

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 23 July 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Stuart Wattam and Philip Wood

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STATIC STREET TRADING CONSENT

4.1 The Chief Licensing Officer submitted a report to consider an application, under the Local Government (Miscellaneous Provisions) Act 1982, for the grant of a Static Street Trading Consent for a site on Emily Road (Ref No. 45/13).

4.2 Present at the meeting were Raja Rafaqat Khan (Applicant), Rozina Khan (Applicant's wife), Councillor Nikki Bond and Mr R Rehman (Objectors), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.

4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that objections to the application had been received from Councillor Nikki Bond and two local business owners in the area, and were attached at Appendix 'B' to the report. One of the local business owners attended the meeting.

4.5 Councillor Nikki Bond stated that she was concerned about the close proximity of the trading site on Emily Road to a number of other shops in the area selling similar goods. She also had concerns regarding the levels of traffic in the area, indicating that Emily Road was part of a dense network of roads in a residential area, where there was a high

number of families with children, and referred specifically to road safety issues relating to children leaving local schools in the area. She pointed out that the applicant had already had an application rejected in respect of a Static Street Trading Consent on Owler Lane, which was situated in a quieter area to this application, albeit the trading site rejected was a cul-de-sac location. It had been represented to her that the owners of other supermarkets and local stores in the area, as well as the local Police Community Safety Officers (PCSOs), shared similar concerns. Councillor Bond also referred to problems of anti-social behaviour in the area, where young people had thrown fruit at people and vehicles, and with the applicant planning to sell cheap fruit from his van, she considered that this could exacerbate the problems. In terms of the letters of support received in respect of the application, which were contained in the report, Councillor Bond stated that the majority of these people did not live within the immediate proximity of where the van would be sited, therefore it was unlikely that they were, or would be customers. Reference was also made to allegations that the applicant had been selling illegal tobacco from the van. Councillor Bond concluded by stating that local shopkeepers needed support from the Council on the basis that they were paying rates and utility charges in respect of their premises.

- 4.6 Mr Rehman stated that, as a shopkeeper in the area, it was not fair that he had to pay rates and other expenses in terms of his premises, whereas the applicant did not have such responsibilities, enabling him to sell goods at a much cheaper price. He added that a number of shops in the area had recently been forced to close down due to the increased competition.
- 4.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the applicant, Councillor Bond stated that she did not know why a local PSCO had not attended the meeting. She confirmed that there was a high number of families with children living in the area, as well as an increased level of footfall due to parents and children walking to and from Nether Edge Primary School. There was also a youth club very close by. In terms of specific traffic issues regarding Emily Road, it was stated that there was almost constant double parking on the road and that there were three roads running off Emily Road, which were equally as congested. There were eight shops within a 200 metre radius of the proposed trading site. Councillor Bond could not comment as to why the Council's Highways Service had not objected to the application. It was also stated that, as well as Nether Edge Primary School being very close by, large numbers of older children who lived in the area walked to catch buses in the area to secondary schools, such as King Ecgbert's, King Edward's and Tapton, which would add to the footfall. There was also a large number of taxi drivers who lived in the area who, by the nature of their job, added to the traffic congestion at all different times of the day. Mr Rehman, whose business comprised a general store, sold

meat, vegetables, rice and drinks, amongst other things, and he traded from 9.00 am to 9.00 pm, Monday to Sunday, and his client base comprised mainly local residents, but he also attracted customers from a wider area who purchased halal meat. The location of the Primary School was pointed out to the applicant. Whilst Mr Rehman accepted the fact that, as he had been trading in the area since 1976, he would have built up a reasonable customer base, he considered that as people would not have as far to travel and if the produce was sold considerably cheaper than in other stores in the area, they would purchase their goods from the van, thereby putting increased pressure on local business owners trying to make a living. Whilst Mr Rehman's main objections centred on the issues regarding the likely adverse effects on the shops in the area, he also referred to the traffic problems in the area.

4.8 Rozina Khan, on behalf of her husband and applicant, stated that he would only be trading one day a week, from 11.00 am to 4.00 pm, therefore would not be sited on Emily Road during the morning school run. He believed that he had identified a gap in the market and was aware that a number of customers were wanting to buy his produce. People had the choice of travelling to the other shops in the area, but chose to purchase from him as it was more convenient, as well as being much cheaper. She stated that she was not aware of any fruit and vegetables being thrown at people or cars in the area, and stressed that her husband would not sell any of his produce to young people if he believed it would be used for this purpose. She stated that no one on Emily Road, where the van would be sited, had objected to the application and that only two of the eight local business owners in the surrounding area had objected. She believed that the other traders in the area needed to give consideration to how they could improve their businesses in order to keep up with the competition. She concluded by stating that the main reason for applying for a Static Street Trading Consent was due to the difficulties her husband had experienced in terms of the 800 metre boundary regarding the Mobile Street Trading Consent.

4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the objectors, Mrs Khan confirmed that her husband sold fruit, fresh vegetables, toilet paper and eggs, and that he no longer sold spices. He would trade only one day a week, on a Wednesday, and the van would be sited at one location, and customers would walk over to the van to purchase his produce. If he was successful with the application, in order to attract business, he may leaflet households or knock on residents' doors to let them know he was trading in the area. Following representations made by the Deputy Chair, Mrs Khan stated that her husband would be happy to trade from 10.00 am to 3.00 pm in order to avoid any potential traffic or safety issues regarding children going to and leaving school. She did not envisage any problems with her husband parking on Emily Road, as they had visited the area recently, and had both been able to

park without any trouble. She confirmed that he would only be trading on Wednesdays and that if Christmas Day fell on a Wednesday, he would not trade on an alternative day in the week. She confirmed that he was aware and would abide by all the relevant rules and regulations in terms of the Static Street Trading Consent, including the fact that he would not be able to sell any other items apart from those specified on his Consent. Mrs Khan confirmed that her husband had not held a Static Street Trading Consent before and that the main reason for applying for such consent was due to the difficulties he had experienced relating to the 800 metre boundary, regarding his Mobile Street Trading Consent. She was aware of the reasons as to how her husband was able to sell his produce considerably cheaper than other traders in the area, and stated that he had chosen this area as there was potentially a lot of business. Mr Khan was presently renting a shop premises on Page Hall Road. Mrs Khan stated that if the application was successful there would not be a potential for her husband to be trading seven days a week in the Emily Road area as this was not permitted pursuant to the terms of the Consent or indeed, under his Mobile Street Trading Consent, he was not allowed to return to the same area during any one week. She stated that her husband would ensure that he complied with the Static Street Trading Consent, notwithstanding strict adherence to the terms of the Consent was very difficult. However, he did not wish to lose his trading licence. She did not consider that her husband would offer much of a threat in terms of competition, to other traders in the area as he would only be parked on Emily Road one day a week from 10.00 am to 3.00 pm. In conclusion, Mrs Khan stated that due to the difficulties experienced regarding the 800 metre boundary regarding the Mobile Street Trading business, there was a likelihood that he would not continue with this business.

- 4.10 **RESOLVED:** That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.11 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.13 **RESOLVED:** That, following consideration of the information contained in the report now submitted, including the representations now made and the specific reference to the Applicant's amended trading hours, the application for a Static Street Trading Consent for a site on Emily Road (Ref No. 45/13) be granted.

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

**5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 -
MOBILE STREET TRADING CONSENT**

- 5.1 The Chief Licensing Officer submitted a report to give consideration to an existing Mobile Street Trading Consent (Ref No. 46/13) following a number of alleged breaches to the Consent conditions.
- 5.2 Present at the meeting were Councillor Nikki Bond, Raja Rafaqat Khan (Consent Holder), Rozina Khan (Consent Holder's wife), Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).
- 5.3 Carolyn Forster outlined the procedure which would be followed during the hearing.
- 5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that the consent holder had been observed breaching the conditions attached to his Mobile Street Trading Consent.
- 5.5 Mrs Khan responded to a number of questions raised by Members of, and the Solicitor to, the Sub-Committee.
- 5.6 The Deputy Chair adjourned the meeting for 10 minutes to enable the Consent holder and his wife to consult in private.
- 5.7 Further to the adjournment, the Consent holder confirmed that he wished to surrender his Mobile Street Trading Consent.
- 5.8 **RESOLVED:** That the meeting be closed on the grounds that the surrender of the Mobile Street Trading Consent (Ref No. 46/13) obviated the need for the hearing to continue.