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## MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 23 OCTOBER 2019

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Jean Moffat
Councillor Rory Colville	Councillor Alastair Redman
Councillor Robin Currie	Councillor Sandy Taylor
Councillor Lorna Douglas	Councillor Richard Trail
Councillor Donald MacMillan BEM	

**Attending:** Shona Barton, Committee Manager  
Graeme McMillan, Solicitor  
Mohamad Basim-Altinawi, Applicant  
Ameen Nemer, Applicant's Interpreter  
Catherine Crowe, local Agent for Wm Skelton & Co on behalf of one of the Objectors

### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mary-Jean Devon, George Freeman, Audrey Forrest, Graham Archibald Hardie and Roderick McCuish.

### 2. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR A STREET TRADERS LICENCE (M BASIM-ALTINAWI, ROTHESAY)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed.

The Council's Solicitor, Mr McMillan, advised that a representation from Rachel Hughes and an objection from Margaret Colville had been received out with the time period allowed by the Civic Government (Scotland) Act 1982 for making objections or representations and advised that it would be competent under Paragraph 3(2) of Schedule 1 to the 1982 Act for the licensing authority to entertain a late objection or representation if they were satisfied that there was sufficient reason for it not having been made within the time allowed.

Mr McMillan advised that both Ms Hughes and Ms Colville were invited by letter to explain why their representation and objection had been submitted late and that no response had been received.

The Chair sought the views of Members as to whether or not this late representation and late objection should be taken into consideration.

The Committee agreed not to take this late representation and late objection into consideration.

Mr McMillan then advised that a further late objection dated 19 October 2019 had been received after publication of the Agenda for this hearing from Tim and Ann Saul. Mr McMillan advised that the objectors were unable to attend the hearing today but had explained in an email that the reason for their late objection was because they had been away on holiday and had missed notification of this application. They advised that they had only become aware of the application when the Agenda for this meeting was published.

The Chair sought the views of Members as to whether or not this late objection should be taken into consideration.

### **Motion**

To agree to take the late objection into consideration.

Moved by Councillor Richard Trail, seconded by Councillor Lorna Douglas

### **Amendment**

To agree not to take the late objection into consideration.

Moved by Councillor Rory Colville, seconded by Councillor Alastair Redman

The Motion was carried by 5 votes to 4 and the Committee resolved accordingly. A copy of the late objection from Tim and Ann Saul was circulated. A list of the standard conditions for Street Trader Licences was also circulated for information.

The Chair then invited the Applicant to speak in support of his application.

### **APPLICANT**

With the aid of an interpreter Mr Basim-Altinawi described the types of food he would sell and the locations where he was applying to trade from. He pointed out that negative responses from local businesses were very common. He explained that in general people have encouraged him to go ahead. He advised that most of his food would be vegetarian based. Referring to the objections received he said that he would not park anywhere that would affect other shops. He said that he did not wish his business to affect other businesses. He confirmed that he would be happy to respond to any questions.

### **OBJECTORS**

Ms Crowe referred to the objection dated 19 September 2019 which had been submitted by Wm Skelton and Co on behalf of Colin Brooks, the proprietor of the Electric Bakery. She advised that his objection was based on two points. The first of these was in respect of the right to trade from the access road behind Squat Lobster. She advised that the Council gardens there had become a welcome feature of the town centre and there was a concern that having a van situated there would have an adverse effect on the amenity of the area due to an increase in rubbish and waste which, she said, would want to be avoided given the attractiveness of the area. She advised that the gardens were well maintained by the Council and their appearance was a contributory factor in the repeated success of Bute in Bloom which was

awarded a Beautiful Scotland Silver Gilt Award. She advised that the presence of a van in this area would have a detrimental effect on the area and a detrimental effect on existing nearby businesses offering carry out food. She said that this would lead to an overprovision of carry out outlets in the area especially between the hours of 9 am – 5 pm.

She advised that the second aspect of the objection related to the right to trade on High Street. She pointed out that it was not clear from the information that had been provided where on the High Street the van was applying to trade. She advised that it was not clear if it was for the whole street or for just part of the street. She advised that there would only be an objection if this included the area between Victoria Street and Castle Street. She referred to there being limited car parking at this area and that there would also be access issues for emergency vehicles at this location. She also referred to numerous existing business which supplied carry out food between 9 am and 5 pm and advised that this section of the High Street was not suitable for the conduct of a mobile hot food carry out business as it would cause an overprovision.

## **MEMBERS' QUESTIONS**

Councillor Colville sought and received clarification from Mr McMillan that the Isle of Bute was not classed as an economically fragile area but the town of Rothesay was and, therefore, exemption from condition 17 did not apply in this case.

Councillor Colville sought and received confirmation from the Applicant that he was applying for two licences – one for a permanent location and the other for various locations. He advised that the permanent location would be near to the ferry.

Councillor Colville asked the Applicant if he was aware that if he was applying to trade at a permanent location this would be planning permission for the site and not for planning permission for one particular person. He pointed out that this meant anyone could use the site. Mr Basim-Altinawi advised that it was his understanding that no one else was going to use that site.

Councillor Trail sought and received confirmation from Mr McMillan that the Applicant, as part of the application process, had received consent from the Roads Authority to trade at four locations - Union Street, one site on High Street, Skeoch Wood and Eden Drive.

Councillor Trail sought and received confirmation from Mr McMillan that on Union Street the location was near to the Council Offices and an industrial area. He advised that on High Street the location was close to Russell Street and for Skeoch Wood and Eden Drive it was the whole area. He explained that if the licence was granted and designated specific areas a map would be appended to the schedule of conditions.

Councillor Redman asked the Applicant if he had plans to employ any staff. Mr Basim-Altinawi advised that there were two families involved in the business, his own plus his friend's.

Councillor Currie sought and received further clarification on the positioning of vans. Mr McMillan explained that in terms of street trader applications many street traders applied to trade anywhere on a particular street. He advised that in this case the Applicant had consulted Roads Officers directly and was asked to identify particular

areas where he wished to trade. On that basis the Roads Authority had approved these locations. Mr McMillan advised that if the Committee granted this licence it would be on the basis of the specific locations applied for.

Councillor Colville sought and received confirmation from Mr McMillan that the Applicant had received consent from the Roads Authority to trade at the first four locations detailed in his application. Mr McMillan explained that the fifth location was the subject of a planning application and that he was not aware of Plannings position on that. He advised that if Members were minded to grant the licence it may be worth taking account of that and not granting that part of the application submitted. He explained that this location could come in as a separate application or the Committee could possibly grant the licence for that location subject to planning consent being obtained.

Councillor Kinniburgh sought and received confirmation from Mr McMillan that if the Committee agreed not to grant a licence in respect of the fifth location then the Applicant could apply for an amendment to this licence if planning permission was subsequently granted for that location. He advised that an application for amendment to a licence would cost £71.

Councillor Douglas referred to the fifth location and asked if the access road was where the ferry was. Mr Basim-Altinawi advised that it was near to the ferry.

Councillor Colville sought clarity on whether or not the location on the High Street close to Russell Street was between Victoria Street and Castle Street. It was confirmed with the aid of online maps that the location was far away from Victoria Street and Castle Street.

## **SUMMING UP**

### **Objectors**

Ms Crowe advised that in relation to the findings that the area of High Street where Roads consent had been granted did not include Victoria Street or Castle Street, she would like to withdraw that part of the objection. She confirmed that the only objection outstanding was in relation to the right to trade on the access road behind the Squat Lobster. Given what she had outlined before she asked the Committee not to grant that part of the application.

### **Applicant**

Mr Basim-Altinawi confirmed that the locations where he would park his van would not affect the other businesses. He advised that he was very careful with the cleanliness of his van and the areas outside. He said there was no similar food of the type he would provide on the island and that 75% would be vegetarian. He confirmed that his location on High Street would be far away from Victoria Street and Castle Street. He advised that he did not want to harm anyone as a result of his business. He added that this was the only type of business he could work in. He said that his business would involve two families and that it would harm his family and his friend's family a lot if they were not granted this licence.

When asked, both parties confirmed that they had received a fair hearing.

## DEBATE

Councillor Moffat advised Mr Basim-Altinawi that his application had given her a lot of sleepless nights. She said that she was very proud of the Syrians on the island and all that they had achieved. She advised, however, that she had serious concerns about the effect his business would have on existing long term businesses. She pointed out that Eden Drive was a very congested bus route on a busy scheme and at the bottom of that road where there was some parking there was the Fire Station which required access all the time. She added that this was also the access for all the ambulances on the island. She advised that there were several takeaway businesses on the island including another Syrian takeaway with lovely Syrian food. She said that these takeaway businesses delivered to homes and they used taxis for this. She pointed out that not only would these businesses be affected but the taxi drivers would also be affected. She referred to parking at Squat Lobster and acknowledged that Mr Basim-Altinawi was applying for planning permission for this. She advised that this location was beside a Grade 1 Listed Building and also beside beautiful gardens. She said that she did not consider this an appropriate place. She also advised that it was within 100 metres of many of the businesses that also provided similar foods eg chicken, pizzas etc. She said that Skeoch Woods would be perfect as the location would not conflict with other businesses. She advised that there used to be a hotel on the island that supplied outside catering to various events. She said that they were no longer doing this and pointed out to Mr Basim-Altinawi that there were other opportunities other than going into the town. She said she was finding it very difficult to come to terms with this and wished Mr Basim-Altinawi all the best. She confirmed that she could not agree to this application and that she was very sorry.

Councillor Redman said that he had a different view to Councillor Moffat. He acknowledged that she had a lot of local knowledge about the island. He advised that he had heard about numerous places on the island selling food and he said that this was good. He referred to a free market society which, he said, you either believed in or not. He said that competition was a good thing. He referred to customers having a choice. He advised that he felt very uneasy when politicians procrastinated about who should be winners and losers. He said that he believed this venture would benefit the wider area and bring more competition, more trade and more choice to the people of Bute and that he was minded to approve the application.

Councillor Colville referred to his home town of Campbeltown. He advised that for years there were four café type premises and in the last six months there were now seven and no one had objected to them. He said that he had no idea how these seven premises were economically viable but they were surviving on the service they provided. He advised that he was inclined to support this application with the exception of the area behind Squat Lobster. He referred to the planning application for this location and advised that he would be very surprised if the Planners would grant the application given the site was next to a listed building. He confirmed that he would support the first four locations but not the Squat Lobster site. He advised Mr Basim-Altinawi that his success or not would depend on the custom he got.

Councillor Trail said that he applauded the enterprise of the Applicant trying to run a good business. He advised that he shared Councillor Colville's view as he also had concerns about the Squat Lobster location. He noted Councillor Moffat's reservations about the other locations and advised that the Roads Authority had

looked at them and had no reservations. He confirmed that he was happy to support the application on the same basis as Councillor Colville.

Councillor Blair said that it was very brave for a person to come and open up a new business. He advised that it took a lot of guts to do that as there were a lot of risks to opening up new businesses on the island of Bute. He said that he took consolation from the fact that the Roads Officers were content with the locations and that he was happy to support the application.

Councillor Douglas said she echoed what had been said around the table. She advised that it was going to be a very hard business to maintain and that she was quite happy with the four locations that Roads had consented. She acknowledged the local information Councillor Moffat had but said that in approving the locations she was sure Officers would have taken account of the emergency vehicles. She advised that she thought the fifth location at the Squat Lobster would be problematic.

Councillor Kinniburgh said he took the same view as many around the table. He advised that competition was not a consideration when granting licences. He advised that he recognised that the Roads Officers had looked at all the locations and had been quite prescriptive of where the van could be operated from. He advised that like the fellow Members who would like to grant this licence today, he believed that the access road behind Squat Lobster should not be granted today as the Applicant had applied for planning permission for this. He said that as far as he was concerned planning permission would have to be granted first before considering a street trader's licence for this location.

## **DECISION**

The Committee agreed to grant a Street Trader's Licence to Mr Basim-Altinawi in respect of the first four locations listed on his application form.

Having moved an Amendment which failed to find a seconder, Councillor Moffat asked for her dissent from the foregoing decision to be recorded.

(Reference: Report by Legal and Regulatory Support, submitted)

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