

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE A

TUESDAY, 10TH DECEMBER 2019, AT 10.00 A.M.

PRESENT: Councillors H. J. Jones (Chairman), M. Glass (during Minute No's 11/19 to 13/19), C. J. Spencer (during Minute No's 8/19 to 12/19) and H.D.N. Rone-Clarke (during Minute no's 10/19, 11/19 and 13/19)

Reserve Member: Councillor H. D. N. Rone-Clarke (observing during Minute No's 8/19, 9/19 and 12/19)

Officers: Mrs. V. Brown, Mr. P. Morrish and Mrs. P. Ross

8/19 **APOLOGIES**

There were no apologies for absence.

9/19 **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

10/19 **APPLICATION FOR A STREET TRADING CONSENT, A38 LAYBY, BUNTSFORD HILL, BROMSGROVE, B60 4JE**

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

Councillors H. J. Jones and C. J. Spencer confirmed that they had carried out an unannounced Site Visit to the proposed trading site. Councillor H. D. N. Rone-Clarke confirmed that he had not carried out a Site Visit.

The Chairman asked the applicant if he had been made aware that he could be represented by a legal representative at his own expense during the Hearing. The applicant confirmed that he had been made aware and was happy for the Hearing to continue.

The Sub-Committee then considered an application for a Street Trading Consent to sell hot and cold food and drinks from a mobile unit located on the A38 layby, Buntsford Hill, Bromsgrove, B60 4JE.

In response to the Chairman, the Technical Officer (Licensing), Worcestershire Regulatory Services (WRS), clarified that the applicant

was looking to trade Monday to Saturday, 7:00am to 3:00pm, and not 7:00am to 3:00am as detailed in paragraph 2.2 in the report.

The Technical Officer (Licensing), WRS, outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee; and in doing so drew Members' attention to the representation received, as detailed at Appendix 2 to the report.

The Technical Officer (Licensing), WRS, further informed Members that a trader had previously operated from the location for several years, selling hot and cold food and drinks. The trader had recently ceased trading. There was no provision in the Council's Street Trading policy for the transfer of Street Trading consent; therefore the Applicant was informed that he had to submit a new Street Trading Consent application.

The Technical Officer (Licensing), WRS, explained that the previous trader, had traded from 7:00am to 1:30pm and that during 2010 to 2011 he had traded from 6:30am to 2:00pm, Monday to Saturday.

In response to the Chairman, the Technical Officer (Licensing), WRS, stated that he had contacted the resident, who had submitted a representation in objection to the application; but had not received a response and was therefore unable to confirm as to where the resident resided with regard to the proposed street trading location. Members were further informed that a letter had been hand delivered to properties within close proximity to the proposed location, in order to notify them about the Street Trading Consent application.

In response to the Chairman, the Applicant stated that he intended to purchase the previous trader's mobile unit to trade from.

In response to the Chairman, the Technical Officer (Licensing), WRS, confirmed that no representations had been received from any of the Consultees, as detailed at paragraph 3.3.1 in the report, which had included Highways England.

At the invitation of the Chairman, Mr. Palmer, the Applicant spoke in favour of his application and in doing so, informed the Sub-Committee that catering traders had been on the site for over 30 years. The previous trader had traded at the location for 10 years and had decided to cease trading. He was made aware of this, so he had approached the previous trader about renting the mobile unit from him; as he was looking to start up his own catering business. The previous trader had explained to him that he needed to apply to the Council for a Street Trading Consent in order to trade at the location.

Having submitted a Street Trading Consent, he was then notified by the Technical Officer (Licensing), WRS that a representation in objection to his application had been received. Therefore his application would have

to be considered at a meeting of the Council's Licensing (Miscellaneous) Sub-Committee, in order for Sub-Committee Members to determine his application. He was happy to adhere to any conditions requested by Sub-Committee Members.

In response to questions from Sub-Committee Members, Mr. Palmer explained that he intended to sell burgers, bacon / sausage sandwiches and a selection of cold sandwiches. The previous trader did not sell chips, but it was something he wanted to try, to see how well they sold. He would look to set up the mobile unit at approximately 6:40am and start trading at 7:15am / 7:30am.

In response to the concerns raised in the representation received with regard to cooking odours, and Members concerns that Mr. Palmer proposed to cook and sell chips from the mobile unit; the Council's Legal Advisor informed Members that, should any complaints be received with regard to cooking odours; that these would be directed to Environmental Services, WRS.

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.

Having had regard to:

- The report presented by the Technical Officer (Licensing), Worcestershire Regulatory Services.
- The Council's Street Trading Policy.
- The written application and oral representations provided at the Hearing by Mr. Palmer.
- The written representation as detailed at Appendix 2 to the report.
- A Site Visit conducted by Councillors H. J. Jones and C. J. Spencer.

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

- Whilst considering this application on its own merits, the Sub-Committee considered it relevant that there had been a mobile catering unit at the location for many years. The Applicant intended to purchase the business from the current owner who had traded from the site for the last 10 years.
- In considering this application the Sub-Committee noted that the Licensing Authority had not received any complaints regarding the previous operation of this business.

- One objection had been received which included reference to concerns about increased noise “near our property” and although the Technical Officer (Licensing) advised that he had been unable to clarify the exact location of the objector’s property, it was noted by Members that there were residential properties nearby.
- The Sub-Committee did not consider that the intended business operation was significantly different to the previous business model.
- The Sub-Committee considered the Council’s Street Trading Policy and had regard to the matters they should consider when determining an application.
- The Sub-Committee concluded that the history of the site and lack of objections from the relevant authorities enabled them to grant the application.

The following legal advice was given:

- The Sub-Committee should have regard to all of the evidence provided and decide what weight to give to the representation received.
- Regard should be given to the Council’s Street Trading Policy and the criteria for granting a Street Trading Consent, as detailed at 3.7.2 on page 10 of the policy.
- The Sub-Committee must consider only those matters directly relevant to the Street Trading Consent, Members must disregard any comments made with regard to any matters which fall outside of their remit.
- 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.

11/19

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>
12/19	1, 2 and 3
13/19	1, 2 and 3“

12/19

RENEWAL APPLICATION - PRIVATE HIRE VEHICLE

The Sub-Committee considered a renewal application made for exemption to the Council's Private Hire Vehicle Licence Policy that restricted the age of a wheelchair accessible Private Hire Vehicles licensed in the District to twelve years of age from the date of first registration.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) outlined the details of the renewal application, together with the reasons why the renewal application had been brought before the Sub-Committee, detailing page 21(h) of 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 renewal application and 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 renewal application be granted.

13/19

REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee reviewed the holder of a Hackney Carriage and Private Hire driver's licence in light of information received from Worcestershire Regulatory Services (WRS).

The Technical Officer (Licensing), WRS, outlined the details of the matter, together with the reasons why this had been brought before a Hearing of the Sub-Committee.

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

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

RESOLVED that the Hackney Carriage and Private Hire driver's licence be revoked.

The meeting closed at 12.54 p.m.

Chairman