



**100. APPLICATION FOR STREET TRADING CONSENT - CHUNKYZ LTD, LOUGHTON CLUB, 8 STATION ROAD, LOUGHTON IG10 4NX**

The three Councillors that presided over this item were Councillors, R Morgan, L Mead and J M Whitehouse. The Chairman introduced the Members and Officers present. The Chairman welcomed the public participants to the Sub-Committee. In attendance for the application was Ms A Prior. Ms A Famiglietti and Ms A Regueiro on behalf of the Station Road Residents Group were present as objectors.

**(a) Application before the Committee**

P Jones, Licensing Compliance Officer, informed the Sub-Committee that an application for a Street Trading Consent had been made by Ms A Prior of Chunkyz Ltd to trade at the Loughton Club, 8 Station Road, Loughton, Essex IG10 4NX.

The application was for the relevant licensing activities applied for and times requested, as below:

The sale of hot and cold food and drinks:

- Wednesday to Saturday 12.00 – 21.00; and
- Sunday 12.00 – 20.00.

The application was received by the Licensing Authority on 17 February 2021. There was no requirement in the Local Government Miscellaneous Provisions Act 1982 to carry out any consultation, but the Licensing Officer had notified Essex Police, Essex Fire and Rescue Service, Environmental Health, Community Resilience, Essex County Council Highways, Loughton Town Council and the ward councillors. A public notice was also placed at the site.

The Council received two representations objecting to this application. The Council's Environmental Health made no representation, but Senior Enforcement Officer, M Richardson, requested that additional conditions were added to the operating schedule, as detailed on page 42 of the agenda, to which Ms A Prior had agreed. Loughton Town Council and Loughton Residents Association Plans Group had no objection to this Street Trading Consent application. Essex Highways stated it had no jurisdiction, as the applicant was to be sited in Loughton Club's car park.

The street trading consent could be granted for a period not exceeding 12 months. The Act provided for no appeal against refusals although decisions had been challenged in the Courts by way of judicial review on the grounds that the decision was not properly taken or that there was some procedural irregularity or breach of the rules of natural justice.

**(b) Presentation of the Applicant's Case**

The applicant, Ms A Prior, explained that the food trailer would be located at Loughton Club, was not a fast food hut but was more like trendy Soho street food. The agreement with Loughton Club was for a takeaway service, so people collected their food and left as no seating was provided. Most of the clientele were older. School children were not the target audience, but she did not think children were allowed out of school because of the Covid situation. The applicant lived in Loughton and had attended Roding Valley School High. 'Chunkyz Health' would sell healthier food options, such as smoothies, shakes and salads in future, in contrast to some food other established food eateries were serving in Loughton High Road. The rent being paid by Chunkyz Ltd to the Loughton Club would be helping the Club to stay open and this venture had saved her employment. Station Road was a busy route to

Loughton Station. Nando's was open later and also played music outside the premises so Chunkyz would not add any more noise pollution. Although there would be two new restaurants opening in Loughton, these would not affect Chunkyz as they would attract a different clientele. Ms Prior had a good customer relationship with the existing clientele who lived and/or worked in Loughton, of which over 80 per cent were families and over 25s and thought it unlikely that her customers would cause anti-social behaviour (ASB). Chunkyz would be closing before Loughton Club, which stayed open until midnight, and she did not want to stay open late to attract people who were leaving pubs. Ms A Prior stated that she had agreed to extra conditions requested by the Council's Enforcement Team to deal with litter (page 42 of the agenda) and she had a contract with a private waste disposal service in place. The photos of overflowing rubbish were from Council bins and it was unfair to tarnish Chunkyz as it was not theirs. However, one of the job roles at Chunkyz would include picking up litter after busy times. Ms Prior was also hoping to be able to organise charity litter picking events to help collect rubbish as she did not like to see rubbish lying around. In reference to a resident's letter referring to chicken bones being left on the street, Chunkyz only used 100 per cent locally sourced chicken breast, so it was a worry that some of the residents' concerns did not accurately apply to Chunkyz food. Good comments had been left on Chunkyz website. People had made a choice to eat Chunkyz food and healthy options would also be available.

**(c) Questions for the Applicant from the Sub-Committee**

Councillor J M Whitehouse commented that rubbish would be collected weekly, but what were the arrangements for its storage? Ms A Prior replied that there were big bins to store the rubbish in and others were used for recyclable rubbish. The weekly collections could become more frequent if this was needed as the contract was flexible and she had agreed to the additional conditions from the Senior Enforcement Officer.

Councillor L Mead asked where the food trailer would be kept, and would the bins have lids to prevent vermin reaching the rubbish? The food trailer would be located on site at Loughton Club and would have the wheels removed. The bins did have lids and Chunkyz was planning to have a contract with a pest control company should the need arise.

**(d) Questions for the Applicant from the Objectors**

Ms S Famiglietti asked how large the trailer was and where would it be situated? Ms A Prior replied that the food trailer was 10 feet by 10 feet and was in the front car park near the wall to the left of the entrance door. Two possible sites were detailed on page 29 of the agenda but she was finalising where to install the power line with the Club.

Ms A Regueiro asked how much of the packaging would be biodegradable and would bins be labelled to show different refuse types? Ms A Prior replied only cardboard and paper packaging would be used, and she was contacting a company about recyclable plastic pots, so around 90 per cent of packaging would be biodegradable. The labelling would be displayed on packaging to tell customers how to dispose of it at the point of sale. Chunkyz would have a staff member collecting rubbish and Ms Prior was keen to be involved in charity litter events. Currently Chunkyz business was 80 per cent delivery based and would also display notices about littering.

Ms A Regueiro asked about the age groups of Chunkyz customers. Ms A Prior replied that Chunkyz did not have a young age group base as most of her customers were older.

Ms S Famiglietti asked how Ms A Prior would address residents' concerns? Ms A Prior replied that she would monitor any concerns raised and be proactive, and if necessary, contact the authority to be sure everything was satisfactory.

**(e) Presentation of the Objectors**

Ms S Famiglietti stated that she was a Loughton resident and as a former governor of Roding Valley High School until 2020, she had been responsible for the healthy schools' initiative. She respected that Ms A Prior was trying to start a new business but the trailer was located in the vicinity of other historic buildings, Loughton Club and Lopping Hall. Obesity in young people was a national crisis for every school including Roding Valley High School and obesity would be a problem after the lockdowns. The school was unable to provide enough food for school pupils with the social distancing restrictions in place. Although Healthy Chunkyz had been promoted at the meeting today, students might not buy healthy options but would look at the prices and possibly choose unhealthy options. There were ASB problems around the High Road in Loughton and fast food was not going to help, as large groups came in cars to sit outside and then drop their rubbish anywhere. She acknowledged that littering was not specific to this business but all fast food businesses.

Ms A Regueiro recognised it was a credit to Ms A Prior to start of business but she was looking at residents' concerns. Residents in Station Road had seen problems with Loughton Club's clientele when they went down their road. The Police did not respond very quickly to reports of ASB. People would sit in their vehicles and eat takeaways and then throw their rubbish out of vehicle windows. Other people would find seating elsewhere in the road. She was also concerned that Roding Valley High School students would be attracted to Chunkyz and reminded the Licensing Sub-Committee that Station Road was predominantly a residential road not a business road. She appealed for Chunkyz to work with Station Road residents and look at the hours when refuse was scheduled to be collected because of the noise from the refuse trucks.

**(f) Questions for the Objectors from the Sub-Committee**

There were no questions raised by members of the Licensing Sub-Committee.

**(g) Questions for the Objectors from the Applicant**

In response to residents' concerns about littering, Ms A Prior replied that she understood why Station Road residents were worried, but rubbish was a bigger problem and was not just to do with Chunkyz. She reassured the two objectors that she would work with residents to resolve any future problems that might occur.

**(h) Closing Statement from the Objectors**

Ms S Famiglietti had no further objections to raise.

Ms A Regueiro remarked that a lot of suppositions had been made and that the Licensing Sub-Committee needed to look at this.

**(i) Closing Statement from the Applicant**

Ms A Prior highlighted that she had a six-month trial with Loughton Club and that this would be an opportunity for Chunkyz to disprove points raised by Station Road residents.

**(j) Consideration of the Application by the Sub-Committee**

The Council's Legal Services Assistant Solicitor, R Ferreira, advised the Licensing Sub-Committee that each application should be looked at on its own merits. As this was a Street Trading Consent application, all conditions must be reasonable, and other conditions could be included if they were considered necessary, but not those based on suppositions, which could not be used. There was no appeal allowed to the Magistrates Court.

The Chairman, Councillor R Morgan, advised that the Sub-Committee would proceed into private deliberations to consider the application. Therefore, the webcast was stopped and would resume when the private session was completed.

The Chairman stated that the Sub-Committee had taken its decision based upon the merits of the application and the relevant representations received. During their deliberations in private session the Sub-Committee received no additional advice from the Council's advisory officers.

**RESOLVED:**

That the decision of this Sub-Committee was that the Consent be **granted**, subject to the following conditions:

- (1) This Authority's Standard conditions.
- (2) The sale of hot and cold foods and non-alcoholic drinks.
- (3) Trading hours:
  - (a) Wednesday to Saturday 12:00 – 21:00; and
  - (b) Sunday 12:00 – 20:00.
- (4) A sufficient number of suitable receptacles with properly fitted covers shall be provided for the purpose of receiving rubbish from customers. The receptacles shall be maintained in a clean condition and emptied on a daily basis as a minimum when the hereby permitted use was operational. The receptacles shall be constructed, maintained and located so that access to them by vermin was prevented and arrangements shall be made for regular lawful disposal of their contents by a registered waste carrier.
- (5) The public area immediately surrounding the premises shall be regularly cleared of waste food, food containers, wrapping etc, and left in a tidy state at the end of trading on each day. Such refuse shall be removed from the area and disposed of lawfully by a registered waste carrier.
- (6) Signs shall be placed in a prominent position while Chunkyz was operating, requesting customers to use the litter bins that had been provided for the disposal of any waste food, food containers and other litter.
- (7) The trailer must be situated and operated from the car park of the Loughton Club in one of the positions specified on page 29 of the Agenda.

The Chairman outlined the reasons for the decision of the Sub-Committee:

- (1) The conditions relating to litter were to prevent the creation of a public nuisance and to ensure that waste and litter was collected effectively and legally.
- (2) All of the conditions mentioned above were considered to be reasonable, relevant, appropriate and proportionate.
- (3) Once consent had been granted the Local Authority could vary any conditions attached to it at any time.
- (4) A consent could be revoked but the rules of natural justice must be observed by the Local Authority before any revocation took place.

**101. APPLICATION FOR A STREET TRADING CONSENT - FRUITS OF THE FOREST, THE DUKE OF WELLINGTON PUBLIC HOUSE CAR PARK, 36 HIGH STREET, EPPING CM16 4AE**

The three Councillors that presided over this item were Councillors, R Morgan, S Heather and L Mead. The Chairman introduced the Members and Officers present. The Chairman welcomed the public participants to the Sub-Committee. In attendance was the applicant, Mr K Summerson. Also, in support of the application were District Councillors, L Burrows, C Whitbread and H Whitbread. Objecting to the application from Epping Town Council were Town Councillor M Wright and Town Clerk, B Rumsey.

**(a) Application before the Committee**

P Jones, Licensing Compliance Officer, informed the Sub-Committee that an application for a Street Trading Consent had been made by Mr K Summerson of Fruits of the Forest, to trade at the Duke of Wellington Public House Car Park, 36 High Street, Epping, Essex CM16 4AE. A copy of the application was attached to the agenda report. The application was for the relevant licensing activities applied for and times requested, as below

The sale of fruit, vegetables, flowers, (honey, eggs, local organic farm produce)

Tuesday to Friday	08:00 – 17:00;
Saturday	08:00 – 16:00; and
Sunday	08:00 – 14:00.

The application was received by the Licensing Authority on 17 February 2021. There was no requirement in the Local Government Miscellaneous Provisions Act 1982 to carry out any consultation, but the Licensing Officer had notified Essex Police, Essex Fire and Rescue Service, Environmental Health, Community Resilience, Essex County Council Highways, Epping Town Council and the ward councillors. A public notice was also placed at the site.

The Council had received one representation objecting to this application from Epping Town Council. Representations in support of this application had been received from Epping Town Councillor M Whitbread, District Councillors C Whitbread and H Whitbread and a local resident. The applicant had agreed to additional conditions being attached to the consent if granted, as detailed on pages 74 and 75 of the agenda, which was in response to a representation from the Council's Community Resilience Team, M Richardson, Senior Enforcement Officer. Environmental Health, Essex Highways, Essex Police and Essex County Fire and Rescue Service had no comments or objections to make on this application.

**(b) Presentation of the Applicant's Case**

The applicant, Mr K Summerson, had been a greengrocer for most of his life and had worked at numerous markets selling high class fruit and vegetables. He had been out of work but saw an opportunity to start a stall in Epping and had set up a good rapport with his client base. He wanted to stay at the Duke of Wellington Public House as this provided a job for him. He stated that he had also paid the required licence fee.

Councillor H Whitbread supported the application and shopped there like many other residents. She had started a petition to support the stall which 1,200 people had signed. The Councillor had asked Epping Town Council to withdraw its objection because Fruits of the Forest would not be open on Mondays when Epping Market was trading. This was therefore healthy competition and small businesses should be supported. Mr Summerson was working, enterprising and providing a good service to people.

Councillor C Whitbread remarked that he supported and, like everyone, respected Epping Market, but this was a single stall holder and Fruits of the Forest brought interest to Epping High Street. People had made lots of positive comments, but he had received no objections from residents and the stall deserved their support. Also, during this time when everyone was recovering from the Covid pandemic, there were lots of small businesses that needed some help and opportunity. There had been a great level of support for this stall, so there was no reason to object to this application.

**(c) Questions for the Applicant / Supporters from the Sub-Committee**

There were no questions raised by members of the Licensing Sub-Committee.

**(d) Questions for the Applicant / Supporters from the Objectors**

Epping Town Councillor M Wright asked when the stall holder had started to trade? Mr Summerson replied that he had started to trade about a week before he submitted his application to the Licensing Authority, which was when the Council had advised him that a Street Trading Consent application was required, but he had been unaware of this.

Epping Town Councillor M Wright asked Cllr H Whitbread for more information about the petition on social media that she had set-up. Councillor H Whitbread replied that petitions were part of a healthy democracy and a good proportion of the supporters were probably from Epping and the surrounding areas. The petition summarised the reason to support Mr Summerson's Fruits of the Forest stall, as Epping Town Council had objected to his application, and people were asked to show their support for the stall, to try and get the Town Council to withdraw its objection.

Epping Town Council Clerk, B Rumsey, asked why the application fee had been paid and accepted before the application had been determined. P Jones, Licensing Compliance Officer, replied that this was a licensing fee, but should the application be refused the Council would be making a partial refund.

**(e) Presentation of the Objectors**

Town Councillor M Wright said that Epping Market was a Royal Charter market, which the Town Council was keen to preserve and had restructured it in 2018. There was an existing fruit and vegetable stall that provided footfall on market day. The

market and traders had been tested by the Covid-19 crisis. The Town Council would not allow a second fruit and vegetable stall as too many stalls in the same trade damaged competition. The Town Councillor had been surprised that the stall holder had been allowed to continue to trade before street trading consent had been granted. He was also selling plants, eggs and local honey. The stall was situated on a busy section of the High Street opposite the Tesco supermarket and near a petrol station, so it was not a suitable location for those visiting by car. The Town Councillor added that the stall was a permanent advert, as it was not taken down every evening although it was not open on Mondays, so was a continual reminder.

**(f) Questions for the Objectors from the Sub-Committee**

Councillor S Heather acknowledged the Town Council's passion to protect Epping Market, but it only traded on Mondays, so by not allowing Fruits of the Forest to trade on Tuesdays to Sundays it was taking choice away. The Councillor asked if the Duke of Wellington was a freehold house and who had the letter of consent come from? Licensing Compliance Officer D Houghton replied that the licensee had provided permission, but Punch Taverns controlled the building. Assistant Solicitor R Ferreira advised that the Licensing Authority's duty was to grant consent, but it was the applicant's responsibility to obtain the necessary permission to use the pub car park.

Councillor L Mead asked about the set-up and where was the stall sited? The applicant clarified that the stall was at the front of the pub opposite New China on Epping High Street.

**(g) Questions for the Objectors from the Applicant / Supporters**

In response to a query from B Rumsey about the application process and the Licensing Authority's decision to allow the stall holder to continue trading, P Jones, Licensing Compliance Officer, replied that the decision was not made by Licensing but at a higher level, and that he was being allowed to trade because of the Covid situation. Councillor H Whitbread advised that a meeting with the Portfolio Holder, Councillor A Patel, had been held which she had attended with Councillors N Avey, L Burrows and C Whitbread and the relevant director. The Portfolio Holder's decision was that Mr Summerson could continue to trade while his application was going through.

Councillor H Whitbread asked how many Town Councillors had supported the objection to this application and how was the vote run? B Rumsey, Epping Town Council Clerk, replied that as there had been no time to hold a Council meeting, the vote had been held as a recorded email vote and that all Town Councillors except three voted in support of objecting to the application.

**(h) Closing Statement from the Objectors**

Epping Town Councillor M Wright emphasised that he had a passion for Epping Market, it was a very important market and the Town Council gave it its full support. The applicant had started trading without Street Trading Consent and this should not be granted under any circumstance.

**(i) Closing Statement from the Applicant**

Mr K Summerson said that he wanted to work and was prepared to work hard but he respected people's opinions. He knew the fruit and vegetable trader at Epping Market, but he had not objected. He had nothing further to add except that if the fruit



and vegetable trader gave up his Monday pitch at Epping Market he would consider applying for it.

**(j) Consideration of the Application by the Sub-Committee**

Licensing Compliance Officer D Houghton added that she had previously spoken to the licensee at the pub, who had advised her that she would have to leave the pub by August 2021 because Punch Taverns would be renovating it. Mr Summerson replied that he had since been advised that it would now be October 2021.

The Chairman, Councillor R Morgan, advised that the Sub-Committee would proceed into private deliberations to consider the application. Therefore, the webcast was stopped and would resume when the private session was completed.

The Chairman stated that the Sub-Committee had taken its decision based upon the merits of the application and the relevant representations received. During their deliberations in private session the Sub-Committee received no additional advice from the Council's advisory officers.

**RESOLVED:**

The decision of this sub-committee was that the Consent be **granted**, subject to the following conditions:

- (1) This Authority's Standard conditions.
- (2) The sale of fruit, vegetables, flowers (honey, eggs, local organic farm produce).
- (3) Trading hours:
  - (a) Tuesday to Friday - 08:00 - 17:00;
  - (b) Saturday - 08:00 – 16:00; and
  - (c) Sunday - 08:00 – 14:00.
- (4) A sufficient number of suitable receptacles with properly fitted covers shall be provided for the purpose of receiving rubbish from business. The receptacles shall be maintained in a clean condition and emptied on a daily basis as a minimum when the hereby permitted use was operational. The receptacles shall be constructed, maintained and located so that access to them by vermin was prevented and arrangements shall be made for regular lawful disposal of their contents by a registered waste carrier.
- (5) The public area immediately surrounding the premises shall be regularly cleared of waste food, food containers, wrapping etc, and left in a tidy state at the end of trading on each day. Such refuse shall be removed from the area and disposed of lawfully by a registered waste carrier.
- (6) The fruit stall must be situated and operated from the front car park of the Duke of Wellington Public House.

The Chairman outlined the reasons for the decision of the Sub-Committee:

- (1) The conditions relating to litter were to prevent the creation of a public nuisance and to ensure that waste and litter was collected effectively and legally.
- (2) All of the conditions mentioned above were considered to be reasonable, relevant, appropriate and proportionate.
- (3) Once consent had been granted the Local Authority could vary any conditions attached to it at any time.
- (4) A consent could be revoked but the rules of natural justice must be observed by the Local Authority before any revocation took place.

A reminder to the applicant that if any other permission or consent was required to operate from the car park of the Duke of Wellington it was the applicant's responsibility to obtain same.

There was no appeal allowed to the Magistrates Court.

**CHAIRMAN**