

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE B**

**THURSDAY, 14TH JUNE 2018, AT 5.05 P.M.**

PRESENT: Councillors R. L. Dent (Chairman), M. T. Buxton and L. J. Turner

Observers: Councillor M. Glass

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

1/18 **APOLOGIES**

No apologies for absence were received. The Sub-Committee were advised that Councillor M. Glass was in attendance to observe the Hearing as the Reserve Member.

2/18 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

3/18 **APPLICATION FOR A STREET TRADING CONSENT**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present.

The Chairman confirmed that she had carried out an unannounced Site Visit to the proposed trading site.

The Sub-Committee was asked to consider an application for street trading consent to sell hot and cold food and drinks from a unit on placed on the carriage way of Sugarbrook Road, Aston Fields Industrial Estate, Bromsgrove, B60 3DR.

The Licensing Officer, Worcestershire Regulatory Services (WRS) outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee. It was confirmed that the Responsible Authorities had been consulted with and that no representations had been received. However, three representations had been received from local businesses, as detailed at Appendix 2 to the report.

At the invitation of the Chairman, Mr. Barnicoat, the Applicant spoke in favour of his application and in doing so, informed the Sub-Committee that the Licensing Officer, WRS, had been really helpful.

Mr. Barnicoat continued and explained that two years previously his wife's friend had commented that there was nowhere on the industrial estate to grab a breakfast. A few other friends had also made the same comment that there was nowhere, within walking distance on the industrial estate, to go and get a breakfast. Taking this into consideration, he then canvassed people working on the industrial estate to see if there was a need.

Having found that there was definitely a need, he then looked at where best to position a mobile food vehicle on the industrial estate, he took a while trying to find the best location. Having liaised with the Licensing Officer, WRS, it became apparent that there would have been issues with positioning a vehicle lower down on the estate. Hence going back to look at Sugarbrook Road where, there appeared to be adequate parking; so he and his wife looked for a suitable position near there.

Mr. Barnicoat continued and further informed Members that it was costly for him to go into this venture. He had given up a good job with BMW, had purchased a £55,000 mobile food unit, into which he had installed a £10,000 jacket potato machine. So he had carried out extensive research and decided he would target his business at people who worked on the industrial estate and wanted a short walk to get food. There were approximately 4, 600 people who worked on the industrial estate.

He had sat at the proposed location and had taken lots of photos of the area and traffic. He had also looked at the Council's Street Trading Policy for guidance and thought he had picked an area that fell within that policy.

In response to questions from Members, Mr. Barnicoat explained that the mobile unit would not be parked overnight at the proposed location. He had made arrangements for the mobile unit to be parked overnight at a local haulage company site, as they had an overnight secure parking space for the mobile unit.

With regard to his trading hours, he anticipated setting up before 06:00 hours and would finish trading at around 14:00 / 14:30 hours. He would not park any other vehicles by the mobile unit. The vehicle used to tow the mobile unit would be parked each day of trading, back at his home address which was within walking distance of the proposed trading site. There would be daily food deliveries to the mobile unit. He was currently struggling to get anyone to collect the waste and he had considered putting wheelie bins at the side of one of the businesses.

In response to concerns over waste, the Licensing Officer, WRS, informed Members that, as detailed on the application form evidence of a Trade Waste Agreement would be required.

In response to further questions from Members, Mr. Barnicoat stated that as explained earlier, he had parked at the proposed trading site, at varying times, to observe the traffic and he had never witnessed any issues with any other vehicles. There was a gym nearby and he had observed people attending the gym, at 19:00 hours, whereby they parked on both sides of the road and this had not caused any issue's either. Mr. Barnicoat also highlighted that he also needed to consider his own safety and had chosen a location where he felt he could trade safely.

In response to further questions from Members of the Sub-Committee, Mr. Barnicoat stated that, in his opinion there was nothing he deemed to be an obstacle and the mobile unit would not stop any other vehicles getting past. If the mobile unit was parked at the proposed trading site he could not see that it would cause any issues to customers of Jefferies Tyres.

With regard to the representation received from Subway, Mr. Barnicoat explained that the food he would be selling would be very different to the food offered at Subway, so he would not be in direct competition with anything that Subway sold.

Mr. Barnicoat further informed Members that he had worked for ten years in a Michelin star restaurant in Nottingham.

In response to the Council's Legal Advisor, Mr. Barnicoat explained that he had visited the proposed trading site on approximately 150 times to observe the traffic; usually between 07:30 / 08:00 hours until 09:30 hours. The photos as detailed at Appendix 1 were taken before and after school starting and finishing times. He had not visited Ann Jones, BNC Taxis, but had spoken with several of the taxi drivers. Mr. Barnicoat highlighted that the proposed location of the trading site was directly opposite Jefferies Tyres driveway. He had not spoken to anyone from Jefferies Tyres. But he had been informed that they were concerned that customers to the mobile unit might use their car park. He was shocked to read the representation submitted by Jefferies Tyres.

At this stage in the Hearing and with the agreement of the Chairman, Members of the Sub-Committee undertook a site visit as it was determined that a site visit would be of benefit in order to see the actual proposed siting of the Street Trading vehicle.

The Hearing then stood adjourned from 17:34pm. to 18:21pm. for Sub-Committee Members to conduct a site visit.

The Council's Legal Advisor reminded Members that, although they had been made aware of Mr. Barnicoat's extensive financial costs in respect of the mobile unit, Members should disregard any financial implications.

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

**RESOLVED** that the application for a Street Trading Consent be granted for a trial period of 6 months, during which any adverse impact of the trading can be assessed.

Having had regard to:

- The report presented by the Licensing Officer, Worcestershire Regulatory Services (WRS).
- The Council's Street Trading Policy.
- The written application and oral representations, provided at the Hearing by Mr. Barnicoat.
- The written objections from Ann Jones, BNC Taxis, S. Jefferies (proprietor) Jefferies Tyres and Raj Sandhar, Subway.
- A Site Visit was conducted by all Sub-Committee Members during the Hearing.

The Sub-Committee decided to allow Mr. Barnicoat's application to proceed and the Consent was to be granted for a trial period of 6 months during which any adverse impact of the trading could be assessed.

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

- The Sub-Committee noted the objections received from Ann Jones, BNC Taxis, S. Jefferies (proprietor) Jefferies Tyres and Raj Sandhar, Subway. The concerns raised related to the unsafe positioning of the unit which would cause a visual obstruction for other vehicles, congestion due to already insufficient parking facilities, concerns regards additional litter and unsocial behaviour due to the operating times as proposed on the application.
- The Sub-Committee considered it significant that no objections had been received from Highways England or West Mercia Police with regards to the siting of the unit or specifically any road safety concerns.
- The Sub-Committee visited the site and concluded that the unit was a sufficient distance from the junction so as not to cause a problem with the flow of traffic.

- The Sub-Committee noted the objection from Raj Sandhar, Subway but concluded that the type of food offered by the applicant was not in direct competition with this food business
- The Sub-Committee did not consider that there was a risk of anti-social behaviour caused by the Street Trader as the applicant was seeking consent from 06:00 hours until 15:00 hours and the unit would be removed daily before the Industrial Units close at 17:00 hours.
- The Sub-Committee was mindful of the fact that there had not previously been a Street Trader on this site and therefore the impact of trading was something they considered should be assessed over a period of time.
- Taking into account all of the evidence provided and the site visit conducted by Sub-Committee Members, the Sub-Committee considered it appropriate to grant the Consent for a 6 month trial period during which time any adverse impact of trading can be assessed.

The following legal advice was given:

- The Sub-Committee should have regard to all the evidence provided and decide what weight to give to the representations received.
- Regard should be given to the Council's Street Trading Policy and the criteria for considering the application.
- The Sub-Committee should determine each application on its own merit.

There was no right of appeal against the decision of the Licensing Sub-Committee.

4/18

### **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 the consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part, being as set out below, and that it is in the public interest to do so:-

<u>Minute No's</u>	<u>Paragraphs</u>
5/18	1, 2 and 3
6/18	1, 2 and 3
7/18	1, 2 and 3
8/18	1, 2 and 3 “

(Note: that under this item and in agreement with the Chairman, the Sub-Committee agreed to alter the running order of the agenda).

5/18

**APPLICATION FOR RENEWAL OF A LICENCE TO USE AS A PRIVATE HIRE VEHICLE**

The Sub-Committee considered a renewal application made for exemption to the Council's Hackney Carriage and Private Hire Handbook which restricts the age of vehicles over ten years of age.

The Licensing Officer, Worcestershire Regulatory Services (WRS) outlined the details of the application together with the reasons why the renewal application had been brought before the Sub-Committee, detailing the Council's Hackney Carriage and Private Hire Handbook.

At the invitation of the Chairman, the applicant put forward his case in support of his application and answered a number of questions from Members of the Sub-Committee.

Sub-Committee Members inspected the vehicle to determine if the vehicle, a special events vehicle, had been maintained to a high level and therefore in such a condition that it could be regarded as 'exceptional' for the purposes of the age restriction policy.

The Sub-Committee then adjourned to consider its decision, upon its return it was:

**RESOLVED** that the renewal application be granted.

6/18

**APPLICATION FOR RENEWAL OF A LICENCE TO USE A VEHICLE AS A HACKNEY CARRIAGE**

The Licensing Officer, Worcestershire Regulatory Services informed the Sub-Committee that the renewal application had been withdrawn by the applicant.

7/18

**APPLICATION FOR THE GRANT OF A LICENCE TO USE A VEHICLE AS A HACKNEY CARRIAGE**

The Sub-Committee considered an application for the grant of a licence to use a vehicle as a Hackney Carriage that fell outside of the Council's Hackney Carriage and Private Hire Handbook which restricted vehicles in the District with tinted windows that conceal the identity of passengers inside the vehicle.

The Licensing Officer, Worcestershire Regulatory Services (WRS) outlined the details of the application together with the reasons why the application had been brought before the Sub-Committee, detailing the Council's Hackney Carriage and Private Hire Handbook.

At the invitation of the Chairman, the applicant put forward his case in support of his application and answered a number of questions from Members of the Sub-Committee and the Council's Legal Advisor.

Sub-Committee Members inspected the vehicle to determine the level of tint on the windows of the vehicle.

The Sub-Committee then adjourned to consider its decision, upon its return it was:

**RESOLVED** that the application be granted.

8/18

**HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - APPLICATION**

The Sub-Committee considered an application for a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Licensing Officer (Licensing), Worcestershire Regulatory Services outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee, detailing the Council's Guidance Relating to the Relevance of Convictions and Cautions.

At the invitation of the Chairman, the applicant put forward his case in support of his application. The applicant answered a 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 application be granted.

The meeting closed at 7.20 p.m.

Chairman