

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 16 July 2013

PRESENT: Councillors John Robson (Chair), George Lindars-Hammond and Clive Skelton

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1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received. Councillor David Barker attended the meeting as a reserve Member, but was not required to stay.

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 - STREET TRADING - SCHOOLS (ICE CREAM) STREET TRADING CONSENT - TINSLEY NURSERY AND INFANT SCHOOL

4.1 The Chief Licensing Officer submitted a report to consider an application under the Local Government (Miscellaneous Provisions) Act 1982, for a Schools (Ice Cream) Street Trading Consent – Tinsley Nursery and Infant School (Ref No. 43/13).

4.2 Present at the meeting were Peter and Zoe Devoti (Applicants), PC Gillian Parker (South Yorkshire Police), Andy Ruston (Senior Licensing Officer), Kavita Ladva (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Kavita Ladva 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 South Yorkshire Police and Tinsley Nursery and Infant School, and were attached at Appendix 'B' to the report. A representative of Tinsley Nursery and Infant School did not attend the hearing.

4.5 In terms of the Police's objections, PC Gillian Parker stated that the only vehicular access to Siemens Close was off Bawtry Road, which was a very busy road. There had been increasing problems of congestion on Siemens Close, mainly due to parents dropping off and picking up their children from Tinsley Nursery and Infant School. It was very difficult for cars to turn round at the end of the road and, if this was not possible, drivers would often be forced to reverse all the way back

down to Bawtry Road. Further problems were caused by parents stopping on the zigzag lines directly outside the School. Whilst the Police were monitoring the situation, which had included enforcement, due to resource issues, officers could not be in attendance every School day. PC Parker stated that the ice cream van would exacerbate the congestion problems, thereby increasing the risk to the safety and wellbeing of the schoolchildren.

4.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the applicant, PC Parker stated that it was a common problem for parents and other drivers to park on the restricted areas on Siemens Close and if officers were in attendance and witnessed any illegal parking, the drivers would be asked to move immediately. With regard to the possible alternative site on Newburn Drive, which had been suggested by the Police, PC Parker considered this to be a feasible option on the grounds that the road was much longer and slightly wider, therefore would pose much less of a safety risk to children at the School. She stressed that this was a personal view, therefore could not confirm whether the Police would lodge a formal objection if it was the case that the current application was not granted and the applicant made a further application for Newburn Drive. She confirmed that, despite reference being made to a 'renewal' of the licence, she was aware that it would be an application on the basis that the applicant did not have a Street Trading Consent at the present time. On 17th June 2013, when PC Parker noticed Mr Devoti trading on Siemens Close, and subsequently discovered that his Street Trading Consent had expired on 31st March 2013, he was not parked on the zigzag lines on this occasion, and moved as soon as instructed to do so. This was the only time that PC Parker had requested Mr Devoti to move off this site, although reference was made to other requests for him to move, made by PCSO Paul Thorpe. PC Parker was not able to confirm the school start and end times or the capacities at both Tinsley Nursery and Infant School and Tinsley Junior School, on Bawtry Road. In terms of the actions of the Police regarding the parking problems on Siemens Close, PC Parker stated that the situation only improved in the short-term after visits from officers, and reminders to parents sent from the School but, in the Police's view, unless adequate resources were made available in terms of enforcement, the problems would continue. The Police had worked with the School and letters had been sent to parents, warning them of the parking issues, as well as regularly warning the children, in assemblies, of the dangers caused by traffic on the road. Staff would also go out onto the road at School opening and closing times to check on the children's safety. There were regularly cars parked on both sides of the road and drivers who were not familiar with the area would not be aware that they may not be able to turn round at the end of the road. PC Parker stated that whilst the ice cream van added to the traffic problems on the road, the majority of the traffic issues were caused by parents dropping off and picking up their children from the School. If the applicant parked his van further down the road, on the same side of the School, this would minimise any safety risks to the children. Even if there were double-yellow lines at the end of the road, to help drivers turn round, this may not necessarily solve the problem as there was a likelihood that, if drivers were currently parking on the zigzag lines, they would also park on the double-yellow lines.

4.7 Peter Devoti put forward his case, indicating that he had been trading at this

location for the last 25 years, with his family trading here before this time, and had never received a parking fine or been in any trouble with the Police or the City Council. He would park his van on Siemens Close at around 2.30 pm, in preparation for the children coming out of the School at 3.10 pm, and would then leave at around 3.30 pm. In his opinion, the majority of the traffic problems were caused by the parents dropping off and picking up their children from School, and he considered that he was being discriminated against by the Police and the School. In terms of the safety risks to the schoolchildren, he stated that when leaving the School, they are all accompanied by either their parents or other adults. Mr Devoti referred to particular problems regarding traffic congestion last year, when some of the teachers also parked their cars on the road, adding to the congestion. Following complaints from parents, all staff at the School were requested to park their cars on the School premises. Zoe Devoti suggested the parents organising a Walking Bus, as this would help to reduce traffic levels. She also considered that Mr Devoti was being unreasonably targeted, and indicated that the Police and the School should be focusing on those parents who were illegally parking on the road. Mrs Devoti also made the point that any big vehicle parked on the road would cause problems of visibility for other drivers and that Mr Devoti usually only traded during the Summer months. She also stated that it was not possible for the schoolchildren to run straight out of the School gates onto the road as there was a locked barrier directly outside. She concluded by stating that the schoolchildren were in more danger from the moving vehicles than a static ice cream van.

- 4.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee and PC Gillian Parker, Mr Devoti accepted that the School were being proactive in terms of discouraging illegal parking by displaying the large banner – ‘No Waiting. No Parking. No Excuses’ – and that, although he had not seen the sign himself, based on confirmation from the Chair, he accepted that there was also a sign at the School entrance requesting School staff to be parked within the School premises by 8.30 am. In terms of liaison with the School, Mr Devoti stated that he visited the Headteacher prior to the renewal application made last year. Regarding one of the occasions when PCSO Paul Thorpe had requested Mr Devoti to move his van, as detailed in his statement dated 19th June 2013, when Mr Devoti had accused PSCO Thorpe of being racist, Mr Devoti stated that he may have used the word racist, but accepted that it was the wrong word to use. If there was no room to park on Siemens Close, depending on the weather, he would either drive around and return to see if there was a space, or not bother at all. He confirmed that he would often park on the opposite side of the road to the School and that he had parked on Newburn Drive, but his income would be reduced by approximately 50% due to it not being as busy at this location. Mr Devoti stated that he could not understand the level of opposition from the Police and the School as he had traded at this location for years, never having had a problem. He was satisfied that the objections related only to road safety issues, but considered the objections unfair, particularly on the basis that he parked his van up 40 minutes prior to the School closing at 3.10 pm. Although he had traded at this location for 25 years, the objections only commenced last year. He confirmed that he was only aware that he had to receive the consent of the School last year and that he could not recall any road traffic accidents on Siemens Close during the last 25 years. Mrs Devoti stated that she had not discussed the idea of

a Walking Bus with the School and that when they had met with the Headteacher last year, prior to the renewal application, they had mainly discussed the issue of healthy eating. Whilst there were one or two shops further up Bawtry Road, as well as shops in Tinsley, the van was the first point of contact in terms of the sale of ice cream for schoolchildren leaving the School. Whilst he had received no letters of support from parents, Mr Devoti stated that some residents of Siemens Close had moved their cars to enable him to park, and that he had never been told by residents that he could or should not park on the road. Regarding the incident on 19th March 2013, when Licensing Officers visited the site following a complaint regarding the location of an ice cream van, Mr Devoti confirmed that it was his sister who was trading from the van on this occasion. He stated that he did not take any action following a letter sent to him in connection with this issue as it wasn't him who was trading. Mr Devoti indicated that he did not consider the Police's objections vexatious. In terms of information received from the Licensing Service, he confirmed that he had received advice relating to the renewal of his licence and that he had to speak to the Headteacher of the School. He believed it was simply a renewal, rather than a new application.

- 4.9 **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.
- 4.10 Kavita Ladva reported orally, giving legal advice on various aspects of the application.
- 4.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.12 **RESOLVED:** That, following consideration of the information contained in the report now submitted, including the representations now made, the application for a Schools (Ice Cream) Street Trading Consent for a site outside Tinsley Nursery and Infant School, Siemens Close (Ref No. 43/13) be granted.

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