

**BROMSGROVE DISTRICT COUNCIL**

**VIRTUAL MEETING OF THE  
LICENSING (MISCELLANEOUS) SUB-COMMITTEE A**

**THURSDAY, 22ND OCTOBER 2020, AT 11.00 A.M.**

PRESENT: Councillors H. J. Jones (Chairman), C. J. Spencer and P. J. Whittaker

Officers: Mrs. V. Brown, Mr. R. Keyte (observing) Mrs. A. May,  
Mr. P. Morrish (observing) and Mrs. P. Ross

1/20

**TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF  
SUBSTITUTES**

It was noted that there had been a change to the Membership of the Sub-Committee and that Councillor A. B. L. English would not be sitting as a Member. Councillor C. J. Spencer was in attendance as a Member of the Sub-Committee and Councillor P. J. Whittaker was in attendance as the Reserve Member.

Apologies for absence were received from Councillor H. D. N. Rone-Clarke, therefore Councillor P. J. Whittaker sat as a Member of the Sub-Committee.

2/20

**DECLARATIONS OF INTEREST**

There were no declarations of interest.

3/20

**APPLICATION FOR A STREET TRADING CONSENT - ON THE SITE OF  
CMS AUTO SERVICES, 2A BIRMINGHAM ROAD, ALVECHURCH,  
WORCESTERSHIRE, B48 7TA**

The Chairman welcomed all participants to the virtual meeting and in doing so, checked that Members of the Sub-Committee, officers and the Applicant were all present.

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.

Councillor H. J. Jones and P. J. Whittaker confirmed that they had carried out an unannounced Site Visit to the proposed trading site. Councillor C. J. Spencer stated that she was very familiar with the area.

The Sub-Committee then considered an application for street trading consent to sell hot and cold food and drinks from a unit sited on 2A Birmingham Road, Alvechurch, Worcestershire, B48 7TA.

The Technical 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 a representation had been received from Worcestershire County Council (WCC), Highways Department, as detailed at Appendix 2 to the report.

One representation had been received from a neighbouring business, as detailed at Appendix 3 to the report and two representations had also been received from local residents, as detailed at Appendix 4 to the report.

In response to the Chairman, the Technical Officer clarified that the representations received from the two residents were close to the proposed street trading site.

At the invitation of the Chairman, Mr. H. Fellows, the applicant was asked to put forward his case in support of his application.

Mr. Fellows asked Members to note that there was an error on the officer's report, his business name at 2A Birmingham Road was Alvechurch Garage Services Limited and not Cms Auto Services. He would also ask Members to note that he would look to sell hot food only and hot/cold drinks.

Mr. Fellows continued and stated that he leased the forecourt at the front part of the garage and that the landlord had agreed that he could operate a street trading business from the proposed site.

Mr. Fellows also stated that he was disappointed that no-one from WCC, Highways Department had attended the Hearing.

Mr. Fellows referred to section 3.7.2 of the Council's Street Trading Policy, with regards to road safety, adequate provision in the vicinity; and staff and customers being able to park in a safe manner.

With the agreement of the Chairman, Mr. Fellows responded to the representations received and in doing so stated that:

- The proposed trading hours would be 08:00am until 2:00pm, so trading would take place during the busy school arrival time but not during school departure time. He also commented that school children of a younger age would be accompanied by an adult whilst walking to school.

- The premises had previously operated as commercial premises for a number of years. In 2009 the garage that operated there was granted MOT status, this had not raised any road safety concerns.
- The neighbouring business used to be a veterinary business operating between 08:00am and 6:00pm, with an emergency out of hours service. There was a large car park for the vets, nursing staff and customers and to his knowledge no road safety concerns were raised.
- He used to run a car sales showroom from the site with a car accessory shop, where there could be up to 20 vehicles parked on the front forecourt. There was also a shared access at the side of the forecourt, which enabled the five residents of Meadow Lane to access their rear gardens/parking facilities. No road safety or traffic issues were ever raised when the premises had traded as a car sales showroom.
- With the veterinary and car sales business no longer operating at the site this had significantly reduced the number of vehicles entering / leaving the site.
- In his opinion a street trading consent would not generate more traffic than when the site and neighbouring business had operated commercially.
- The catering trailer would not generate noise as he would not be using a generator; he intended to use a live 'hook up' point. There would be no loud music emanated from the catering trailer.
- The catering trailer was currently situated at the front of the forecourt, as this made it easier and more accessible whilst he was refurbishing the trailer. However, once fully refurbished and mobile; the catering trailer would be stored at the side of his garage premises overnight and at weekends.
- He did not agree that he would be taking trade away from the charity run community café or other local businesses, who offered customers the opportunity to sit inside to eat; as he would be offering a take-away service only.
- He did not agree with the comments made regarding the garage site suffering from significant amounts of Japanese knotweed. There was no Japanese knotweed near to the proposed trading site where the catering trailer would operate from.
- In all the years he had worked at the site he had never witnessed any road traffic congestion or anyone parking on the pedestrian crossing zig zag road markings.

- With regards to the proposed site generating litter, he would ensure that any litter dropped would be picked up. He did not want to have a messy trading site.
- He intended to move the catering trailer further back on the forecourt so that the customer parking area in front of catering trailer was larger. This would enable customers to turn their vehicles around.

In response to questions from Members, Mr. Fellows stated that his garage now operated as a car repair workshop where he worked on 1 or 2 vehicles a day. There were two parking spaces for customers situated at the top end of the forecourt, behind where the catering trailer was currently positioned. He carried out car repairs to the rear of the building or in the workshop, he never repaired cars on the front of the forecourt.

In response to further questions from Members with regards to the location of an 'A' Board, Mr. Fellows commented that he had intended to place an 'A' Board on the pavement in front of the forecourt. Members stated that should a street trading consent be granted they would not wish to see an 'A' Board on the pavement in front of the forecourt.

The Council's Legal Advisor informed Sub-Committee Members that they should consider all of the information and evidence as presented during the course of the Hearing. The written representations received from Worcestershire County Council, Highways Department as a statutory consultee, the neighbouring business and the two local residents.

The Sub-Committee must only consider matters directly relevant to the Street Trading Consent. Members must disregard any comments made with regards to any matters which fell outside of their remit.

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 (WRS).
- The Council's Street Trading Policy.
- The written application and verbal representations made during the course of the Hearing by Mr. Harry Fellows, the applicant.

- The written representation from Worcestershire County Council, Highways Department.
- The written representation from a neighbouring business.
- The written representations received from two local residents.
- A Site Visit carried out by Councillors H. J. Jones and P. J. Whittaker.

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

- Members considered the application and oral representations made by Mr. Fellows and were satisfied that he had carried out extensive research into the location, and in particular the impact this business operation would have on those in the locality and those using the public highway in the vicinity of the street trading unit. Members were of the view that Mr. Fellows had addressed the concerns raised around parking and were satisfied by the assurances given that there was sufficient space available within the confines of the site for off street parking.
- Member considered the objections regarding road safety which had been raised by Highways as a Responsible Authority, a representation from a neighbouring business and two further representations from residents adjacent to the intended location. Members noted the concerns, however having conducted a site visit, and with their local knowledge of the area, they did not consider that the number of anticipated customers would have a significant effect on road safety.
- Members did not consider that the operation of this business would undermine the safe and efficient passage either from customers visiting or leaving the site or that it would impact on other road users. Members noted the location of the pedestrian crossing; however, they did not consider that this would prevent safe passage along the highway.
- Members concluded that allowing the street trading consent would not impact on other businesses in the area, as they were not in the immediate vicinity and the type of food and service offered was not the same.

The following legal advice was given:

- The Sub-Committee should have regard to 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 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 fell 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.

The meeting closed at 1.02 p.m.

Chairman