

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 29 April 2014

**PRESENT:** Councillors Clive Skelton (Chair), Jillian Creasy and Stuart Wattam

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#### **1. APOLOGIES FOR ABSENCE**

- 1.1 There were no apologies for absence. Councillor Mike Drabble attended the meeting as a reserve Member, but was not required to stay.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

- 2.1 No items were identified where resolutions may be moved to exclude the public and press.

#### **3. DECLARATIONS OF INTEREST**

- 3.1 There were no declarations of interest.

#### **4. PET ANIMALS ACT 1951 - PETS AT HOME LIMITED, UNIT 2, DRAKEHOUSE RETAIL PARK, DRAKEHOUSE WAY, SHEFFIELD, S20 7JJ AND PETS AT HOME LIMITED, UNIT 2B, HEELEY RETAIL PARK, SHEFFIELD, S2 0RG**

- 4.1 The Chief Licensing Officer submitted a report to consider two applications to renew Pet Shop Licences made under the Pet Animals Act 1951, in respect of the premises known as Pets at Home Limited, Unit 2, Drakehouse Retail Park, Drakehouse Way, Sheffield, S20 7JJ and Pets at Home Limited, Unit 2B, Heeley Retail Park, Sheffield, S2 0RG.

- 4.2 Present at the meeting were George Lingwood (Operations Director, Pets at Home, for the Applicant), Peter Carey (Aquatics Operations Manager, Pets at Home, for the Applicant), Peter Scott (Veterinary Adviser to Pets at Home, for the Applicant), Mark Parry (Enforcement Team Manager, Environmental Protection Service, Objector), Wendy Owen (Animal Control and Enforcement Officer, Environmental Protection Service, Objector), Andy Ruston (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

- 4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

- 4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from the Environmental Protection Service, and were attached at Appendix 'C' to the report.

- 4.5 Mark Parry stated that, following inspections by the Environmental Protection Service, it had become apparent that both the Pets at Home stores at Drakehouse and Heeley Retail Parks, had not been fully compliant with their Pet Shop Licences, specifically Condition 18 on the Licence, which related to a requirement for the stores to isolate animals which had been brought onto the premises for a minimum period of 48 hours prior to sale. Following a number of issues relating to the operation of the Pets at Home stores, which had included a number of complaints, a meeting had been arranged with representatives from the Environmental Protection Service and Pets at Home, on 21<sup>st</sup> February 2008. One outcome of this meeting was an agreement that the Council would allow a special condition for the Company to reduce the acclimatisation period in respect of fish, down to 12 hours, with the period relating to all other animals remaining at 48 hours. Further to the submission of the applications to renew the licences in respect of both premises, it had become apparent that this particular condition was not being adhered to, and it had not been possible, despite negotiations with the Company, to find a resolution. Mr Parry referred to the fact that the Pets at Home store at Wadsley Bridge was operating correctly under the conditions of the Licence, whereas the stores at Drakehouse and Heeley Retail Parks were not.
- 4.6 In response to questions from Members of the Sub-Committee, Marie-Claire Frankie and the representatives of Pets at Home, Wendy Owen confirmed that following an inspection she had carried out at the store at Heeley Retail Park, on 21<sup>st</sup> November 2013, she had found eight dead fish and a number of others with various diseases. This was not considered to be an extraordinarily high number. Ms Owen stated that she had not made a note of the time as to when she noticed the dead fish during the inspection. Ms Owen could not provide an explanation as to why, following the agreement made at the meeting held on 21<sup>st</sup> February 2008, a condition regarding the reduced acclimatisation period, for fish, from 48 to 12 hours, had not been placed on the licence at this time. It appeared that the two stores at Drakehouse and Heeley Retail Parks were acting on direct instruction from the Pets at Home Head Office, in that they were being advised that a two hour acclimatisation period was satisfactory. However, the store at Wadsley Bridge continued to operate on the 12 hour acclimatisation period. In terms of the effect of Myxazin, the solution poured into the tanks to prepare the systems for new fish, specifically its effects to combat any stress experienced by the fish, Ms Owen confirmed that she had relied on the advice provided by staff at Pets at Home. The complaint received in connection with the treatment of fish related to the Wadsley Bridge store.
- 4.7 Peter Carey (who had 15 years retail and animal care experience), on behalf of Pets at Home, stated that he had been responsible for reviewing and updating all the Company's procedures/routines with regard to the treatment of fish, which would be followed at all the Company's stores. The Company operated a Pet Report System,

which comprised an audit of all the stores' procedures every 2 months. The company used the two hour acclimatisation period with regard to fish in all its stores, and no other local authority had raised any concerns with regard to this. Myxazin was used to treat all fish tanks the night before any new fish were delivered to the stores. He stated that all the procedures adopted by Pets at Home had been reviewed and written in conjunction with Peter Scott, a leading Aquatic Vet, with 39 years' experience.

- 4.8 Peter Scott, acting as a consultant for Pets at Home, stated that the majority of fish were purchased from small farms in the Far East. They were transported to a central collection point, where they were settled down, bagged up and transported to wholesalers in the United Kingdom. They would then be transported to the Company premises before finally being transported to the stores for sale. Mr Scott stated that he was unable to confirm what levels of stress the fish suffered whilst being transported, but stressed that it was in all the different party's interests to ensure that the fish suffered the least amount of distress as possible during all the different stages of transportation. He also stated that the systems with regard to the transportation of the fish had improved vastly over the years.
- 4.9 Peter Carey added that he travelled to Israel and Singapore, where the majority of the fish were purchased, twice a year, in order to check that all the procedures in terms of the treatment of the fish were being adhered to. He stated that the transportation of the fish from the wholesaler to the individual stores was very well managed, and this was one of the main reasons why the stores at Drakehouse and Heeley Retail Parks only required a two hour acclimatisation period prior to the sale of the fish. He stressed that any fish that were not acting in a normal manner, such as not feeding or showing any signs of stress or disease, were moved away from the other fish and kept in separate tanks. Mr Carey concluded by referring to a study which had just been commissioned, to look at what caused stress in fish.
- 4.10 George Lingwood stated that he was in charge of operations in all Pets at Home stores in the United Kingdom. He stated that the vast number of complaints received with regard to the treatment of fish and other animals sold in its stores, were from members of staff. In terms of the acclimatisation period, which had been discussed at the meeting in 2008, it had been agreed that the fish would be delivered from the wholesalers, which was based in Dronfield, to the stores, at 5.00 pm, and would not be sold until the stores opened at 9.00 am the following morning.
- 4.11 In response to questions from Members of the Sub-Committee, Mr Carey stated that when the fish were delivered to the store from the wholesaler, they were often put in tanks with other fish but, on the basis that they had been in the tanks overnight, the fact that staff could not tell the difference between the fish was irrelevant as they

would all have been settled in the tanks for a period exceeding 2 hours. He confirmed that there had been less deaths in fish following the reduction in the acclimatisation period from 24-48 hours to two hours. In essence, the extended settling down period for the fish was now being managed by the wholesaler. It was considered that any stress to the fish would mainly be caused earlier on in the transportation process. After being delivered to the store, and put in a tank, the fish would normally settle down within a period of one hour. In terms of staff training with regard to the handling of fish, Mr Carey stated that there were four steps to the training process, with a requirement that all staff handling and selling fish in a store had to complete Level 1. Staff then had the option of completing Level 2, which increased their knowledge of fish and how they should be handled. Levels 3 and 4 comprised two different areas, including increased knowledge in terms of animal care or management training. The Store Manager on duty would oversee all operations in the store, including the aquatic area. George Lingwood stated that Pets at Home had not requested any change to the condition with regard to the acclimatisation period as the Company simply accepted the 12 hour period. The fact that the acclimatisation period generally exceeded two hours due to the fish being delivered to the store at 5.00 pm, prior to sale the following morning, also had a bearing on this. Mr Carey added that it was also an oversight on the Company's part, in that he was not aware that there was such a condition on the licence.

- 4.12 Both the applicants and the objectors were given the opportunity to sum up their respective cases.
- 4.13 RESOLVED: That the attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.14 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the applications.
- 4.15 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.16 RESOLVED: That the renewal applications for Pet Shop Licences in respect of the premises known as Pets at Home Limited, Unit 2, Drakehouse Retail Park, Drakehouse Way, Sheffield, S20 7JJ and Pets at Home Limited, Unit 2B, Heeley Retail Park, Sheffield, S2 0RG, be granted subject to the following amendments to the Licences:-
- (a) Condition 18 to read 'All animals, except for fish, brought into the premises with a view to being offered for sale must be

isolated for a minimum of 48 hours prior to sale'; and

- (b) Condition 47 to be removed.

(NOTE: The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

**5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 -  
MOBILE STREET TRADING CONSENT**

- 5.1 The Chief Licensing Officer submitted a report to consider an application, under the Local Government (Miscellaneous Provisions) Act 1982, to renew a Mobile Street Trading Consent (Case No. 16/14).
- 5.2 Present at the meeting were Harold Mortimer (Applicant), Diane Mortimer (Applicant's wife), Andy Ruston (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).
- 5.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.
- 5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that following an amendment to the Council's Street Trading Policy, made at a meeting of the Licensing Committee held on 20<sup>th</sup> February 2014, the application had to be considered by the Sub-Committee on the basis that the applicant wished to continue selling bread and milk, as well as fruit and vegetables, which the amended policy no longer allowed.
- 5.5 Harold Mortimer stated that he had traded in the same areas for 30 years, adhering to all the rules and regulations, and not having received any complaints from the Council or members of the public. He stated that he had been struggling financially just selling fruit and vegetables, which the majority of his customers purchased on a weekly basis, therefore had started selling milk, bread and confectionary, which customers would purchase on a daily basis. Mr Mortimer stated that, as part of his round, he made personal deliveries to a number of older people, who were unable to leave their homes. He had worked from a young age, and had built up a good relationship with the residents in the areas he traded, and stressed that, despite his age, he wished to continue working as long as he was able to. He concluded by stating that, as part of his route, he did not park within half a mile of the three shops in the areas he traded, and which sold similar produce to him.
- 5.6 In response to questions from Members of the Sub-Committee, Mr Mortimer provided details on the locations of the shops in the area he operated in, confirming that the nearest distance he stopped to any of

the 3 shops was half a mile. He also explained the route he took and confirmed that the confectionary he sold comprised pre-packed buns. In terms of the produce he sold, he confirmed that this included fresh fruit and vegetables, confectionary and milk.

- 5.7 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.8 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 5.9 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.10 RESOLVED: That the application to renew a Mobile Street Trading Consent (Case No. 16/14) be granted, subject to the following amendments to the existing licence:-
- (a) Condition 3.3.6 – Mobile Consent Holders for fruit and vegetables are not permitted to trade within an 800 metre radius of any static traders, other mobile traders or shops trading in similar goods/articles;
  - (b) Condition 3.3.7 – In order to regulate and control mobile street trading in Sheffield, the trader will only be permitted to trade in the Manor and Wybourn areas of the City for each Consent. The Licensing Committee may, at any time, wish to restrict the number of traders in a particular area; and
  - (c) Condition 3.3.14 – New Condition – The applicant be allowed to sell bakery goods and milk only, in addition to fruit and vegetables.

(NOTE: The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)