



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE B

WEDNESDAY 12TH APRIL 2017
AT 10.00 A.M.

CONFERENCE ROOM, PARKSIDE COMMITTEE - PARKSIDE

MEMBERS: Councillors R. L. Dent (Chairman), S. A. Webb and M. T. Buxton
Reserve Member: To be confirmed

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

STREET TRADING CONSENT HEARING PROCEDURES (Pages 1 - 4)

3. Application for a Street Trading Consent (Pages 5 - 22)
4. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

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

Item No.	Paragraphs	
5	1, 2 and 3	"

LICENSING (MISCELLANEOUS) SUB-COMMITTEE B HEARING PROCEDURE

(Pages 23 - 24)

5. Application for a Private Hire Vehicle Driver's Licence (Pages 25 - 54)

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

29th March 2017

K. DICKS
Chief Executive



INFORMATION FOR THE PUBLIC

Access to Information

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000 has further broadened these rights, and limited exemptions under the 1985 Act.

- You can attend all Council, Cabinet and Committee/Board meetings, except for any part of the meeting when the business would disclose confidential or “exempt” information.
- You can inspect agenda and public reports at least five days before the date of the meeting.
- You can inspect minutes of the Council, Cabinet and its Committees/Boards for up to six years following a meeting.
- You can have access, upon request, to the background papers on which reports are based for a period of up to six years from the date of the meeting. These are listed at the end of each report.
- An electronic register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc. is available on our website.
- A reasonable number of copies of agendas and reports relating to items to be considered in public will be made available to the public attending meetings of the Council, Cabinet and its Committees/Boards.
- You have access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned, as detailed in the Council’s Constitution, Scheme of Delegation.

You can access the following documents:

- Meeting Agendas
- Meeting Minutes
- The Council’s Constitution

at www.bromsgrove.gov.uk

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STREET TRADING CONSENT APPLICATION LICENSING (MISCELLANOUS) SUB-COMMITTEE

HEARING PROCEDURE

1. The Chairman will open the hearing and introduce members of the Sub-Committee and officers present.
2. The Chairman will ask all other parties present to introduce themselves.
3. The Chairman will remind the Applicant that he/she can be represented by a legal representative at his/her own expense.
4. The Chairman will ask the Legal Advisor if there is any legal advice to be given.
5. The Technical Officer (Licensing) will present the report.
6. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Technical Officer (Licensing).
7. The Chairman will invite the Applicant and/or his/her representative to present his/her case and call any witnesses. The Applicant will be allowed a maximum of 10 minutes to present the case.
8. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Applicant and/or his/her representative.
9. Consultees / Interested Parties will be invited to present their representations or elect a spokesperson (which may be a Councillor) to speak on their behalf. New representations must not be raised. A maximum of 10 minutes will be allowed for the Consultees / Interested Parties to present their case(s). If two or more Consultees / Interested Parties wish to address the Sub-Committee the 10 minutes will be divided between them.
10. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Consultees / Interested Parties.
11. The Consultees / Interested Parties will be invited to sum up. A maximum of 5 minutes will be allowed.
12. The Applicant or his/her representative will be invited to sum up. A maximum of 5 minutes will be allowed.

Appendix

13. **The Chairman will ask the Legal Advisor if there is any legal advice to be given.**
14. **At the conclusion of the hearing, the Members of the Sub-Committee, the Legal Adviser and the Democratic Services Officer will withdraw from the meeting room.**
15. **Once the Sub-Committee has reached its decision, the Members of the Sub-Committee, the Legal Adviser and the Democratic Services Officer will return to the meeting room. The Sub-Committee's decision, together with the reasons for the decision, will be announced by the Chairman.**
16. **The Sub-Committee's decision will be confirmed in writing to the Applicant and those parties who made representations.**

There is no right of appeal against the Council's decision to refuse to grant or revoke a Street Trading Consent.

Appendix

Please Note:

- 1) ***Each application coming before the Licensing Sub-Committee will be treated on its own merits. In determining an application for a Street Trading Consent, the Council will consider the following factors:***
 - (a) ***Consultation – relevant responses from consultees***
 - (b) ***Local Government Miscellaneous Provisions Act 1982***
 - (c) ***Bromsgrove District Council's Street Trading Consent Policy***
- 2) ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
- 3) ***Decisions may be taken in the absence of the Applicant or any other party. All notices and representations received from absent parties will be considered.***
- 4) ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***
- 5) ***Late evidence will only be considered with the agreement of all parties present.***
- 6) ***In cases where a decision cannot be given at the end of the hearing, a decision will be made within 5 working days.***

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

12TH APRIL 2017

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1982

CONSIDERATION OF THE GRANT OF A STREET TRADING CONSENT

PUBLIC HEARING	
Director:	Head of Worcestershire Regulatory Services
Contact Officer:	Mrs A May Technical Officer 01905 822799 ann.may@worcsregservices.gov.uk
Ward(s) affected:	Wythall
Appendices:	Appendix 1 – Application Form and location map Appendix 2– Representation from RAs Appendix 3 – Street Trading Policy

1. PURPOSE OF REPORT

- 1.1 To consider and determine an application for street trading consent in respect of the site below:

**Hard Standing Area on
Middle Lane
Wythall
B47 6LD**

A copy of the application is attached at Appendix 1.

2. BACKGROUND

- 2.1 On 6/2/2017 an application was received from Ms Johanna Johal to sell hot and cold food and drinks from an area of hard standing on Middle Lane, Wythall B47 6LD, rear of The Phoenix Group, Wythall Green Way, Wythall.

Ms Johal has been trading without the relevant consent, from this site for some time. Part of the hard standing area belongs to The Phoenix Group and the area at the front/roadside belongs to Worcestershire County Council.

The area has been a target for fly tipping and The Phoenix Group have installed secure fencing to their property to prevent any further tipping. The Phoenix Group contacted the licensing authority prior to installing the fencing, to ask for guidance regarding the trading activities of Ms Johal's burger van as they had concerns regarding safety in the area whilst the fencing contractors were on site.

The Licensing Officer asked Ms Johal to remove her van and gave relevant advice regarding making an application for street trading consent.

- 2.2 The application contained all the requisite documentation including the fee.
- 2.3 On the 27/2/17 the application was sent by email to Responsible Authorities for consultation the closing date for representations was 24/03/2017

3. REPRESENTATIONS

Responsible Authorities

A representation from The Phoenix Group is attached as appendix 2. There were no representations from other responsible authorities.

Other Persons

No representations were received.

4. LOCAL POLICY CONSIDERATIONS

- 4.1 The Sub-Committee should have regard to the Council's Street Trading Policy which is attached as appendix 3.
- 4.2 The Street Trading Policy is available to download from the Council's website or to request a hard copy, contact Worcestershire Regulatory Services on 01905 822799 or email wrsenquiries@worcsregservices.gov.uk

5. LEGAL IMPLICATIONS

- 5.1 The Sub-Committee is obliged to determine this application in accordance with the Local Government (Miscellaneous Provisions) Act, 1982.
- 5.2 In making its decision, the Sub-Committee is obliged to have regard to the street trading policy adopted by The Council.
- 5.3 The Sub-Committee must also have regard to the representations made and the evidence it hears.
- 5.4 The Sub-Committee must take such of the following steps as it considers appropriate:
 - (a) Allow the consent to be granted
 - (b) Refuse the application
- 5.5 Paragraph 9 (5) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.
- 5.6 All parties to the hearing will be notified of the Sub-Committee's decision in writing within five working days of the conclusion of the hearing.
- 5.7 The Sub-Committee are advised that The Local Government (Miscellaneous Provisions) Act 1982 does not provide any direct right of appeal against a decision to revoke a street trading consent. Therefore a consent holder aggrieved by a decision to revoke a street trading consent, would only be able to challenge that decision by making an application for a judicial review
- 5.8 The hearing should be conducted in accordance with the agreed procedure.

6. FOR DECISION

- 6.1 The Sub-Committee must consider whether to grant or refuse the application made by Ms J Johal.

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Appendix 1

Application for a Street Trading Consent



Bromsgrove District Council
www.bromsgrove.gov.uk

GRANT APPLICATION RENEWAL APPLICATION

Full Name

JOWANNA JOMAL

Full Residential Address

Telephone Number

Email

National Insurance Number

Proposed Days/Hours of Operation

Monday	/	Friday	✓	8-3.
Tuesday	/	Saturday		
Wednesday	✓	Sunday		
Thursday	✓			

Description of articles sold

Sandwiches
Tea
Coffee

If you are selling food or beverages, the Local Authority with which you are registered as a Food Business Operator

Proposed trading location (please attach a map indicating the exact location)

MIDDLE LANE, BIRMINGHAM
B47 6LD

Description of mobile unit, including dimensions and vehicle registration number if relevant

Agenda Item 3

Location of mobile unit when not trading (give full address)

Declaration

I hereby apply for a Street Trading Consent to sell goods in the street as a mobile trader.
I understand that any mobile unit will be inspected prior to the start of trading.
I enclose the following items with this application:

A colour photograph of the mobile unit	✓
A recent passport-sized photograph of the applicant	✓
Food Hygiene Training certificates (if relevant)	✓
Certificate of inspection for any fire extinguishers	✓
Certificates showing that electrical and gas installations have been tested and are safe.	✓
Public liability insurance to £5 million	✓
Plan showing proposed location of unit when trading.	✓
Evidence of Trade Waste Agreement	
Annual Consent Fee (cheques should be made payable to Bromsgrove District Council), or proof of payment	

Signed

Date

6/2/2017

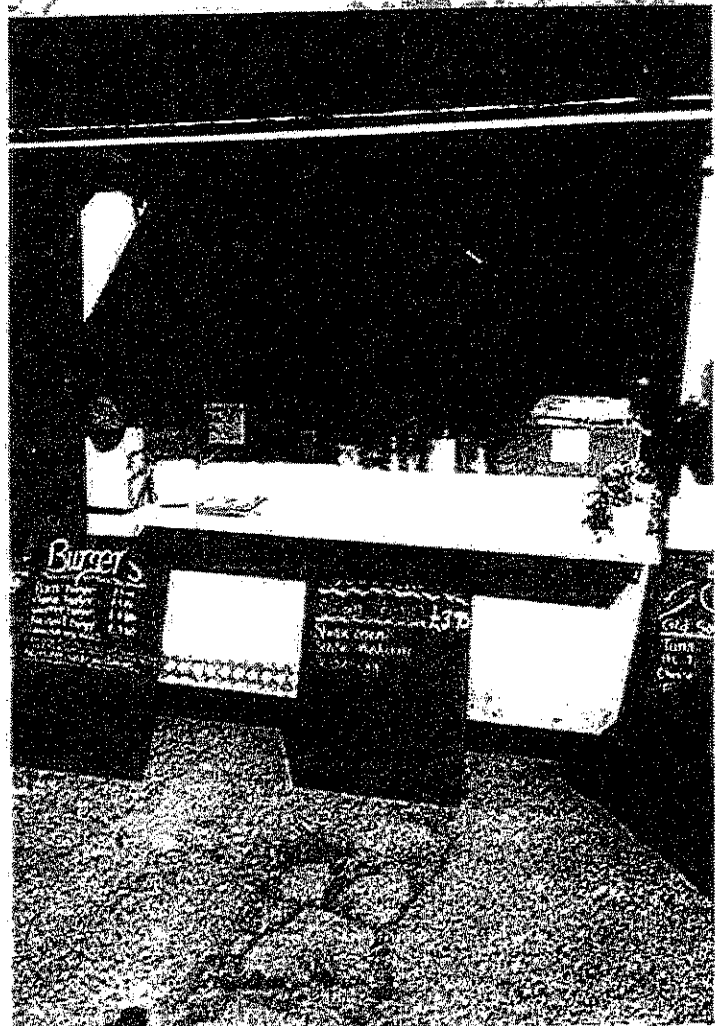
Please return this form and supporting documents to:

Licensing Section
Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

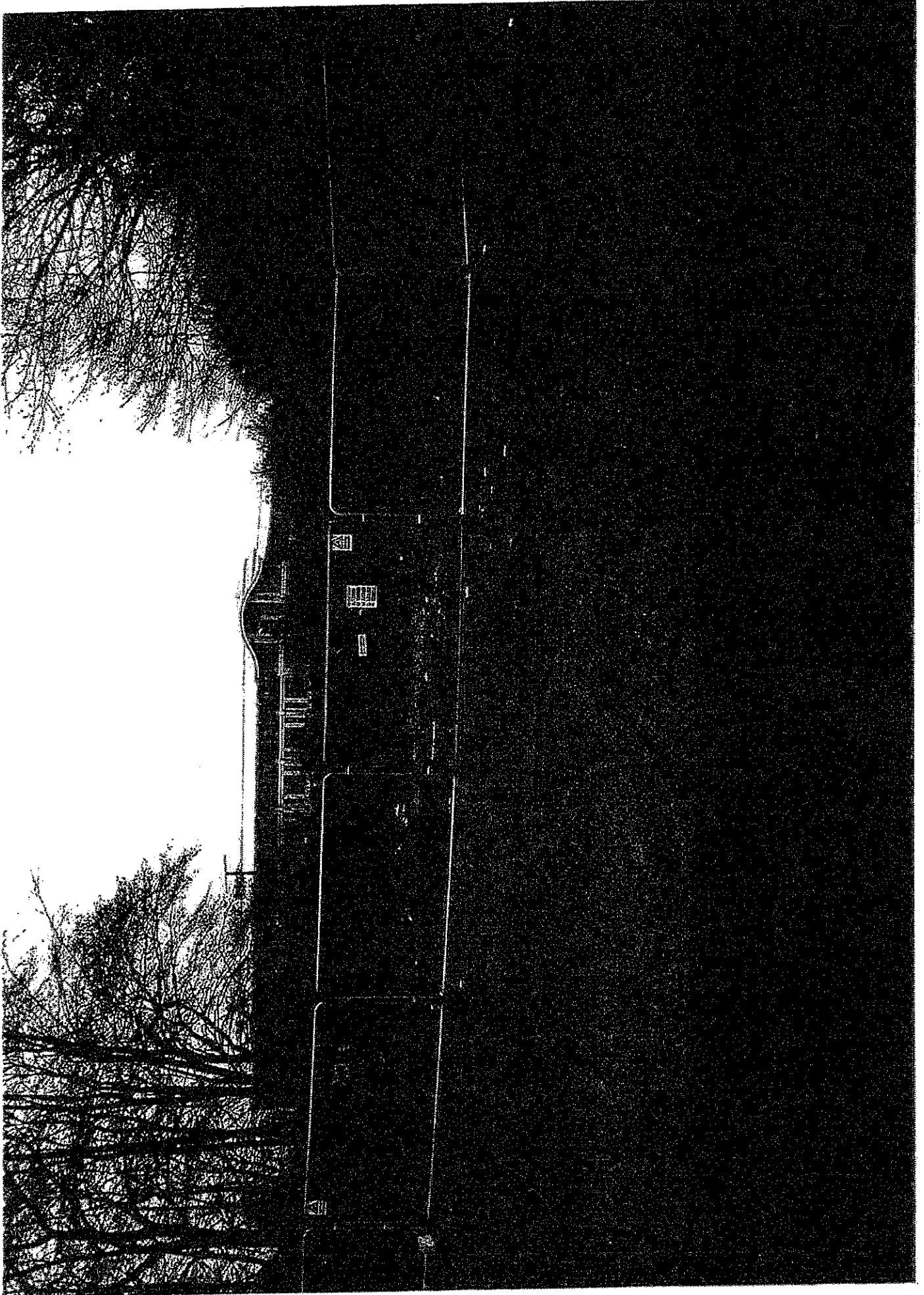
Worcestershire Regulatory Services, Wyre Forest House, Finepoint Way, Kidderminster, Worcestershire,
DY11 7WF

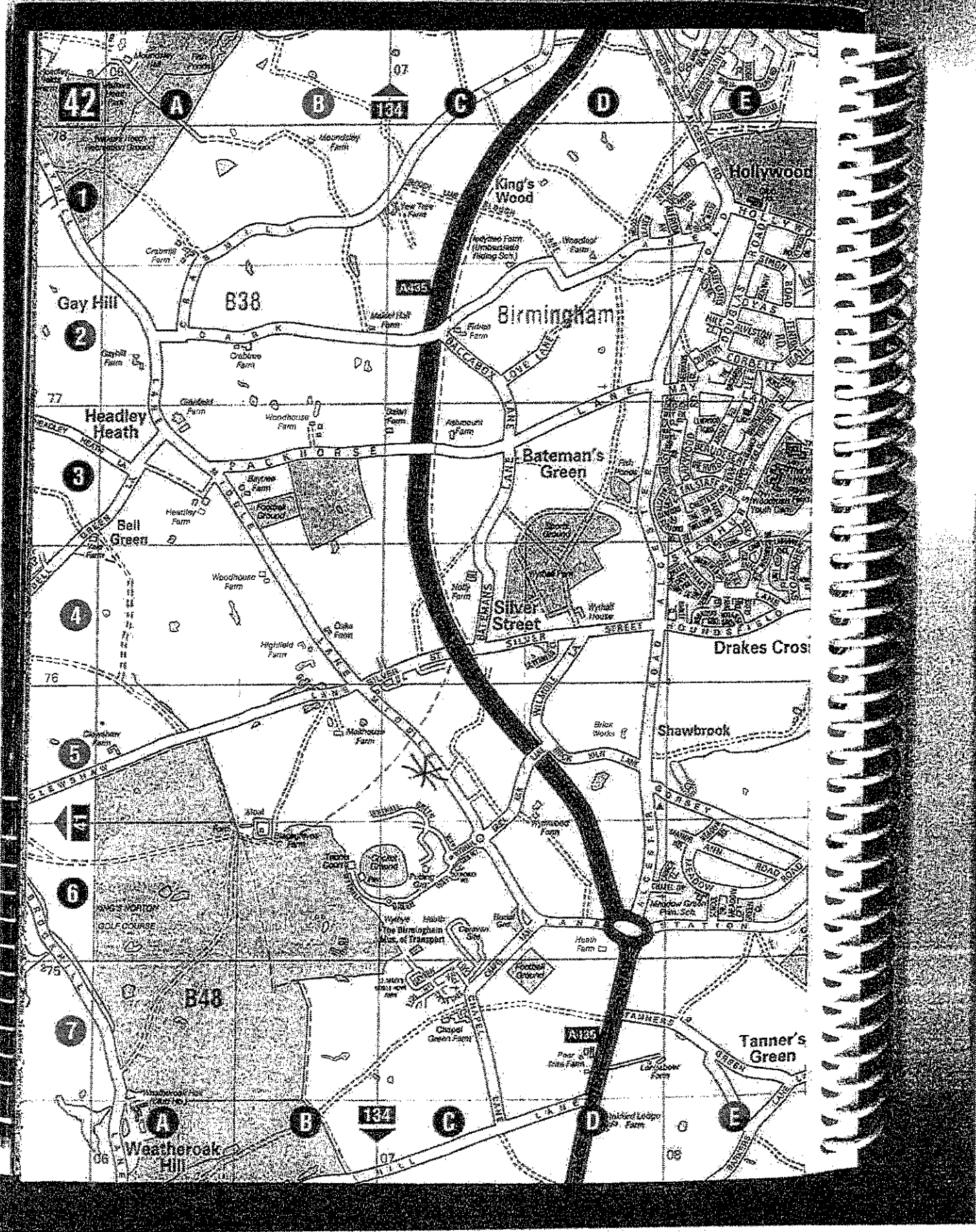
Tel: 01905 822799

Email: wrsenquiries@worcestershire.gov.uk



APPENDIX 2





Appendix 3

Ann May

From: Dockray, Carol <Carol.Dockray@ThePhoenixGroup.Com>
Sent: 27 February 2017 09:00
To: Ann May
Subject: Middle Lane Trading request

Ann

I have consulted with our Health & Safety Manager for her thoughts on this issue and would advise as follows.

Johanna Johal's trading does not really affect Phoenix directly as she is trading from Council owned land. However, indirectly and from a health and safety perspective, as the area is not in effect a layby which would enable traffic flow to continue in the direction of travel, I do not think this area is suitable to allow vehicles to manoeuvre, park up, pull out on moving traffic etc. Although health and safety legislation does not apply for travelling to and from a normal place of work, Phoenix does have a duty of care in terms of knowing that this area would be a cause for concern in causing a road traffic incident. For this reason, and taking into consideration the speed that drivers travel along Middle Lane, I do not feel that the area is suitable for someone to trade, but the ultimate liability for any accident would sit with the Council if they agree to her trading.

I await your comments regarding your position from a Council perspective.

Thanks



PHOENIX GROUP

Carol Dockray | Soft Services Manager
Phoenix Group | 1 Wythall Green Way | Wythall | Birmingham | B47 6WG
office: +442035679106 | mobile: +447730820004 | email: carol.dockray@thephoenixgroup.com



STREET TRADING - POLICY STATEMENT

UNDERLYING PRINCIPLES

1. Street Trading is regarded as an acceptable activity in Bromsgrove within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Bromsgrove and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Bromsgrove comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
 - The Highways Authority – Worcestershire County Council;
 - The Chief Officer of Police;
 - Worcestershire Regulatory Services – Compliance Team;
 - The Councils Street Scene and Community Services Team;
 - The Council's Community Safety Team;
 - Trading Standards;
 - The Parish Council (if any) in which the Trading Unit is to be located;
 - The Ward Councillors; and
 - The owners/occupiers of any properties near to the proposed location of trading site.
 - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.

8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.
9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.

CONSENTED STREETS	PROHIBITED STREETS
ALL STREETS WITHIN BROMSGROVE DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND STREETS WITHIN THE TOWN CENTRE USED FOR MARKET PURPOSES.	Worcester Road Hanover Street St. John Street Chapel Street Mill Lane Market Street Church Street Station Street High Street

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BROMSGROVE DISTRICT COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING - STANDARD CONDITIONS

1. Bromsgrove District Council (“the Council”), pursuant to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) have resolved that Schedule 4 to the Act, to control street trading in the district should come into force from May 2010.
2. The Council has resolved that every street within the area of the district of Bromsgrove is to be designated as a Consent Street” under the Act, (except those shown at Appendix One and nominated as Prohibited Streets) which means a street in which street trading is prohibited without a Consent issued by the Council.
3. A street trading Consent is issued by the Council subject to the following conditions, insofar as they do not conflict with or are amended by any specific conditions imposed on the grant of the Consent:-
 - (a) The Consent is valid for the period shown on the Consent
 - (b) The Consentee shall pay a fee to the Council in accordance with the approved list of fees.
 - (c) The Consent may be surrendered by the Consentee at any time, providing that the Council shall repay to the Consentee that part of the fee considered by the Council appropriate for the unexpired period of the licence, less £35 for administrative expenses.
 - (d) The Consent holder must at all times while trading display in a conspicuous position the Consent issued by the Council.
 - (e) The Consentee shall not carry on his/her trade in such a way as to cause obstruction of any part of the street in which he/she is trading, or danger to persons using the street.
 - (f) The Consentee shall not carry on his/her trade in such a way as to cause a nuisance or annoyance to persons using the street or to occupiers in the vicinity.
 - (g) The Consentee shall not sell any type of food, goods or merchandise other than that specified in the Consent.
 - (h) The Consentee shall provide and maintain, where appropriate, adequate facilities for the collection of litter resulting from his/her trading and at the close of each trading day shall remove any litter resulting from his/her trading from the street. Proof of a Trade Waste Agreement

should accompany the application. The Consentee shall be responsible for any damage to the highway or otherwise resulting from the trading activity.

- (i) The Consentee shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse occurring from the trading activity and shall not discharge any waste water to the street surface or to the surface water drains.
- (j) The Consentee shall not use any television, tape recorder or other device for the reproduction of sound while trading without the express permission of the Council.
- (k) The Consentee shall not trade outside the times and days permitted by the Consent
- (l) The Consentee shall not trade in any location other than the location permitted by the Consent
- (m) Any vehicle, stall or container used by the Consentee in the course of street trading shall be constructed and maintained to the satisfaction of the Council and shall comply with legislation in force at the time or any relevant British Standard.
- (n) The use and storage of liquid petroleum gas shall comply with the Code of Practice or requirements of the Fire Officer.
- (o) The Consent shall not operate for any other purpose than to permit the Consentee to trade in a Consent street in accordance with the conditions imposed. The Consentee must ensure that he/she has obtained any other approval or registration required under any other statutory provisions relevant to his/her trade.
- (p) The Consentee must be 18 years of age or over and shall be responsible at all times for control of the stall. Any persons assisting on the stall shall be 18 years of age or over.
- (q) The Consent is personal to the Consent holder and shall not be assigned or transferred to any other person or company.
- (r) The Consent holder or his employee must move his vehicle/stall or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- (s) Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- (t) The Consent holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall

produce a valid certificate of such insurance at any time upon the request.

- (u) Nothing contained in these conditions shall relieve or excuse the Consent holder or his/her employee or agent from any legal duty or liability and the Consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from trading.
- (v) The conditions attached to the Consent may be varied by the Council at any time.
- (w) Any breach of these conditions may lead to the Consent being suspended or revoked.
- (x) In these conditions “the Consent” means a Consent issued under Section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Consentee means the person named on the Consent issued by the Council and includes any employee, servant or agent of the licence holder and “the Council” means Bromsgrove District Council.

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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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