



## **ENFORCEMENT OFFICER – SUMMARY OF CASE**

Uniform Case No: 24/02898/LSTTRD and 24/02970/LSTTRD - Bambas Shaouna.T/A Mr Whippy

Officer: Sarah Hughes

### **Background:**

Bambas Shaouna has traded in the Borough of Cheltenham for a number of years as 'Mr Whippy'. Over these years various Ice Cream vehicles have been licensed.

We have eight complaints recorded against this street trader over a period of six years.

2024 - 24/02898/LSTTRD relating to reports of noise and air pollution and parking too close to Lakeside School, and trading near to St Gregory's School without street trading consent.

24/02970/LSTTRD relating to parking on a pavement causing obstruction and being too close to Rowenfield School. On all occasions trading without street trading consent issued.

2023– 23/04808/LSTTRD reports of alleged noise nuisance, concerns of pollution and distance to Lakeside School. Also, 23/03585/LSTTRD report of vehicle parked too close to Rowenfield school on the junction of Bedford Avenue. Mr Capstick attended the offices to discuss the reports received into licensing.

22/03115/LSTTRD report of alleged noise and air pollution and parking too close to Lakeside Primary School.

2020 - 20/03273/LSTTRD Reports of Ice cream vehicle trading on private land without permission (Council land).

2018 - 18/02650/LSTTRD and 18/02235/LSTTRD – reports of vehicle trading without consent

### **Details of Complaint**

Three separate reports regarding three different vehicles belonging to Mr Bambas Shaouna were received within the consultation period.

A complaint from a member of the public was received on Monday 10<sup>th</sup> June 2024 that on that day an ice cream vehicle, vehicle registration W992 EOB was once again parking in Wards Road, Cheltenham, opposite Lakeside Primary School. It is reported that this vehicle was seen on Monday 10<sup>th</sup> June 2024, arriving around half an hour before the end of the school day. The vehicle pulled up at the end of Wards Road, on double yellow lines, and

Signed: Sarah Hughes

stayed for a period of approximately 40/45 minutes, with the engine running intermittently. Occasionally the vehicle sounded its chimes.

On 13<sup>th</sup> June 2024 I received information from my colleague (and statutory consultee) that the ice cream van, vehicle registration W164 XDA, was parked near to was stopped at near to St. Gregory`s School on St James` Square yesterday (12/6/24) at 15:11, and was seen trading. A photograph of this vehicle was received.

A further report was received from a member of the public regarding a different ice cream vehicle, vehicle registration number V543EFR. It is alleged that this vehicle was parked entirely on the pavement, causing an obstruction, on Alstone Lane at the junction with Bedford Avenue, Cheltenham, at 1504hrs on 4<sup>th</sup> June 2024. The reporter describes that is very close to Rowanfield School and is an inappropriate place to trade from. A photograph of the vehicle in situ had been received.

### **Investigation of 24/02998/LSTTRD and 24/02970/LSTTRD**

Following the report 24/02998/LSTTRD I checked the licensing database and noted that Mr Shaouna had recently made an application for street trading consent for three vehicles. W992 EOB/ V543 EFR and 24/00906/STA. All three applications were currently in the consultation period and no consent had been issued.

On 12<sup>th</sup> June 2024 I contacted the applicant, Mr Shaouna, via email, and explained that no consent had been issued and requested they cease trading until consent had been obtained. Mr Shaouna responded on 13<sup>th</sup> June 2024 informing me that whilst he was aware that no street trading consent had been issued, this incident was the fault of the driver at the time who no longer works for them. I responded to Mr Shaouna.

On 13<sup>th</sup> June 2024, following receipt of the information from my colleague (and statutory consultee) that a different vehicle belonging to Mr Shaouna, vehicle registration W164 XDA, was parked near to was stopped at near to St. Gregory`s School on St James` Square. My colleague was aware that this was a vehicle associated with a street trading application currently under consultation and that street trading consent had not been granted.

Later that day I made further contact with Mr Shaouna to inform him that a further report had been made about a different vehicle trading in the Borough. I expressed my concern that there appeared to be some serious communication issues and I urged these to be addressed immediately. I requested that all staff are informed immediately that there was no consent issued to trade in the Borough of Cheltenham. I received a response from Mr Shaouna confirming that he had informed all staff not to use the vans until they had heard back from the Council regarding their application.

On 14<sup>th</sup> June 2024 I received a telephone call from Mr Will Capstick who informed me that he felt he was at fault for these issues as he thought they had consent due to being asked by Mr Shaouna for photographs of the vehicles. Mr Capstick thought that this must have meant that they had consent. In likelihood these photographs were for the application process only. I expressed my concerns regarding communication between Mr Shaouna and himself and his drivers. I explained that whilst there was no current consent issued, the reports of irresponsibly parking and parking too close to a school is something discussed preciously and evidently not remedied. I reminded Will that, we had a meeting in the offices last year following complaints received and I provided him with clear advice and guidance on how to mitigate any future complaints. I explained that it was unfortunate that this had potentially not been adhered to.

Signed: Sarah Hughes

Following this telephone call, I received an email from Mr Will Capstick informing me that he had spoken to Mr Shaouna and it has been suggested that he take full control of the business to mitigate any communication issues.

24/02970/LSTTRD - Mr Matthew Morris (Enforcement Officer) received a report that, on 4<sup>th</sup> June 2024 the vehicle V543EFR was parked entirely on the pavement, causing an obstruction, on Alstone Lane at the junction with Bedford Avenue, Cheltenham. Mr Morris emailed Mr Shaouna and Mr Will Capstick to inform them of this complaint. Mr Capstick responded and acknowledged this report made.

During the consultation period, all three vehicles relating to the three applications were seen trading without consent. Two complaints were received from members of the public with concerns about the proximity of these vehicles to schools, with one concerned about the obstruction of the pavement with the whole vehicle parked on the pavement (Rowenfield School). The other complaint detailed concerns not only relating to the distance to the school (Lakeside School) but concerns regarding fumes from the engine running for long periods of time outside their home, and the nuisance from the intermittent chiming of the bells.

Whilst an application for street trading consents for all three vehicles were in the consultation period, no consent had been granted for any vehicles associated with Mr Whippy, to trade in the Borough of Cheltenham.

Furthermore, and notably, the most recent complaints regarding trading locations are akin to the complaints received in 2023 in which Mr Capstick came into the offices to discuss with me. It was evident in this meeting that, as it is seasonal work, the company do have a high staff turnover and the complaints received were attributed to the actions of individual operators of the vehicles. However, I raised concerns about the lack of recorded training given to staff members and the accessibility of the licence conditions and code of conduct within the vehicle.

Following this meeting I requested that the conditions and code of conduct be printed and put in each vehicle so that all vehicle operators can see it and will be aware of any restrictions.

I also wrote up a list of due diligence measures to mitigate any further reports being received. This included training files for staff members. (See attached **SH4**).