

MONMOUTHSHIRE COUNTY COUNCIL REPORT

SUBJECT: Application for Street Trading Consent – Mathew’s Mighty Bites, Adjacent to Aldi car park/ BW Autos, Mill Street, Abergavenny, NP7 5HE
DIRECTORATE: Social Care and Health
MEETING: Licensing & Regulatory Committee
Date to be considered: 3rd September 2020
DIVISION/WARDS AFFECTED: ALL WARDS

1. PURPOSE:

- 1.1 Monmouthshire County Council received an application from Mr Bevan for Street Trading Consent on a yard adjacent to Aldi car park/ BW Autos, Mill Street, Abergavenny, NP7 5HE in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The application has been referred to The Licensing and Regulatory Committee due to the proximity of a nearby Street Trading Consent, and responses received by the Licensing Section during the consultation process.
- 1.3 The Local Government Miscellaneous Provisions Act 1982 Schedule 4, section 2 provides the Council may grant a consent if they think fit.

2. RECOMMENDATION(S):

- 2.1 It is recommended that Members consider and determine whether -
 - To issue a Street Trading Consent for 12 months.
 - To issue a Street Trading Consent for 6 months, as recommended by Environmental Health.
 - To refuse to issue the Street Trading Consent.

3. KEY ISSUES

- 3.1 On 17th July 2020 Monmouthshire County Council received a new Street Trading Consent application from Mr Bevan to trade at the yard adjacent to Aldi’s Car Park/ BW Autos, Mill Street, Abergavenny. This was accompanied by the land owners consent. The application and consent is attached as Appendix A. The items to be sold, if the Street Trading consent is granted, are burgers, hot dogs, breakfast rolls, hot and cold drinks.
- 3.2 Leigh Beach, Licensing Officer, informed the applicant that the Licensing Section had already received an application for a Street Trading Consent that was within the vicinity of the pitch that he proposed, and that it conflicted with the Street Trading Policy dated 9th February 2016 adopted by Monmouthshire County Council. This policy is attached to this report as Appendix B. Mr Bevan confirmed he had considered the policy and was aware of the other application and still wished to proceed with his application, as he felt he intends to sell different types of food and will only sell similar soft drinks. As such, Mr Bevan submitted the relevant fee to proceed with the application.
- 3.3 The other consent application referred to in 3.2 above was received by Licensing on 28th May prior to Mr Bevan’s application and was duly issued on 1 August 2020 by Monmouthshire County Council for a 6 month period to “The Grill at the Mill” trading at The Old Yard, 8 Mill Street, Abergavenny, NP7 5HE. This food catering van is located

approximately 70m from the location Mr Bevan intends to trade. "The Grill at the Mill" sells the following items - soft drinks, cakes, vegetarian dishes, chilli, and potentially pre-cooked meats such as meatballs and gammon. No burgers/sausages/onions fried chips etc. as offered in a burger van environment.

3.4 Licensing conducted a consultation period requesting comments from consultees, the following provided no reply or no objections;

- Environmental Health – Commercial (Food Hygiene Officer)
- Heddlu Gwent Police
- Highways

3.5 The Licensing Section received the following comments -

- Abergavenny Town Council - I have not received any objections from Town Councillors, however comments have been made regarding the potential increase of litter in the area, given that there may be 2 street traders in close proximity.
- Planning - Due to the fact that this is a pitch not a mobile unit moved every day the siting of it would require planning permission for a change of use. Currently the land only has permission for the storage/parking of vehicles not for the use of the site as a café (A3). Therefore planning do not support the application.

(Planning have confirmed if the vehicle is removed from site each day there will be no requirement for a change of use with planning).

- County Councillor Maureen Powell (Castle Ward) - Following on from my conversation with the licensing department recently, I see that there is now another application for a burger van on Mr Todd's site. As I said before, the houses at the bottom of Monmouth Road and opposite the Abergavenny Hotel had complained of the smell of cooking fat and were not happy with the position of the van. It is also rather close to the garage repair business where there is oil and fuel. Would this pose a fire hazard? Personally, I have no objections, but I am obliged to pass on wishes of local people.
- Environmental Health (Nuisance Team) - There are residential dwellings in the area the closest at approximately 25 – 30m from the site. In view of the proposed early morning start of 7am Mondays to Saturdays inclusive and the hot food being cooked eg burgers, hot dogs etc, I am concerned that there may be the potential for some inconvenience to be caused to the nearby residents from noise such as customers arriving / leaving, voices and odour from the cooking of food. Please note Officers of this section are unlikely to be in a position to require such complaints of noise / odour to be resolved through the use of the statutory nuisance legislation in our remit. I therefore recommend that the licence, if granted, is for an initial 6 month trial period to enable any complaints to be considered and if appropriate investigated.

3.6 The relevant parts of the Street Trading Policy dated 9th February 2016 referred to in 3.2 above states the following:-

"Monmouthshire County Council will apply this Policy to street trading activities in its area to ensure consistency of decision-making. However each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration"

3.6.1 Monmouthshire County Council has designated all streets as consent streets, i.e. consent is required prior to trading taking place.

3.6.2 Monmouthshire Council's street trading policy aims to:

- Create a trading environment that compliments premises based trading.
- Promote fairness and consistency across the county
- Improve the local environment
- Be sensitive to the needs and concerns of residents
- Involve local communities in street trading decisions
- Control street trading through a fair and proportionate enforcement procedure

3.6.3 The Council will carry out its functions in respect of controlling street trading activities in its area, to protect the public, by promoting the following licensing objectives, each of which is of equal importance:

- Public order
- Prevention of public nuisance
- Public safety
- Prevention of crime and disorder

3.6.4 The use shall not be located within 100 metres of an existing shop, restaurant, hot food take-away, those holding a street trading consent and market (which includes block consents) which primarily sells the same goods. This may be relaxed for one-off or short-term applications.

3.6.5 Avoidance of nuisance. The street trading activity should not present a substantial risk of nuisance from noise, smells, fumes, litter or the discharge of fluids to households or businesses in the vicinity of the proposed street trading site. Observations from Council Officers, residents and businesses will be taken into consideration.

3.6.6 When issues cannot be resolved, the application will be deferred to the Licensing and Regulatory Committee to be determined.

4. REASONS:

4.1 The application for street trading consent is approximately 70m of an existing trader however the applicant believes they will not be in direct competition as they intend to sell different types of food and may only sell similar soft drinks. The policy states 100m is the recommended minimum distance to other Street Trading consents as outlined in 3.7.4 above.

4.2 Concerns have been raised through the consultation process for members of the Licensing and Regulatory Committee to consider outlined in 3.5 of this report. Ultimately, the Committee must hereby decide if they are willing or not to deviate from the policy on this occasion, for the reasons mentioned above, and/or consider the consent period.

5. RESOURCE IMPLICATIONS:

Nil

6. CONSULTEES:

None

7. BACKGROUND PAPERS:

The Local Government Miscellaneous Provisions Act 1982 Schedule 4
Street Trading Policy – Dated 9th February 2016

8. AUTHOR:
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