of significance.

3.4 On being invited to address the Committee, Mr Bain explained that he had been approached by locals to relieve the congestion on the High Street from bikes being left outside cafes etc. His intention was to open a facility for Mountain bikers and families with bikes to purchase takeaway food. He proposed to create a seating area with benches and an overflow car park where there would be bins and the area would be cleared of rubbish every day.

- 3.5 The Chairman referred to the written objections circulated prior to the meeting and Members confirmed that each one had been considered individually. The Committee then heard from those objectors present at the meeting via Microsoft teams:-

Norman Cunningham advised that the majority of points raised in his objection had been addressed by the changes made by the Applicant. Mr Cunningham felt that should the licence be granted, it would be the community who would have to monitor that the conditions were being adhered to. Mr Cunningham was doubtful that the overflow car park would be utilised as the charge was £3/£4 and it tended to be very muddy. Mr Cunningham went on to advise that the non-provision of toilets was a concern as CCTV footage in the town had revealed persons relieving themselves in the Co-op car park and other locations. There was also concern about an increase in anti-social behaviour as the hours applied for terminated at 10 p.m.

Simon Rutherford had raised concerns about the site overlooking the residential properties on Traquair Road. He felt that the hours (7a.m. – 10 p.m.) were excessive and queried how many days and on what days of the week the van would be operating. Mr Rutherford was also concerned about the non-provision of toilets and raised concerns about the materials to be used for serving the takeaway food in terms of the environment in general and the potential for littering. He was also concerned about the smell of fried food emanating from the site.

Christina Hastings raised concerns about the increased traffic and use of the location for provision of an activity which was already well catered for within the town. She considered the application, which had been ongoing for 6 months to be piece meal at best and ever evolving. She queried the size and type of fence being proposed by the Applicant and sought refusal of the application.

Douglas Campbell raised objections about the location of the van on the site which was in close proximity to a number of residential properties and that the latest site plan had not been available sooner. The position of the van was now directly in front of his property. He acknowledged that whilst there would be no generator, there would be noise nuisance by customers when the van was in operation between 7 a.m. and 10 p.m. and sought a limit on trading days and reduction in trading hours. Mr Campbell also raised concerns about people congregating at 'Events' which would contravene current COVID restrictions.

Claire Cooper fully concurred with comments made by Christina Hastings and Douglas Campbell and raised concerns about the pathway at the week-end which was already very busy on bike days and sought refusal of the application. She also raised concerns about privacy and being able to enjoy her garden in better weather. With regard to the applicant's proposal to erect screening, Ms Cooper raised additional concerns regarding loss of light.

- 3.6 Mr Bain explained that the opening times requested were to allow him flexibility but it was unlikely he would be busy late into the evening. He was happy to provide mobile toilets on site and a traffic study was underway. In terms of concerns raised with regard to rubbish, Mr Bain reassured the Committee that all packaging would be recyclable and recycling bins would be provided. As he would be selling dry food and confectionary only and no fried food, there would be limited smells from the site. There would not be any facilities to store bikes but he proposed to have planters and trees to screen the area from residents although he envisaged that there would be some background noise. He did not envisage having the site ready prior to April/May, by which time it was hoped that the COVID restrictions would have been eased. Mr Bain stressed that he wished to work with Residents to address the concerns raised.

- 3.7 Mr Campbell raised concerns about the security of the site and that it may become a gathering site for youths, should tables be provided and sought a condition that the licence be restricted to events and further conditions applied to the licence.
- 3.8 The Committee had mixed views on the application and considered alternatives and possible variations and considered the application thoroughly.

VOTE

Councillor Paterson moved that the Street Traders Licence application be approved for a period of one year, there was no seconder and the motion fell.

Councillor Weatherston, seconded by Councillor Richards moved that the Street Trader Licence application be granted as applied for.

Councillor Tatler, seconded by Councillor Turnbull moved that the Street Trader Licence application be granted with the following conditions:-

- *hours of Trading terminate at 8 p.m.*
- *that no seating be provided*
- *that a mobile toilet be provided*
- *that the Applicant and Objectors work together to resolve any issues*

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

Motion – 5 votes

Amendment – 4 votes

The motion was accordingly carried.

- 3.9 The Clerk explained the Appeal process, should the Objectors wish to take further action and Councillor Tatler advised that he was prepared to facilitate a meeting between the Applicant and Objectors if they felt that would be helpful.

DECISION

DECIDED that the application for a Street Trader Licence submitted by Mr Bain be granted.

PRIVATE BUSINESS

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 14 of part 1 of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

1.0 Minute

The Private section of the Minute of 22 January 2021 was approved.

The meeting concluded at 11.47 a.m.