

LICENSING SUB-COMMITTEE - STREET TRADING

7th September 2022

Present: Councillors Barnes, Mrs L. Hodgson and S. Hodgson

Officers: Vanessa Brown – Legal Advisor
Niall McMenamin – Senior Practitioner, Licensing
Nicola Jones – Technical Officer, Licensing
Lucy Robson-Cropper – Democratic Services

5 Election of Chair

RESOLVED: That Councillor Mrs L Hodgson be appointed Chair.

COUNCILLOR MRS L. HODGSON IN THE CHAIR

6 Declarations of Interest

None.

7 Application for Grant of a Static Street Trading Licence

The Sub-Committee considered an application for a Street Trading Licence, made by Mr Omer Tekeagac on behalf of 'Istanbul Kebab', to operate from from the junction of Blackpole Road and Cosgrove Close 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 Tekeagac confirmed he had chosen not to have any legal representation, and that he was satisfied with the proposed procedure.

It was noted for the record that Cllr Owen Cleary was in attendance at the hearing, to make representations on behalf of local residents. Cllrs Barnes, Lucy Hodgson and Stephen Hodgson acknowledged that they knew Cllr Cleary as a fellow Worcester City Councillor, but had no prior communication with him regarding the application or the hearing.

The Technical Officer (Licensing) presented the report on behalf of Worcestershire Regulatory Services. On 28th April 2022 an application had been received from Mr Tekeagac for a Static Street Trading Licence to sell food and cold drinks from 16:00 to 23:00 Monday to Sunday.

No representations had been received from statutory consultees. Five representations were received in response to public notices, objecting to the application. Of these objections, one was from a nearby trader, Lucky's Lunchbox, objecting on business grounds, the other four were from nearby local residents citing a range of issues.

Panel Members were reminded that a Street Trading licence should normally be granted unless

- a) there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
- b) there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade

and that other objections relating to traffic, parking, litter etc should be disregarded for the purposes of the hearing.

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

Mr Tekeagac was invited to address the Sub-Committee in support of his application. In response to objections received from Lucky's Lunchbox regarding competition for customers, he stated that his proposed trading times of 4pm to 11pm would not overlap with those of Lucky's Lunchbox, which were 7.30am to 3pm. There should therefore be no issue with the two outlets competing for the same customers.

The Legal Advisor sought clarification on the types of food offered by Lucky's Lunchbox, and was advised it sold hot and cold sandwiches and soft drinks, mostly to employees of nearby factories and businesses during their lunchbreak.

Mr Tekeagac responded to comments from neighbours about the potential for noise disturbance from his trailer, confirming that the power generator was to all intents and purposes silent.

Members of the Sub-Committee were offered the opportunity to put their questions to Mr Tekeagac. In response to a question about parking issues at the proposed site, Mr Tekeagac commented that parking should not be an issue since people would pick their food up and go very quickly afterwards. He further commented that 4pm to 11pm was not a particularly busy time in terms of traffic at the location.

Cllr Cleary relayed residents' concerns about the proposed outlet contributing to issues with litter, parking, and noise in the area. Mr Tekeagac replied that he

would keep the area clean and tidy. The main focus for the business would be on home deliveries, so he did not believe the area would be particularly busy with ad hoc customers.

Mr Tekeagac pointed out that although the proposed pitch was next to an industrial estate area, most businesses would be closed during his opening times, which would ease pressure on parking and general traffic congestion.

Sub-Committee members asked if there was enough room for e.g. a mobility scooter and pedestrians to pass by Mr Tekeagac's trailer on the pavement, without having to step into the highway. Mr Tekeagac responded that he had measured the pavement and he believed there would be enough room, even with customers stood in front of the trailer. He further suggested that the trailer could be moved so that the serving hatch would face away from, rather than towards, the highway.

Mr Tekeagac responded to questions about the potential for noise from customers. There would be a sign on the trailer asking customers to be quiet. He added that there was a factory nearby which ran 24 hours a day and the noise from this, and associated lorry traffic, would far exceed any noise from his customers.

Mr Tekeagac was invited to make his final representations to the Sub-Committee. He confirmed that he would let his customers know where they could and couldn't park, and reiterated his belief that not many customers would come to the trailer. His focus would be on offering a delivery service which he believed would constitute 80% of the outlet's business.

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 Tekeagac.
- The written representations submitted objecting to the application and the oral submissions made by Councillor Cleary

The Sub-Committee decided to grant the application as applied for with the following conditions:

1. The trading unit to be removed from the site when not in use.
2. The trading unit to be positioned so that the serving hatch faces away from the roadside

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

- The Sub-Committee considered the applicant's submissions in which Mr Tekeagac confirmed his intention to provide takeaway food at the roadside and to offer a delivery service.
- Members noted the site of the unit which would be on the paved area at the junction of the Blackpole Road and Cosgrove Close. Within the representations comments were made that this is a busy road, and the siting of the unit may increase the risk of accidents. Whilst the unit would not be operating from the road, Members considered it appropriate to impose a condition that the unit should be positioned so that the serving hatch faced away from the roadside, this would ensure that customers were not queuing close to the roadside. Member were satisfied that this condition would enable the business to operate without causing undue interference or inconvenience to persons using the street.
- Members considered it appropriate for the trading unit to be removed when not in use, given the size of unit and the hours it would be unattended should it not be removed. Mr Tekeagac expressed a willingness to remove the unit at the end of trading.
- Members considered the representation submitted by the street trader currently operating in the vicinity. The Licensing Officer confirmed the terms of licence held by that trader which allows trading from 6am until 11pm selling hot and cold sandwiches and drinks.
- Members considered the type of goods to be sold by the applicant, namely Kebabs, burgers, chicken and cold drinks. Members were of the view that the goods to be sold were different to that offered by the existing trader and therefore the presence of the current trader did not prevent the licence from being granted.
- Having considered the representations and the provision of the Local Government (Miscellaneous Provisions) Act 1982, Members concluded that the licence would be granted subject to the additional conditions which would form part of the licence alongside the Standard Conditions as detailed in the Council's Policy.

Duration of the Meeting: 10:00 to 10:45