

**GLOUCESTER CITY COUNCIL**

**COMMITTEE** : **PLANNING**

**DATE** : **4<sup>TH</sup> AUGUST 2015**

**ADDRESS/LOCATION** : **LAYBY TOP OF, INNSWORTH LANE,  
GLOUCESTER**

**APPLICATION NO. & WARD** : **15/00367/COU  
LONGLEVENS**

**EXPIRY DATE** : **16<sup>TH</sup> JUNE 2015**

**APPLICANT** : **MR O ASIANTEPE**

**PROPOSAL** : **STATIONING OF HOT FOOD VENDING VAN.**

**REPORT BY** : **BOB RISTIC**

**NO. OF APPENDICES/  
OBJECTIONS** : **SITE LOCATION PLAN  
APPEAL DECISION FOR METZ WAY**

**1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The application site is located within a lay-by on the eastern side of Innsworth Lane, approximately 130 metres to the south of the bridge over the A40 'northern bypass'.
- 1.2 The lay-by presently provides access and informal parking for approximately 6 vehicles and serves an area of allotments and the Innsworth Lane sports ground.
- 1.3 This application seeks planning permission for the stationing of a hot food vending van within the lay-by car park, adjacent to the western boundary to the allotment gardens and to the south of the playing field.
- 1.4 The proposed hours of operation are 16:00 to 22:30 Monday to Sundays including Bank Holidays.
- 1.5 The trailer is currently operating from the site and while it benefits from a street trading licence it is operating without planning consent and this application is therefore retrospective.
- 1.6 The van has most recently been trading from the northern most parking space, and the submitted drawings have been revised since receipt to reflect this.
- 1.7 The application has been brought before the planning committee as it proposes a hot food takeaway use and objections have been received.

## **2.0 RELEVANT PLANNING HISTORY**

2.1 None

## **3.0 PLANNING POLICIES**

3.1 The statutory development plan for Gloucester remains the 1983 City of Gloucester Local Plan. Regard is also had to the policies contained within the 2002 Revised Deposit Draft Local Plan which was subject to two comprehensive periods of public consultation and adopted by the Council for development control purposes. The National Planning Policy Framework has been published and is also a material consideration.

3.2 For the purposes of making decisions, the National Planning Policy Framework sets out that policies in a Local Plan should not be considered out of date where they were adopted prior to the publication of the National Planning Policy Framework. In these circumstances due weight should be given to relevant policies in existing plans according to their degree of consistency with the National Planning Policy Framework.

3.3 The policies within the 1983 and the 2002 Local Plan remain therefore a material consideration where they are consistent with the National Planning Policy Framework.

3.4 From the Second Stage Deposit Plan the following policies are relevant:

### **3.4.1 BE.21 - Safeguarding of Amenity**

*Planning permission will not be granted for any new building, extension or change of use that would unreasonably affect the amenity of existing residents or adjoining occupiers.*

### **3.4.2 FRP.11 – Pollution**

*Development that may be liable to cause pollution of water, air or soil, or pollution through noise, dust, vibration, light, heat or radiation will only be permitted if the quality and enjoyment of the environment would not be unduly damaged or put at risk.*

*Particular attention will be given to development of potentially polluting uses in close proximity to sensitive uses such as schools, hospitals, housing or offices.*

*Development of sensitive uses such as schools, hospitals, houses and offices will not be permitted where they would be adversely affected by existing polluting uses.*

### **3.4.3 TR.31 – Road Safety**

*Planning permission will be granted for development that deals satisfactorily with road safety issues.*

#### 3.4.4 ST.8 - Creating Attractive Routes to the Centre

*New development alongside main routes to the centre will be expected to be of a high quality to make the routes more attractive to residents and visitors. This will include well-designed buildings and spaces and, where appropriate, landscaping of the route in the vicinity of the development. The appropriate redevelopment of existing poor quality development alongside these routes will be encouraged.*

- 3.5 In terms of the emerging Local Plan, the Council has prepared a Joint Core Strategy with Cheltenham and Tewkesbury Councils which was submitted to the Planning Inspectorate on 20th November 2014. Policies in the Submission Joint Core Strategy have been prepared in the context of the NPPF and are a material consideration. The weight to be attached to them is limited by the fact that the Plan has not yet been the subject of independent scrutiny and do not have development plan status. In addition to the Joint Core Strategy, the Council is preparing its Local City Plan which is taking forward the policy framework contained within the City Council's Local Development Framework Documents which reached Preferred Options stage in 2006.

On adoption, the Joint Core Strategy and City Plan will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework

#### **4.0 CONSULTATIONS**

- 4.1 Environmental Protection Officer – Raises no objections subject to conditions.

- 4.2 Gloucestershire County Highways Officer – Raises no objection.

#### **5.0 PUBLICITY AND REPRESENTATIONS**

- 5.1 The occupiers of six neighbouring properties were notified of the application by letter and a site notice was also posted.

- 5.2 As a result of the consultation, 8 public representations have been received, (comprising 7 objections and 1 in support). The comments raised are summarised below:

Objections:

- More than enough take-away venues in area
- Current location is impeding access to allotments
- Area is busy in summer months with families
- Already a national obesity problem
- Would add difficulty to users of sports pitch
- Lay-by is not a prime location as it is not visible from road
- Difficult already to sell houses
- Not a pleasant thing to look out on
- Obstruction in lay-by
- Parking available will become inadequate when sports pitch opens
- Would prevent emergency access to pumping station
- Smell of cooking and rancid fat
- Not complimentary to ambiance of the area, close to houses and a right of way
- Contrary to policy
- Not designated for commercial use in local plan
- Licensing committee influenced by use of van as deterrent to ASB
- Recent allotment AGM voted 35 against the van and 0 in favour.
- Problems with customers parking in front of allotment gates
- Usually several cars already parked in spaces, which are not always available
- Some women allotment holders no longer feel safe.
- Often gangs of rowdy youths at entrance
- Since the van arrived, the bus stop & phone box have been vandalised
- Fence vandalised and debris thrown into nearby properties
- Busy junction with Brionne Way, bus stop and fast traffic from Innsworth
- Customers have stereos blaring and is not needed in quiet residential area
- Many residents bought properties because there are no such facilities
- Residents feel more vulnerable with 'strangers' around
- No consultation before van arrived
- Increase in noise and shouting
- Increased litter and possible impact on drains and vermin
- Initial licence refused but overturned on appeal

Support:

- Number of youths congregating and ASB have reduced since van has been present
- Never had any issues with parking
- Carpark is normally empty in evenings when visiting allotment
- Van and staff offer security for allotments
- Not noticed additional noise to allotments
- Site is cleaned and no increase in rubbish

5.3 A letter in support of the application has been received from Ward Cllr Kathy Williams. The comments raised are summarised below:

- Supported the licensing application
- Site was previously used for fly tipping and drug dealing
- The food van has been monitored by neighbourhood police without reported incidents
- No ASB incidents whilst van has been operating
- Supported renewal of temporary licence as van had stopped ASB
- Customers happy to have this facility in the area
- Petition with over 450 signatures was raised for the licensing hearing
- Concerns with van taking up one of the parking spaces adjoining sports field
- Once the field is brought into use, people would have to park in surroundings streets anyway.
- Some allotment holders use van as it provides healthy choices and cold drinks
- Applicant has highest grade food hygiene
- Van is only on site during operating hours
- Request that Planning Committee grant permission

5.4 The applicant has also requested that the petition submitted as part of his licensing application is considered in support of this planning application.

5.5 The petition in support of the van staying at its present location has 459 signatures.

5.6 The full content of all correspondence on this application can be inspected on the city council website or via the link below:

<http://planningdocs.gloucester.gov.uk/default.aspx?custref=15/00367/COU>

## **6.0 OFFICER OPINION**

6.1 The application seeks planning permission for the use of part of the lay-by and car park at Innsworth Lane for the stationing of a hot food vending van. While it is regrettable that the van has been operating for a period of time without the benefit of planning permission, this application is nevertheless being determined upon its own merits.

6.2 The main issues with regards to the determination of this application are set out below:

### **6.3 Visual and Residential Amenity:**

The application site is located within an existing public car park area which serves an allotment area and a sports pitch (which is still to be brought into formal use).

The car park itself is set away from Innsworth Lane in a lay-by to the eastern side of the road and is set lower than the adjoining street which rises towards the crest of the bridge over the A40. The lay-by is also screened in part by

trees and shrubs set within the verge at the back edge of the pavement to Innsworth Lane.

Considering the existing carpark use and the possibility for various vehicles to park there throughout the day and night, the stationing of the proposed van would not in itself be out of keeping with the prevailing character of the car park use. Similarly the existing screening and subdued location of the lay-by would ensure that there would be no significantly harm to the appearance of the wider area.

I consider it reasonable to require a condition that the van is removed from the site each day so that the parking space is made available to other members of the public at times when the hot food outlet is not operating.

The car park area is set over 50 metres from the nearest dwelling house at no.124 Innsworth Lane.

The proposed operating hours of the van are relatively restrained, with a closing time of 10.30pm. Considering the location of the lay-by, next to a main road and the separation from nearby dwelling houses and residential streets, the proposed use would not result in demonstrable harm from cooking smells or general comings and goings, over and above general activity in the area adjacent to a busy highway.

At the time of writing there have been no registered complaints with the Environmental Health or Licensing departments in relation to the operation of this hot food van.

In the unlikely event of any anti-social behaviour being directly associated with the proposed van or its patrons, this is best controlled by powers afforded to the city licensing officers and the police.

#### 6.4 Highway safety:

The hot food trailer would be sited within an existing car park, located off the main Innsworth Lane and accessed via a slip road.

The highway implications of the application have been assessed by the County Council Highways officer who has advised that the access arrangements are acceptable and that there is sufficient visibility from the lay-by junction onto Innsworth Lane to ensure continued safe and suitable access for all.

The traffic implications have been assessed against the TRICS database and the applicant has also submitted a customer access survey. The highways officer has confirmed that the survey data and the TRICS analysis have both indicated that there will be a small number of vehicles visiting the site per hour and that there is sufficient room to accommodate these vehicles. Accordingly, the number of vehicles would not be significantly high in number and will not

cause any obstruction to the highway particularly as the parking behaviour would be short in duration due to the nature of the takeaway use.

It is noted from visiting the site that there is a large area of hardstand adjacent to the sports pitch which although gated would presumably be made available to players when games take place. Any occasional overspill parking can also be accommodated in the surrounding streets and the loss of one parking space during evening hours is unlikely to result in demonstrable harm to highways safety.

Paragraph 32 of the NPPF states '*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'. The cumulative impact of the occupation of one parking space by the van as well as the associated trip generation of the use is not considered to be severe.

## 6.5 Other Matters

Although this application is being determined on its own merits, I am mindful of the Planning Inspectors findings in allowing an appeal for a hot food trailer at Coney Hill Rugby Club at Metz Way for the same applicant. The decision letter is attached to this report.

Concerns have been raised with regards to property values and saleability of dwellings. It should be noted that this assertion is not a material planning matter which can be considered in the determination of this application.

Similarly, comments have been raised with regards to the proximity of other hot food uses in the wider area. It should be noted that in terms of planning policy, there is no requirement to demonstrate a need for the proposed hot food vending van.

While concerns relating to anti social behaviour and vandalism have been reported, there is no evidence that this ASB is directly related to the hot food van. Furthermore, it is understood that the area has suffered ASB prior to the first operation of the hot food van. The presence of the van has potential to improve security in the area the operators presence will provide surveillance in the area and may in fact serve to deter crime.

Concerns regarding pollution and litter can be controlled by a condition requiring the applicant to provide a bin for customers and a waste management plan.

## 6.0 CONCLUSION/REASON FOR APPROVAL

- 6.1 The siting and operating hours of the hot food vending van have been carefully considered. It is concluded that on balance and subject to compliance with conditions, the proposed use would not result in demonstrable harm to the residential amenities currently enjoyed by the occupiers of nearby properties, the visual amenities of the wider area or

highway safety. For these reasons the proposal is considered to be in accordance with policies BE.21, ST.8, TR.31 and FRP.11 of the Gloucester City Council Second Deposit Local Plan 2002.

## **7.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER**

7.1 That planning permission is granted subject to the following conditions:

### **Condition 1**

The use hereby permitted shall be carried out in accordance with the approved details, received by the local planning authority on 18<sup>th</sup> March 2015 and amended drawings received on 24<sup>th</sup> July 2015 as well as any other conditions attached to this permission.

### **Reason**

To ensure that the use is carried out in accordance with the approved plans and in accordance with policies contained within Second Deposit City of Gloucester Local Plan (2002).

### **Condition 2**

The use hereby permitted shall only be open to customers between the hours of 16.00 and 22.30 Monday to Sundays.

### **Reason**

To define the terms of this permission and to safeguard the amenities of the locality in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

### **Condition 3**

Within 21 days of the date of this decision, a waste management plan, including waste oil, shall be submitted to and approved in writing by the local planning authority. The hot food vending van shall operate strictly in accordance with the approved details for the duration of the use.

### **Reason**

To protect the amenities of the occupiers of neighbouring properties and in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

### **Condition 4**

Litter bins shall be provided at the site at all times that the van is stationed and open for business. The litter accumulated and waste bins provided shall be removed from the site every day.

### **Reason**

To protect the amenities of the occupiers of neighbouring properties and in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

### **Condition 5**



The hot food van hereby permitted shall be removed from the site following each day of trading.

**Reason**

In the interest of the amenities of the area and to make parking spaces available for other users in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

**Statement of Positive and Proactive Engagement**

In accordance with the requirements of the National Planning Policy Framework (2012), the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

Decision: .....

Notes: .....

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Person to contact: Bob Ristic (Tel: 01452 396822)

15/00367/COU

Layby Top Of  
Innsworth Lane  
Gloucester  
GL2 0DF

Planning Committee 04.08.2015



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## Appeal Decision

Site visit made on 6 May 2014

**by Veronica Bond LLB (Hons), Solicitor**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 June 2014**

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**Appeal Ref: APP/U1620/A/14/2214531**

**Coney Hill RFC LTD, The Club House, Metz Way, Gloucester GL4 4RT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr O Asiantepe against the decision of Gloucester City Council.
  - The application Ref 13/01227/FUL, dated 22 November 2013, was refused by notice dated 19 February 2014.
  - The development proposed is change of use of parking space for siting of hot food vending van.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of parking space for siting of hot food vending van at Coney Hill RFC LTD, The Club House, Metz Way, Gloucester GL4 4RT in accordance with the terms of the application, Ref 13/01227/FUL, dated 22 November 2013, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 1241.1 entitled 'Trailer Plan', scaled 1:50; Block Plan, scaled 1:500; Location Plan, scaled 1:1250.
  - 3) The use hereby permitted shall not be open to customers outside the following times: 0700 to 2300 Monday to Friday, and 0800 to 2300 on Saturdays, Sundays and Bank Holidays.
  - 4) The development hereby permitted shall not commence until an external litter bin has been provided on site. The external litter bin shall be available for customer use at all times during the operation of the hot food vending van and the litter and external litter bin shall be removed from the site no later than 2330 hours each day.
  - 5) Prior to the commencement of the development, a waste management plan relating to waste oil, shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented to a schedule approved in writing by the local planning authority and shall be adhered to thereafter for the duration of the use approved.

### Procedural Matters

2. I noted from my site visit that there was a hot food vending van stationed in Coney Hill Rugby Football Club's car park. This was not though stationed in the

same location as shown on the application plans and, for the avoidance of doubt, I have determined the appeal upon the basis of those plans.

3. The Government's Planning Practice Guidance (the Guidance) was published after the appeal was made. The content of the Guidance has been considered but in the light of the facts in this case does not alter my conclusions.

### **Main Issue**

4. The main issue is the effect on the character and appearance of the area.

### **Reasons**

5. The appeal site is located within car park of Coney Hill RFC sitting on Metz Way, which is a fairly busy road leading towards the city centre. Metz Way is, in the vicinity of the appeal site, lined with reasonably mature trees and both residential properties and commercial premises are in relatively close proximity, with rugby pitches, recreational ground and the nearby college buildings forming the backdrop to the appeal site, with the Rugby clubhouse on the opposite side of the car park.
6. Views of the appeal site are limited by the trees and bushes framing the entrance to the Rugby Club's car park. This screening, together with the lower ground level of the car park as compared to the road and the distance from the highway means that the proposed hot food vending van would not be prominent in passing views from this road. The relatively modest scale and commonplace design of the van proposed would not draw the eye within the car park setting, relatively close to the club house and against the backdrop of sports pitches and the large college buildings in the distance.
7. As such, I therefore conclude that the proposed development would not harm the character and appearance of the area. It would comply with the underlying aims of Policy ST.8 of the Gloucester Local Plan - Second Stage Deposit Local Plan 2002, which include, amongst other things, the aim to ensure that the main routes to the city centre are attractive to residents and visitors.

### **Other matters**

8. I have taken into account the representations from residents including in relation to vandalism, rat infestation and litter. In the absence of any substantive evidence to suggest that the proposed use would result in vandalism and/or rat infestation, and given that litter arrangements can be controlled by condition, I have accorded these aspects only limited weight. As there is no requirement to demonstrate a need for the proposed hot food vending van, the presence of other hot food outlets in relatively close proximity has not altered my views in relation to the proposed development.
9. Comments have also been made in relation to the presence of an A-board and that the hot food vending van currently in place takes up two parking spaces. These issues are not matters for me in determining this appeal and, as stated above, I am considering the appeal based upon the application plans, rather than the hot food vending van as currently stationed. The issue of neighbour notification has been raised but in the absence of any substantiation of this concern and as the Council has indicated that this was properly undertaken, this has not impacted upon my determination of the appeal. Concerns have

also been raised as to the impact upon parking availability on match days and the loss of one parking space does weigh very slightly against the proposal.

### **Conclusion**

10. Although some factors have been identified which weigh modestly against the proposal, these are not, even collectively, enough for me to find any material harm. For the above reasons, and taking into consideration all other matters raised, I conclude that the appeal should be allowed. I have attached the standard time limit condition and also have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have not required compliance with other application details as I consider this superfluous.
11. I have attached conditions controlling the operating hours of the hot food vending van and litter arrangements in the interests of protecting the living conditions of nearby residents. I have also attached a condition relating to waste oil for similar reasons and so as to ensure that proper arrangements are made for this. I have not though required a condition relating to noise control in the absence of evidence to indicate that noise would be an issue for residents, given the distances involved and the fact that operating hours are controlled by condition.

*Veronica Bond*  
INSPECTOR