

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE A

THURSDAY, 4TH OCTOBER 2012 AT 3.22 P.M.

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Mrs. H. J. Jones and Mrs. C. J. Spencer

Observers: Councillor S. P. Shannon

Officers: Mrs. V. Brown, Mr. A. Fox, Mrs. A. May and Mrs. P. Ross

Also in attendance: Mr. Niamik Eroglu (NRPSI registered Turkish interpreter for Mr. Atila Kayaoglu), Councillor D. W. P. Booth JP (Ward Member, Stoke Heath), Mrs. Hawkes (Resident) and Mr. A. Lavelle (Representative for Stoke Parish Council)

At the request of the Chairman, the Legal Advisor apologised to all those present for the delay with the commencement of the meeting. The Legal Advisor informed all those present, that additional representations had been brought to the Sub-Committee's attention. The applicant had agreed for these to be included and had therefore been provided with time to read the additional representations.

6/12 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

7/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

8/12 **PROCEDURE**

The Chairman opened the Hearing and introduced Members of the Sub-Committee and officers present to the Applicant, Applicant's Representative and those parties present who had raised objections to the application.

The Chairman welcomed all those present and invited them to introduce themselves.

The Chairman reminded all parties present of the procedure to be followed during the Hearing and asked the Applicant's Representative if the Applicant had been made aware that he could be represented by a legal representative at his own expense.

9/12

APPLICATION FOR A STREET TRADING CONSENT, MR. ATILA KAYAOGU, A38 REDDITCH ROAD, STOKE HEATH, BROMSGROVE

The Sub-Committee was asked to consider an application for Street Trading Consent in respect of Mr. Atila Kayaoglu to provide kebabs and hot and cold drinks from a mobile unit sited at a lay by A38, Redditch Road, Stoke Heath, Bromsgrove.

The Chairman informed the Applicant that Members had conducted a site visit prior to the Hearing taking place.

The Senior Licensing Practitioner outlined the details of the application together with the reasons why the application had been brought before the Sub-Committee. The application was subject to a Hearing in the light of representations received from the Ward Councillor, Stoke Heath, Stoke Parish Council and letters of objection from residents whose properties were near to the proposed trading site.

The Senior Licensing Practitioner responded to Members' questions with regard to the port-a-loo currently situated at the site and informed Members that the port-a-loo had been put there by the Street Trader who traded at the site during the day. He also confirmed that no representations had been received from the Highways Authority, Worcestershire County Council or the Police.

The Senior Licensing Practitioner further responded to questions from Mr. A. Lavelle representing Stoke Parish Council, with regard to the consultation process for Street Trading Applications and how the consultation area was determined.

At the invitation of the Chairman, Mr. Niamik Eroglu put forward the case for the applicant. Mr. Eroglu informed the Sub-Committee that he was a Turkish interpreter acting on behalf of the applicant. He informed the Sub-Committee that it was beneficial to the applicant that residents agreed with him trading at the site and that he had been concerned by the objections raised by residents. The applicant had operated for 17 years, 12 years in England in the food trade and he also ran a similar business in Gloucester. In response to the objections raised the applicant wanted to inform all those present that as a trader he was aware of any potential issues in respect of public nuisance. The mobile unit would have CCTV fitted and he would cease trading at 11.00 p.m., as he was not looking to attract the 'pub' trade. He had looked at the needs of the area and was not aware of a late night trader providing kebabs. With regard to the concerns raised about potential noise from the generator, the applicant wanted to assure residents that the generator was a quiet generator. The Senior Licensing Practitioner confirmed that generators were sold as 'silent' generators and were quieter than the chilled units on vehicles. Mr. Eroglu also addressed the concerns raised in respect of rodents and waste left at the site. The applicant would ensure that the site was left clean. The Legal Advisor informed the Sub-Committee that should a Street Trading Consent be granted the applicant would have to operate a trade waste agreement with Bromsgrove District Council. Mr. Eroglu also reiterated that

no objections had been received from the police in respect of potential traffic issues or anti-social behaviour.

At the invitation of the Chairman, Councillor D. Booth JP, Ward Councillor, Stoke Heath, Mrs. S. Hawkes, resident and Mr. A. Lavelle representing Stoke Parish Council, who had given notice of their intention to attend the Hearing, made representations on the grounds of:

- Noise
- Air pollution from heavy vehicles and commercial vans leaving their engines running
- Cooking smells
- Potential anti-social behaviour
- Road safety issues for other road users
- Litter
- Needs of the area
- Why the applicant needed to trade every day
- Concerned that the lay by would be occupied by Street Traders between 06.00 a.m. and 23.15 p.m.

At the request of the Chairman, the applicant was requested to clarify the products he intended to sell. His application stated kebabs and hot and cold drinks, but the photograph of the mobile unit provided with his application, showed kebabs, chicken, burgers, chips, hot and cold drinks. Mr. Eroglu confirmed that the applicant intended to sell kebabs, chicken, burgers, hot and cold drinks, but not chips or breakfast rolls.

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

- The report presented by the Senior Licensing Practitioner
- The Council's Street Trading - Policy Statement
- The application and representations made on behalf of Mr. Atila Kayaoglu
- The relevant representations received from the objectors

RESOLVED that the application for a Street Trading Consent for the sale of hot food and hot and cold drinks from a mobile unit sited at A38, Redditch Road, Stoke Heath, Bromsgrove be refused.

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

- The Sub-Committee noted that the lay by was already occupied during the daytime by a previously granted Street Trading Consent and it did not consider it appropriate to allow this application which would unreasonably extend the trading hours at the lay by every day of the week.
- The Sub-Committee had considered the proximity of the houses which were directly next to the lay by and considered the noise and smells that would emanate from the van would likely amount to a nuisance.

- Additionally, the increase in traffic at the location would add to the noise levels as it was likely that the majority of the trade would come from passing motorists.
- The Sub-Committee has had regard to the needs of the area and had considered the location of establishments offering similar food and found that the needs of the area were already met by the existing establishments.

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

10/12 **LOCAL GOVERNMENT ACT 1972**

RESOLVED that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of the part, as set out below, and that it is in the public interest to do so:-

<u>Minute No.</u>	<u>Paragraph</u>	
11/12	1, 2 and 3	“

11/12 **APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE**

The Sub-Committee was asked to consider an application for a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Licensing Officer informed the Sub-Committee that the applicant had arrived in time for the Hearing, but subsequently had received a phone call in respect of an urgent family matter. The applicant had requested that his application be determined in his absence.

RESOLVED that the Licensing Officer be tasked to inform the applicant that his application was adjourned and that the applicant would be given the opportunity to present his application to a future meeting of the Licensing Sub-Committee.

12/12 **ENFORCEMENT MATTERS - OFFICER UPDATE(S)**

The Senior Licensing Practitioner informed Members of the Sub-Committee that currently there were no enforcement updates.

The meeting closed at 5.27 p.m.

Chairman