

	STREET TRADING PANEL
DATE:	MARCH 2017
TITLE OF REPORT:	STREET TRADING CONSENT APPLICATION, MR MEHMET OZER SITE: LOWER ROAD INDUSTRIAL ESTATE, LEDBURY
REPORT BY:	LICENSING OFFICER

Purpose

To inform the Street Trading Panel of a Street Trading Consent application received, in order that a decision be made whether to enable the applicant to place a hot food trading unit during the evening period at Lower Road Industrial Estate, Ledbury.

Key Points Summary

- A mobile catering unit wishes to sell hot food during the afternoon/evenings (3pm to 11pm), 7 days a week.
- Council already licence one street trading catering unit on the estate during daytime hours, until 5pm. This trader was refused permission to extend his trading hours into the evening in March 2015.
- Panel refused an application for a mobile catering unit in centre of Ledbury for evening trade back in 2013 and also on Lower Road Industrial Estate for evening trade back in 2014.
- **Mr Ozer had a street trading consent application turned down for this specific site in August 2016 and another approx. 15m away from in November 2016.**

Introduction and Background

Summary of Application:

Applicant: Mr Mehmet Ozer

Area applied for: 'Rowley Plastics Site', Lower Road Industrial Estate, Ledbury

Product Range: Hot and Cold food and drink, consistent with that found in snack bars generally

Times and Days Applied for: 3pm to 11pm, 7 days a week

Summary of Consultees and Representations:

Cllr Holton, Ledbury Ward Member:

"This is not suitable for Ledbury or required as we have several late night eating establishments on the high street which are covered by CCTV. The Industrial Estate is surrounded by residential area and families."

Cllr Harvey, Ledbury Ward Member:

"Thank you for this notification. I am not supportive of the location of a street vendor at this location. Ledbury town centre is in easy walking distance of all residential areas. We have a wide selection of food outlets already in the town centre which are open late into the evening - and my view is that these are sufficient for our needs. I remain of the view that this is unnecessary and intrusive."

Ledbury Town Council:

"This application was discussed at last night's Economic Development & Planning Committee meeting. Cllrs expressed concerns, but finally voted that the application could be supported, provided it was on an initial three month trial basis."

Aris Trezins: Herefordshire Council Environmental Health Officer:

"I can confirm that I have visited the site and am of the opinion that the new application does not significantly address the concerns of noise, disturbance etc. that formed part of the reasons for the refusal with regard to earlier applications. I would also add that should problems occur the powers available to the Local Authority as regards noise nuisance would not be applicable or largely unenforceable in this situation. My comments therefore remain unchanged from that previously submitted"

West Mercia Police:

"We would be concerned about the closing time of 11pm in particular. It could easily become a gathering point, and because of increased traffic to the Industrial Estate that local occupants have not been used to, it could easily be viewed as ASB at this time of night. I don't see anything that changes my original concerns this time around"

Nick Green
PS 1954

"From an ASB point of view I would expect this location to become a problem location – especially during the evening with regards to 'boy racers'. I would suggest my colleague make representations against the application in order to prevent problems occurring."

Jim Mooney
Licensing & Harm Reduction Coordinator, WMP

Planning Services have previously indicated that planning permission would be required for this proposed venture.

Other information:

Aldi Supermarkets have had a planning application approved in September 2016 to site a new store at the northern sector of this industrial estate. It may be that this would create additional potential customers to this catering unit through the construction phase after thereafter, though the extent of this is unclear.

One Licensing carried out their own survey with local residents to gauge opinion on the application. A copy of their letter to residents is available as a background document to this report. Feedback on their consultation that they have provided the Council with is as follows:

Houses consulted: 4, 7-11, 13, 14, 16-27 Lower Road, Ledbury (20 properties in total).

Feedback:

- Occupier at [REDACTED] did not provide a written response but gave one as the letter was being hand delivered. Verbal comments were: "I wouldn't be against this. I cannot say I would use it but live and let live".
- Mrs Richardson on behalf of several properties wrote to say: "No's [REDACTED] Lower Road Ledbury would like to oppose the hot food catering unit on the Lower Road Industrial Estate. We oppose due to the reason why on earth do you want to trade from 4pm- 11pm at night when it is a trading estate:- there will be no customers as the Amcor factory have their own canteen and are not happy with the idea also. That would bring people from town from the pubs causing trouble at that time of night. Also the smell of fried food all evening.
- Mr Lewis from No [REDACTED] wrote to ask (NB relevant comments only included here) "What guarantees can be given about the increased noise pollution between the hours requested? How will the unit be secured out of hours?"

One Licensing are proposing that the street trading consent be granted and should there be any problems, then the Council has the power to revoke it in certain circumstances. However, if this logic was applied, then virtually every application for street trading the Council receives would be approved. Due regard must be given to the opinion of the Police and Council EHO who use their expertise to judge in advance what is likely to occur.

Considerations:

Panel need to consider the following (in line with the provisions of the street trading protocol document):

Suitability of Applicant:

No apparent reasons for rejection.

Suitability of Trading Stall/Unit:

From the supplied photographs, the trading unit would initially appear sound both internally and externally, though this would be confirmed by an inspection carried out by Environmental Health.

Suitability of Proposed Product Range:

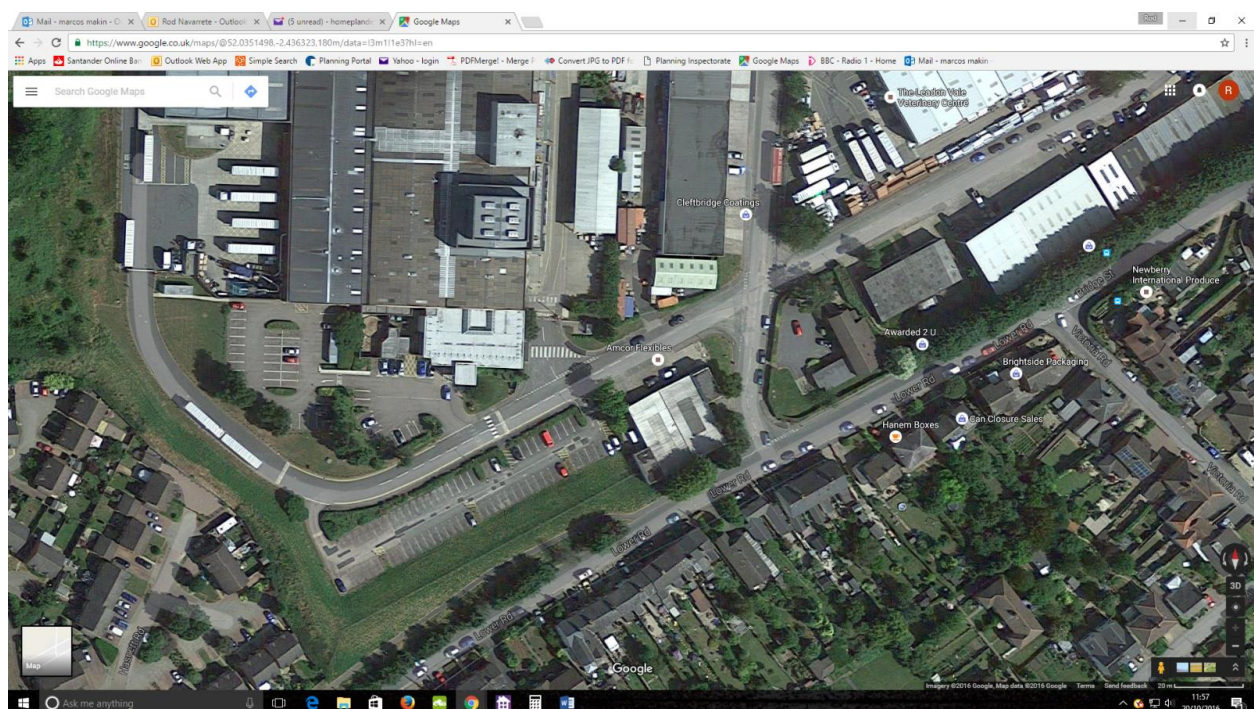
The product range of hot and cold food/drink is that expected to be found typically within a mobile catering unit trading environment. Ledbury already has a range of other eateries, including restaurants and takeaways in the vicinity, selling items similar or identical to those proposed. There

are 2 takeaways in the High Street/Homend that sell burgers, kebabs and chips. One takeaway at Bridge Street (even closer to the proposed trading location) also sells these items.

Suitability of Proposed Trading Times:

Herefordshire Council has historically not issued any street trading consents for trading times as late as being requested here, i.e 11pm, but as always each application must be considered on its own merits. It is unclear who the target customers would be, as the vast majority of businesses on the estate will be closed by early evening.

Suitability of Proposed Location:



The location of an industrial trading estate for a mobile catering unit placed in a static location each evening raises questions about where the potential customers would come from. With the majority of estate businesses closed at the proposed operating times, one can only assume the applicant is looking to attract local residents, thereby diverting them from using the establishments in the town centre. There are no parking restrictions in the vicinity of the proposed trading location and it should also be noted there is sufficient on road parking for at least several vehicles at a time, next to the proposed trading location. Amcor Flexibles Ltd who operate a factory close to the proposed trading location have confirmed that they have catering facilities on site which are open into the evening. It should also be noted that there are a number of residential properties located approximately 40-50m as the crow flies from the proposed trading site.

Previous reasoning for refusal for the 2 previous applications here were:

“There are a number of residential dwellings nearby on Lower Road, so an evening catering facility here was not deemed suitable or desirable by the Council at the current time. Furthermore, any customers that choose to park on the highway could cause an obstruction on a road which is used at all times of the daytime/evening period by articulated vehicles from the nearby Amcor factory. Also there are already sufficient retail outlets in Ledbury selling the same/similar products in that which you desire to trade. Ledbury already has an abundance of takeaway food establishments, with the town centre rightly the focus for the evening economy. No evidence or information was provided by yourself that the industrial estate itself would form the basis for your potential customers at the proposed times of trading.”

Recommendation:

To refuse the application because:

There are residential properties close by and an evening catering facility at the proposed location is not judged to be suitable by the Council. Feedback from the Police and the Council Environmental Health Officer is that if consent was granted, it would lead to a concentration of people in that location and an associated increased number of vehicles to use the facility. This could cause a nuisance to nearby residential properties, from the negative impact of odours and noise at the times proposed. Furthermore, it is noted there was very limited support for this venture from the residents consulted and given there is no clear indication that the customer base would be drawn from the locality, then it is considered that it is likely that the customer base would be drawn from further afield, thereby giving rise to the issues highlighted by both the Police and Environmental Health.

Alternative Options

It is for the Council to determine whether to endorse the recommendation for refusal

OR

To approve the application

OR

To come to some other decision

Financial Implications

If the application is approved, the rate for 2017-18 for private land sites is set at £145 per month.

Legal Implications

The legal framework for the issue of Street Trading Consents is contained Part 3 and Schedule 4 of

the Local Government (Miscellaneous Provisions) Act 1982. The Council can grant a street trading consent if they think fit. A Street Trading Consent cannot be granted to any individual under 17 years of age or on highway that is subject to a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976. In the event the Council choose to grant a licence they can attach such conditions that they consider reasonably necessary. A consent cannot be granted for a period in excess of 12 months. There is no statutory right of appeal but the Council operates a appeal procedure through its Regulatory Committee.

The power to set fees is contained in Paragraph 9 of Schedule 4 to the Act and the Council can charge such fees as they consider reasonable for the grant of a street trading consent and without prejudice to the generality of their discretion they may have regard to the duration of the consent, the street where the trading is authorised and the description of the articles which the consent holder is licensed to trade. However, the fees charged should be proportionate to costs of administering, managing and enforcing the licensing regime”

Council protocol is that the applicant has the right of appeal against any Street Trading Panel decision. This would be heard by the Regulatory Sub Committee.

Background Papers

Letter from One Licensing to accompany the application
Application Form and photographs from the applicant.
Permission letter from the site owner from 2016.
Letter from One Licensing to nearby residents