

- * Councillor Mike Hurdle (Chairman)
- * Councillor David Elms
- * Councillor David Quelch

*Present

Officers in attendance:

Mark Adams (Licensing Officer) (observing)
 Sophie Butcher (Committee Officer)
 Andrea Carr (Committee Officer) (observing)
 Raj Devandran (Litigation Solicitor) (observing)
 Fay Lamph (Environmental Health Officer)
 Bridget Peplow (Senior Lawyer Litigation)
 Mike Smith (Licensing Team Leader)
 Chris Woodhatch (Team Leader) Food and Safety

Local Ward Councillor

Councillor Tony Phillips

Local County Councillor

Councillor Fiona White

Applicant in attendance:

Mr Zafer Koc

LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

STREET TRADING APPLICATIONS - SUMMARY OF PROCEDURE

The Sub-Committee approved the new summary of procedure for dealing with Street Trading applications.

STREET TRADING CONSENT APPLICATION - MR KEBAB, EGERTON ROAD, GUILDFORD

The Licensing Team Leader informed the Sub-Committee that they had convened to consider an application for the grant of a Street Trading Consent for a mobile catering kebab van located on Egerton Road between the Royal Surrey Hospital and Tesco superstore.

A premises licence had been in place for the van since November 2005 (GUPLA0042) which was extended in November 2017 to extend the sale of hot food from until 03:00 hours 7 days a week to 04:00 hours Sunday to Thursday and 05:00 hours on Friday and Saturday. There was currently no street trading consent in place for the van. The requirement to obtain a street trading consent for the location became effective from 1 April 2018 following a review of the designated consent streets by the Licensing Committee on 17 January 2018.

The application was in consultation from 26 March to 20 April 2018. Representations were received from two Responsible Authorities; Environmental Health (Food and Safety) and the Parking Service. In addition, seven representations had been received from other persons, four from local residents, one objection from the local ward Councillors David Goodwin and Tony Phillips, one objection from the local County Councillor Fiona White and one objection from the Royal Surrey County Hospital.

The Chairman invited the applicant, Mr Koc to make his representation. Mr Koc stated the following:

- Mr Kebab had been in operation on the Egerton Road since the early 1990's. Mr Kebab had never held a Street Trading consent and had successfully operated up until this point with no complaints received from the Council about anti-social behaviour.
- An ex-employee of Mr Koc's had put a van next to Mr Kebab and operated the same type of food-takeaway and called it Mr Kebab as well. They were in direct competition for business with each other. The competitor's business had also been granted a premises licence.
- Mr Kebab's vehicle was located onsite 24/7 and received daily parking fines. The vehicle was not moved owing to the fear that Mr Kebab's competitor may move their vehicle into his space and steal his customers.
- Mr Kebab's competitor would also have to apply for a Street Trading consent.
- He was happy to work with Parking Control and not start trading until 6pm when the parking controls lapsed.
- In relation to the points raised by Councillor Goodwin, in appendix 5, he confirmed that apart from Mr Kebab's competitor, the nearest 'like provision' in the immediate vicinity of the site was roughly one mile away.
- Despite the fact that the vehicle was parked on the Egerton Road 24/7, Highways had not objected to the application.
- No issues had arisen with the planning authority in relation to the comment by Councillor Goodwin that in order to trade for longer than 28 days would require planning permission.
- A Street Trading Consent application could be applied for so that it covered after 11pm.
- No chairs or tables had been provided for customers as alluded to in Councillor Goodwin's comments.

The Chairman invited Councillor Fiona White, Surrey County Councillor to make her representation who stated the following:

- She was currently collating information in relation to the premises licence for Mr Kebab so that a review of the licence could potentially be considered.
- She was speaking as the location of Mr Kebab's van fell within her County Council division area as Surrey County Councillor.
- Complaints had been received from local residents regarding the van taking up parking spaces 24/7. Residents had been told by the owner of the van that they could not park near it as it was taking up parking opportunities for his customers.
- Complaints from local residents had also been received about the amount of rubbish generated by Mr Kebab, which brought the image of the area down.
- She was concerned that the van was located so close to the Royal Surrey County Hospital. The hospital had objected too.
- The van was close to the residents of Park Barn who were affected by the unsightly rubbish being tipped on the side of the road.

The Chairman invited the Ward Councillor Tony Phillips to make his representation who stated the following:

- The application conflicted with traffic orders as there were waiting restrictions and the van was parked 24 hours, 7 days a week and should not be left there for that period.
- The van interfered with the sight lines for other vehicles.

- Possible accidents could be caused by encouraging pedestrians to cross Egerton Road.
- The applicant was currently trading 5pm until 5am and the Council's standard conditions state a finish time of 11pm.
- The burger van was close to the residents of Ashington Estate who were affected by the unsightly rubbish being tipped on the side of the road.

The applicant, Mr Koc was invited by the Chairman to sum up his case for a Street Trading consent: He stated:

- It was true that rubbish was an issue and he had cleaned up the site and put up a sign on the outside of the van to ask customers to be considerate and throw their rubbish away in a bin.
- No complaints had been received from the local residents about customers being rowdy.
- Parking was available along Egerton Road for approximately 1 kilometre and therefore there should be no issue with other road users finding adequate parking.

The Licensing Team Leader, in response to comments made, clarified the following:

- Mr Koc's competitor also had to submit a Street Trading application. The competitor had recently sold the business and the new owner would need to make the application.
- The Licensing Team would need to assess the rationale for a review of the premises licence for Mr Kebab, as alluded to by Surrey County Councillor Fiona White. A review could only be sought in connection with the licensing objectives.
- The rubbish issue could easily be addressed via the provision of a rubbish bin.
- Mr Koc was happy to start trading from 6pm when the parking controls lapsed.
- The matter as to whether the kebab van brought the image of the area down was a matter for the Sub-Committee to determine.
- He confirmed that the five conditions proposed by Environmental Health (Food and Safety) were appropriate and would alleviate the local concerns around parking by requiring the kebab van to move at the end of each day's trading.
- The Local Government (Miscellaneous Provisions) Act 1982 did not make provision for an unsuccessful applicant to appeal against the decision of the Council in relation to the refusal of a Street Trading Consent.

The Sub-Committee was advised by the Senior Litigation Lawyer that there were no statutory guidelines in relation to the determination of Street Trading consent applications and a consent may be granted if the Sub-Committee think it fit to do so. The issues raised by the Responsible Authorities and other persons were relevant matters to be taken into account and the Sub-Committee had to consider if the objections raised could be satisfactorily met by conditions. The Licensing Committee had approved a Street Trading Policy. It was for guidance and could be departed from if the Sub-Committee considered it appropriate to do so. The Council had the power to revoke a Street Trading consent at any time. The competitor's kebab van would have to go through the same application process and its application would need to be considered on its own merits.

The Chairman advised that after consideration of the application and issues raised by Responsible Authorities and other persons, the Sub-Committee had determined that the Street Trading Consent for Mr Kebab, Egerton Road, Guildford was granted subject to the modification of the start time to 6.00 pm and subject to the imposition of conditions as proposed by Environmental Health (Food and Safety):

1. The trader shall comply with all requirements of the Food Hygiene (England) Regulations 2013, Regulation (EC) No 853/2004 on the hygiene of foodstuffs and any associated legislation.
2. The trader shall maintain a minimum food hygiene rating of score of 3 out of 5 (Generally Satisfactory).
3. The trader shall provide a suitable receptacle for rubbish, litter and food debris during the hours of trading.
4. The trader shall collect any litter, food waste or packaging originating from the business and discarded by customers on the verge and hedgerow of Egerton Road for a minimum distance of 250m from the location of the van in either direction.
5. The trader shall move his vehicle from Egerton Road at the end of each day's trading.
6. The trader shall ensure that the area beneath where the van is parked is effectively cleaned and any deposits of fat, grease or other waste are removed on a daily basis.

RESOLVED: That the Street Trading consent for Mr Kebab, Egerton Road, Guildford was granted.

REASONS: The Sub-Committee was satisfied that the conditions proposed by Environmental Health would address the issues raised by the Responsible Authorities and other persons. The provision of a litter bin would address issues with litter. Contravention of parking regulations would be alleviated by the agreed amended start time of 6.00 pm and requiring the vehicle to be moved after each day's trading. Food hygiene standards would be met by ensuring a minimum food hygiene rating of 3 out of 5 score and by complying with the Food Hygiene (England) Regulations 2013. The Sub-Committee was in agreement that should the applicant contravene any of the conditions applied Mr Kebab's consent should be considered for revocation.

Signed

Chairman

Date