

LICENSING SUB-COMMITTEE - STREET TRADING

23rd November 2021

Present: **Councillor Lucy Hodgson in the Chair**

 Councillors Ditta, Mrs L. Hodgson and Mitchell

Officers: **Vanessa – Solicitor**
 Brown

 Graham - Technical Officer
 Rowberry (Licensing)

 Lucy Robson- – Democratic Services
 Cropper

1 Election of Chair

RESOLVED: That Councillor Lucy Hodgson be appointed Chair.

COUNCILLOR LUCY HODGSON IN THE CHAIR.

2 Declarations of Interest

None.

3 APPLICATION FOR A GRANT OF A STATIC STREET TRADING LICENCE

The Sub-Committee considered an application for a Street Trading Licence, made by Mr Arion Zouliatis on behalf of 'The Sweet Greeks', to trade from a location adjacent to St Swithuns Church, The Shambles, Worcester.

At the start of the hearing, the Chair made the following statement:
"Presentations to this Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee."

All parties at the hearing introduced themselves. Mr Zouliatis had chosen not to have any legal representation, but was instead accompanied by his business partner and his business advisor. Mr Zouliatis stated that he was satisfied with the proposed procedure.

The Legal Services representative summarised the matter for consideration. The matter had been referred to the Sub-Committee for determination by Worcestershire Regulatory Services as an objection had been received from the Churches Conservation Trust (CCT).

The Legal Services representative explained that in accordance with the

Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, a street trading licence application could only be refused on one of two grounds:

- 1) That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street; and/or
- 2) That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade.

The Technical Officer (Licensing) presented the report on behalf of Worcestershire Regulatory Services. All parties were given the opportunity to ask questions of the Technical Officer (Licensing).

Mr Zouliatis was invited to address the Sub-Committee in support of the application. He explained that they had been trading from a tricycle cart for 4 months offering speciality Greek desserts, cakes and hot drinks. He believed that the Sweet Greeks offered something different to other shops and cafes in the area.

Mr Zouliatis informed the Sub-Committee that currently the Sweet Greeks were required to move the cart every 30 minutes to different locations, without returning to the same location within 3 hours. They now wished to secure a static spot from which to trade. They believed that the location adjacent to St Swithuns Church would not hinder pedestrians or vehicles, and contrary to the representations made by the Churches Conservation Trust (CCT), would not block either of the Churches' emergency exits.

Mr Zouliatis referred to the objection from the CCT that the Sweet Greeks' cart would have a negative aesthetic impact on the location, and responded that the cart was much more aesthetically pleasing than the hot dog/burger stand which had previously traded from the same location. Furthermore, Mr Zouliatis confirmed that the cart would be removed at 6pm each day, which would minimise any impact on evening events held at the Church.

With regard to the fire exits, Mr Zouliatis had measured the distance between the doors to be 6.9m. His cart measured 3 x 3m, so he did not believe there would be any issue with obstructing the fire exits.

Sub-Committee Members enquired whether the Sweet Greeks planned to trade according to the hours on their application, i.e. 8-6 Mon to Sat and 9-5 on Sun. They confirmed they planned to keep their hours flexible, depending on local conditions.

Sub-Committee Members asked the applicants if there were any issues with customer littering, since the cart did not offer a bin facility. They replied that their offer was takeaway, so customers tended to take their purchases to their homes and workplaces, or otherwise used the bins on the high street.

The applicants confirmed they had no plans to introduce customer seating in the vicinity.

The applicants told the Sub-Committee that they wished to work together with the Church and other neighbours and would be happy to move their cart if the Church was holding a special event – or alternatively they would be very happy to work

together with the Church to offer a service for event attendees. They added that their cart was easily manoeuvrable and could be pushed away quickly if required.

The CCT representative was asked if he would like to ask the applicants any questions but replied that his questions had been answered by the applicants. He was invited to address the Committee regarding the CCT's objections to the application.

The CCT representative explained that in their opinion the location of the cart would be unsympathetic with the aesthetic feel of the historic conservation area. He suggested that St Swithuns Church was an iconic building in the City Centre which wouldn't be enhanced by the Sweet Greeks' cart, which would cause a pinch-point in the area.

Sub-Committee Members reiterated to the CCT representative that whilst they appreciated the CCT's perspective it was only possible to refuse the application on the grounds previously described. The CCT representative confirmed he understood this.

All parties were given the opportunity to make a final statement. The applicants reiterated that their presence at the requested location would not cause any obstruction, they would only be trading during the day and would take their cart away in the evenings. They would be happy to work with the Church if there were events taking place in the building. They considered the current arrangement of having to move every 30 minutes was detrimental to their business as customers sometimes struggled to find them.

The CCT representative suggested the application should be turned down on the grounds of aesthetics and that it would potentially obstruct the Church's emergency exits.

The Legal Representative offered the following legal advice to Members when considering their decision:

- That the Sub Committee should consider the legislation which says the council shall grant an application unless they are satisfied, upon considering evidence presented to them, that there is insufficient space in the street or that there are already enough traders in the street from shops or otherwise in the goods in which the applicant desires to trade.
- That the Sub-Committee may only have regard to the objections submitted.

All parties, with the exception of Members of the Sub-Committee, the Legal Representative and the representative of Democratic Services then withdrew to enable the Sub-Committee to consider its decision.

All parties were then recalled and the Chair gave the decision of the Sub-Committee.

Having had regard to:

- The Council's Street Trading Policy.
- The Local Government (Miscellaneous Provisions) Act 1982.

- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the applicant Mr Arion Zouliatis, his business partner and business advisor.
- The written and oral representations made on behalf of the Churches Conservation Trust.

The Sub-Committee decided to grant the application as applied for.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee considered the applicant's submissions in which Mr Zouliatis explained that he was currently operating his business as a mobile unit in the centre of Worcester and was seeking a permanent site from which to trade.
- The Sub-Committee noted the objection presented on behalf of the Churches Conservation Trust, which were in essence, that aesthetically the tricycle was not in keeping with the area, specifically St Swithuns Church, and that two emergency exits from the church which would be obstructed by the positioning of the tricycle from which the business would trade.
- The applicant provided a photograph which included the specifications and measurements for the rear of the building including the area that would be occupied by the tricycle. The Sub-Committee was satisfied that there was sufficient space to enable the tricycle to trade without impinging on the emergency exits.
- The Sub-Committee considered the layout of the area and was satisfied that the Street Trading Licence could operate without causing undue interference or inconvenience to persons using the street.
- The Sub-Committee considered the legislation that allowed refusal if "there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade". The Sub-Committee members noted that there were no objections to suggest that there were other traders selling similar goods and therefore concluded that the licence should be granted.

4 APPLICATION FOR GRANT OF A STATIC STREET TRADING LICENCE

The Sub-Committee considered an application for a Street Trading Licence, made by Mr Patrick Kelly of vegan food outlet 'No Frickin' Chickin', to trade from a location on Friar Street, where it meets Union Street, Worcester.

At the start of the hearing, the Chair made the following statement:

"Presentations to this Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee."

All parties at the hearing introduced themselves. Mr Kelly had chosen not to have any legal representation, but was instead accompanied by his partner, Ms Hannah Hughes. Mr Kelly and Ms Hughes stated that they were satisfied with the proposed procedure.

The Legal Services representative summarised the matter for consideration. The matter had been referred to the Sub-Committee for determination by Worcestershire Regulatory Services as objections had been received from local traders and residents.

The Legal Services representative explained that in accordance with the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, a street trading licence application could only be refused on one of two grounds:

- 1) That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street; and/or
- 2) That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade.

The Technical Officer (Licensing) presented the report on behalf of Worcestershire Regulatory Services, setting out the background to the application, as detailed in the agenda report.

All parties were given the opportunity to ask questions of the Technical Officer (Licensing) regarding the report.

Mr Kelly and Ms Hughes were then offered the opportunity to address the Sub-Committee in support of their application. They provided responses to a number of the objections which had been raised, as follows:

- 1) With regards to smell, the applicants argued that unpleasant odour from deep frying food was largely due to dirty oil. They committed to changing their cooking oil every two days and had installed strong extractors. They had previously operated from the same vehicle and had received no complaints regarding odour.
- 2) In order to address any potential objections regarding noise, the applicants had built a sound-proof box for their generator which reduced sound emission to around 60 decibels which was the same level as normal conversation.
- 3) The applicants were committed to operating in an environmentally-friendly manner, using bio-degradable packaging and bins for customers to use.
- 4) The applicants did not consider that their offer would adversely impact on other traders since it was a unique food offer in Worcester. They acknowledged that the local 'Be the Change' café also offered vegan food but they felt No Frickin' Chicken was sufficiently different not to affect their business.
- 5) Addressing objections that No Frickin' Chicken's Airstream van was not in keeping with the historic locale, the applicants suggested that there were numerous additions to the streetscape which were not traditional in style, and that this added an element of diversity to the City.
- 6) The applicants contended that their van would not obstruct shop fronts.

- 7) The applicants advised the Sub-Committee that their van would not pose a danger to the public, and that Mr Kelly was fully trained in fire safety.
- 8) In response to concerns about obstructing the pavement, Ms Hughes stated that she and Mr Kelly believed there was enough room for pedestrians and indeed vehicles to pass by the van. The serving canopy would need to be closed if a larger vehicle needed to pass by.

Sub-Committee Members asked further questions regarding the positioning of the vehicle and potential issues with other vehicles being unable to pass by safely. Mr Kelly and Ms Hughes accepted that customers would have to step into the highway to be served, and that passers-by would need to walk on the cobbled area of the street which may be problematic for those unsteady on their feet.

A local resident attending was offered the opportunity to make their representation. They reiterated concerns relating to noise and pedestrian access to the street in question.

All parties were given the opportunity to make a final statement.

Mr Kelly and Ms Hughes informed the Sub-Committee that this was their third application for a static licence, and that their preference would have been to trade on the High Street, which unfortunately was not possible.

The Legal Representative offered the following legal advice to Members when considering their decision:

- That the Sub Committee should consider the legislation which says the council shall grant an application unless they are satisfied, upon considering evidence presented to them, that there is insufficient space in the street or that there are already enough traders in the street from shops or otherwise in the goods in which the applicant desires to trade.

All parties, with the exception of Members of the Sub-Committee, the Legal Representative and the representative of Democratic Services then withdrew to enable to the Sub-Committee to consider its decision.

Having had regard to:

- The Council's Street Trading Policy.
- The Local Government (Miscellaneous Provisions) Act 1982.
- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the applicant Mr Patrick Kelly and Ms Hannah Hughes.
- The written representations submitted and the oral representations made by Mr Buxton

The Sub-Committee decided to refuse the application as applied for.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee considered the applicant's submissions in which Mr Kelly and Ms Hughes explained that the business was a specialist vegan food take away, which was currently operating in Angel Place in Worcester.
- The Sub-Committee was of the view the applicant had taken seriously the objections submitted and had sought to address the concerns raised. This was demonstrated by the recent addition of a soundproof box around the generator to reduce the noise levels.
- Whilst the Sub-Committee was impressed by the business plan and approach taken by the applicants, Members were concerned that the location of the van would cause undue interference or inconvenience to persons using the street.
- The street is demarked by cobbles and flat paving which distinguished the pavement area and the vehicle access (photograph page 43 of the committee papers). The street trading unit would be positioned on the paved area and extend to the flag stones with the trailer hatch extending onto the cobbled area. The positioning of the van would restrict the pavement forcing pedestrians onto the cobbled area. Although vehicle access is restricted at certain times during the day, there is a need to ensure that any vehicles requiring access (such as emergency services) would have clear access at all times. Whilst the applicants confirmed that they would drop the extended hatch in the event vehicular access was required, the Sub-Committee did not consider that this would address their concerns with regards to the restriction the van placed on the highway.
- The Sub-Committee did not consider that allowing the licence on fewer days or for a shorter period each day, would alleviate the road safety concerns.
- The Sub-Committee concluded that the application should be refused because of the undue interference or inconvenience to persons using the street. Furthermore, the Sub-Committee considered that there were other traders in the street that sold similar, albeit not exclusively, vegan food.

Duration of the meeting: 1:40 – 15:25pm

Chairman at the Meeting on
23rd November 2021