

MINUTES OF THE
REGULATORY COMMITTEE

held on 7 September 2023 at 7.00pm

Present:

Councillor R.J. Lee (Chair)

Councillors, P. Davey, A. Davidson, S. Davis and V. Pappa

1. [Apologies for Absence](#)

Apologies for absence were received from Councillors Bugbee, Chambers, Clark, Frasca, John, Rajesh, Scott and Wilson.

2. [Minutes](#)

The minutes of the meeting held on 13 July 2023 were agreed as a correct record and signed by the Chair.

3. [Declaration of Interests](#)

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. [Public Question Time](#)

No public questions were asked or statements made.

5. [Business and Planning Act 2020 – Application to appeal the decision of a revocation of a pavement licence](#)

The Committee were requested to consider an application to review the decision made by the Council (acting through its officers) in relation to the revocation of a pavement licence. The Committee were informed that Radio City Social had initially applied for a tables and chairs licence to place furniture outside their premises on Viaduct Road, this licence had then been granted. The Committee heard that it had, however, later come to the officers' attention that the consultation email to Essex Highways had been sent to an incorrect email address and the delivery failure notification had then been overlooked. Therefore, the licence had been granted but without the proper consultation process being carried out. The Committee heard that officers did then consult correctly with Essex Highways, who responded with objections to the granting of the licence on various grounds, including safety concerns. At this stage officers decided to revoke the licence. The Committee heard that there was no statutory appeal process for these decisions, however Councils were able to consider the scope for an internal review process and that process was for the Regulatory Committee to make a decision. The Committee were informed

that they could either uphold the revocation or overturn the decision of the Licensing Authority, in turn reinstating the pavement licence.

The Committee were directed to the green sheet of amendments for the report, which included further representation from Essex Highways, expanding on their objection, as they could not attend the meeting in person.

At this point of the meeting, the applicant addressed the Committee, they raised the following points and concerns;

- Essex Highways had objected to the application, without even visiting the site.
- It would improve a small local business alongside improving safety matters, rather than making them worse, as the current situation meant customers leaving straight onto the highway, rather than into a barriered area as applied for which would be safer.
- The licence had in fact been granted before being revoked due to an email issue.
- There were currently no bollards to protect customers from the road.
- Taxis constantly ignored the parking restrictions along the road, often parking over the premises entrance and this also happened for other business too.
- The pavement licence would allow a larger area for customers in the summer months, in turn helping to support a local independent business.
- Essex County Council responded far too quickly to the correctly sent email from CCC, they claimed that a thorough review had been carried out with a safety technician, but their email reply had been sent within 24 hours of being consulted by CCC.
- It was already very difficult to run a small business on the road, due to issues with taxis using businesses parking bays and ignoring other restrictions.
- A small area outside the premises, would make it safer, help to protect the heritage asset and improve the area, compared to parking spaces.
- They didn't feel supported by the Council's Licensing Department, who they felt were supposed to be there, to help support small businesses.

In response to questions from members of the Committee, officers confirmed that;

- The decision to revoke had been made by the Council's Public Health and Protection Services Manager, not just by the Licensing Officer processing the application.
- Essex County Council Highways had indicated that a pavement licence in the area would not be safe, hence the revocation decision.
- For applications such as this, the Licensing Department, gathered feedback from responsible authorities, in situations such as this one the Highways Department were a key consultee. Officers then look at the application, any feedback received and consider if it is a safe area, looking at matters such as the amount of traffic, and proximity to the road.

In response to questions from members of the Committee, the applicant stated that;

- They were a local business, who had good relationships with their customers and this area would allow them to have a safer area for those customers who wished to smoke or drink outside in the summer months.
- On a common-sense basis, the current situation was not safe, it appeared that ECC were essentially against plans to improve safety for customers.

- Nobody from the Highways Department had listened to the plans for the area or visited the premises to see what the changes would achieve.
- A review of the road in general, needed to be undertaken by the Highways Department and Local Councils, as their application had highlighted several issues.
- Previously they had contacted the Council to borrow barriers for temporary events and this had been successful, alongside working with other businesses on the road too.

It was noted by members of the Committee, that despite being invited, Essex County Council had not sent a representative from their Highways Team to attend the meeting. Members also noted that they had been informed in writing that granting the application would be unsafe on highway grounds and held concerns that if the licence was to be granted and then an incident happened, that they may be liable as a result.

The Committee also heard concerns from the applicant about who they could raise the issue with further if the revocation was upheld. Members of the Committee stated that the best contact would be the County Councillor for the area, who would be able to raise the issue directly with the County Council. Members of the Committee, noted that they understood the concerns being raised by the applicant and appreciated their efforts to make the area safer, but they had to consider the comments from the Highways Authority.

The Committee's legal advisor highlighted that it was not within the Committee's remit to undertake a review of the road in general and consider other safety concerns. They agreed, that contacting the local County Councillor was the correct course of action for those matters and advised that the Committee simply had to decide whether to uphold the revocation or not.

In response to other points raised, Licensing Officers stated that, the road did have three designated spaces for taxis, if those were filled, they essentially queued for the rank, which did not result in PCN's being issued as they were waiting to join a queue. It was also noted that the role of the department was not to support or oppose applications or business, but to be impartial and process applications.

The Committee agreed to uphold the revocation of the licence. The Highway Authority (which had to be taken as the expert on highway matters and highway safety) had been unequivocal in raising serious concerns relating to public safety. It was of the firm opinion that the location in question was not suitable for tables and chairs. The Committee was bound to take these concerns into account when reaching its decision and to give them due weight. The Committee had come to the view that the weight to be given to these safety concerns was such as to warrant the upholding of the decision to revoke. Public safety had to be the paramount consideration when determining matters of this kind. The applicant was advised to contact their County Councillor, to raise concerns with safety on the road in general and to seek support for a future application. The Committee also apologised for the administrative error with the consultation process, that had led to the application being granted previously.

RESOLVED that the decision to revoke the licence be upheld.

(7.02pm to 7.45pm)

6. Urgent Business

There were no matters of urgent business.

The meeting closed at 7.46pm

Chair