

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

REGULATORY COMMITTEE – 3 OCTOBER 2011

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 REVOCATION OF STREET TRADING CONSENT – JUNCTION OF QUEEN STREET AND HIGH STREET WEST, SUNDERLAND

Mrs Melanie Dorrian

1.0 PURPOSE OF THE REPORT

- 1.1 To consider the revocation of street trading consent held by Mrs Dorrian.

2.0 DESCRIPTION OF DECISION (RECOMMENDATION)

- 2.1 The Committee is recommended to give consideration to the revocation of street trading consent held by Mrs Dorrian.

3.0 INTRODUCTION/BACKGROUND

- 3.1 Mrs Dorrian holds street trading consent at a site located at the junction of Queen Street and High Street West. The site is located in an area that has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council has discretion to revoke or amend a consent “if it thinks fit” at any time. The Committee is therefore entitled to either revoke or amend the consent should it consider it appropriate to do so.
- 3.2 The current consent allows the sale of hotdogs, burgers, chips, soup, jacket potatoes, carved meat sandwiches, paninis and breakfast sandwiches.
- 3.3 The days and hours of trading are everyday from 08:00 hours to 18:00 hours.
- 3.4 Mrs Dorrian has traded on this site since November 2007 and her current consent expires on 31 October 2011.
- 3.5 At its meeting on 30 November 2009 the Committee heard an application from Mrs Dorrian to renew her consent in this location after considering an objection from Paul Quin, Senior Project Manager from the Chief Executive’s Transformation Programmes and Projects Office. The Committee allowed Mrs. Dorrian to continue trading at her current location, subject to Mrs. Dorrian working with officers of the Council to find an alternative site. A location on Crowtree Road outside Brogans was suggested by Mr Quin as an alternative location on a trial basis. However, following complaints about the noise from Mrs Dorrian’s

generator this location was deemed by all parties to be unsuitable as a permanent location and Mrs Dorrian was relocated back to her previous trading location. Since then no other locations in the city centre have been identified as suitable to relocate Mrs Dorrian's trailer.

- 3.6 At its meeting on 29 November 2010 the Committee again heard an application from Mrs Dorrian to renew her consent in her current location following an objection from Mr Quin. The Committee, after hearing representations from both parties, decided to renew Mrs Dorrian's consent for another year.
- 3.7 Due to the commencement of the works outlined in paragraph 7.3 of the report, Mrs Dorrian has applied for a one month temporary consent to trade at another site suggested by the Traffic Section. This consent was granted by officers under delegated powers for the period commencing 6 September 2011 and ending 5 October 2011.

4.0 CURRENT POSITION

- 4.1 At its meeting on 24 May 2010, the Committee adopted a new policy on street trading in the City Centre which outlines the following four main guiding principles in relation to street trading in the area:
- The Council will favour applications from traders who propose to sell food and products which are generally considered to promote the Council's Healthy City Priority and are likely to refuse applications which do not do so. Examples of foods and products which do not satisfy this priority are hot dogs, hamburgers, chips, other fried goods and confectionery. This is not an exhaustive list.
 - The Council considers that street trading should only take place from appropriately equipped stalls, trailers or vehicles which are attractive in appearance and enhance the overall visual ambiance of the location. They should be designed to meet the highest standard of regulatory requirements regarding their use (Health and Safety and Food Hygiene Regulations). They should be finished in a colour or colours specified by the Council for this purpose.
 - The Council does not have any fixed street trading locations or specific number limitations within those areas designated as consent streets. However, applications will only be granted where it is considered that the trader will add to existing amenities and be of benefit to the residents of Sunderland. It is unlikely that applications for locations close to existing street traders or where they could obstruct busy pedestrian routes or access to or from nearby premises will be granted. Also, where there are waiting and loading restrictions in place, appropriate

waivers or consents to use that location must be obtained where necessary.

- The Council endorses the use of energy efficient clean green power supplies by traders and would discourage, for example, the use of polluting power sources such as petrol driven generators which can create environmental and noise pollution.

4.2 The Policy also states that each application will be considered on its merits taking account of the General Policy provisions. Only where there are exceptional circumstances will consents be granted contrary to this General Policy. "Exceptional circumstances" are not defined but must be something extraordinary whereby the positive benefits for the public of Sunderland of granting the street trading consent are such to justify deviation from the Policy.

5.0 REASONS FOR THE DECISION

5.1 Paragraph 10 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to revoke consent if it sees fit to do so. The Council may also vary the conditions of a consent.

6.0 ALTERNATIVE OPTIONS

6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS

7.1 The following comments have been submitted by Jane Perry of Home Retail Group who trade as Argos in High Street West, Sunderland:

'The van is situated approx 10ft from the store entrance. This is illustrated by attached photographs. (Three photographs are attached as Appendix 1).

The van omits very unpleasant cooking smells which blow into the store and the smell carries at least a third of the way down the sales floor. The smell is enhanced as the vendor has the side window open which is directly next to the store entrance. When comments have been raised direct with the vendor, the feedback was to keep the Argos entrance door closed. Argos should not be forced into closing the entrance doors by a street trader.

The van affects the visibility of the Argos store and potential customers would not be able to see that there was an Argos store on the High Street, resulting in lost trade.

The pavement area is still grubby but they have cleaned so better than it was. It is something they need to keep on top of.

Argos would like the hot food van relocated and we believe there is an open area in the middle of the High Street where the trader could be relocated. I would be most grateful if you could investigate our concerns and relocate the hot food trader away from the Argos store. In future we would also like confirmation that no trader will be allowed to operate from the area immediately outside the Argos store'.

7.2 The following comments have been submitted by Mrs Dorrian in response.

'With reference to your letter dated 7th July 2011 regarding a complaint made against my business I am writing to you today with my response to the complaint.

My first reaction to this complaint is confusion as to why this complaint is being made now after I have successfully traded at the location in question for approximately 4 years now and nothing in the complaint is pointing out anything that has changed over the course of those 4 years and Argos has been there for all of that time too so I'm wondering why my business has become a problem to them when previously it was not.

Also I was rather upset and in disbelief to read in your letter that I had allegedly responded to a representative of Argos complaining about the smell that they should close their doors. I would like to make it clear that I did not and I would never make such a remark like that. I can only assume there has been some misunderstanding regarding this as in the past I have made it clear that when appropriate I would keep my side door on my van closed to avoid food smells possibly entering into Argos and I do try to keep the opening of the side door down to a minimum but unfortunately this is not always possible especially on very warm days as I do require some amount of ventilation and some days are windy which would exaggerate the food smell and obviously this is beyond my control .

The main smell that emits from my van would be the frying of freshly chopped onions and my alternative solution to this complaint would be that I could use dried onions that would be enclosed in a bain marie which would remove the fried onion odour if this was an option, however I would like to point out that a lot of customers actually like the freshly cooked food smells that emit from my van and therefore entice them to order from me.

I'm aware that Argos would like my van relocated and I'm curious as to whether this request has anything to do with the imminent refurbishment work that is to be carried out on their premises and how my van may have an impact on this. If this is the case I am quite open to temporary relocation while said work is carried out.

I am quite happy to work with Argos and the council to resolve any ongoing issues there may be in order so my business does not suffer'.

7.3 The following comments have been received from Geoff Fisher, Traffic Section:

'Major works will take place from the beginning of September, demolishing buildings at The Bridges, where it joins High Street West. Work will also be undertaken diverting a large diameter drain along High Street West, between West Street and Queen Street, a distance of 85 meters or thereabouts. This work will take approximately 3 months for the drainage and 12 months for building works.

This work will require the suspension of any street trading, which take place in this area, as the pedestrian walkways that will be left available, are likely to be severely restricted and street trading will hinder pedestrian movement.

Regarding the street trader currently situated at the junction of High Street West and Queen Street, I can confirm that the Traffic Section would not object to her moving further east, to a point outside of Mothercare.

All works and timings are due to change at short notice, but this is the latest information to hand'.

7.4 The following comments have been submitted by Keith Lowes, Head of Planning and Environment.

'The Council has embarked on a programme of activity to improve the public profile, the physical condition and the overall image of the City Centre. The basic principle of this work is to create a 'well cared for' feel to the streets and to de-clutter them in order to enable the public to better understand or 'read' some of the city's main linking 'avenues'. This involves improving the surface of footways and roadways where necessary and removing street 'clutter' in order to improve the views down streets and to make it easier for pedestrians to move about.

As a general principle the Project Team takes the view that van or trailer-based fast food, ice cream and sweet stalls do not lend themselves to the project's aims and objectives and wherever appropriate there should be no further street trading licences issued for this type of activity. In addition the project team considers that some of the fast food stalls which have been recently proposed run contrary to one of the strategic policies of the council and its partners, namely creating a 'Healthy City'.

Objections

The Street Scene Improvements Project Team wishes to object to the continuation of this consent for the following specific reasons:

1. The products on offer do not conform to the revised Council Licensing Policy. Specifically this offering does not conform to the following guiding principles contained in the policy:-
 - a. Principle 1 – promoting a healthy city;
 - b. Principle 2 – attractive stalls in appropriate colours;
 - c. Principle 4 - efficient clean green power supplies.
 2. The Team has consistently and successfully objected to the granting of licences to trailer and van based fast food sales units in other city centre locations in the last two years;
 3. It is no longer appropriate for a trailer based fast food outlet to be placed in High Street West which has recently undergone major improvements, de-cluttering, the installation of new seating and planters and in January 2011 a completely new street lighting scheme. The total investment by the council in the street scene improvements to High Street West now stands at £225,000;
 4. The petrol generator will contribute to noise and environmental pollution'.
- 7.5 The following comments have been submitted by Helen Peverley, Area Response Manager – City Centre.

'I would also like to note additional objections on behalf of the Street Scene City Centre Area Response Team. My concerns are endorsed by the Sunderland City Council, City Centre Management Board, which is chaired by Les Clark, Head of Street Scene.

The concerns are as follows:

- excessive additional litter from customers using the burger van
- grease on the pavement from the burger van (caused by dropped burgers, sauce etc)
- close proximity of the burger van to the drainage works currently undertaken within High Street West - adding 'clutter' to an already busy working site. This is also limiting the ability for the City Centre Area Response Team to gain access to clean around the van during busy periods

The City Centre Management Board are particularly concerned about the burger van remaining in High Street West following the development and opening of the flagship Primark Store. High Street West has received significant investment from Sunderland City Council

over the last 18 months to support the regeneration of this major shopping area. The burger van is not in keeping with the aspirations for the area. These concerns are also shared by the Director of The Bridges, Andrew Bradley.

Further feasibility studies are currently underway to develop the Green Street Arcade (in between Marks and Spencer and BHS) to replace the roof structure and enhance the appearance of the walkway. All of this work is planned to support the development of High Street West. The smell of burgers and litter associated with the burger van are not in keeping with the aspirations for the area, which will eventually be the first City Centre street seen by customers, businesses and visitors from the developed Vaux site'.

8.0 GLOSSARY

- 8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

- 9.1 Appendix 1 – Three photographs showing the site of unit.
Appendix 2 – Plan showing current and temporary location

10.0 BACKGROUND PAPERS

- 10.1 None.

Appendix 1







Appendix 2

