

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 7 January 2019

Present: Councillor Stone – in the Chair

Councillors: Grimshaw and S Lynch.

LACHP/19/1. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the items of business.

Decision

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

LACHP/19/2. Application for a Street Trading Consent for AU Cullinary Concepts, Forecourt of Wash and Glow, 210-216 Cheetham Hill Rd M8 8LW.

The Committee noted there had been a late objection received on behalf of Safestore Ltd. They noted the objector had been clearly aware in his email of the 5th of November 2018 that the closing date by which any objections had to be received was the 4th of December 2018. His objections were not received until the 6th of December. They were therefore not entered into evidence and disregarded.

The Application was in relation to the siting of a double decker bus, (10 metres in length and 4m in height) on the forecourt of 'Wash & Glow' car valet/wash premises located at 210-216 Cheetham Hill Road. The intention was to sell hot food and drinks/shakes from the Bus to customers of the car valet service and members of the public generally with requested operating hours of 11am to 11pm daily.

Representations/objections had been presented by the Licensing Unit, the Council Neighbourhood Team (NT) and the Licensing Out Of Hours Team, (LOOH).

Photographic evidence of the vehicle to be used and the locus were provided within the Application and additional photographic evidence was provided by LOOH on the morning of the hearing which the Applicant and Neighbourhood Team consented to admit in to evidence.

The concern was the impact on road safety and the consequences of additional litter/waste.

The Applicants were in attendance and addressed the objections/representations as follows: -

The bus was to be converted so that the bottom floor would be the kitchen area and the upstairs the seating/dining area; it was to be sited at what was to be referred to as the south exit.

It was explained on Cheetham Hill Road, there were two entry/exit points: the first one, (driving in the general direction of Cheetham Hill) was the South Exit and the second one, the North Exit. There was a further exit at the rear of the land known as the North Street Exit.

The Applicants stated the appearance of the premises/grounds was crucial as to how the venue would be perceived; they were willing to work with the owner of the property, Yousef, in this regard.

They had a waste management plan in place with a multi-focal approach; there would be bins inside and outside the bus, a contract in place with 'Fresh Start' for weekly collection of refuse. The Applicants confirmed they were willing to physically collect litter themselves and for any employees to do so.

When questioned they confirmed they were willing to do this not only for the grounds of the car park area but the surrounding area also

They explained that as a food outlet, hygiene was a priority, they had an environmentally friendly ethos so that waste would be recycled i.e. separate bins for bottles and cans and they had also been liaising with the packaging company regarding the use of re-cycleable and biodegradable packaging. Furthermore, the food would be served in baskets so the only waste would be the cups and basket liners.

When questioned they also confirmed there would be a 1100 Litre waste bin at the North Street exit which housed other industrial waste bins e.g., that of the mechanics also located on the plot.

When questioned the Applicants confirmed this would be a Halal version of 'Five-Guys', there would be a limited 'retro' menu to ensure the quality of the food they sold. The target market was young to middle-aged consumers with the peak hours being after 7pm.

They would use the onsite electricity supply from the café on site which would be installed by an NIC qualified electrician; they had decided against a generator as it would be too noisy despite that being a cheaper route.

The Applicants accepted the site was currently disorganised; they had been in contact with the owner, and the following changes were to be made: -

The south exit would be closed off as this is where the bus would be sited; the Applicants stated they had, had an architect on site and the unit was well within the limits of the site however, no report was presented to confirm this.

Entry for vehicle to the car valet would be via the North Entry Point and their exit would be via the North Street Exit.

A two lane system would be implemented with 'white lines' being implemented and a letter dated the 15th of December 2018 from the Managing Director of W&G Valeting Ltd was presented stating, "This letter serves as a formal agreement of new white lining within wash and glow forecourt, with six specified bays allocated to AU Culinary Concepts and its customers".

The Applicants stated one lane would be used for entry to their unit and parking bays and the other for the car valet. They would fund this at a cost of £1500.00. In addition, there would be signage and there would always be someone on site from Wash & Glow directing traffic.

The Committee raised the issue that there were four businesses already on the site and with reference to the photographs provided within the Application, questions were raised regarding Elliot's Vehicle Hire who were located at the North Entry Point and had access to the thoroughfare; their vehicles could enter or exit at the North point and questions were raised as to how this would be 'policed/enforced' if they had a right of way i.e. they couldn't legally be prevented from using that point as an entry or an exit.

The Applicants accepted they did not have control over Elliot's but that the owner had told them he had been in touch with Elliot's. No further details were known.

The Principal Licensing Officer outlined the main concern was the impact on road safety referring to appendix 3 and traffic management at the site. He invited the Committee to consider the Statement of Policy and as to whether any conditions could be attached to the licence to address the issues of safety, visibility, litter and any potential nuisance.

Objections were made by the LOOH officer in relation to public safety on the site; there were concerns the forecourt was surrounded by other businesses; In respect of the North Street exit being used as the main exit, there were already vehicles parked on the pavements on North Street causing visibility issues and therefore there were concerns regarding increased vehicular traffic leaving and potentially parking there. North Street was a narrow road and there was a risk of further obstruction to the flow of traffic.

The size of unit also caused concern, it being 10 metres in length and 4 metres in height with potential to cause visibility issues for any vehicle leaving the Wash & Glow car park via the Cheetham Hill side.

Generally, they were of the opinion the site was too small for a unit of that size and to be trading from 11am to 11pm. They were also still concerned with the waste management as there were still issues in the area with fly-tipping and requested the Application be refused.

The North neighbourhood team also made representations and said that their primary concern had been regarding waste management but they felt the Applicants had addressed those concerns.

Their other concern was the impact on the local neighbourhood and public safety; initially NT thought the aim was to provide food and drink to customers of the carwash and not general members of the public; they were now aware that trading to the public generally could increase the footfall on an already complex, problematic and vulnerable site and thereby putting public safety at risk.

The Committee was impressed by the presentation of the Applicants and their commitment to proposed venture. They did not doubt their aim was to provide a quality product and service and commended them in this regard.

The Committee was satisfied the Applicants had made sufficient considerations regarding waste management and noted that the NT also were of the opinion that any concerns had been addressed. Reference made by LOOH regarding fly-tipping in the area was disregarded for the purpose of this Application as the Applicants could not be held responsible for matters outside and not connected with the site.

It was accepted the Applicants were looking to minimise congestion and make the area 'user friendly' however, it was clear they did not have management of the site overall and could not enforce any non-compliance; legal rights and any overriding interests regarding the site by other business users were not known.

The Committee gave regard to the Statement of Policy and in particular: -

3.1.1. That there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street, (in this instance 'the street' would be deemed as the site concerned) and

3.8.1 The Council is concerned to minimise the impact of street trading on the immediate vicinity of a street trading site, and as such applications for licences or consents will usually be refused where:

- Road safety may be compromised either by the location of the trading activity itself, or from customers visiting or leaving the site;
- There is insufficient space in the street for street trading to be engaged without causing undue interference or inconvenience or risk to persons using the street

As part of their considerations and to assist the Application, the Committee attended at the site. No parties were spoken to on-site.

Having attended at the site the Committee was extremely concerned as to the suitability of the site. They noted the site was already housing four businesses; Elliot's Van/Car Hire; the Car Audio & Security Centre; Wash & Glow and a garage located at the North Street Exit housing three units where cars were being worked on and other parked outside.

The site was congested with parked motor vehicles associated with each of the businesses on site and it was impossible to envisage where a further six spaces would be created without causing grave concern for public safety if there was additional vehicles and pedestrian traffic;

The physical size of the unit would add to the congestions and notwithstanding the implementation of white-lining, arrows and signage, the manoeuvrability of the vehicles and additional vehicular and pedestrian traffic again raised concerns regarding the safety of the public on site.

Of particular concern was the North Street Exit; vehicle access was reduced due to the large waste bin which it was proposed would be added to by an additional waste bin for the Applicant.

Exiting onto North Street was already problematic due to the vehicles parked all along the street on both sides of the exit obstructing visibility and exiting onto a mini roundabout. Therefore the Committee was of the opinion that any increased traffic from this exit would result in road traffic management issues and put public safety at risk for both customers and pedestrians on and off the site.

The Committee gave consideration as to whether there were any conditions which could be imposed which would address the above concerns but were of the opinion there weren't any sufficient. Giving consideration to all of the above, the Application was refused.

Decision

To refuse to grant the application.