

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE B

FRIDAY, 15TH FEBRUARY 2013 AT 10.00 A.M.

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Mrs. S. J. Baxter (substituting for Councillor Miss P. A. Harrison) and K. A. Grant-Pearce

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

Also in attendance: Ms. A. Pillinger, MFG Solicitors (Representative for Mr. Atila Kayaoglu), Mrs. C. Gilbertson and Mr. J. Gilbertson (Representatives for Mr. C. Gibbs, Managing Director, The Key Consultancy Limited)

15/12 **APOLOGIES**

An apology for absence was received from Councillor Miss P. A. Harrison.

16/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

17/12 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the Applicant and all parties present.

The Chairman invited all parties present to introduce themselves and reminded all parties present of the procedure to be followed during the Hearing.

18/12 **APPLICATION FOR A STREET TRADING CONSENT, MR. ATILA KAYAOGU, A38 BIRMINGHAM ROAD, BROMSGROVE,**

The Sub-Committee was asked to consider an application for a Street Trading Consent in respect of Mr. Atila Kayaoglu to provide kebab, chicken kebab, burger, chips, hot and cold drinks from a mobile unit site at A38 lay by adjacent to the former Mount School, Birmingham Road, Lickey End, Bromsgrove, Worcestershire, B61 0EP.

The Council's Legal Advisor informed all those present that Members of the Sub-Committee had carried out an unannounced Site Visit to the proposed trading site prior to the Hearing.

The Council's Legal Advisor informed all those present that Members had been informed prior to the commencement of the Hearing that the applicant's interpreter was unable to attend the Hearing. The applicant's solicitor had

requested that the ten minutes allocated to present the applicant's case, as detailed in the Street Trading Consent Application, Hearing Procedures, be extended, if needed, in order for the applicant to fully understand any questions that arose and to agree any responses given by her.

The Council's Legal Advisor informed all those present that the advice to the Sub-Committee would be to allow flexibility to ensure that the applicant had a fair hearing. Equally the same flexibility be given to the objectors, if required, in order for the application to be fully heard.

The Licensing Officer 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 eight representations received from properties near to the proposed site.

At the invitation of the Chairman, the case for the applicant was put forward by Ms. A. Pillinger, MFG Solicitors. She informed the Sub-Committee that the applicant Mr. Atila Kayaoglu had applied to trade at the proposed site Monday to Friday between 5:00 p.m. - 11:00 p.m. Mr. Kayaoglu wanted to reassure those that had made representations that he would arrive at the proposed site to set up at 4:30 p.m. and would cease trading at 11:00 pm. Therefore leaving the proposed site as soon as possible once he had collected any litter and removed his rubbish bins. Ms. Pillinger informed the Sub-Committee that Mr. Kayaoglu could provide the Sub-Committee with evidence of his Trade Waste Agreement. Mr. Kayaoglu would remove any rubbish from the proposed site and the rubbish would be taken and collected from Powick, where Mr. Kayaoglu would store his mobile unit when not trading.

Ms. Pillinger further informed the Sub-Committee that Mr. Kayaoglu had traded on a pub car park in a residential area of Gloucester for the last twelve months and had not received any complaints in respect of smell, litter or noise. Whilst trading at the pub site Mr. Kayaoglu had received a five star food hygiene rating. The pub was closing down so the proposed site in Bromsgrove would be the only site Mr. Kayaoglu would trade from, with help when needed from family members, should the Street Trading Consent be approved.

Ms. Pillinger had visited the proposed site and was of the opinion that even with the mobile unit and Mr. Kayaoglu's vehicle used to tow the mobile unit, there would still be sufficient space for an additional six vehicles. After visiting the proposed site Ms. Pillinger had no concerns in respect of the size of the proposed site in comparison to other sites she had visited. Mr. Kayaoglu had not envisaged more vehicles as his business was transient. Mr. Kayaoglu also felt that due to his calm disposition he would be able to deal with any instances of youths gathering or loud music. Ms. Pillinger also stated that no representations had been received from any of the Responsible Authorities consulted. With regard to the 'needs of the area' Ms. Pillinger was not aware of other trading outlets in the immediate vicinity that would be affected if Mr. Kayaoglu was granted a Street Trading Consent. Ms. Pillinger stated that she hoped she had answered all of the concerns raised by those who had objected.

In response to the Chairman, Ms. Pillinger informed the Sub-Committee that the lights on the mobile unit were charged by battery and that the cooker was gas so no motorised equipment would be used on the mobile unit.

At the Invitation of the Chairman, the Interested Party who had given notice of his intention to act as the spokesperson for Mr. C. Gibbs, Managing Director, The Key Consultancy Limited addressed the Sub-Committee. Mr. J. Gilbertson informed Members that The Key Consultancy Limited was a professional management training company that offered a high end management facility. Their hours of business were Monday to Friday, 08:00 a.m. – 7:00 p.m. During the hours of 5:00 p.m. and 6:30 p.m. there was a lot of vehicle movement with an average of 25 cars leaving the business premises. The lay by was constantly used by HGV vehicles who parked overnight and had already caused obstruction to their business premises.

Mr. Gilbertson further informed Members that there was only one entrance to the lay by, no egress. Consequently this had resulted in HGV drivers using their drive in order to turn their HGV vehicles around, which had resulted in damage to the gates at the entrance of their driveway. On occasions HGV drivers would reverse their vehicles onto the main road if they were unable to turn around due to other vehicles being parked in the lay by. Mr. Gilbertson therefore felt that the applicant's solicitor had not taken these additional HGV vehicles into account when she had visited the site and suggested to the Sub-Committee that there was sufficient room for the applicant's mobile unit, his towing vehicle and six additional vehicles. Mr. Gilbertson also expressed concern in respect of residents being unable to access the only footpath on the lay by if additional vehicles were parked near by causing an obstruction. Their objection had stated issues with litter being left and their caretaker already had the task of clearing discarded litter from the site.

At the invitation of the Chairman, Ms. Pillinger was invited to sum up the case for Mr. Kayaoglu. Ms. Pillinger took the opportunity to respond to the concerns raised by Mr. Gilbertson and informed the Sub-Committee that Mr. Kayaoglu was an experienced trader and had become part of the community whilst trading in Gloucester and would ensure that the proposed site was clear of rubbish each day he traded. Ms. Pillinger suggested that with Mr. Kayaoglu trading at the site this could discourage HGV drivers from using the lay by. Whilst she accepted Mr. Gilbertson's comments in respect of a burger van been parked at the entrance to their business premises, not enhancing the area, she also felt that business diversity should be considered with Mr. Kayaoglu looking to trade on the proposed site.

Ms. Pillinger referred to paragraph 5 of Bromsgrove District Council's Street Trading – Policy Statement in respect of the Crime and Disorder Act (1988).

The Council's Legal Advisor informed the Sub-Committee that they must only consider those matters directly related to the Street Trading Consent Application and in particular should disregard the references made to future planning developments.

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

- The report presented by the Licensing Officer
- The Council's Street Trading – Policy Statement
- The application and representations made by Mr. Kayaoglu's solicitor
- The representations made at the Hearing by Mr. J. Gilbertson on behalf of The Key Consultancy Limited

RESOLVED that the application for a Street Trading Consent for the sale of kebab, chicken kebab, burger, chips, hot and cold drinks from a mobile unit sited at A38, lay by adjacent to the former Mount School, Birmingham Road, Lickey End, Bromsgrove be refused.

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

- The Sub-Committee noted there were no objections raised by any of the Responsible Authorities.
- The Sub-Committee noted Mr. Kayaoglu's previous experience as a Street Trader and was impressed with his willingness to contribute to the community not least by his offer to ensure the proposed site was kept clean and tidy.
- The Sub-Committee had had regard to the objections raised and the representations made by The Key Consultancy Limited and whilst accepting that the exit from their business would only potentially be effected for two hours, the Sub-Committee accepted the objections with regard to the restrictions when leaving; the litter and the damage caused by vehicles turning round in a confined space.
- The Sub-Committee considered that the location of the lay by was prominent and could be seen by passing traffic and traffic entering Bromsgrove heading towards the town centre. The Sub-Committee did not find that the addition of a mobile take away van would in any way enhance the area.
- Sub-Committee Members had visited the proposed site and had had regard to the road lay out and the position of the lay by.
- The Sub-Committee considered that granting the consent would likely cause a potential obstruction to the flow of vehicles as there was only one access to the lay by and this was positioned very close to the traffic lights which regulated traffic onto and off a very busy main road.
- The Sub-Committee had noted that the lay by was already used by HGV vehicles and that they needed to either turn round in the lay by, potentially causing damage, or they had to reverse out onto a busy road. The Sub-Committee considered this to be a road safety concern.

- The Sub-Committee did not accept that the granting of the consent would reduce the number of vehicles; in fact there was every likelihood that it would increase with passing vehicles that stopped for food and did not realise the limited turning space available.

The following legal advice was given:

- Each application must be considered on its own merits.
- Members should consider only those matters which were relevant to the application and should disregard the references made to future planning developments.

The Chairmen reported that the Applicant and those parties who had made representations would be notified of the decision in writing.

19/12 **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, being as set out below, and that it is in the public interest to do so:-

<u>Minute No.</u>	<u>Paragraphs</u>
20/12	1, 2 and 3

20/12 **HACKNEY CARRIAGE / PRIVATE HIRE VEHICLE DRIVER'S LICENCE - REVIEW**

The Sub-Committee considered matters in relation to a holder of a combined Hackney Carriage and Private Hire Vehicle Driver's Licence in light of information received by the Licensing Officer.

The Licensing Officer outlined the details of the matter, together with the reasons why this had been brought before the Sub-Committee.

At the invitation of the Chairman, the applicant's representative put forward his case and answered as number of questions from Members of the Sub-Committee.

The Sub-Committee then adjourned to consider its decision. Upon its return it was

RESOLVED that the driver be issued with a warning with regard to his behaviour and future behaviour.

The meeting closed at 12.56 p.m.

Chairman