

MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub Committee

MINUTES OF THE MEETING HELD ON TUESDAY 30 MARCH 2021

Present: Councillors Hinder, Naghi and J Sams

Also Present: Councillor Brindle

58. APOLOGIES FOR ABSENCE

There were no apologies.

59. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

60. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Naghi be elected as Chairman for the duration of the meeting.

61. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures.

62. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

63. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

64. STREET TRADING APPEAL

The persons participating in the hearing were identified as follows:

Chairman – Councillor Naghi
Committee Member – Councillor Hinder
Committee Member – Councillor J Sams

Substitute Committee Member Councillor Brindle was present to observe the meeting.

Legal Advisor – Mrs Sarah Beasley, observed by Mr Robin Harris

Online Facilitator/Democratic Services Officer – Miss Oliviya Parfitt

Applicant – Mrs Maria Herriot

Witnesses to be called by the Applicant:

Mr Damian Daunt

Objector – Councillor Geraldine Brown, Chairman of Yalding Parish Council

Witnesses to be called by the Objector:

Ms Angela Gent, Clerk to Yalding Parish Council.

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant Messaging facility any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Sub-Committee confirmed that they had read all the papers.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Senior Lawyer (Contentious) introduced the report and summarised the application. The information contained with the Appendices to the report were outlined.

The applicant was invited to make their opening remarks. Mrs Maria Herriot stated that the road where the unit would be placed had unrestricted parking on one side, in response to the parking and congestion concerns raised by Yalding Parish Council.

The applicant's witness, Mr Damian Daunt, was invited to address the panel. Mr Daunt stated that there were no yellow lines in front of the

proposed site location and that there was sufficient parking nearby which included the car park in which the unit would be based.

In response to questions from the panel, Mrs Herriot stated that there was a high footfall in the area that they would be able to serve, due to the local businesses and tourism within the area. Mrs Herriot stated that there would be at least two staff members within the premises at all times, but that as the business did not yet have any employees, only one staff member (herself) was included within the application form. It was stated that there was a clear view of the road from the proposed location and that signage would be erected to advise against illegal parking and encourage courtesy towards the local neighbours.

In response to questions from the objector, Mrs Herriot stated that she did not feel that the specific road in question was congested.

The objector, Councillor Geraldine Brown, provided further information on the location and use of the yellow lines within the vicinity of the application. The yellow lines had been installed for the Environment Agency's benefit between 12-18 months ago.

Mrs Herriot stated that the premises would not be used as a drive-thru establishment. It aimed to provide a service to those within the local area.

The applicant's witness was invited to address the panel. Mr Damian Daunt stated that once the owner of the proposed site location had stopped leasing the car parking spaces available, there would be approximately 6 to 10 car parking spaces that remained available for their customers. The owner had expressed a wish to remove some of the trees shown and erect a gateway for greater ease of access. This would not be a vehicular entrance.

In response to questions, Mr Daunt confirmed that the business was not intending on attracting additional customers to the area and that a home delivery option would be available to customers. It was hoped that the premises location would be ready within an additional 2-4 weeks if the application was approved, as further work needed to be carried out. The local businesses included the Environment Agency's offices and depot, an additional unit and the Boat House.

As an objector, Councillor Geraldine Brown was invited to make their opening statement, during which the four photos of the proposed site's location, that were supplied to the Sub-Committee, were referenced. The concerns raised related to the perceived increase in inappropriate parking and congestion that would be caused through the application's approval. Councillor Brown stated that it was impractical for the applicant to attempt to police customer parking and that there was already very little parking available in the location. During the Summer the area often experienced high levels of visitors and the presence of Parking Enforcement Officers was highlighted.

It was felt that the use of the site for the premises would reduce the overflow parking available to the existing businesses in the area, making

it more likely that drivers would attempt to park on the Highway. The anti-social behaviour experienced in the local area, particularly in the Summer months, was mentioned as it was felt that the premises being open until 9 p.m. or 10 p.m. would encourage further undesirable behaviour. The number of local businesses providing similar services was highlighted.

In response to questions, the objector confirmed that there were four businesses in the village that provided similar food products, however not all provided delivery services. The objector's witness, Ms Gent, outlines some of the premises that had provided food delivery services during the pandemic.

The objector was invited to make their closing statement and referenced that whilst there was no objections to the business itself, the proposed location was unsuitable. The increased congestion and lack of parking available, which would cause drivers to park illegally on the yellow lines, was reiterated.

The applicant was invited to make their closing statement and in doing so acknowledged the objector's concerns, reiterating that the intention of the business was to provide a good service. The anti-social behaviour experienced in the local area was referenced as this had been occurring for some time, previous to the application having been received. The applicant confirmed that they would not attempt to police undesirable behaviour from young individuals and that this should be dealt with by the appropriate authorities. There was no intention for the business to play music or create nuisance. The effect of Covid-19 on local businesses was highlighted and wanting to provide a service.

The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present.

The Sub-Committee returned and the Chairman stated that the decision had been made to approve the application in full.

The legal advisor reiterated that the Sub-Committee had decided to grant the consent as applied for. The Sub-Committee recommended that the private car park be made available for when the business unit opened with appropriate signage in place. The full written decision and reasoning would be provided to all parties within 5 working days. It was noted that any review, including decisions for revocation, could come before a future Sub-Committee and that the right of appeal would be by way of a judicial review to the High Court.

The meeting closed at 11.42 a.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the Minutes.



Maidstone Borough Council

Local Government (Miscellaneous Provisions) Act 1982

Schedule 3

Notice of determination of an appeal to the sub-committee for refusal of a street trading consent

Applicant: Mrs Maria Herriot

Date of Determination: 30th March 2021

I hereby give you notice that Maidstone Borough Council has decided to GRANT your application for a street trading consent to trade in a private car park owned by and to the left of Orchard View Garage, Twyford Court, Hampstead Lane, Yalding, ME18 6HG.

The sub-committee had regard to all the evidence presented prior to the hearing and the representations made during the hearing.

Having considered all of the available evidence the sub-committee was satisfied that the application was capable of meeting the requirements of the Council's street trading policy.

In respect of the representations regarding location and congestion, it was noted that the business is to be on private land and set back off the road. It was further noted that it was stated customers are likely to be people already in the area. The sub-committee however, recommends that the private car park be made available at the same time as the opening of the business unit along with appropriate signage.

The consent is granted as applied for subject to the standard conditions as listed in the policy however, as an advisory it should be noted that reviews (including decisions for revocation) can come before a future sub-committee in accordance with the policy.

Signed:

Date of Notice: 30th March 2021

Councillor David Naghi
Chairman of the Licensing Sub-Committee