



LICENSING SUB-COMMITTEE

MEETING : Wednesday, 19th October 2016

PRESENT : Cllrs. Lugg, Pullen and Pearsall

Officers

Lisa Jones, Food, Licensing and Markets Manager
Vikki Fennell, Solicitor from One Legal
Rebecca Tuck, Licensing Enforcement Officer
Tony Wisdom, Democratic Services Officer

Also in Attendance

Yunus Caparlar, Applicant
Sahin Tuncel, representing Applicant
Ian Robertson, Hadwen Medical Practice
Andrew Tickner, Abbeydale Community Association

APOLOGIES : None.

1. ELECTION OF CHAIR

Councillor Lugg was appointed Chair for the meeting.

2. INTRODUCTIONS AND PROCEDURES

Those present introduced themselves and the Chair outlined the procedure to be followed for the meeting.

3. DECLARATIONS OF INTEREST

No declarations were made on this occasion.

4. APPEAL BY MR YUNUS CAPARLAR AGAINST THE DECISION TO REFUSE A STREET TRADING CONSENT FOR GLEVUM WAY, ABBEYDALE, GLOUCESTER

Licensing Officer's Report

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The Licensing and Enforcement Officer presented the report which invited the Sub-Committee to consider an appeal by Mr Yunus Caparlar against the Officers' decision to refuse an application for a Street Trading Consent for Glevum Way, Abbeydale, Gloucester.

She reported that on 11 August 2016 Mr Caparlar made an application for a Street Trading Consent for Glevum Way.

During the consultation period four representations were received in opposition to the application and were attached in Appendix 3 to the report.

The representations were considered in relation to the criteria for determining street trading applications and the application was refused by Officers for the reasons detailed in paragraph 6.1 of the report.

Mr Caparlar submitted a letter of appeal on 28 September 2016 containing the reasons that he believed the consent should have been granted.

A further representation had been received from Councillor Gravells, Ward Member for Abbeydale and was contained in Appendix 3 to the report.

In addition, a further representation from Councillor Gravells was circulated at the meeting.

In conclusion, she noted that Mr Caparlar did not have planning permission to operate in this location although the lack of such permission in itself was not a reasonable ground to refuse Street Trading Consent.

There were no questions of the Officer.

Objectors' Representations

Ian Robertson, Management Partner, Hadwen Medical Practice

Mr Robertson, on behalf of Hadwen Medical Practice, reiterated his previously submitted representation. He objected to the proposed location for the kebab van.

An objection had been submitted to the previous van but had not been supported by evidence. The Practice now had evidence of litter and anti-social behaviour including people going around the back of the surgery causing damage.

The Practice was endeavouring to promote healthy eating which the proximity of a kebab van would do nothing to help.

He stated that there was heavy traffic on Glevum Way and displayed photographs of a typical Monday lunchtime. Glevum Way was a very narrow street used by a large number of articulated vehicles delivering to the Morrison's store.

There were serious parking issues at the Practice which was planning to expand but that would not happen for eighteen months.

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He believed that there was a risk of a serious accident and the proposed site on a busy street opposite a medical practice was not an appropriate location.

Mr Tuncel, for the Applicant stated that the hours requested were 4.00pm until 11.00pm and noted that the applicant was not in control of parking. He was aware of the objections to the van sited in the Ridge and Furrow car park.

The Chair asked about surgery opening hours and was advised that the surgery was open until 8.15 pm on Tuesdays and Wednesdays and the Veterinary surgery was open until 7.00 pm every evening.

Andrew Tickner, Chairman Abbeydale Community Association Board of Trustees.

Mr Tickner supported Mr Robertson's representation. There were congestion and parking issues, including longer term parking by people selling cars in the vicinity.

He noted that Glevum Way was not a through route but was regularly used by wheelchair users from Wheatridge Court and there were two dropped kerb zones.

He stated that the congestion presented risks for pedestrians and would hinder access for Morrison's deliveries. There had been huge problems with discarded food and litter from the previous van.

He believed that the van was not intended to capture passing trade but would attract customers coming to the vicinity to patronise the van. They would use the Community Centre seating and parking areas and there were no toilets or hand washing facilities available for staff or patrons.

In summary, he objected on grounds of access, location and litter.

Mr Tuncel had no questions.

Councillor Pullen asked if the litter was solely due to the previous van. Mr Robertson confirmed that the source of the majority of the litter could be identified as originating from the van. He noted that there had been a condition that litter should be cleared but that had not happened. Since the van had left there had no longer been a need for the Practice to clear litter every morning.

Councillor Pullen asked about the people going around the back of the surgery and was advised that it would happen if the van was not there but would increase greatly when the van was present.

The Chair was advised that the Community Centre was open from 9.00am until 10 or 11.00pm and van customers could present problems for staff attempting to close the premises. She was advised that dog walkers tended to use the Community Centre car park in the morning and early evening as the car park was often full in the evenings due to the large range of activities taking place in the Centre.

The Applicant's Case

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Mr Tuncel stated that the previous van had been located in the Ridge and Furrow car park and had not caused congestion. The public house toilets had been used by the patrons of the van.

Mr Tuncel stated that his van would be removed at 11.00pm every night taking any litter with them.

He stated that the applicant had a Kebab shop with no problems of noise or litter and its own facilities.

He believed that there was plenty of room for vehicles to access the surgery and veterinary practice and there would be no congestion issues between the hours of 4.00pm and 11.00pm. Furthermore it was not a residential area.

Councillor Pullen asked why the mobile outlet was required if the applicant already had premises. Mr Tuncel advised that a street trading consent had been issued previously for the same location which had not been used but the applicant did not want anyone else to receive a consent for that location.

Councillor Pullen asked if the applicant had purchased a vehicle he did not intend to use. Mr Tuncel stated that there was no intention to use the vehicle at the moment. When asked Mr Tuncel confirmed that the van would not be used elsewhere.

The Licensing and Enforcement Officer confirmed that a Street Trading Consent had been issued for Glevum Way but it had been surrendered a few months previously.

Mr Robertson stated that the Practice would have objected had they been made aware of the application.

Mr Tickner asked what would happen if he parked a vehicle on the proposed van location before 4.00pm. Mr Tuncel believed that the Council would provide appropriate road markings for the site.

Councillor Pullen was advised that the van previously located in the Ridge and Furrow car park ceased trading when the public house closed and that the publican had been the applicant. The car park was currently closed off and Mr Caparlar stated that he believed that the Ridge and Furrow would be reopening soon.

Licensing Officer's Summing Up

The Licensing and Enforcement Officer drew the Sub-Committee's attention to the options available to them detailed at paragraph 2.1 of the report and she noted that there was no further appeal to the Sub-Committee decision.

Summing Up on behalf of the Applicant

Mr Tuncel stated that the Applicant would do his best to control the customers. He reminded Members that a Street Trading Consent had previously been issued for

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the same location and questioned why the Applicant could not be granted the consent.

Decision

Members of the Sub-Committee and the Solicitor retired to consider their decision. Upon their return the chair read the following statement:-

The Sub-Committee has considered very carefully the appeal by Mr Yunis Caparlar against the decision to refuse a Street Trading Consent for Glevum Way, Gloucester. It has given due regard to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and the City Council's adopted Criteria for Determining Street Trading Consent Applications in the City of Gloucester.

The Sub-Committee has considered representations both written and given orally today.

On this basis, the application is refused for the following reasons:-

1. The siting and operation of any trader shall be such that it does not cause any problems of highway safety or obstruction to users of the highway. The application fails to meet this criterion.
2. Issues have been raised that it is likely to cause problems such as an increase in noise, smells, litter and late night disturbance; and
3. Issues have been raised that the range of food offered for sale would not promote the positive health impacts that may be taken into consideration in line with Gloucester City Council's Interim Planning Policy for Mobile Catering Units.

Time of commencement: 6.15 pm

Time of conclusion: 7.00 pm

Chair