

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE A

TUESDAY 24TH OCTOBER 2023, AT 11.10 A.M.

PRESENT: Councillors B. McEldowney, D. J. A. Forsythe and B. Kumar

Observers: Councillor S. R. Peters and Ms. S. Royall,
Worcestershire Regulatory Services (WRS)

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

1/23

ELECTION OF CHAIRMAN FOR THE MEETING

RESOLVED that Councillor B. McEldowney be appointed Chairman of the Sub-Committee.

2/23

TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES

There were no apologies for absence.

3/23

DECLARATIONS OF INTEREST

It was noted that all Members present at the meeting declared Other Disclosable Interests in Agenda Item 4 – Application for a Street Trading Consent, in respect of a Layby on B4551, Bromsgrove Road, Romsley, Worcestershire, B62 0HH; in that they were all aware that a representation had been submitted by the Ward Member for Belbroughton and Romsley, who was a District Councillor.

All Members confirmed that no discussions had taken place with the Ward Member for Belbroughton and Romsley in respect of this application.

4/23

APPLICATION FOR A STREET TRADING CONSENT - IN RESPECT OF A LAYBY ON B4551, BROMSGROVE ROAD, ROMSLEY, WORCESTERSHIRE, B62 0HH

The Chairman welcomed everyone to the Sub-Committee meeting and brief introductions were given.

It was noted that Councillor S. R. Peters and Ms. S. Royall, Licensing Officer, Worcestershire Regulatory Services, were in attendance to observe the meeting.

The Chairman asked the applicant if he had been made aware that he could be represented by a legal representative at the applicant's 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 street trading consent to sell hot and cold food and non-alcoholic drinks from a re-purposed mobile horse trailer located at a layby on B4551, Bromsgrove Road, Romsley, Worcestershire, B62 0HH.

The Technical Officer, Worcestershire Regulatory Services (WRS) outlined the details of the application and the trading hours at the location, as detailed below: -

Monday and Wednesday – 08:00 hours to 14:00 hours.

Thursday and Friday – 08:00 hours to 16:00 hours.

Saturday and Sunday – 08:00 hours to 14:00 hours.

There had been no objections from any of the Responsible Authorities, which included Worcestershire County Council, Highways.

However, representations had been received from Romsley Parish Council, the Ward Member for Belbroughton and Romsley; and two nearby residents. Their representations were in relation to: -

- Road Safety.
- Traffic Congestion.
- Noise disturbance.
- Odours from cooking.
- Sanitation issues.
- Litter.
- Adequate provision in the vicinity.
- Impact on children's safety.
- Layby used as a bus stop for local children and support would not be given to this type of food outlet being available when they exit the bus.
- Inappropriate location in a green belt, residential area.
- Impact on property values.
- Environmental Impact.

In response to a query from the Sub-Committee, the Council's Legal Advisor stated that the role of the Technical Officer, WRS, was to ensure that a public notice was displayed at the proposed site, it was not their role to check visibility at the proposed site.

At the invitation of the Chairman, Mr. and Mrs. Coley addressed the Sub-Committee in support of the application.

Mrs. Coley informed Members that Mr. Coley had visited the proposed site twice prior to submitting his application; and that there was enough

room / space for his re-purposed horse trailer, his vehicle and two further vehicles. Space was not an issue in his opinion. They had visited the site this morning and there were vehicles parked there.

Mr. Coley confirmed that the re-purposed horse trailer would be taken away and not left overnight at the proposed site, should a Street Trading Consent be granted. Food safety and hygiene regulations would be met. With regards to waste, there would be no plastic used, cardboard would be used, in order to be environmentally friendly. The proposed site was in a rural area and he would fully respect that. He would also have a trade waste agreement and would ensure that any waste generated from his mobile unit / near to his mobile unit was collected up at the end of each day. He did not see an issue with trading at the proposed site, and if required, he would be willing to monitor things; by keeping a daily / monthly record. Everything would be in place.

In response to questions from Sub-Committee Members, Mr. and Mrs Coley clarified that customers would be served from a hatch in the re-purposed horse trailer, which was positioned on the inside (of the proposed site) so it was a safe position to serve customers. The design of the hatch provided enough space to serve and did not protrude outwards. Cars did use the layby to park, where he intended to trade from. The school coaches parked on the opposite side.

Mr. Coley referred to the aerial map, as detailed on page 15 of the main agenda report, and in doing so, highlighted to Members exactly where he intended to site the re-purposed horse trailer and his vehicle.

Mrs. Coley further responded to questions with regards to the proposed weekend trading hours; and explained that they were unsure if they would be allowed to trade during the weekend; but had included these hours on the application should they be able to trade of a weekend.

Mr. Coley stated that there were two garden centres quite close, which did not have cafes, and he was hoping to attract customers visiting those garden centres.

Mr. Coley further clarified that he had not visited the proposed trading site during peak hours (8:00am to 08:30am), to see how busy it was, as they had children to get to school during that time period.

Mrs. Coley also clarified that as stated by Mr. Coley their vehicle would be attached to the re-purposed horse trailer at the proposed site. They did not know how many cars you could actually park / get on the layby.

In response to questions from Sub-Committee Members in respect of potential customers, Mr. Coley explained that he would hope to attract commuters, who were passing by / pulling into the layby, van drivers, dog walkers and people who had visited the two nearby garden centres. When he had visited the proposed site there were not many cars parked on the layby, there was a lot of cars passing by. He did not have any

figures or facts as to how many vehicles went to the layby or parked on the layby; he really didn't know. Commercial drivers had to adhere to tachographs and take regular rest periods and park up somewhere.

In response to the concerns about litter, as raised by those who had submitted representations, Mrs. Coley reiterated that they were both strongly opposed to littering. They would have a trade waste agreement and would be more than happy to ensure that the layby was kept clean and litter free. Mrs. Coley explained that they were unsure as to how long it would take to set up the re-purposed horse trailer, as they hadn't tried setting it up yet. However, they thought it could take approximately one hour to set up, so Mr Coley would arrive at the layby at around 07:00am.

Mrs Coley emphasised that they did not want to upset any of the local residents.

In response to questions from Sub-Committee Members as to why they had chosen this layby, Mr. Coley explained that they were taking a chance, however, the site was close to where his daughter lived and was easy for him to get there, plus the two garden centres were nearby.

He had approached the garden centres with the possibility of using their car parks to trade, one had agreed, but then said no. He had always pin pointed that area, as he was aware that the two garden centres did not have a café. He had thought that the re-purposed horse trailer would fit nicely into the rural area. He had never operated such a business. He had purchased the horse trailer and had completely rebuilt it in order start such a business after being made redundant.

Mr and Mrs Coley both clarified that it would provide a take-away service only, there would be no tables and chairs on the proposed site. They had not signed up to any relevant 'Apps' used for locating food trucks, as they were unsure if their application would be granted.

Further questions and discussions followed in respect of the size and weight of vehicles that could access the road and if there were any vehicle weight restrictions; as Members were concerned about lorries or HGV's possible stopping for food and accessing the layby. Members also raised questions with regard to Mr. and Mrs. Coley accessing toilet facilities, as they would be trading for long periods, should Members be minded to approve the application.

Mr. and Mrs. Coley explained that the re-purposed horse trailer had two sinks with hot and cold water. They could look at a portable toilet or a toilet tent, but there were places close by where they could access toilet facilities.

The Technical Officer, WRS, further explained that providing / accessing toilet facilities was not a consideration as part of a Street Trading Consent application.

In response to questions from Sub-Committee Members with regards to other similar street trading facilities nearby; Members were informed that there were three other established street traders nearby. However, they had not raised any representations to Mr. Coleys' application.

At the invitation of the Chairman, in summing up, Mr. Coley said they had gone through their list and had gone through everything they had wanted to say, so had nothing more to add.

The Legal Advisor referred Sub-Committee Members to the legal implications as set out in section 5, on pages 11 and 12 of the main agenda report; and the key considerations, as detailed on page 42 of the main agenda pack. Members were reminded that no less weight should be attached to objections made by persons who had not been present at the hearing. Members had been informed that there were already three similar established street traders nearby. Worcestershire County Council, Highways had not raised any concerns with regard to road safety.

The Sub-Committee then adjourned at 11:53 hours to consider its decision. Having re-adjourned at 12:48 hours, the Chairman announced that Sub-Committee Members had decided to conduct a Site Visit and that the meeting would be reconvened at 13:30 hours.

Having reconvened at 13:52 hours, the Chairman welcomed everyone back to the meeting. It was noted that Councillor S.R. Peters and Ms. S. Royall, WRS were unable to return due to prior commitments.

RESOLVED that the application for a Street Trading Consent be refused.

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 the oral representations provided at the Hearing by Mr. and Mrs. Coley.
- The written representations received from Romsley Parish Council, the Ward Councillor and two local residents.
- The Members of the Sub-Committee conducting a Site Visit.

The Sub-Committee decided to refuse the Street Trading Consent application for the following reasons.

- Members considered the representations made at the Hearing by Mr. and Mrs. Coley and Members were of the view that they had a sensible business model and had understood the responsibilities that attached to operating a food business.

- Mr. Coley advised that the trailer and vehicle would be removed at the end of each trading day, and that he would ensure that the layby was cleared of any litter generated by the business. He also confirmed that the serving hatch was at the rear of the vehicle and therefore customers would not be stood in the path of moving vehicles.
- Mr. Coley advised that he anticipated customers would be commuters, dog walkers as there are public footpaths nearby and potentially customers from the two garden centres in the vicinity as neither had a café or refreshment facilities.
- Members considered the representations from the Parish Council and Ward Councillor. Both referenced road safety concerns and the Parish Council also referred to the layby being used for collection and drop off by local school coaches.
- Similar concerns were raised by two local residents who referred to the location as an accident hot spot, due to the layout and close proximity with Day House Bank and Bromsgrove Road.
- Members conducted a Site Visit during the course of the hearing to fully understand the road layout and positioning of the layby.
- Having visited the site Members were concerned that access to the layby was not immediately clear to road uses, and this coupled with the proximity to the junction with Day House Bank, had raised concerns around the suitability of this site for a business which would increase the number of vehicles using the layby.
- Members were also concerned that the layby was not of a size that would accommodate the number of vehicles which this business may attract, given that it was already identified that this was used by parents waiting for the school bus, dog walkers and others using the layby to park.
- Once the trailer and vehicle were in situ there would be no more than a couple of spaces for customers to park safely, specifically at peak trading times. Members were also of the view that this may result in a backlog of vehicles onto the road, which they had observed, during their Site Visit, had fast moving traffic.
- Members noted that there had not been any representations from Worcestershire County Council, Highways, but notwithstanding this, Members were of the opinion that having visited the site that there were significant road safety concerns arising from customers visiting or leaving the site; and the risk from traffic either entering the layby or from a backlog of vehicles onto the

main road, which would pose a danger to pedestrians or other road users.

- Members did not consider that there were already adequate like provisions in the vicinity, whilst there were other street traders, they either did not provide a similar service or were a distance away from the application site.
- Whilst Members considered Mr. Coley had taken care to ensure that he satisfied the regulatory requirements to operate a food business, they did not consider that this was a safe location in which to operate.
- Members did consider the option to reduce the trading hours to avoid the times when the school coaches would be collecting / dropping off pupils. However, even outside of these times, Members considered the risk to both customers and road users was still high given the road layout, the close proximity to the junction with Day House Bank, the entrance to the layby, and the risk of congestion caused by a back log of vehicles unable to access the layby.

Having considered all of the circumstances and all of the representations, Members had concluded that the Street Trading Consent application must be refused.

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

The meeting closed at 2.05 p.m.

Chairman