

# LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Thursday 28 March 2024  
Time: 10.30 am  
Venue: Town Hall, High Street, Maidstone

Membership:  
Councillors Garten, Joy and Springett

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## **AGENDA**

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Election of Chairman
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information
7. Street Trading Appeal - Mr Dudkowski 1 - 21

## **ALTERNATIVE FORMATS**

The reports included in Part I of this Agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact Democratic Services at [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) or call **01622 602899**.

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**Issued on Wednesday 20 March 2024**

*Alison Broom*

**Alison Broom, Chief Executive**

## Licensing Sub Committee

**28 March 2024**

### Street Trading Appeal – Mr Dudkowski- 23/04936/STRCON

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Licensing Sub Committee	28 <sup>th</sup> March 2024

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Licensing Sub Committee
<b>Lead Head of Service</b>	John Littlemore
<b>Lead Officer and Report Author</b>	Lorraine Neale
<b>Classification</b>	Public
<b>Wards affected</b>	Yalding

#### **Executive Summary**

In line with our Street Trading Policy, an application for Street Trading consent has been referred to the Licensing Sub Committee for a decision because representations have been received containing relevant objections. In these circumstances a street trading consent cannot be determined and the applicant given the option to appeal or their application will be considered refused. The applicant has exercised their right to appeal and so the matter must now be considered by Licensing Sub Committee.

#### **Purpose of Report**

Members are asked to consider and determine the application from Mr Piotr Dudkowski for a street trading consent to trade at Vicarage Road, Yalding.

#### **This report makes the following recommendations to the Licensing Sub-Committee.**

Members give consideration to the application for a street trading consent by Mr Piotr Dudkowski taking into account the consultation representations at (Appendix 4) and giving regard to the information provided by all parties at the meeting.

1. Grant the consent as applied for, subject to the standard conditions found at page 18 of the Street Trading Policy, or: -

2. Grant the consent subject to such additional conditions that the Sub Committee considers appropriate, or: -
  3. Refuse the application for a street trading consent.
-

## Street Trading Appeal – Mr Dudkowski- 23/04936/STRCON

### 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<ul style="list-style-type: none"> <li>• <i>There is no impact on Corporate Objectives as the matter has been dealt with in accordance with our Street Trading policy. Determination of applications in accordance with policy and merits provides a consistent approach to trading on the streets of the Borough.</i></li> </ul>	Senior Licensing Officer
<b>Cross Cutting Objectives</b>	<ul style="list-style-type: none"> <li>• <i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Risk Management</b>	<ul style="list-style-type: none"> <li>• <i>Risk Management issues are covered within the approach taken by Street Trading policy and the processing of this application has been in accordance with policy. Any appeal against this decision will be by way of judicial review and a consistent policy should mitigate against success of any such challenge.</i></li> </ul>	Senior Licensing Officer
<b>Financial</b>	<ul style="list-style-type: none"> <li>• <i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Staffing</b>	<ul style="list-style-type: none"> <li>• <i>No implications have been identified.</i></li> </ul>	Senior Licensing Officer
<b>Legal</b>	<ul style="list-style-type: none"> <li>• The power for a local authority to issue street trading consents is contained with the Local Government (Miscellaneous Provisions) Act 1982, in particular Schedule 4. Following an application, the authority may grant a consent if they think fit and grant such conditions as they think reasonably necessary. There is no right of appeal against the refusal of an application, although Maidstone Borough Council's Policy allows a recommendation of refusal to be considered by the</li> </ul>	Helen Ward, Lawyer (Contentious Team)

	Licensing Sub Committee.	
<b>Information Governance</b>	<ul style="list-style-type: none"> <li>The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes.</li> </ul>	Senior Licensing Officer
<b>Equalities</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Public Health</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Crime and Disorder</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Procurement</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Biodiversity and Climate Change</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 On 4<sup>th</sup> December 2023 an application for a street trading consent was received from Mr Piotr Dudkowski to trade at Vicarage Lane, Yalding. The application form is attached as Appendix 1.
- 2.2 The day and hours applied to trade are Saturday only, 4:30pm – 8:30pm to sell pizzas only.
- 2.3 The location maps showing the proposed trading site are attached as Appendix 2.
- 2.4 The 14 day consultation period for this application ran from 4<sup>th</sup> – 18<sup>th</sup> December 2023. The following applicable consultees were consulted:-
- Kent Police
  - Kent Highways
  - Maidstone Planning
  - Environmental Health
  - Community Protection Team
  - Parish Council
  - Ward Members

Residents were not consulted as there were none within 100 yards of the site as stipulated in the Street Trading Policy. However two local businesses The Walnut Tree Public House and Yalding Village Club were consulted and neither responded.

Two objections were received from Yalding Parish Council and Kent County Council Highways Department whose main concerns centred around: -.

- The suitability of the siting of the van which was considered to be impractical and unsafe.

Their objections are attached as Appendix 4.

2.5 The objections were considered in relation to the criteria for determining street trading applications found in the Street Trading Policy (STP).

*6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.*

*6.4.3 Each application will be decided on its own merits.*

2.6 The matter was referred to the Head of Housing and Regulatory Service for decision. Their decision was not to determine the application which received relevant representations and allow the applicant to appeal against the decision to the Licensing Sub Committee.

2.7 Mr Dudkowski was notified of the Head of Housing and regulatory Service's decision by email on 22<sup>nd</sup> December 2023, attached as Appendix 5.

2.8 Mr Dudkowski emailed his request to appeal against the decision on 8<sup>th</sup> January 2024, attached as Appendix 6.

2.9 Attached to this report is the procedure that is used for hearing applications with representations. The Committee in considering the application may wish to follow the procedure, adapting as necessary, attached as Appendix 7.

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### **3. AVAILABLE OPTIONS**

3.1 To grant the consent as applied for, subject to the standard conditions found at page 18 of the Policy.

3.2 To grant the consent subject to such additional conditions that the Sub - Committee considers appropriate

3.3 To refuse the application.

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Members need to consider and determine the application in accordance with our Street Trading Policy.
- 

#### **5. RISK**

- 5.1 There are no Risk Management issues as the matter has been dealt with in accordance with our Street Trading policy.
- 

#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Not Applicable
- 

#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 Not Applicable
- 

#### **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Application Form
  - Appendix 2: Location Map
  - Appendix 3: Request for resident consultation
  - Appendix 4/4a: Objections – KCC Highways & Yalding Parish Council (LPC)
  - Appendix 5: Email - Notification of refusal to applicant
  - Appendix 6: Email - Applicants request for appeal
  - Appendix 7: Hearing Procedure
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#### **9. BACKGROUND PAPERS**

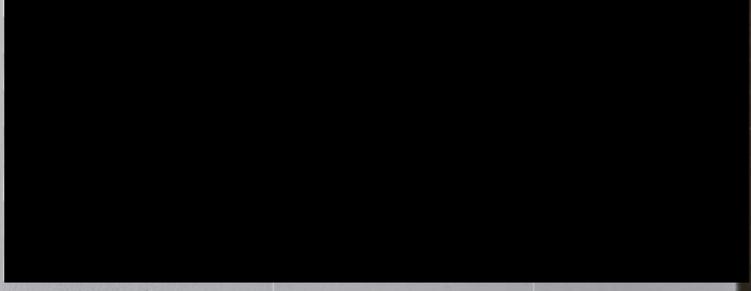
[Street Trading Policy](#)



**Local Government (Miscellaneous Provisions) Act 1982  
Application for a Street Trading Consent**

1. Name of Applicant (BLOCK CAPITALS) a) Surname MR/MRS/MISS.....DUDKOWSKI  
b) Forename (s) PIOTR

2. Address of Applicant (BLOCK CAPITALS)  


3. Telephone Number  
4. Email Address  
5. Date of Birth  
6. National Insurance Number  


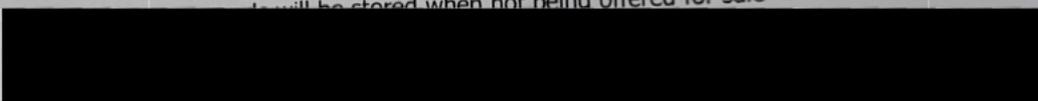
7. Details of the articles/food/drink that you propose to sell  
Pizza  
.....  
.....

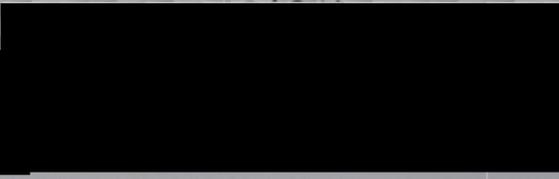
8. Give details of the exact site from which you intend to trade (enclose plan with site detailed)  
Vicarage Rd  
.....

9. State precisely the days of the week and hours that you intend to trade.  
SATURDAY 16:30-20:30

10. Give Details:
- a) if a stall/structure/vehicle FOOD TRUCK
  - b) of the approximate dimensions of the stall/structure/vehicle 6m length, 2.5m height
  - c) the vehicle registration number(s) 
  - d) colour of vehicle WHITE
  - e) the trading name you use PIZZA CUCINA
  - f) do you intend to use chimes or a loudspeaker NO

11. If selling food or drinks:
- a) you need to be registered with the Environmental Health Department in respect of food hygiene. Are you so registered? Yes/No  
(if registered elsewhere, please state with which local authority)  
TUNBRIDGE WELLS BOROUGH COUNCIL

b)  will be stored when not being offered for sale

12. State where trade refuse will be deposited.. 

NOTE: UNDER THE 1990 ENVIRONMENTAL PROTECTION ACT YOU ARE UNDER A DUTY OF CARE TO DISPOSE OF ANY REFUSE IN A CORRECT MANNER, FOR WHICH A CHARGE CAN BE LEVIED.

13. If not trading on the highway, state whether consent has been granted for use of land and provide proof of consent

.....

14. a) State whether an application for a street trading licence or consent has previously been made by you (or your assistant(s) if any) to any other local authority. Yes/No
- b) If yes, state whether such licence or consent has been:
 

(i)	Granted
(ii)	Refused
(iii)	Revoked
  - c) If any licence or consent has been refused or revoked give details of the local authority and a brief outline of the circumstances

- .....
15. Have you been convicted of any of the following offences involving:
- |  |                |
|--|----------------|
| Violence                                     | Yes/ <u>No</u> |
| Dishonesty/theft/handling/burglary           | Yes/ <u>No</u> |
| Consumer protection or fair trading          | Yes/ <u>No</u> |
| Public health or food hygiene contraventions | Yes/ <u>No</u> |
| Prohibited from running a food business      | Yes/ <u>No</u> |

If yes, please specify details giving date and place of conviction and sentence imposed.....

.....

16. State the number of assistants that will be used (including their names and addresses, dates of birth and National Insurance Numbers). If none, please write "none". **Please note that assistants must be accompanied and supervised by the consent holder at all times.**

none.....

.....

17. If a consent is granted and you have a mobile vehicle (not a trailer), do you wish to be included on the Kent County Council's Emergency Plan list? Yes/No

(In the event of an emergency you may be contacted at short notice to provide food and drink to stranded lorry drivers parked on the M20 motorway in Maidstone. This would be supervised by the police)

I, PIOTR DUDKOWSKI, hereby apply for the grant of a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and make the following declaration:

**DECLARATION**

- a) That if a consent is granted, I undertake to comply with the terms and conditions relating to the consent. I understand that failure by me or any of my assistants employed by me, with or without payment, will render both me and my assistants liable to prosecution and may also result in the revocation of my consent
- b) That I am over 17 years of age
- c) That the answers to the questions are true and complete in every way
- d) That the police may make enquiries into this application and may divulge the results to the Maidstone Borough Council
- e) That I have read and understood the notes attached to this application form.

Maidstone Borough Council takes its obligations under the data protection legislation very seriously and will not disclose information to any unauthorised person. Information may be shared with other services within the council or disclosed to other local and public authorities or government agencies that have a legitimate reason to request the

disclosure e.g. the prevention and detection of fraud. For further information please see the following link or contact Lorraine Neale on 01622 602528 or view the website at

[http://www.maidstone.gov.uk/home/primary-services/council-and-democracy/primary-areas/information-and-data/tier-3-primary-areas/data-protection#national\\_fraud\\_initiative](http://www.maidstone.gov.uk/home/primary-services/council-and-democracy/primary-areas/information-and-data/tier-3-primary-areas/data-protection#national_fraud_initiative)

SIGNED .. [REDACTED] ..... DATED ..23.11.12..

**PLEASE CHECK THAT YOU HAVE PROVIDED THE FOLLOWING:**

- i) A detailed plan showing the exact location on the highway/road where you intend to trade, one for each location
- ii) The correct fee (please circle relevant fee) up to 12 days (new applicants only) £34 full year - £156 (non-refundable) payable on application, then £265 payable on grant of consent  
Payment reference/confirmation number: R.M.X.C.54311111
- iii) 1 x passport style photo and 1 x additional form of ID, eg driving licence or passport. Please note these are also required for any assistants named on the form.
- iv) If you are unable to provide a National Insurance Number you will need to provide proof of right to work, i.e. passport, residency permit
- v) Basic DBS certificate (no more than: one month old for new applicants or 3 years for renewal applications). This can be submitted with the application form to save time, or after the consultation has ended. \*A Basic DBS certificate is also required for any assistants trading with you.
- vi) Proof of Third-Party Public Liability Insurance up to £10,000,000

Please email the form and associated documents to [licensingmbc@maidstone.gov.uk](mailto:licensingmbc@maidstone.gov.uk) or you may post the documents to: The Licensing Team, Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent ME15 6JQ

# APPENDIX 2





Road  
closed  
2 Dec  
3-9pm

VICARAGE ROAD



WINDMILL PATH leading to THE ALMSHOUSES

The Occupier

Our Ref: KW/Street Trading  
Date: 26<sup>th</sup> February 2024

Dear Occupier

**Local Government (Miscellaneous Provisions) Act 1982**  
**Application for Grant of a Street Trading Consent:**

I am writing to seek your views on an application for grant of a Street Trading Consent received from Mr Dudkowski who wishes to trade between 4.30pm and 8.30pm every Saturday.

The proposed site and product are as follows:

- Site: Vicarage Road, Yalding (see photo for site)



- Product: **Pizza**

Please send any comments or objections to [licensingmbc@maidstone.gov.uk](mailto:licensingmbc@maidstone.gov.uk) by 10<sup>th</sup> March 2024.

Yours faithfully

Kerry Watson  
**Licensing Administrator**  
The Occupier

**From:** Susan.Laporte@kent.gov.uk <Susan.Laporte@kent.gov.uk>

**Sent:** Monday, December 4, 2023 11:32 AM

**To:** Kerry Watson <KerryWatson@Maidstone.gov.uk>; Marden Parish Council (MBC) <clerk@mardenkent-pc.gov.uk>; Yalding Parish Council Clerk (MBC) <clerk@yaldingparishcouncil.gov.uk>; EH Admin <EHAdmin@MidKent.gov.uk>; Community Protection (MBC) <CommunityProtection@Maidstone.gov.uk>; Planning Technical Team (MBC) <PlanningTechnicalTeam@maidstone.gov.uk>; StreetworksMid@kent.gov.uk; west.division.licensing@kent.police.uk; Annabelle Blackmore (Cllr) <AnnabelleBlackmore@maidstone.gov.uk>; David Burton (Cllr) <DavidBurton@maidstone.gov.uk>; Claudine Russell (Cllr) <ClaudineRussell@Maidstone.gov.uk>

**Cc:** Louise Davis <LouiseHicks@Maidstone.gov.uk>; Lorraine Neale <LorraineNeale@maidstone.gov.uk>

**Subject:** RE: Street Trading Application - Piotr Dudkowski - Vicarage Road, Yalding

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Kerry

I am raising an objection to this location as it is too near the busy junction and this will cause issues backing up on the main road as a result of customers trying to park, etc.. The business needs to be sited at least 100m from the junction to prevent please.



Kind regards S

Susan Laporte MIHE | Highway Manager, Maidstone | Kent County Council | Internal:

**From:** clerk@yaldingparishcouncil.gov.uk <clerk@yaldingparishcouncil.gov.uk>  
**Sent:** Friday, December 8, 2023 10:20 AM  
**To:** Kerry Watson <KerryWatson@Maidstone.gov.uk>  
**Subject:** FW: Street Trading Application - Piotr Dudkowski - Vicarage Road, Yalding

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Good afternoon,

We understand the KCC have objected to this site and which to see it at least 100m from the junction. This would move it to a location that is always heavily congested with residents parking and there could be no guarantee that any site would be available for the van or for parking for customers. Councillors do not feel that a food van should be situated outside any residential property.

The applicant has made the pizza van available on several consecutive Saturdays in order to establish if there is a viable business and unfortunately due to the parking on Vicarage Road it has on occasion ended up on The High Street and we have received complaints that is it parked outside peoples homes.

The sale of pizza's has proved very popular with residents and whilst Councillors have concerns about the site, as stated above, Councillors would be willing to look to see if there is a more suitable site that they and residents could support.

Kind Regards

Angela Gent  
Clerk to Yalding Parish Council

**From:** Louise Davis <LouiseHicks@Maidstone.gov.uk>  
**Sent:** Friday, December 22, 2023 12:29 PM  
**To:**  
**Cc:** Lorraine Neale <LorraineNeale@maidstone.gov.uk>; Kerry Watson <KerryWatson@Maidstone.gov.uk>  
**Subject:** Determination of Street Trading application for Vicarage Road, Yalding

Good afternoon Mr Piotr

**Local Government (Miscellaneous Provisions) Act 1982**  
**Section 3 and Schedule 4 – Street Trading**

With reference to your recent application, under the above Act I regret to inform you that Mr John Littlemore, Head of Housing and Community Services cannot determine your application for a street trading consent due to objections having been received, (see attached).

The Council has decided that if an objection is received, the applicant will have the right to make a request to the Head of Housing and Community Service for an appeal hearing before a group of Members. If you wish to make a request please write stating your reasons for the appeal and a Licensing Sub Committee may be arranged to discuss your application.

If I do not hear from you within **28 days from the date of this letter** I will assume that you do not wish to pursue your application further.

According to the Act, a person who engages in street trading in a Consent Street without being authorised to do so is guilty of an offence and is liable to prosecution. **This applies while applications are being considered by the Council. Therefore, if you trade without Consent you are liable to prosecution.**

You should be aware that the Council may refuse to grant Consent if, despite being informed that a Street Trading Consent is required, an applicant continues to trade within the Borough.

Kind regards

**Louise Hicks**  
**Licensing Officer**  
**Licensing Team**

**Piotr Dudowski**

**Street Trading Application – Vicarage Road, Yalding**

**Objections Received**

**KCC Highways:**

'I am raising an objection to this location as it is too near the busy junction and this will cause issues backing up on the main road as a result of customers trying to park, etc. The business needs to be sited at least 100m from the junction to prevent please.'

**Yalding Parish Council:**

'We understand the KCC have objected to this site and wish to see it at least 100m from the junction. This would move it to a location that is always heavily congested with residents parking and there could be no guarantee that any site would be available for the van or for parking for customers. Councillors do not feel that a food van should be situated outside any residential property.'

The applicant has made the pizza van available on several consecutive Saturdays in order to establish if there is a viable business and unfortunately due to the parking on Vicarage Road it has on occasion ended up on The High Street and we have received complaints that it is parked outside people's homes.

The sale of pizzas has proved very popular with residents and whilst Councillors have concerns about the site, as stated above, Councillors would be willing to look to see if there is a more suitable site that they and residents could support.'

**From:** Piotr Dudkowski  
**Sent:** 05 January 2024 17:40  
**To:** Lorraine Neale <[LorraineNeale@maidstone.gov.uk](mailto:LorraineNeale@maidstone.gov.uk)>  
**Subject:** Re: Determination of Street Trading application for Vicarage Road, Yalding

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hi Louise

Thanks for your response to my application, I was sorry to hear of your decision. I have read the reasoning and have to say I strongly disagree with Highways view on the traffic increase which my van would bring to Yalding.

I would like to appeal this decision, if you think this is the right process? Perhaps passing on the following information may reassure Highways that we will not bring the huge increase in traffic that they are rightly concerned about. If I may, I think their thinking is rather misplaced.

We have completed a trial in Yalding and on average we sold x 50 pizzas. (Range from 38-56). We estimate that 70% of our customers walked to the van. (One advantage of having a van in the village). If we assume 50% drive then that's x 25 pizzas. The average order was x 3 pizzas. So x 8 visits by people in cars. We are open for 4 hours. By my maths that is 2 additional cars an hour assuming that people would NOT be driving out to collect food from further afield. THIS IS A WORST CASE SCENARIO!

Yalding Parish Council mention we parked in the High Street as we couldn't get parked on Vicarage Road. This is wrong. The chef parked on the High Street by mistake as it was his first and second visit to Yalding. Once the PC alerted us to this fact he parked, with no issue, on Vicarage Road. This was a misunderstanding.

We operated a fish n chips van in exactly the same place on a Thursday night for 8 years. We NEVER had any complaints OR were made aware of any issues with additional traffic or parking during this period. In addition, the fish van operated on a Thursday when school and commercial traffic was running too!

The pizzas have gone down really well in the village and we see it as a way of REDUCING traffic as people would no longer have to drive out of the village to buy a pizza OR get a delivery company to deliver pizzas.

I am sorry but I just do not understand the Highways stance on this. It does not make sense and acts against the will of the village.

Vicarage Road is the perfect place to park and far enough from residents to cause no issue. On a Saturday night between 4 and 8pm the junction between the High Street and Vicarage Road is not that busy. If you like I will happily stand on the street and do a survey this Saturday to count cars?

As a business we have traditional had a an excellent relationship with the village and Parish council, working together through Covid, attending the Xmas markets, contributing to the Vicars Picnic. We have always listened to the village and have been made to feel part of the community.

In this case it would seem the village would love us to visit. It would add something and keep people in the village rather than seeing them get in the car and drive out for the village!

I look forward to hearing from you

Best wishes

Piotr (chef)

Mike (Owner)

**LICENSING SUB COMMITTEE****ORDER OF PROCEEDINGS**

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services or relevant Officer will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services or relevant Officer if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services or relevant Officer and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.