



**LICENSING PANEL
29 NOVEMBER 2017
2.00 - 4:10PM**

Present:

Councillors Leake (Chair), Ms Gaw and Thompson

Also Present:

Simon Bull, Legal Adviser
Charlie Fletcher, Licensing Officer
Wayne Scott, Traffic Manager
Lizzie Rich, Clerk

10. Declarations of Interest

There were no declarations of interest.

11. The Procedure for Hearings at Licensing Panels

The procedure for hearings at Licensing Panels was noted.

12. Application for new street trading consent for Mrs Hatice Anil Bunker, B&B Plus, Crowthorne Road North

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer;
- the Traffic Manager;
- Ward Councillors for Wildridings and Central (Councillors Skinner and Mrs Hamilton);
- the Applicant,

together with reference to the Council's own Policy for Determination of Street Trading Consents. At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

After careful consideration of all the information presented, the Panel came to the decision to grant a Street Trading Consent to the applicant on Crowthorne Road North for B&B Plus.

This decision was given with the proviso that the Licensing Officer, in consultation with the Traffic Manager, should agree a suitable location for the unit within the Crowthorne Road North area which was obscured as much as possible from the A3095 Bagshot Road. This was intended to prevent dangerous driving and illegal stopping on the clearway Bagshot Road by those who may see the van and miss the turning. The Panel were very cautious about going against the concerns of the Traffic Manager, as he raised apparent points about road safety that may arise from the granting of the Consent and the situation of the van within the sight line of the Bagshot Road.

If an appropriate site, obscured from drivers on the Bagshot Road, could not be agreed within 7 days of the date of the decision letter, the consent would lapse and the matter would be returned to the same Licensing Panel for further consideration. It was suggested that Mrs Bunker's van currently used at another site could be used as the model for determining the site allocation of the van, as during the panel hearing Mrs Bunker indicated it would be a similar van to the one she currently uses that will be used at this pitch.

Reasons

The Panel found no evidence in the written and oral submissions from the Licensing Officer, Traffic Manager and Ward Councillors to suggest that the principle of street trading on Crowthorne Road North was contested. There was also no reason to suggest that the hours of operation should be altered from the proposed 16:00 to 23:00, seven days a week.

The Panel agreed that as Crowthorne Road North was accessible by a turning off Bagshot Road, it was possible that a street trader unit which was visible from the main road may lead to dangerous driving in order to access it. The panel has set out above what it wishes done to make the pitch safe. It was also noted that a street trading unit visible from the main road may encourage drivers to illegally stop on Bagshot Road, which was a clearly designated clearway. For this reason, the Panel were satisfied to allow street trading on Crowthorne Road North if the unit was not visible and attracting trade from the A3095 Bagshot Road. This could be by locating the unit further down the road than originally proposed, or by situating on the other side of the road. It was hoped that this would go some way to alleviate the concerns of the Traffic Manager and Ward Councillors.

The Panel did not feel that any comparison could be drawn to any other street trader unit or premises licence, as each case was unique to the location and must be determined on its own facts and merit. They accepted the advice of the legal advisor that evidence of people driving and parking recklessly in one area could just as easily be reproduced in another area where Mrs Bunkers van would be situated as the evidence was based on human nature so in terms of cogency must be treated as little more than a generalisation that could act both for and against the applicant's case.

The key issue in this case resolved around the Traffic Manager's concerns in his last bullet point on page 25 of the Licensing Panel papers concerning the action of cars on the Bagshot Road. The Panel were satisfied that the applicant had been treated fairly and without discrimination by the Council.

The Panel's decision is binding upon you and the Licensing Authority. There is no onward appeal against the decision of the pane

CHAIRMAN