



Leicester
City Council

WARD: Castle

LICENSING ENFORCEMENT SUB-COMMITTEE

4th February 2014

APPLICATION FOR THE GRANT OF A HIGHWAYS AMENITIES LICENCE
(STREET CAFÉ)
SUBWAY 82 QUEENS ROAD, LEICESTER

Report of the Director (Environmental Services)

1. Purpose of the Report

To determine an application for the grant of a Highways Amenities Licence for a Street Café for premises known as Subway, 82 Queens Road, Leicester. The applicant is Mr Nav Aggarwal of 5 Wellington Street, Leicester.

2. Options for the Sub-Committee

The Sub-Committee may determine the application in one of the following ways: -

(1) Grant

The Sub-Committee may grant the application.

If the Sub-Committee decide that to grant the application it should be subject to the standard conditions applicable to Highway Amenities Licences.

(2) Grant subject to special conditions

The Sub-Committee may grant the application subject to such variations, conditions or restrictions, as they think fit.

(3) Refuse

The Sub-Committee may refuse the application.

In arriving at its decision the Sub-Committee should take into account the comments put forward by the applicant and any other information provided in the report.

The Sub-Committee must give the applicant the reasons for the decision it makes when it is announced.

3. Financial Implications

None.

4. Report

Mr Aggarwal previously submitted an application for the grant of a Highway Amenities Licence in July 2013. This application was subject to objections and was referred to the Licensing Enforcement Sub-Committee on 8th October 2013 where the application was refused. A copy of the refusal notice is appended to this report.

On 21st October 2013, a further application was received from Mr Aggarwal for the grant of a Highways Amenities Licence (street café), to allow tables and chairs to be placed on the highway.

The application was to place a single table with 3 chairs on one side of the premises only - next to the adjoining street café at Costa Coffee. The table and chairs are to be contained within an area sectioned off by barriers as shown in the plan submitted with the application. A copy of which is appended.

The proposed days and hours of trading are:

Monday to Saturday: 9am till 11pm
Sunday: 11am till 11pm

Subway, 82 Queens Road is situated in the middle of a row of 5 shops which consists of William Hill betting office, Costa coffee shop, (Subway) C N Media newsagents and Price Busters discount store. Photographs showing the premises location are appended for reference.

Consultation letters were sent to all the previous objectors advising of the application as well as the surrounding businesses. A public notice was prominently displayed on the premise window and on a nearby lamp-post.

Consultations were also sent to the Ward Councillors for the area and in response, Councillor Lynn Senior submitted an objection which is appended to this report.

Further objections were also received from the Chair of the Leicester Disabled People's Access Group, a local resident and Joanna Aitken, the Transport Development Officer for Leicester City Council. Copies of all objections are appended to this report.

All objections were forwarded to Mr Aggarwal and he has been advised to provide a written response, a copy of which is appended to this report.

Consultations were also carried out with Leicestershire Police, Noise Pollution, Development Control, Health & Safety and Highway Management. No other objections were received to this application. Highway Management did make the following comment regarding the application:

'Application indicates sufficient pedestrian passage left. However, I would comment that this area is already highly congested with an existing street café, shop display and bus stop area'.

5. Policy Guidelines

The overall policy on Street Cafes is to encourage more restaurants, cafes and public houses to have more outside activity in the street which would give an ambience that makes the City Centre more attractive to visitors and residents alike. If an objection is received, the Sub-Committee should take into account the impact a street café may have on residents, pedestrians and any surrounding businesses in the area.

6. Legal Implications (including Human Rights Act)

A licensing decision is also a determination of civil rights to which Article 6 the right to a fair trial applies. Article 8 the right to respect for private and family life applies to the protection on neighbouring properties from noise and disturbance. Article 1 of the First Protocol gives the right of peaceful enjoyment of possessions, which would include a licence. Terms and conditions imposed on the grant of a licence will need to be proportionate, and necessary to protect the interests of a democratic society.

There is no right of appeal against the refusal to grant a Highway Amenities Licence.

7. Crime and Disorder implications

None.

8. Consultations

Leicestershire Police, Ward Councillors, Noise Pollution, Development Control, Health & Safety, Highway Management, surrounding businesses, previous objectors and residents by means of Public Notices.

9. Reason for Treating the Report as "Not for Publication"

None

10. Officer to Contact

Bobby Smiljanic
ext. 6454
Eh.1310

Please ask for: Ms T Tidmarsh
Direct Line: 0116 454 3044
Our Ref: PS/LIC/CTTEE DECISION/tt
Date: 16th October 2013



Mr N Aggarwal
5 Wellington Street
Leicester
LE1 6HH

Dear Sir

REFERRAL TO THE REGENERATION & CULTURE LICENSING ENFORCEMENT SUB-COMMITTEE

I am writing to confirm the decision of the Licensing Enforcement Sub-Committee made on Tuesday 8th October 2013.

The committee were asked to determine the application for the grant of a Highways Amenities Licence (Street Café) for premises known as Subway of 82 Queens Road, Leicester, given that objections were received against the application.

As you advised of your attendance, the Sub-Committee panel delayed the hearing for 20 minutes before deciding to proceed with the matter in your absence.

The Sub-Committee determined that the application for the grant of a Highways Amenities Licence for a Street Café for premises known as Subway, 82 Queens Road, Leicester be **refused**.

The Sub-Committee believed that if they granted the application, the area would have become too congested. The Sub-Committee realised the premises was on a busy road, and the premises had a busy bus stop outside. The Sub-Committee agreed with the objectors that granting the application would disadvantage too many other people. They also recognised that the applicant started a pavement café without seeking prior consent, and this had given the objectors first-hand knowledge of the problems it caused in doing so.

A full refund of £242 will be issued, payable to Mr N Aggarwal, in due course

If there are any matters that are not clear to you, please do not hesitate to contact me.

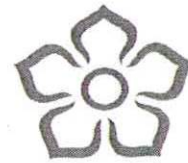
Yours faithfully



Toni Tidmarsh
Licensing Enforcement Officer

Kalpac - 056189. - 5.11.13.

Previous
app 0538032



Leicester
City Council

HIGHWAYS AMENITIES (STREET CAFÉ)
APPLICATION

APPLICANT

Title (Mr/Mrs/Miss/Ms)* Surname **Mr AGGARWAL**.....

Forename(s) **NAV AGGARWAL**.....

Address **5 WELLINGTON STREET**.....

..... **LEICESTER**.....

Post Code **LE1 6HH** Telephone Number ... **07966 538032**

Mobile Telephone Number ... **07966 538032** Email: **nav.aggarwal@gmail.com**

PREMISES

Name of Premise **SUBWAY**

Address **82 QUEENS ROAD**.....

..... **LEICESTER**.

Post Code ... **LE2 1TU** Telephone Number ... **07966 538032**.

Proposed Days & Hours Required **Mon – Sat 9am – 11pm. Sunday 11am – 11pm**

SITE

Full description of the proposal (with attached plan), include expected number of tables and chairs and detail the size of area required:

1 Round table and three chairs

1 small A Board

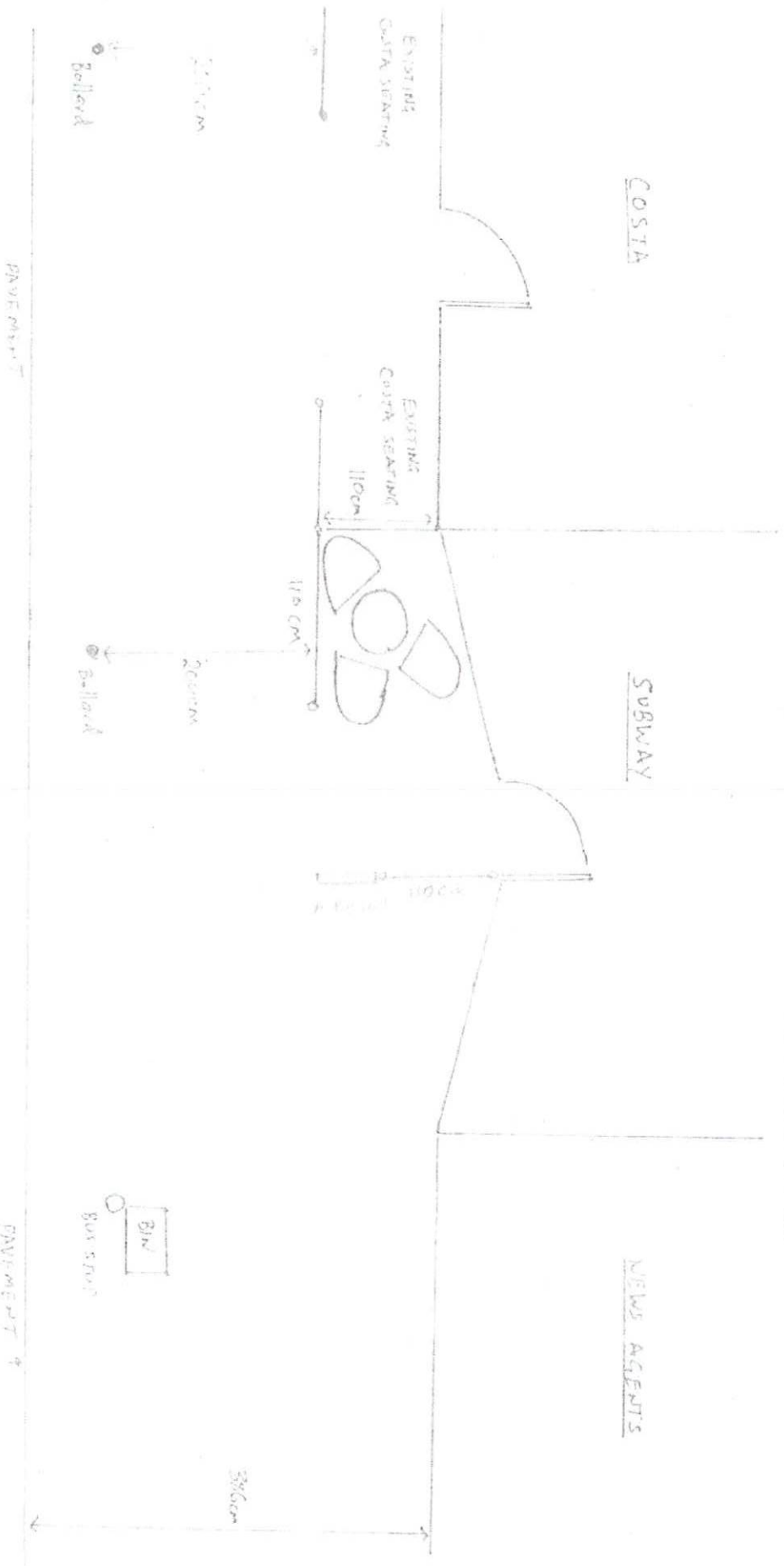
SIGNATURE AND DATE

I wish to apply for a Highways Amenities Licence for the development described in this application. I enclose the **fee of £242** together with accompanying plans.

Signed *N. Aggarwal* Date *21/10/2013*

SUBWAY, 82 QUEENS STREET WEST, C22 TH

SCALE 1:50





Oxfam

PRICE & BUSTERS
DISCOUNT STORE

GEORGE BUS
24hr

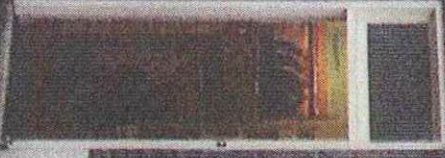
SUBWAY

SUBWAY

SUBWAY

mobile

HELLAS AND KENNY



KEE

Toni Tidmarsh

From: Cllr Lynn Senior
Sent: 06 November 2013 12:54
To: Toni Tidmarsh; Cllr Neil Clayton; Cllr Patrick Kitterick
Subject: Re: Subway 82 Queens Road Street Cafe

Follow Up Flag: Follow up
Flag Status: Flagged

I wish to object to this application - on the grounds of public safety. The street cafe is not suitable at this particular location due to its proximity to the very busy bus stop, on an already busy pavement area of Queens Road.

There will be pavement congestion, and access issues, for pedestrians, including disabled people. This street cafe will impact on people waiting at the bus stop and also people trying to go past in the street. There are a lot of buses pulling in, many people waiting for buses at this location, as well as people getting on and off buses.

To sum up - it is not suitable to have the street cafe here on grounds of public safety. A street cafe at this particular location would raise issues regarding pavement congestion and public safety at this particular location - on this stretch of pavement on Queens Road, so near to the very busy bus stop.

Regards

Lynn

Lynn Senior - Councillor for Castle Ward

From: Toni Tidmarsh
Sent: Wednesday, November 06, 2013 11:54 AM GMT Standard Time
To: Cllr Neil Clayton; Cllr Lynn Senior; patrick.kitterick@
Subject: Subway 82 Queens Road Street Cafe

Good morning Councillors,

Subway of 82 Queens Road have submitted another application for a street café after their initial application was refused by the Licensing Sub-Committee on 2nd October.

They have submitted a revised plan which details a single table with 3 chairs and barriers to the left hand side of the premises – next to Costa Coffee.

The times of operation are: Monday to Saturday 9am till 11pm and Sunday 11am till 11pm.

If you have any comment or objections to the application, could you please advise by 4th December 2013.

Regards
Toni

Toni Tidmarsh
Licensing Enforcement Officer
Licensing
Leicester City Council
New Walk Centre



Public Safety manager
Licensing
New Walk Centre
LE1 6ZG

December 3rd 2013

Dear Licensing team

We are writing to object to the second application by Subway at 82 Queens Rd for a street café.

While the reduction to using one side of the frontage is preferable to the previous application, our objection fundamentally remains the same – ie that there is already significant congestion in this area that causes access problems for disabled people and this will add to that. For that reason we have attached our previous objection (coloured blue to distinguish it).

We have some new concerns regarding the arrangement of the barriers for the proposal. As before the barrier across the frontage is not long enough to protect three chairs. The problems with this could be seen when the café opened without authorisation, and the chair legs protruded beyond the barrier if moved.

However we also have significant concerns about the barrier proposed to the right-hand side of the door. While some protection would be needed for cane-users approaching along the building-line, this one may be a hazard in itself. The mix of barrier and A-board is likely to get moved about – not least because it also makes it difficult for people going in/out of the premises. In particular prams/wheelchairs would have a problem. This could then become a hazard and/or increase congestion.

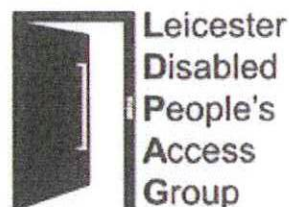
It may be slightly better if a more solid barrier was placed to the left rather than right of the door.

However overall we think it would be unworkable and difficult to manage effectively. We ask you please to refuse this application.

John Hargarave chair Leicester Disabled People's Access Group

Sally Williams secretary Leicester Disabled People's Access group

Public Safety manager
Licensing
New Walk Centre
LE1 6ZG



August 14th 2013-08-13

Dear Licensing team

The Leicester Disabled People's Access group (LDPAG) wishes to object to the proposed street café at **Subway at 82 Queens Road**.

We believe this will significantly increase the problems already experienced by disabled pedestrians and bus passengers on this footway.

- This footway gets very busy at times; it is used by shoppers, passers-by, bus passengers and people gathering to chat. It already presents problems for people with mobility problems getting past, and a hazard for visually-impaired people with a range of fixed street furniture and clutter from A-boards, goods on the pavement, and 'parked' bikes, buggies, scooters etc. Cyclists ride along the footway here.
- Some examples of problems can be seen with the street café at 80A Queens Road. While this is accessible at quiet times, it causes congestion when busy and sometimes pedestrians struggle to get through without stepping off onto the road. When customers leave bikes, pushchairs or mobility scooters alongside, it can cause further obstruction for a wheelchair or scooter user or a hazard for visually-impaired people. *See attached photos Appendix B*. This is a common problem with street cafes and in our view, when considering available unobstructed footway depth, these 'extras' should be taken into account. Also when the street café takes up all the shop frontage width there may be nowhere else for customers (using the indoor café as well) to put such items which may be there some time. Responsible scooter users who don't wish to disadvantage other people feel unable to use the premises.
- However the key problem with this location is the bus stop. There is a bus-bay in front of the premises, with the bus-stop post immediately to the south of the frontage of 82. All the bus-bay length is used for buses (there can be more than one at once) and passengers wait both at the kerb edge and the front of the business premises where they are under shelter. During University terms when more than one bus is due, there can be up to 20 passengers waiting. It was established at a previous hearing for the neighbouring café that passengers waited in front of 82 Queens Rd and cycle racks could not be relocated there. If this café was permitted, there would not be room on the footway left to accommodate passers-by and bus passengers. One or other could be

forced onto the roadway (which happens at busy times already). It would be particularly difficult for some disabled people, eg those with balance, mobility or vision problems, risking them being knocked over or into the roadway. We already know of one such incident.

- For disabled bus passengers this is a difficult stop to use. As other vehicles abuse the bus-bay, often the bus cannot pull up where it should, and they have to move quickly to a point further up, and often step into the road to get on/off a bus. Drivers cannot easily see which are passengers and shoppers waiting for other reasons such as a chat, very difficult for those with a vision impairment who depend on being seen. Some disabled people already are unable to use this stop, but it is popular with older people as it is close to the shops and under shelter. If passengers and shoppers are forced into a narrower area it will exacerbate these problems. At the kerb edge there is no shelter as the canopy doesn't extend that far.
- The Dept for Transport 'Inclusive Mobility' guidelines recommend a minimum of **3 metres** clear footway at bus-stops and **3.5 -4.5 metres** in front of shops. This location has both shops and bus-stop. Further the DfT 'Manual for Streets' regards 2 metres a minimum only where streets are lightly used – eg purely residential – and that **wider clear footway is needed where people gather, such as shops**. Further any restricted width should be for no more than 6m. The combined length of street café at 80A, and that proposed for 82 would be nearly double this. (See Appendix A for extracts).
- We assume the barriers proposed would be standard Subway ones. However although the plan shows barriers across the front, it is not to scale, and the 1.1metres would not give adequate 'coverage' across the frontage for the tables/chairs proposed. This would lead to chairs being moved outwards and the chair legs being a trip hazard to visually-impaired people. This is a problem at the neighbouring café and is known to have caused a fall. Since there would be a wide gap between the two barriers it would also make it difficult for visually-impaired people to find the doorway to the premises, and cane-users may turn into the tables instead.

We remind you that, while it is council policy to encourage street cafes, it is also policy to take action to promote Inclusive Design. Further the Council has a legal obligation under the Equality Act 2010 not only to assess the impact on disabled people for all decisions made, but to promote equality of opportunity. We believe a street café in this location would significantly affect the ability of some disabled people to use the footway, shops and buses and should be refused.

Yours sincerely

John Hargrave chair Leicester Disabled people's Access Group
Sally Williams secretary Leicester Disabled People's Access Group

Appendix A

DfT Manual for streets extract

6.3.22 There is no maximum width for footways. **In lightly used streets** (such as those with a **purely residential function**), the minimum unobstructed width for pedestrians should generally be **2 m**. **Additional width** should be considered between the footway and a heavily used carriageway, or **adjacent to gathering places, such as schools and shops**. Further guidance on minimum footway widths is given in Inclusive Mobility

6.3.23 Footway widths can be varied between different streets to take account of pedestrian volumes and composition. **Streets where people walk in groups or near schools or shops, for example, need wider footways**. In areas of high pedestrian flow, the quality of the walking experience can deteriorate unless sufficient width is provided. The quality of service goes down as pedestrian flow density increases. **Pedestrian congestion through insufficient capacity should be avoided. It is inconvenient and may encourage people to step into the carriageway** (Fig. 6.9).

6.5.13 Footways at bus stops should be **wide enough for waiting passengers while still allowing for pedestrian movement along the footway**. This may require local widening at the stop.

Extract from DfT 'Inclusive Mobility' guidelines

3.1 Widths

A clear width of **2000mm** allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances.The maximum length of restricted width should be **6 metres**. It is also recommended that there should be minimum widths of **3000mm** at bus stops and **3500mm to 4500mm** by shops though it is recognized that available space will not always be sufficient to achieve these dimensions.

Appendix B

Some footway uses along this stretch of Queens Rd. Now imagine adding a street café in front of Subway, then trying to get through or catch a bus if you have mobility problems or vision impairment.



Some example of how bikes, pushchairs and mobility scooters significantly reduce 'unobstructed width' of the footway. They are also hazardous for people with severe vision impairment.

One of the premises shown is next to Subway, the other further along Queens Rd.



Public Safety manager
Licensing
New Walk centre
LE1 6ZG

December 2nd 2013

Dear Licensing team

I wish to object to the application for a street cafe at Subway, 82 Queens Rd. I use this area regularly as local resident, shopper and bus passenger as there is a bus-bay in front.

This is a busy location and has people waiting there as well as passing-by and entering shops, so more pavement width is needed. It quite simply doesn't have enough room for a street cafe. It will make life difficult for too many people, and hazardous for some.

It is already a difficult location to catch a bus, especially when more than one is due at the same time. There is no dedicated place to wait, and passengers have to stand where there is room, and often move to accommodate people passing by. The only cover is under the canopy above this row of shops, which doesn't extend to the pavement edge.

While this application takes up less of the frontage than the previous one and is not so close to the actual bus stop, bus passengers also wait there because more than one bus uses this bus bay (13 buses an hour to 4 destinations during student terms). Students in particular wait in front of Subway (often in groups) as the bendy-bus that serves the University halls is very long and has three doors along its length. Since the last application, with the return of the students, there has been a significant increase in people waiting there. The neighbouring street café already restricts the area and a further one would squeeze people into an even smaller area, and force more people to walk into the road. It is a particular problem when raining, as both bus passengers and passers-by want to be further back, as the canopy doesn't reach right to the kerb-side (see photo 2)

The barrier shown on the right-hand side of the door obstructs customers from getting into Subway, and so is likely to be moved aside, especially as shown in two parts, including the A-board. It is likely to be a hazard as well as an obstruction, and not serve its purpose to protect people with vision impairment. If creeping further right, it would limit further the area for people standing waiting. It might be better if to the left-hand side of the door with a rigid barrier and front opening.

The diagram of the front barrier shown is not realistic. It is not long enough to protect a table with three chairs. This could be seen when this café was open without authorisation. (see photo 1) It was not managed to prevent customers moving chairs so they sometimes extended beyond the barrier so presenting a hazard. Two chairs would be better.

This Subway is quite large, on two floors, and I suspect 2 or 3 outdoor seats will be under pressure and make it more likely the area will be altered by customers.

A partial café was considered at the hearing for the last application. I believe the committee made the correct decision to refuse it altogether. It is not the only premises serving food/drink on Queens Rd that has no outdoor area (including larger ones such as Barceloneta/Dos Hermanos, Don Leone, and Olive's) and they seem able to attract enough customers.

I ask you to refuse this application

Sally Williams



Photo 1

The unauthorised café showed the left-hand barrier is not big enough to adequately cover a table with 3 chairs. Chair legs often extended beyond barrier presenting a trip hazard.



Photo 2

These photos show bus passengers waiting in front of Subway as well as directly at bus-stop. Often this reflects passengers waiting for different buses, but also when there isn't room for all in one place.

Photo 3



Photo 4

This shows a variety of activity at a busy time in this location – including people waiting for buses, chatting with friends, walking by, and waiting for people in the shops.



Toni Tidmarsh

From: Joanna Aitken
Sent: 25 November 2013 09:36
To: Toni Tidmarsh
Subject: RE: Subway - Queens Road Street Cafe

Hi Toni
We would still object to the application.
Regards
Jo

From: Toni Tidmarsh
Sent: 22 November 2013 10:58
To: Joanna Aitken
Subject: RE: Subway - Queens Road Street Cafe

Morning Jo

Thanks for your comments, am I to accept this as an objection to the application or not?

I don't want to be presumptuous and accept it as comments only.

Kind regards

Toni

From: Joanna Aitken
Sent: 21 November 2013 11:51
To: Toni Tidmarsh; [REDACTED]
[REDACTED]
Subject: RE: Subway - Queens Road Street Cafe

Hi Toni

Thank you for consulting me on this.

Although still not ideal, this proposal is better than the last one.

From a bus stop point of view we do still have concerns though as there are often long queues at this bus stop with people waiting for the 3 bus services that serve this stretch of road, where the queue stretches along the footpath, there would be insufficient space for other pedestrians trying to squeeze between the queue and the street café.

Regards

Jo

Jo Aitken
Transport Development Officer
Transport Strategy
Leicester City Council
New Walk Centre A6

Please note my new phone number

Ext – 37 2834

Tel – 0116 454 2834

www.leicester.gov.uk

From: Toni Tidmarsh

Sent: 06 November 2013 11:53

To: Ed Kocik; healthandsafetyteam; highway-management; Joanna Aitken; noiseteam; planning;

Tejas.Mavani@leicestershire.pnn.police.uk

Cc: Mike Pears

Subject: Subway - Queens Road Street Cafe

Dear all,

Subway of 82 Queens Road have submitted another application for a street café after their initial application was refused by the Licensing Sub-Committee on 2nd October.

They have submitted a revised plan which details a single table with 3 chairs and barriers to the left hand side of the premises – next to Costa Coffee.

The times of operation are: Monday to Saturday 9am till 11pm and Sunday 11am till 11pm.

If you have any comment or objections to the application, could you please advise by 4th December 2013.

Regards

Toni

Toni Tidmarsh

Licensing Enforcement Officer

Licensing

Leicester City Council

New Walk Centre

www.leicester.gov.uk/licensing

Tel: 0116 454 3044

Ext: 37 3044

Toni Tidmarsh

From: Nav Aggarwal <nav.aggarwal@gmail.com>
Sent: 13 January 2014 11:46
To: Toni Tidmarsh
Subject: Re: Emailing: Subway

Toni,

I would like to place forward the following statement for the hearing.

From the rejection previously, I take on the point that 60cm width for the seating area on the right side(the side of the bus stop) is tight and I am proposing to only place the seating area to the left hand. Although this is a lower number of seating than I initially required I feel this arrangement is a good compromise.

Outdoor seating is very much in line with the modern cafe culture and it is in line with the others cafes on Queens Road. The recent surge in out seating is a life style choice and requested by many customers and hence its uptake. This unit in question was previously operated by Blockbusters Video. The shop was closed as the company had gone into administration. The business environment is tough and as business operators we have to provide service and facilities that suit customer needs. This is the only way businesses can survive. Queens Road is a dense student area and the student customer group are vital for the local economy. Students would welcome outdoor seating. We carried out a questionnaire to passer-by and have had a positive response to outdoor seating .

We also carried out survey with our visiting customers;
100 paying customers were asked if they would benefit from and enjoy the option of outdoor seating:

82 customers said YES.
18 customers had no objections but did not see a benefit

Outdoor seating also provides dog walkers the option to enjoy a seated meal or drink.

We have improved the general frontage and giving it a better visual appeal. We have spent effort in modernising the front glazing, painting the canopy and provided enhanced lighting. All this will aid passer by. We have also repaired the front canopy to stop it leaking, this provides shelter for bus users and shoppers. The outdoor will further improve the visual appeal of the area and keep us in line with our direct neighbour Costa.

The outdoor seating area creates brand awareness and is inviting for customers. It would be unreasonable to give our neighbours the privilege of taking pavement space and deny us the benefit, even though we would be paying the requested business rates.

Kind Regards,

N Aggarwal