

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

**MINUTES OF THE MEETING HELD ON THURSDAY 3 DECEMBER
2020**

Present: Councillors Hinder, Naghi (Chairman) and J Sams

44. APOLOGIES FOR ABSENCE

There were no apologies for absence.

45. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

46. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Naghi be elected as Chairman for the duration of the meeting.

47. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures.

48. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

49. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

50. STREET TRADING APPEAL

The persons participating in the hearing were identified as follows:

Chairman – Councillor Naghi
Committee Member – Councillor Hinder
Committee Member – Councillor J Sams

Legal Advisor – Mr Robin Harris

Online Facilitator/Democratic Services Officer – Miss Oliviya Parfitt

Democratic Services Officer (in attendance for training purposes) – Mrs Lara Banks

Applicant – Mr Adrian Ghinea

Objector – Councillor Dan Daley

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Sub-Committee agreed to proceed in the absence of the applicant and confirmed that they had read the papers.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant messaging facilitating any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Senior Licensing Officer introduced the application, which had been refused by officers due to the two objections received from the public consultation period, as per the Council's Street Trading Policy. The public consultation ran between 14 October 2020 to 28 October 2020, with the applicant having exercised their right to appeal through a Sub-Committee meeting. The applicant had referenced the minimum noise generated and licences for similar locations.

The objections concerned the proposed location being a traffic hazard, that would cause obstructions to pedestrians, with specific reference made to disabled and partially sighted members of the public, disturbance and food odours.

The Senior Licensing Officer confirmed that each application should be dealt with singularly by the Sub-Committee Members.

The Objector was invited to make their opening remarks and referenced the location proposed was used as a pedestrian walkway and cycleway with no parking for customers.

A satellite image of the location was shared amongst attendees.

The Objector did not wish to make a closing statement. The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present.

The Sub-Committee returned and the Chairman outlined the decision to refuse the application on the grounds that it would cause a nuisance which breached the Council's Street Trading Policy. The full written decision and reasoning would be provided to all parties within 5 working days. There was no ordinary right of appeal to a magistrate's court, however the decision could be judicially reviewed by any party if they wished to do so.

The meeting closed at 11.04 a.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the Minutes.



Maidstone Borough Council

Local Government (Miscellaneous Provisions) Act 1982

Schedule 3

Notice of determination of an appeal to the sub-committee for refusal of a street trading consent

Applicant: Mr Adrian Ghinea

Date of Determination: 3rd December 2020

I hereby give you notice that Maidstone Borough Council has decided to REFUSE your application for a street trading consent to trade at the corner of London Road and Hildenborough Crescent, Allington.

The sub-committee noted that the applicant did not attend the hearing but agreed that there was sufficient evidence to proceed in their absence.

The sub-committee had regard to all the evidence presented prior to the hearing and in the absence of the applicant had particular regard to the responses they had provided to the objections in advance of the hearing. The Sub-committee also had regard to the representations made during the hearing.

Having considered all of the available evidence the sub-committee was not satisfied that the proposed location was capable of meeting the requirements of the Council's street trading policy with regard to obstruction and nuisance.

The sub-committee considered that the specific nuisance was that caused to motorists seeking to exit Hildenborough Crescent, who would have their view of the London Road impeded by the vehicle on the pavement and the customers queueing, particularly whilst practising social distancing. This would cause safety issues for other road users and was therefore not acceptable.

The sub-committee were clear that they were, in principle, in favour of applications of this nature, but the proposed location was not acceptable, due to the impact on other road users.

Signed:

Date of Notice: 08th December 2020

Councillor David Naghi
Chairman of the Licensing Sub-Committee