

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Tuesday 26 October 2021, at 10.10am.

Present: Councillors C Gifford, Leigh-Hunt and Wright.

Also Present: Lesley Dury (Principal Committee Services Officer), Sophie Vale (Committee Services Officer, observing only), Max Howarth (Council's Solicitor), and Rachael Russell (Licensing Team Leader).

1. **Apologies and Substitutes**

Councillor Wright substituted for the vacant position on the Panel.

2. **Appointment of Chairman**

Resolved that Councillor Wright be appointed as Chairman for the hearing.

3. **Declarations of Interest**

There were no declarations of interest made.

4. **Street Trading Application to trade outside of the restrictions set out within Warwick District Council's Policy**

The Panel considered a report from Health and Community Protection which sought a renewal application for a Street Trading Consent for a mobile food unit by Mr James Queenan. Mr Queenan wished to trade outside the hours and restrictions set out within Warwick District Council's policy.

The Chairman asked the Members of the Panel and officers present to introduce themselves. The applicant had sent his apologies for being unable to attend the Panel meeting because he felt he should not close his business and inconvenience his regular customers.

The Licensing Team Leader outlined the report and asked the Panel to consider all the information contained within it in order to decide whether the Street Trading Consent for Jimmy's Food should be granted and, if so, whether the consent should be subject to any additional conditions.

Warwick District Council had designated every street within the District as a Consent Street. Any person who wished to expose goods for sale anywhere the public had free access, needed to apply for a Street Trading Consent.

The Council's Policy permitted trading between the hours of 06:00 and 18:00. However, any trading outside these hours had to be approved by a Licensing and Regulatory Panel.

A new Street Trading Policy had been approved for a six-week public consultation, due to start shortly. The draft policy proposed trading hours of 06:00 to 20:00. Limited weight could be added to this Policy because it was at an early stage of adoption, but the Panel needed to be mindful of this when deciding on the application.

Mr Queenan submitted his street trading consent renewal application in order that he might continue to sell hot food from his mobile unit known as Jimmy's Food located outside Unit 13, Princes Drive Industrial Estate, Coventry Road, Kenilworth.

Mr Queenan had requested on his application form to trade from Monday to Saturday from 07:30 to 21:00. This was outside of the hours set out in Warwick District Council's Street Trading Consent Policy and therefore, the Licensing & Regulatory Panel needed to decide if these hours should be approved. Mr Queenan's current hours of trading were 07:00 to 15:00 Monday to Saturday.

Mr Queenan had obtained permission from the landowner to trade from Unit 13, Princes Drive Industrial Estate, Coventry Road, Kenilworth and had provided the Licensing Authority with all relevant documents for his application.

A copy of the application form was attached as appendix 1 to the report. Supporting documents were attached as appendix 2 to the report and a copy of the Council's Street Trading Policy was attached as appendix 3 to the report.

Prior to the meeting, Mr Queenan had asked for a copy of a letter to be circulated to Members of the Panel.

In response to a question from Councillor Leigh-Hunt, the Council's Solicitor advised that the Panel had discretion to grant permission for trading hours they saw fit, accounting for the details for consideration as stated at point 3.1 in the report. Councillor Leigh-Hunt had expressed concern about the amount of weight that could be attached to the draft Street Trading Policy that would be subject to a six-week consultation exercise.

In response to a question from Councillor Wright about the reasons why the request had been made for extended trading hours, the Licensing Team Leader explained that she was unable to speak for the applicant and suggested that Members should look at the reasons given by the applicant in the letter he had sent in. The letter was then read out to the Panel. In the letter he apologised for his non-attendance, explaining that because he was self-employed, it would have had a negative impact on his business and especially his regular clients if he were to close. He explained that the food business had been his sole career for 20 years and

prior to opening Jimmy's Food, he had worked at Warwick conferences based on the campus at Warwick University for 16 years. He then set up his own food trailer business and for the first 12 months had exceptionally very well with great feedback from workers and residents of Kenilworth. His letter explained the reasons why he wished to increase trading hours:

- To expand the business as much as possible and he felt that this was the next step in achieving this.
- His business had a good following on Social Media and a point made often was that people wanted to try his food but could not because of work commitments or school, therefore opening in the evening would be of benefit to them.
- He did not think there was another food outlet in the vicinity that offered the same choice of food offered by Jimmy's.

He stated that the local residents nearby had made no objections about his service over the last 12 months, and they came to the trailer for breakfast/lunch on occasions and he had built up many good relationships.

The evening openings would still operate as a takeaway service, and there was a possibility that a delivery service might be started.

The Licensing Team Leader confirmed that there had been no objections about Jimmy's and having consulted with the statutory consultees, there had been no complaints in the last 12 months.

Councillor Wright asked if residents were aware that the application was to extend hours to 21:00 or if they thought it would continue to 15:00 hours. The Licensing Team Leader explained that the Authority did not consult with residents for street trading consents.

After confirming there were no further questions, at 10.25am, the Chairman reminded those present of the procedure as follows: everyone except the Committee Services Officer; the Members of the Panel, the Council's Solicitor would be asked to leave the room and the meeting would be adjourned for deliberation. The decision would be communicated in writing to the interested parties with a summary of the decision published on the Council's website.

At this point all parties except the Panel, the Council's Solicitor and Committee Services Officers left the room.

Resolved that the licence to permit street trading be granted but between the hours of 7.30am and 7.00pm.

The Panel have considered the report from Community Protection and the letter from the Applicant which was read to the Panel in the Applicant's absence.

The Panel note that the application is to renew the existing licence, and that the Applicant has applied for an extension in relation to the hours during which he can trade. The Panel note that the hours on the existing licence are from 7am to 3pm Monday to Saturday. The Application is for 7.30am to 9pm Monday to Saturday.

The Panel have considered the Council's Street Trading Consent Policy which provides that:

"The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above."

The Panel note that the criteria which must be assessed where an application is outside the hours of 06.00 and 18.00 is as follows:

Public Safety - Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.

Public Order - Whether the proposed activity presents or could present a risk to public order.

The Avoidance of Public Nuisance - Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

Local Area Needs - Consideration will be given to the character of the area (eg conservation area)

The Panel note that the Applicant's mobile unit is located at Unit 13 Princes Drive which is within a mixed industrial and residential area and in close proximity to the rear gardens of the residential properties fronting onto Coventry Road. Whilst the Panel note that there have been no objections in relation to the application and that no complaints have been received in respect of the mobile unit in the past 12 months it is the Panel's view that an extension of hours into the evening is likely to result in a different offering by the Applicant. It appears to the Panel that the majority of trade during the day is likely to come from workers from the surrounding industrial estate whereas trade during the evening is

likely to come from local residents or members of the public travelling to the mobile unit by car. The Panel notes that the Applicant already promotes his business using social media which is likely to attract customers to the area. It is the Panel's view that this is likely to result in an increase in traffic movements and noise from vehicles and customers attending the mobile unit. Further, that the later such visits are made to the mobile unit the greater the likelihood of increased disturbance to local residents. As such it is the Panel's view that an increase in the hours to 9pm is more likely to increase the risk of public nuisance.

Whilst the Panel notes the Applicant has stated that part of his plans to expand his business include attracting customers who ordinarily would be unable to attend his mobile unit during the existing hours due to commitments such as work or school it is the Panel's view that this can still be achieved by an extension of the hours until 7pm. Whilst there is still the risk of some disturbance to local residents it is the Panel's view that such disturbance will not be as great as that which is likely to be caused by the extension of the hours until 9pm. By granting the licence until 7pm this, in the Panel's view, strikes a reasonable balance between the right of local residents to enjoy their properties without disturbance and the Applicant's wish to expand his business.

The Panel, therefore, resolve to grant the licence permitting Street Trading to take place at the Applicant's mobile unit between the hours of 7.30am and 7pm. The licence shall be granted in accordance with the report and subject to the Council's General Conditions relating to Street Trading.

(The meeting ended at 10.45am)

CHAIRMAN
21 March 2022