

BROMSGROVE DISTRICT COUNCIL

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

TUESDAY 8TH DECEMBER 2020, AT 11.15 A.M.

PRESENT: Councillors H. D. N. Rone-Clarke, C. J. Spencer and
P. J. Whittaker

Reserve Member: Councillor A. D. Kriss (observing)

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

4/20 **ELECTION OF CHAIRMAN**

RESOLVED that Councillor P. J. Whittaker be appointed Chairman of
the Sub-Committee for the meeting.

5/20 **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. D. Kriss was in attendance as the
Reserve Member.

6/20 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

7/20 **APPLICATION FOR A STREET TRADING CONSENT - CAR PARK AT
THE REAR OF 4 DRAKES CROSS PARADE, HOLLYWOOD,
WORCESTERSHIRE, B47 5HD**

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 A. D. Kriss, Reserve Member confirmed that he had carried
out an unannounced Site Visit to the proposed trading site. All other
Sub-Committee Members stated that they were familiar with the area.

The Sub-Committee then considered an application for a street trading consent to sell hot and cold food and drinks from a unit sited on the car park at the rear of 4 Drakes Cross Parade, Hollywood, Worcestershire, B47 5HD.

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 representations had been received from Rubric Lois King, Solicitors acting on behalf of a neighbouring business; and from residential neighbours, as detailed at Appendices 2 and 3 to the report.

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

Mr. Prust informed Members that he had traded as a pizza company based in Bromsgrove for seven years. Due to the recent Covid-19 restrictions a lot of the events he would have traded at, had been cancelled. So, he had looked at opportunities to diversify the business and had looked into 'pop up' events, trading as a street trader.

Mr. Prust further explained that, at the site he had applied for, the car park at the rear of 4 Drakes Cross Parade; he worked in partnership with the owner of a local café / coffee shop, at 4 Drakes Cross precincts. He parked his pizza van on the car park at the rear of the café / coffee shop premises. The road was a private road and a service road for the shops.

Customers wanting to purchase a pizza were not served from his vehicle. He also did not serve hot drinks from his vehicle because of working in partnership with the café / coffee shop, which served hot drinks.

Customers ordered their pizzas via the café / coffee shop, the pizzas were then made and cooked in the pizza van and then provided to customers via the café / coffee shop; at no point were members of the public allowed to purchase pizzas directly from his vehicle. There were no facilities to take cash or card payments from customers.

The land at the rear of the café / coffee shop was private land. In response to the representations received with regards to parking. Mr. Prust explained that there were at least twelve parking spaces for the shops, six of which were used regularly. There was always space for his pizza van and awning which took up two parking spaces, so there were plenty of parking spaces at the rear. The landlord had given him permission to be there.

With regards to the representation received from Rubric Lois King, Solicitors acting on behalf of their client who ran the fish and chip shop,

Mr. P. Fanaris, who was the tenant of 6 Drakes Cross Parade. Mr. Prust stated that he only traded at 4 Drakes Cross on a Thursday evening from 5pm until 8pm and was not competing with the fish and chip shop. He probably only served 20/30 customers during that period; he did not have queues of customers waiting to be served. Customers for the fish and chip shop parked at the front of the shop as there was no access into the fish and chip shop from the rear car park.

With regards to waste being left at the trading site, he had a trade waste agreement with Bromsgrove District Council, no waste was left at the site. Pizzas were taken away by customers in pizza boxes. Boxes left by customers who consumed their pizzas in the café / coffee shop, were placed in the commercial waste bin.

Youths hanging around the rear of the shop premises had been an ongoing issue. However, he had never seen any gangs of youths, he had not contributed to this concern by trading there.

He had a well-lit pizza van. There was a blind bend on the road, but he did not park there, he parked further down the road, so he saw no issue.

In summing up Mr. Prust reiterated that he traded from the premises at 4 Drakes Cross Parade. Pizzas were prepared and cooked in a pizza oven in his van.

In response to this, the Council's Legal Advisor, asked the Chairman for his permission to take a brief adjournment before Members asked any questions of Mr. Prust; in order to seek clarification from the legislation with regards to street trading.

The Council's Legal Advisor also requested if Mr. Prust could clarify the hours of trading he was looking to trade at this site, as he had stated during the course of the Hearing that he traded each Thursday from 5pm to 8pm. However, his application before Sub-Committee Members showed the proposed trading hours as each Thursday from 4pm to 8pm.

Mr. Prust clarified that the trading hours he required were each Thursday from 4pm to 8pm.

The Council's Legal Advisor sought further clarification from Mr. Prust as to the nature of his business and how his business operated. As Mr. Prust had stated during the course of the Hearing that he did not sell pizzas directly to the public, he provided a service via the café / coffee shop.

In response Mr. Prust confirmed that he only sold pizzas to customers entering the café / coffee shop, he used their chairs, tables, toilets, and hygiene facilities. The legislation appeared somewhat blurred with regards to how he traded at this site, he stood in the café / coffee shop to take payments from customers purchasing pizzas from him. He had

been advised by WRS to include this trading site on his Street Trading Consent application.

The Council's Legal Advisor asked Mr. Prust if members of the public could approach his pizza van at the rear of the premises to purchase a pizza directly from him.

In response Mr. Prust reiterated that no, customers could not. They had to come into the café / coffee shop to place an order.

With the agreement of the Chairman, the Hearing was adjourned for the Council's Legal Advisor to seek clarification with regards to the legislation for Street Trading activities.

Accordingly, the meeting stood adjourned from 11:50 hours to 12:00 hours.

The Chairman announced that the Hearing had reconvened.

The Council's Legal Advisor thanked the Chairman for enabling her to revisit the legislation very carefully, to seek clarification as to when a Street Trading Consent was required. A Street Trading Consent applied when there was a direct sale to the public in the street.

The Council's Legal Advisor continued and informed Sub-Committee Members that if the only pizza sales were through the café / coffee shop then this was not street trading, hence her questions to Mr. Prust as to the exact nature of his business at this site. Could a member of the public approach his unit at the rear of the café / coffee shop premises and order/purchase a pizza directly from his pizza van. If the answer was no, then a Street Trading Consent was not required. That was the advice she was giving to Members of the Sub-Committee and the Technical Officer (Licensing), WRS.

In response and with the agreement of the Chairman, Mr. Prust stated and clarified that no pizzas were sold from the pizza van, all pizzas were sold from inside the café / coffee shop. If any member of the public inadvertently approached his van they would be told to go to the café / coffee shop to place an order to purchase a pizza. There were no facilities to take cash / card payments at the pizza van. He did not and does not intend to sell pizzas from his van at this site.

The Council's Legal Advisor further stated that, now that Mr. Prust had made it very clear as to how he would operate at this site, this was not a matter that required a Street Trading Consent.

With the agreement of the Chairman, the Council's Legal Advisor asked the Technical Officer (Licensing), WRS if she had any further comments.

The Technical Officer (Licensing). WRS, commented that she was happy with the advice given, if the public were unable to buy pizzas directly from Mr. Prust's van at the rear of the shop.

Mr. Prust commented that he attended 'pop up' events at other venues where he did sell direct to the public from his van; but he would reiterate that at this location, pizzas were only sold from inside the café / coffee shop and would agree that he did not require a Street Trading Consent.

The Chairman thanked everyone for attending and officially closed the meeting.

RESOLVED that following the information provided by the applicant during the course of the Hearing and the legal advice given; Sub-Committee Members agreed that a Street Trading Consent was not required if order for the applicant to trade on the car park at the rear of 4 Drakes Cross Parade, Hollywood, Worcestershire, B47 5HD.

The meeting closed at 12.07 p.m.

Chairman