



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

LICENSING COMMITTEE

Minutes of the meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday, 10th January 2018 at 9.35am.

PRESENT

Councillor Elaine Griffin-Singh (Chairman)
Councillor Paul Cox
Councillor Julia Huffer
Councillor Chris Morris (Vice Chairman)
Councillor Carol Sennitt
Councillor Alan Sharp
Councillor Stuart Smith

OFFICERS

Councillor Lorna Dupré
Lin Bagwell – Licensing Officer (Enforcement)
Stewart Broome – Senior Licensing Officer
Maggie Camp – Legal Services Manager and Monitoring Officer
Adrian Scaites-Stokes – Democratic Services Officer

OTHERS PRESENT

Mr Zeki Yasan – Applicant
Mr Tom Gunn – Supporter
Mr Duncan Foyle - Objector
Mrs Wendy Foyle - Objector
Mr Peter Hunter – Objector
Mrs Kelly Munden – Objector
2 Members of the Public

30. **APOLOGIES**

Apologies for absence were received from Councillors Sue Austen and Mike Bradley.

31. **DECLARATIONS OF INTEREST**

There were no interests declared.

32. **MINUTES**

It was resolved:

That the Minutes of the Licensing Committee meeting held on 13th December 2017 be confirmed as a correct record and be signed by the Chairman:

33. **DETERMINATION OF AN APPLICATION FOR CONSENT TO TRADE FROM A LOCATION DEFINED AS A CONSENT STREET IN ACCORDANCE WITH THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

The Committee considered a report, S212 previously circulated, detailing the application from Mr Zeki Yasan, supporters' comments and objections submitted.

The Chairman welcomed everyone to the meeting and introductions were made. The procedures were then listed and the Chairman then asked the Applicant whether he had received the report.

Mr Yasan explained that his English was poor and that Mr Tom Gunn would be speaking on his behalf. Mr Gunn acknowledged that the report had been received.

The Licensing Officer (Enforcement) advised the Committee that Mr Yasan had applied to trade as a fast food outlet, from a mobile van, in Sutton within set times on a Consent Street, as fully detailed in Appendix 1 to the report. A consultation had taken place relating to the application, which had resulted in 6 valid objections, as shown in Appendix 2, and 9 valid comments supporting the application, as shown in Appendix 3.

Following a previous aborted attempt by Mr Yasan to set up a fast food outlet, Sutton Parish Council had given permission for this new application on a 6 month trial basis, subject to daily removal of the mobile van and agreement by this Council.

In considering this application the Committee had to have regard to relevant legislation, Council policies and environmental risk factors. Under Council policies permission was normally granted unless there were significant reasons not to. The Committee could grant permission with the standard conditions, with variations to those conditions, with reasonable restrictions or could refuse permission. Permission could be given for a maximum of 12 months or for a shorter period. There was no right of appeal against any decision made.

The Applicant was asked whether the report was accurate and his supporter confirmed that it was.

Councillor Alan Sharp asked what powers Sutton Parish Council had to allow this application. The Licensing Officer (Enforcement) explained that the car park, where the mobile van would set up, belonged to the Parish Council so it had been necessary for the applicant to obtain its consent. However, the applicant could not trade there until given permission by this Council.

Councillor Elaine Griffin-Singh asked whether the applicant had already been trading. If permission was granted for 12 months could it be revoked earlier? If it was revoked for that site could the applicant trade elsewhere instead or would he have to re-apply? The Committee was informed that the Applicant had not already been trading and it would be illegal for him to trade anywhere else. Providing he removed his mobile van daily the Parish Council was happy to agree to a 6 month trial.

The Chairman invited Mr Hunter to address the Committee.

Mr Hunter stated that he was a resident living near the proposed site of the mobile van and had lived there for 30 years. The kebab van would be a source of food so it would smell. Due to the predominant wind direction, the smells would blow across to his dwelling. This would devalue his property. He liked to sit out in his garden but the van would be within 100 to 150 yards of his property. If this application was granted it would impact the whole area. The establishment it was next to was a sports and amenities facility, so was for the wellbeing and health of the people of Sutton. Would giving permission for this application for a fast food amenity be the right thing to do? Why did Sutton Parish Council turn down the previous application due to noise, litter and parking concerns but then pass it if the van was moved every day? If people parked on the spaces that the van would occupy did that mean that the van would have to move elsewhere? Would the space be cordoned off, resulting in no parking in those spaces? The entrance to the establishment was on a bend, opposite school gates, and was therefore dangerous. Having the fast food van on site would encourage more traffic, which was not a good idea.

Councillor Stuart Smith assumed the British Legion establishment held events with music, noise and food smells and asked if that caused issues. Mr Hunter stated that there had been no problems, but this application was a different scenario.

In response to Councillor Alan Sharp's queries, Mr Hunter acknowledged that a few people from the British Legion would use the van. The food outlet could not control vehicles coming into the car park. What would happen if this opened as a retail outlet? After-school clubs were open until 6pm, so the car park was busy.

Mr Hunter stated that the car park consisted of between 40 to 50 car parking spaces and at around 4:30pm it was usually $\frac{1}{2}$ to $\frac{2}{3}$ full, but got fuller as the evening progressed.

The Chairman then invited Mrs Munden to address the Committee.

Mrs Munden lived right by the British Legion and had three small children. Previously a burger van had operated on the site, which had lead to anti-social behaviour, litter in the garden, teenagers making noise, drug abuse, alarms being set off and anti-social driving.

The Chairman then invited Mr Duncan Foyle to address the Committee.

Mr Foyle lived next door to Mrs Munden and his house would be 35 metres from the van. This would produce noise and smell pollution 4:30pm to 10pm 6 days a week, so he would not be able to use his garden due to this. The Parish Council had stated that this would be a new business, but hot food was not appropriate for this site. Both times a burger van had used the site it had resulted in excessive noise, smells and problems with parking. More cars would be attracted, which would not be good. There had been problems before through drugs use and vandalism. The fast food van would not bring any benefit to the village and would only add aggravation.

Councillor Julia Huffer noted that the Parish Council had been mentioned, so asked why it had changed its mind? Mr Foyle thought that the Parish Council had rejected a permanent outlet but had accepted a mobile one. The residents were not spoken too about this application. People had taken to social media to show their support for the application but older people tended not to use social media. . The Bowls Club did not want the food van. The site was the centre of the village and it would lose its identity if this application was allowed.

Councillor Carol Sennitt asked whether the previous burger van had been licensed. Mr Foyle stated that it had not been. People had objected to it, so it had left. It had generated additional rubbish.

The Chairman explained that there had not been a scheme in place to licence such enterprises at the time, as it did not start until 2016. The Chairman then asked whether the Applicant had any questions for any of the objectors. There were no questions asked.

The Chairman then allowed Councillor Lorna Dupré to address the Committee.

Councillor Lorna Dupré stated that she was not a member of Sutton Parish Council but explained that the Parish Council had not granted the original application but had reconsidered. It had agreed to a trial period of 6 months, provided the van was removed daily. It could not guarantee the parking space for the van, but that was not an issue for the Licensing Committee to consider, only the Applicant and Parish Council. It was not clear what would happen if there were no spaces available. The remuneration for operating this facility had not yet been agreed. The previous problems caused by the pervious burger van could be mitigated by relevant conditions. There were problems in that area with anti-social behaviour investigated by the Police. It was noted that advertising flyers had been distributed before consent had been granted. The concerns about attracting heavy goods vehicles were wrong, as the car park was on a narrow road and was small. The proposed operating hours were a concern, as after school clubs finished around 4:30pm when the trading hours were suggested to start. The van would have to be there earlier to set up, but how long would be needed? Some temporary time limit could be made.

The Parish Council had agreed to a 6-month trial period, so the Committee might want to consider a period no longer than that, so they could terminate at

the same time. If any issues were raised, such as anti-social behaviour or noise, then the licence could be revoked.

There had been strong opposition from residents but also some strong support. Even though Sutton did not have a good level of facilities, the van would not regenerate the village but would be another amenity for it.

The Legal Services Manager asked whether the anti-social behaviour relating to the previous van had ceased once it had moved. Councillor Lorna Dupré was not convinced that all the problems in that area related to the burger van. The site was not the centre of the village but a place where people congregated, including gatherings of youngsters. So the two were not connected, but the additional attraction might be unhelpful.

The Chairman then invited the Applicant's supporter, Mr Tom Gunn, to address the Committee.

Mr Gunn stated that Mr Yasan was a professional who had been working in Ely for 10 years and had 20 years experience in the industry. He understood his responsibilities and had dealt with lots of customers from Sutton and Mepal, who had outlined the need for a burger van closer to them. Smells from the van would be governed by relevant legislation, so there would be filters in the van. No generator would be used, as power would be supplied by the Club, and therefore there would be no noise. The Parish Council had agreed to a 6-month trial period, to check the impact, and Mr Yasan would use this time to prove people wrong. Problems had been ongoing without a van on site. The car park was more dangerous when the after school clubs finished, as parents moved their cars in and out. Heavy goods vehicles were not expected to use the new facility due to the poor entrance to the site.

Councillor Elaine Griffin-Singh asked why the Parish Council had changed its mind. Was it because it had discussions with Mr Yasan over the issues of smell, noise and litter? Concern was expressed over the advertising already done and it was questioned where the off-site advertising was.

Mr Gunn believed that had been the case. Litter bins would be provided, though it was everybody's responsibility to dispose of rubbish properly. Previously Mr Yasan had used a static van but now it was a mobile one. Only a leaflet had been produced and some social media. There would be no sign at the entrance.

Councillor Julia Huffer asked how long it would take to set up and clear away afterwards. Mr Gunn reckoned Mr Yasan would be on site from 4pm until 10:30pm.

Councillor Paul Cox queried whether there would be some fixture near the van for its power or whether cables would be used, which could be a hazard. Mr Gunn revealed that Mr Yasan had previously used cables, but they would be safe and out of the way and would not cause a problem.

Councillor Alan Sharp questioned what would happen if the usual space was unavailable. What was the responsibility of the operator to keep the area

tidy? Why had this site been chosen, as there might be suitable sites elsewhere? Mr Gunn replied that the Parish Council had not yet been spoken to, but it was hoped they would designate a spot. The Applicant was happy to put out litter bins in the car park and do whatever was necessary to keep the site tidy. Previous attempts had been made to set up at the garage and recycling area but they were not viable. The Parish Council had offered this location and the Social Club had agreed to it.

Councillor Chris Morris was concerned about the finishing time at Christmas and thought closing at midnight would be more sympathetic to the neighbours. The Senior Licensing Officer advised the Committee that the British Legion applied for different opening hours on special days, which was why the application included the times suggested.

The Legal Services Manager asked the Applicant whether he thought he had a fair hearing. Mr Yasan accepted he had and stated he understood his responsibilities.

The Legal Services Manager asked the objectors if they considered the hearing fair. Mr Hunter then commented that the Committee had to explore its conscience, as Sutton lived on the borders of Fenland District Council who, it was understood, had considerable health issues in their area and therefore these should be debated. The Committee had the power to control food outlets.

The meeting adjourned at this point, so the Committee could deliberate its decision, so the Applicant, supporter and objectors left the meeting, at 10:40am.

The meeting reconvened at 12:02pm with all participants, excluding Mr Hunter, returning to the meeting.

The Chairman explained that the Committee had taken its time in full discussion and debate when considering the report and all submissions. The decision was then read out. The Chairman stated that the Committee had recognised the need to minimise the inconvenience to residents whilst also acknowledging the submissions of the supporters in making this decision.

The Legal Services Manager said that a full decision notice would be issued.

It was resolved:

- (i) That the application as applied for be refused:
- (ii) That the application be granted with the following variations:
 - Operating hours would be every Thursday, Friday and Saturday from 6:00pm to 10:00pm;
 - Operating hours for Christmas Eve would be 6:00pm until 12:00am;
 - Operating hours for New Years Eve would be from 6:00pm until 1:00am;

- The licence would be granted on a 6-month trial basis and be subject to a review and may be revoked at any time;
- Standard Condition 23 to be amended to state that the applicant shall ensure the Brookland's car park is cleared of any litter that may have emanated from their business activity prior to leaving the site at the close of business.

The meeting closed at 12.05pm

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