

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 15 FEBRUARY 2011**

Present: Councillor Allen (Chair), Thacker (Vice Chair), Dobbs, Peach, Nawaz, Todd and Swift,

Officers in attendance: Adrian Day, Licensing Manager
Darren Dolby, Regulatory Officer
Colin Miles, Lawyer
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Winslade, Saltmarsh and Khan.

2. Declarations of Interest

Councillor Allen declared that she was the Ward Councillor for the location but she did not have a personal or prejudicial interest.

3. Minutes of the Meetings held on:

- 3.1 29 November 2010
- 3.2 2 December 2010

The minutes of the meetings were approved as true and accurate records.

4. Appeal against Refusal of Street Trading Consent

The Licensing Manager addressed the Committee and advised that the appeal was from Mr James Carpenter, the applicant, against the refusal of a street trading consent to trade outside unit 14, Tresham Road, Orton Southgate, Peterborough.

The report detailed the background to the appeal, including the objections made against the application by the Licensing Manager. Members were advised that the trading location had been identified as being unsuitable for the application, due to nuisance or annoyance being caused by obstruction. This was not due to the applicant's unit, but by the customers visiting the unit. This objection related to a number of objections which had been received from the operator of Unit 14, Tresham Road.

The objections received dated back to 2008 and there had been a number of complaints made by the operator of Unit 14 against outcomes previously decided by Officers. The conclusion of a stage three complaint had resulted in the Chief Executives Office recommending that the trader be relocated, possibly outside Unit 2, as per one of the recommendations outlined by the Highways Manager after undertaking a site visit.

The operator of Unit 14 had then made objections to their local MP and the applicant had subsequently exercised his rights and made a number of complaints, the outcomes

of which he had not been happy with. The applicant had also contacted his local MP and the Local Government Ombudsman (LGO) as he felt dual standards were in operation, leading to him being at a trading disadvantage.

Members were advised that there was no way of controlling the parking situation as there were no parking restrictions along Tresham Road and customers would continue to cause an obstruction to Unit 14. The Licensing Manager further stated that due to the irreparable situation which had evolved between the applicant and the occupier of Unit 14, it was anticipated that future trading at the location would result in a continual dispute of a nature that would be impossible to resolve on an amicable basis.

In response to a query from Members the Licensing Manager advised that the applicant had originally been consented to trade outside Unit 12, Tresham Road.

The applicant addressed the Committee and responded to questions from Members. The main issues in respect of his appeal were highlighted, these included:

- The applicant had been trading along Tresham Road for the past thirteen years
- The applicant had tried to get along with all of the neighbouring properties
- The applicant acknowledged that there had been issues in the past leading to his fees not being paid on time, but this was due to the applicant feeling that other traders in the area were being given preferential treatment
- There would always be some disruption with any fast food unit parked on an industrial estate
- There had only ever been complaints received from the one unit, and this was the least busiest unit on the estate with regards to traffic flow
- The applicant acknowledged that there had been incidents of customers parking across the entrance of Unit 14 and where possible the applicant had asked these people to move
- The applicant had received more complaints since he had been trading from his current location than during all the years he had been trading in Tresham Road
- The applicant would work on building relations with the owners of Unit 14 if he was allowed to relocate there
- The applicant's takings had gone down by 35%
- The applicant had had issues with a number of unit occupiers since his relocation, all with whom he had never had issues with before
- The applicant had busy times and quiet times
- The applicant believed that outside Unit 14 was the best location on the estate for his van

Following questions to the applicant, the Licensing Manager summed up the case for the Licensing Department and stated that the situation was a difficult one. There were parking issues and obstruction issues to take into consideration, both of which were difficult to prove and could not be directly attributed to the applicant.

The applicant addressed the Committee and summed up his case. He felt confident that if he was granted permission to trade outside Unit 14, he could address the situation with the operators. If he had to stay outside Unit 2, he felt that further issues would be highlighted and could possibly escalate out of control.

Following summing up, both parties and the press and public left the committee room while Members debated the application and made their decision.

RESOLVED: (5 for, 2 not voting)

The Committee agreed to grant permission for the applicant to trade outside of Unit 14.

Reasons for the decision:

1. The applicant had traded from 2003 until November 2010 with very few complaints;
2. The occupiers of Unit 14 were the only complainants and had been in the unit for a relatively short time;
3. The applicant offered a service to people in and around the area;
4. There were likely to be more complaints if the applicant was relocated to another unit; and
5. Going forward, the applicant was to respect the conditions on the consent.

7.00pm – 8.31pm
Chairman