

# Gloucester City Council

<b>COMMITTEE</b>	<b>: LICENSING AND ENFORCEMENT</b>
<b>DATE</b>	<b>: 18<sup>TH</sup> OCTOBER 2011</b>
<b>SUBJECT</b>	<b>: STREET TRADING APPEAL – HOT FOOD UNIT CEMETERY ROAD, GLOUCESTER</b>
<b>DECISION TYPE</b>	<b>: -</b>
<b>WARD</b>	<b>: MATSON &amp; ROBINSWOOD</b>
<b>REPORT BY</b>	<b>: REGENERATION GROUP MANAGER – SERVICES, FACILITIES AND SUPPORT</b>
<b>NO. OF APPENDICES</b>	<b>: A– APPLICATION AND PHOTOGRAPHS B – STREET TRADING CRITERIA</b>
<b>REFERENCE NO.</b>	<b>: PT181011A</b>

## **1.0 PURPOSE OF REPORT**

- 1.1 To consider an appeal from Mr McCormick regarding refusal of street trading consent against agreed criteria.

## **2.0 RECOMMENDATIONS**

- 2.1 Members are recommended to resolve:-

A. To dismiss the appeal STAPP31 (Mr.McCormick) and uphold the reasons for refusal of street trading consent namely:

- 1) It is considered that the siting of the unit in a residential area will increase problems with noise, smell, litter and an increase in traffic.
- 2) The proposed offer is not compatible with the character of the area in which it is proposed to be situated and neither enhances the area or adds vitality.

## **3.0 BACKGROUND**

- 3.1 The Council adopted a new policy and process for Street Trading Applications in April 2009. A key driver to the policy change was the recognition that, if properly co-ordinated and controlled, street activity can provide significant benefits in terms of colour, vitality and life to the streets.
- 3.2 The new policy introduced two new areas, that of an agreed Street Trading Criteria (Appendix B) and a consultation programme.
- 3.3 The policy has been in place for 2 years and in that time there have been significant improvements to the street trading activity both in the city centre and in the surrounding area.

#### **4.0 STREET TRADING APPEAL- STAPP31 (MR McCORMICK)**

- 4.1 A street trading application was received on 12<sup>th</sup> August 2011 for a hot food unit in Cemetery Road, operational Monday to Thursday between 7am until 12 pm Fridays 7am until 2 am and Saturdays between 12 noon and 2 am (Appendix A)
- 4.2 Julie Wells (Group Manager – Regeneration) contacted Mr McCormick to advise that a previous application in this location had been refused due to the number of objections from local residents regarding noise, litter, traffic and concerns about anti- social behaviour.
- 4.3 Mr McCormick acknowledged those concerns and requested that his application be amended to allow operation between the hours of 7am until 1pm from Monday to Saturday.
- 4.4 Consultation was carried out as outlined in the policy with the following:

Gloucestershire Constabulary  
Gloucestershire Fire and Rescue  
Gloucestershire County Highways  
Cabinet Member  
Ward Councillors  
Cemetery Road Residents.

- 4.5 Five objections were received to the application, details of which are as follow:

Resident A – A catering unit is not appropriate in proximity to the cemetery. An express shop is already available at the garage opposite. A catering unit already operates in the lay by opposite Homebase. Traffic and parking difficulties already exist in Cemetery Road. A catering unit may worsen the position.

Resident B – We feel that having a breakfast/lunch van will add to the congestion on Cemetery Road and that road is not wide enough to support a parked van. This application will encourage lorries to park up too! For these reasons we would decline this application.

Resident C – I would like to register my strong objections against this mobile food vendor being place in the above mentioned road.

As before, the road is currently a dumping ground for rubbish with people parking up to eat takeaways which are then dumped out of the windows along with other bags of rubbish that people throw out of the windows as they drive by. This has caused rats and mice to be seen frequently in the area which is unsanitary. With a mobile food takeaway unit placed in the area I fear this will increase tenfold. There is also the issue of smell that will come from ‘said’ van which I don’t think as residents we should have to put up with.

I also do not think there will be much need for such a ‘business’ here as we already have a McDonalds/Tesco nearby that sell breakfasts. There is another issue with the road getting more traffic which is definitely not needed as it is a ‘rat run’ already

with people speeding along the 20mph zone as a cut through, it can be extremely dangerous during school times as it is. Plus the added factor that the van is an eyesore.

I would urge you to send a member of the planning department down to Cemetery Road to see the rubbish that is already covering the area and ask you to reject this proposal.

Resident D – please can I register my strongest possible opposition to this application for the reasons below:

There is already a similar mobile catering unit less than half a mile away on the A38 Eastern Avenue on the industrial estate and is situated next to Screwfix, a more appropriate place for a mobile unit of this type I believe. Most footfall due to tradesmen using these units early in the morning.

The application is in the middle of a residential area and is surrounded by and overlooked by houses. Thus it will be an eyesore and could result in more traffic in a small area that is not built to cope with it. We already have an issue with parking in this street, sometimes not being able to park outside your own property, which causes frustration and from a personal point of view I believe that having this unit in Cemetery Road will only add to this, increased traffic and increased vehicles trying to park. Cemetery Road is too small and too narrow.

I do not think that a unit of this type is acceptable in a residential area and will impact adversely on the residents quality of life.

Unfortunately, as we do see in other areas, a unit of this type will automatically attract groups to hang around the area, potentially resulting in disorder and certainly an amount of rubbish. Why should local residents, most of whom are elderly, have to endure this, when we already have an issue with people seemingly thinking it ok to dump rubbish near the wall next to the car wash?

Personally I find the idea of a mobile catering unit adjacent to a cemetery as incredibly distasteful and disrespectful to the cemetery itself and also the cause of distress to visitors to the cemetery. Paying respect to ones loved ones should not be done surrounded by both rubbish and the smell of fast food.

Resident E – I object on the following grounds.

We already suffer from people using Cemetery Road as a rat run bypassing the roundabout. I am sick to the back teeth of having my car damaged and the associated costs. This damage happens late at night either by yobs for drunken people. I do not want more people transiting this road which I am positive would result in even more damage.

Idiot car drivers speed down this road, they do not obey the limits and because of this it is noisy. Put a burger van in the road and there will be more cars coming down the road, hence more noise.

I am also sick of constantly picking up litter, even though there is a litter picker. People will come to this road and dump rubbish near the wall and in the Summer youths gather in the corner of the cemetery and dump beer cans and other rubbish.

The bottom line is that the van will result in more rubbish and cars in the road. I do not want it here, sorry to be a NIMBY but my concerns are justified, you don't have to live here, I do.

Gloucestershire Constabulary commented:- There may be issues with parking if the van is positioned at the residential end of Cemetery Road, however if the van is situated at the end of the road closest to the Cemetery itself, we do not foresee any traffic related issues.

Paul James commented: - that the unit would have to be sited sensitively in relation to the Cemetery.

Councillor Smith had no objections.

No other responses were received.

4.6 I considered the proposal against the agreed criteria and resulting consultation. The application was refused for the following reasons:

- 1) It is considered that the siting of the unit in a residential area will increase problems with noise, smell, litter and an increase in traffic.
- 2) The proposed offer is not compatible with the character of the area in which it is proposed to be situated and neither enhances the area or adds vitality.

4.7 Mr McCormick was informed of this decision on 16<sup>th</sup> September 2011.

## **5.0 APPEAL DETAILS**

5.1 The following appeal was received by email on 20<sup>th</sup> September 2011

Firstly I would like to thank you very much for all your help and assistance throughout this process.

As you will already know, the side road with which I wish to place my unit is already an official Highways designated parking area for workers from all trades and backgrounds to safely take a driving break. This established parking area is often used as it is a vital link road with safe access to enter and exit.

Please allow me to address the reasons for refusal.

Reason 1 – Noise, Smell, Litter and an increase in traffic.

The equipment to run the trailer would be what is called 'a silent running generator' and they are incredibly quiet, even stood next to one, the narrow boat users are asked to use them so as not to cause nuisance to neighbouring moored vessels.

Litter, 99% of my customers would be commuters and not pedestrian. I would stress to my customers if eating outside while stretching their legs to use the closed lid waste bin provided.

Smell, freshly prepared food rarely produces a smell. One only possible cause can simply be onion and this would not be sold. My aim is to produce a high quality service offering fresh food and beverage.

Compatibility, the Council has already designated the area a resting/parking area prior to my application. I would be very happy to meet with the council and residents to discuss the smallest possible catering unit considered safe to work in and colour.

I would be, at my best guess, at least 70 metres from the first house in that terrace if not more, I would ask my customers to exit Cemetery Road via Eastern Avenue and not past the homes, which as a driver entering back on Eastern Avenue is far easier.

The hours I wish to operate are 7.30 to 13.30 interfere with nobody's quality of life, for the residents of Cemetery Road, I took a walk along the terrace and I would not be seen, heard and certainly not smelt.

Less than 10 metres from all of the residents in that bottom terrace, permission has been granted to operate a hand car wash, this will I assume be open for approximately 12 hours per day operating multiple vacuum cleaners (industrial) and jet washers (industrial). For those of you in the committee that have used these type of facilities you will agree are extremely noisy sites.

One of your criteria states that the trader shall provide a service which is of benefit to the public and brings new products to the area. I propose a unit with agreed colouring, i.e. cream or other chosen scheme, a size to be in keeping and freshly prepared food and beverage in an area that would benefit the people who stop there for a short period to rest and refill themselves with food and beverage.

Ladies and Gentlemen of the committee, I am prepared to fund the purchase of a unit that satisfies all concerns, please allow me the opportunity to provide a valuable service at no detrimental cost to anyone.

Throughout Gloucester City and its suburbs there are many many sandwich shops issued licences, situated on roads providing no safe parking whatsoever and with residential properties completely surrounding the property and above. I do not have the skills to word and submit the application they are obviously successfully putting to yourselves, however I am offering the same professional service in an area impacting on no-one, serving those in need and the with care and consideration of its distant residents.

Please allow me this license application and the opportunity to interact and communicate with those concerned residents to find a unit and menu that pleases.

Thank you all for your time.

## **6. APPEAL RESPONSE**

6.1 Confirmation has been sought regarding the statement that the area in question is a designated lay by. Glenn Dooley, Highways Area Programme Manager at Gloucestershire County Council commented:-

‘The access road is not signed in any way as a rest area and looking at the access in and out it hasn’t really been designed for large turning movements. I would therefore reply that this is not a designated rest area and we would not want to sign it as such.’

6.2 Assuming therefore that this is an unofficial rest area that does not mean that it needs a food unit placed there to service it. There are several other units in close proximity where food and drinks can be purchased.

6.3 Whilst I appreciate Mr McCormick’s desire to start a business and his willingness to engage with the residents regarding the unit and menu, I do not believe this outweighs the very genuine concerns raised by the Residents.

6.4 There are a significant number of objections to the application from people who actually live in the area and who already have to deal with noise, traffic and litter. Whilst I note Mr McCormick will make every possible effort to keep any further disruption to a minimum it has to be recognised that there is still likely to be an impact due to the unit trading at this point.

The committee is recommended to dismiss the appeal and uphold the reasons for refusal.

## **7.0 FINANCIAL IMPLICATIONS**

None.

## **8. LEGAL IMPLICATIONS**

8.1 Street trading is regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

8.2 The criteria that has been imposed by the Council to determine Applications, needs to comply with both the Act and the EU Services Directive

**Background Papers** :

**Published Papers** :

**Person to Contact** : Julie Wells  
Tel: 396363  
E-mail: [Juliew@gloucester.gov.uk](mailto:Juliew@gloucester.gov.uk)