

Minutes of a Meeting of the Licensing Sub-Committee  
held in the Council Chamber, The Grange, Nutholt Lane, Ely  
on Friday 30<sup>th</sup> November 2018, at 2:00pm.

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**PRESENT**

Councillor Sue Austen  
Councillor Julia Huffer  
Councillor Carol Sennitt  
Councillor Alan Sharp

**OFFICERS**

Stewart Broome – Senior Licensing Officer  
Maggie Camp – Legal Services Manager  
Adrian Scaites-Stokes – Democratic Services Officer

**OTHERS PRESENT**

Mr Cotibaru – Applicant's Representative  
Mr Hunter – Objector

**APOLOGIES**

Councillor Michael Allan

**1. ELECTION OF CHAIRMAN**

Councillor Julia Huffer was duly nominated as Chairman. There being no other nominations:

It was resolved:

That Councillor Julia Huffer be elected as Chairman of the Licensing Sub-Committee for the remainder of the municipal year.

**2. APPOINTMENT OF VICE CHAIRMAN**

Councillor Alan Sharp was duly nominated as Vice Chairman. There being no other nominations:

It was resolved:

That Councillor Alan Sharp be appointed as Vice Chairman of the Licensing Sub-Committee for the remainder of the municipal year.

### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **4. 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 Sub-Committee considered a report, reference T144 previously circulated, which detailed an application to trade from a location defined as a Consent Street within the East Cambridgeshire district boundary.

The Chairman welcomed everyone to the meeting and the Members and Council officers introduced themselves.

The Chairman asked Mr Cotibaru if the Applicant had received a copy of the report and he confirmed he had.

The Senior Licensing Officer presented his report and advised the Committee that the Applicant had submitted a new application to trade in a street trading controlled area, as set out paragraph 4 of the report and detailed in full in Appendix 1, which included trading hours of 17:00 to 22:30 Monday to Sunday. In accordance with standard procedures, a consultation exercise was undertaken which resulted in four valid objections to the application plus one of support. The objections related to noise, odour and traffic issues.

One of the objectors, Sutton Parish Council, had subsequently agreed terms with the Applicant to amend the proposed operating hours, agree the location of the kebab van and its daily removal.

The Applicant currently held consent to trade from the Brooklands Centre car park, Sutton, with restrictions. The Applicant's new application would not affect that current consent but sought to extend his operating hours.

When making a decision on this application, the Sub-Committee had to take into consideration the following issues: (a) public safety; (b) public order; (c) avoidance of public nuisance; (d) highway matters; (e) compliance with legal requirements.

During April complaints were received about alleged problems being caused by the Applicant's trading, relating to odour, vermin and operating outside the permitted hours. Environmental Health officers had spoken to the Applicant and Licensing officers had investigated the issues, but no problems had been found. No other complaints had been received since.

The Applicant provided a large number of supportive comments slips to support his application, though these had not been included in the agenda papers as they

contained personal information, but they were available for viewing. Sutton Parish Council had given permission for The Applicant to use the land for trading on, within amended agreed times, for a temporary six month trial.

Legally the Sub-Committee had total discretion to either grant consent or not, but had to have regard for the Council's Street Trading Policy. Granting a licence was generally for twelve months, but could be shorter if considered appropriate. The Applicant's current licence had been renewed for a further six months. The licence could be granted with standard conditions, with variations to the conditions or could be refused.

The Chairman asked Mr Cotibaru if the report was accurate and he confirmed that it was.

The Chairman asked if there were any questions for the Senior Licensing Officer.

Councillor Julia Huffer asked whether the new application would allow a permanent presence on the site. The Senior Licensing Officer confirmed that it was, but the landowner (Sutton Parish Council) had only agreed on the basis that the vehicle was to be removed daily. This should be taken note of when considering the application.

The Chairman then invited Mr Cotibaru to make a statement in support of the application. Mr Cotibaru made the following comments:

- The Applicant wished to work the extra days and hours, as three days a week were not enough.
- The hours worked were not enough for the business, so six days would be better.

The Chairman asked if there were any questions for Mr Cotibaru.

Mr Hunter asked why the Applicant wished to trade for more days and if three days was insufficient why the Applicant had not finish trading. Mr Cotibaru reiterated that three days was not enough for the business. Not much profit was being made.

Councillor Julia Huffer questioned whether the van would be sited on the verge and where the power was accessed from for the van. The Senior Licensing Officer stated that if the Sub-Committee imposed the same conditions as the Parish Council the van would be located where it was now with only the operating hours changing.

The Chairman then invited Mr Hunter to make a statement in objection to the application. Mr Hunter made the following comments:

- He lived near the Brooklands Centre and had done for a considerable time.
- The Brooklands Centre was a village amenity and the car park was a multi-purpose area and was used by a number of village organisations and local school.

- The car park was also an entrance to a farm and was used for access to it by farm vehicles, some transporting manure
- There was no objection in stopping the sale of kebabs but residents were in a different position to people who drove in, purchased their kebabs and left.
- People living nearby had to put up with the kebab van three nights a week.
- There were a lot of amenities in the village selling food and plans were coming through to build a Co-Op store, another food outlet.
- Ely was only five minutes away, where more food was provided.
- He was there as a representative for other people.
- He felt that the location of the van was wrong. It could be moved to a different location further away from the houses.
- Sutton Parish Council had held meetings with the Applicant without any consideration of the residents.
- The smell was the main problem, but there were also issues about traffic at the junction to the entrance.

The Chairman asked if there were any questions for the objector.

Councillor Alan Sharp asked whether the complaints made previously had come from the objector. Mr Hunter confirmed they had not.

The Senior Licensing Officer suggested that the location of the van was due to safety reasons, as moving it could require a longer power cable which would be a higher safety risk. The Sub-Committee could state where it would prefer the van to be located. This would mean the application would have to go back to Sutton Parish Council and the British Legion. The financial position was irrelevant to the Street Trading Licence, so this could not be used as a reason for moving the van.

Councillor Carol Sennitt queried whether the big problems related to the smell. Mr Hunter confirmed that was the main objection. Three days of this was accepted as there was four days of respite. However, changing that to six days of operation was another level, as there would be no respite. The solution would be to site the van further away from the residential area.

Councillor Julia Huffer asked Mr Cotibaru whether the Applicant would be prepared to re-locate to reduce the smell issue for residents and obtain a generator to allow this. Mr Cotibaru confirmed he did not think this would be a problem and the Applicant already had a generator. Councillor Alan Sharp asked about the generator, as he did not want to generate a noise problem, but Mr Cotibaru could not answer.

The Legal Services Manager asked Mr Hunter about the smell from the adjacent farm as he had mentioned manure being transported through the car park. Mr Hunter explained that the farm was about half-a-mile away and the manure was transported via articulated lorries.

Councillor Julia Huffer questioned whether any objections had been received from the Highways Department. The Senior Licensing Officer confirmed no objections had been received.

The Chairman invited the Mr Cotibaru to make a closing statement but he had nothing further to add.

The meeting then adjourned at 2:35pm.

Mr Cotibaru, Mr Hunter and officers excepting the Legal Services Manager left the Chamber at this point.

The meeting reconvened at 3:21pm.

Mr Cotibaru, Mr Hunter and officers returned to the Chamber at this point.

On behalf of the Chairman, the Legal Services Manager read out the decision made by the Sub-Committee:

Members, having considered the report and all the representations made today, have resolved to grant the application for consent to trade from a location defined as a consent street, subject to the following:

- The Consent will be for 6 days a week from Monday to Saturday;
- The hours will be 18:00 to 22:00 each day;
- The Duration of the Consent will be 6 months;
- The unit must be removed from the location daily;
- The unit must be moved to a location decided by the Licensing Authority and marked on a plan to be provided to the Applicant, away from residential properties;
- The Applicant must use a low noise generator, or Whisper noise generator, to the satisfaction of the Senior Licensing Officer; and
- All other standard conditions.

The meeting concluded at 3:23pm.