

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE A

THURSDAY, 24TH MARCH 2011 AT 10.00 A.M.

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Ms. J. A. Marshall, D. McGrath and Mrs. C. J. Spencer (During Minute No's 24/10 to part of 28/10)

Observers: Mrs. A. May, Mr. C. Santoriello-Smith and Mr. I. Connolly

Officers: Mrs. S. Sellers, Ms. S. Garratt and Ms. P. Ross

Also in attendance: Ms. J. Keohane (Representative for Mr. Thomas Campbell), Ms. A. Parathalingam (St. Philips Chambers, Representative for Mr. David Alcock), Mr. I. Connolly (West Mercia Police) and Mr. C. Santoriello-Smith (Bromsgrove District Council's Community Safety Team)

24/10 **APOLOGIES**

An apology for absence was received from Councillor B. Lewis F.CMI.

25/10 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

26/10 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the Applicant and the Applicant's representative.

The Chairman welcomed the Applicant and the Applicant's Representative and invited them to introduce themselves.

The Chairman reminded all parties present of the procedure to be followed during the Hearing and that those parties present could be represented by a legal representative at their own expense.

27/10 **APPLICATION FOR A STREET TRADING CONSENT - THOMAS CAMPBELL, JUNCTION 3, M42**

The Sub-Committee was asked to consider an application for a Street Trading Consent in respect of Mr. Thomas Campbell to provide hot and cold food and drinks from a mobile unit sited at Junction 3, M42 on the Studley / Mappleborough Green / Redditch bound carriageway.

The Licensing Manager outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee, detailing the Council's Street Trading Consent Policy. The application was subject to a Hearing in the light of representations received from Beoley Parish Council and West Mercia Police on the grounds of road safety.

The Chairman informed the Applicant that she had carried out a site visit prior to the Hearing taking place. Mr. Campbell agreed that the lay-by in question had adequate room for approximately 6 cars to park and not 11 as stated in his letter to the Council's Licensing Officer.

At the invitation of the Chairman, the applicant put forward his case. He explained that as an ex-fireman he had taken health and safety into account when assessing the potential street trading site. He informed the Sub-Committee that over a period of 3 weeks he had visited the site on separate occasions, during the times he intended to trade, to observe and assess the traffic. Both the applicant and the applicant's representative answered a number of questions from Members of the Sub-Committee.

At the invitation of the Chairman, Mr. I. Connelly, Traffic Management Assistant, West Mercia Police who had given notice of his intention to attend the Hearing, made representation on the grounds of road safety concerns.

The Sub-Committee then adjourned to consider its decision. Upon its return and having had regard to:

- The Council's criteria for Street Trading Consents as set out in the Street Trading Consent Policy
- The report of the Licensing Manager
- The application and representations made by and on behalf of Mr. Thomas Campbell
- The relevant representations made by Beoley Parish Council and West Mercia Police

RESOLVED that the application for a Street Trading Consent be refused.

The reasons for the Sub-Committee's decision were as follows:

- Road safety concerns including the short length of the lay-by, the speed of vehicles using the A435, difficulties for vehicles pulling out from the lay-by and overcrowding resulting from the lay-by being full. Based on these factors the Sub-Committee had taken into account the views of West Mercia Police, Traffic Management Assistant that the location of the trading unit in the lay-by would result in increased vehicle movements and increased potential for collisions.
- In addition the Sub-Committee noted that the proposal to place signage on the approach to the lay-by would not be lawful unless consent had been given by Worcestershire County Council, Highways Authority. The Sub-Committee was not satisfied that the use of signs would mitigate the traffic safety concerns.

- There were concerns over the use by customers of facilities at the Rose and Crown Public House and the fact that members of the public might choose to cross the dual carriageway on foot.

This decision was final. There is no right of appeal against the Council's decision to refuse a Street Trading Consent Application.

28/10 **APPLICATION FOR A STREET TRADING CONSENT - DAVID ALCOCK, ALDERHANGER LANE, A435**

The Sub-Committee was asked to consider an application for a Street Trading Consent in respect of Mr. David Alcock to provide hot and cold fast food from a mobile unit sited at Alderhanger Lane, A435.

The Licensing Manager outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee, detailing the Council's Street Trading Consent Policy. The application was subject to a Hearing in the light of representations received from West Mercia Police and the Council's Community Safety Team on the grounds of community safety.

The Chairman informed the Applicant that she had carried out a site visit prior to the Hearing taking place.

At the invitation of the Chairman, the Applicant's representative put forward the case for the Applicant. She explained that the applicant had traded at the site until 2nd February 2011 when he was informed by the Council's Licensing Officer that he required a Street Trading Consent to trade at the site. With regard to the representations received from West Mercia Police and the Council's Community Safety Team, the applicant's representative highlighted that the activities detailed within the representations had taken place prior to the applicant trading. She felt that the applicant was being pre-judged based on the activities that had taken place prior to him trading.

At the invitation of the Chairman, Mr. C. Santoriello-Smith, Bromsgrove District Councils, Senior Community Safety Project Officer, who had given notice of his intention to attend the Hearing, made representation on the grounds of community safety.

Mr. C. Santoriello-Smith informed those present that Inspector J. Smith, Bromsgrove District Inspector, West Mercia Police had been unable to attend the Hearing and had requested that he presented the representations as a multi agency approach from both the Community Safety Team and West Mercia Police.

Mr. C. Santoriello-Smith answered a number of questions from Members of the Sub-Committee and the applicant's representative with regard to the use of the site as a Public Sex Environment and the temporary closure of the lay-by.

The Sub-Committee then adjourned to consider its decision. Upon its return and having had regard to:

- The Council's criteria for Street Trading Consents as set out in the Street Trading Consent Policy
- The report of the Licensing Manager
- The application and representations made by and on behalf of Mr. David Alcock
- The relevant multi agency representations made by Bromsgrove District Council's Community Safety Team and on behalf of West Mercia Police.

RESOLVED that the application for a Street Trading Consent for the sale of hot and cold food and drinks from a mobile unit sited at Alderhanger Lane, A435 be granted as follows:

Actual Trading Hours

- 07:00am to 15:00pm Monday to Saturday
- No trading on Sunday

The reasons for the Sub-Committee's decision were as follows:

- There had been no objections to the application from any consultees / interested parties other than West Mercia Police and the Council's Community Safety Team.
- The Sub-Committee had considered the representations made on behalf of West Mercia Police and the Council's Community Safety Team in relation to the use of the site as a Public Sex Environment. The Sub-Committee had also noted that the temporary lay-by closure had now been lifted. Although there could be moves by the police to close it on a permanent basis that matter had not yet been dealt with. The Street Trading Consent could be revoked at a future date if the lay-by was closed. In the meantime the Sub-Committee had not been satisfied that there was evidence that the presence of Mr. David Alcock was contributing to the pre-existing problems at the site. Mr. David Alcock's advertisements had been removed and the evidence before the Sub-Committee was that any sexual activities took place in the evenings / after dark. On balance the Sub-Committee had not heard evidence to lead it to refuse the application.

The Sub-Committee had decided to attach the following additional conditions:

- That Mr. David Alcock locked the mobile toilet when leaving the site each day.

The Chairman reported that the Applicant and those parties who had made representations would be notified of the decision in writing within 5 working days.

The meeting closed at 12.42 p.m.

Chairman