

## GENERAL PURPOSES LICENSING COMMITTEE

September 16<sup>th</sup> 2005

### LATE NIGHT HOT FOOD STALLS & STREET TRADING IN BONN SQUARE

**Report of:** Chief Executive

**Wards affected:** Carfax, Jericho & Osney, Holywell

**Report author:** Rebecca Carley  
01865 252803  
rcarley@oxford.gov.uk

**Key decision:** No

**Lead Member:** Susan Brown

**Scrutiny responsibility:**

- Community Scrutiny for community safety concerns
- Environment Scrutiny for street trading and licensing matters

### SUMMARY & RECOMMENDATIONS

This report addresses a range of concerns raised in the last couple of years concerning city centre hot food vans hereafter referred to as kebab vans. The number of late night revellers (frequently drunk) in the city centre generates anti-social behaviour, especially when a gathering or pinch point occurs. It is recognised that this can have a serious impact on the lives of other city centre users and residents.

All of the kebab van sites are well established, many sites pre-dating the current street trading arrangements, which were introduced in 1986. There appears to be no evidence that would support the refusal of street trading consents for kebab van operators, nor for their fresh applications for late night refreshment (premises) licenses. Should fresh information be presented by the police, affected individuals, frontages or Council Officers, the Licensing Committee will need to address each application individually on its merits.

With respect to anti-social behaviour problems, this report describes new environmental enforcement measures available to the City Council to deal with littering and the like and the proposed "dispersal plan" to move revellers away from the city centre as swiftly as possible.

The report also identifies the actions that the City Council should take with respect to the street traders who may be affected by the proposed redevelopment of Bonn

Square and any other redevelopments that would disturb an established street trading pitch.

This report will be considered by the Central, South & West Area Committee at its meeting on September 13<sup>th</sup> 2005. Recommendations and comments from this Area Committee meeting will be reported verbally to the General Purposes Licensing Committee.

The General Purposes Committee is recommended to:

1. Note that there is no evidence to support the removal or refusal of the street trading consents for any of the existing kebab van sites at present but that each application can be reviewed at any time should fresh evidence emerge.
2. Approve that the Consent condition which allows for transfer to a family member upon the death of the Consent holder be amended in order that a fresh application is required, advising that Consent holders are notified of this proposed change in order that they can make representation before a final decision is made.
3. Note that the Environmental Health Business Manager has given notice to the holders of street trading consents in the vicinity of Bonn Square that their consents may be revoked at some point in the future in the light of the refurbishment of Bonn Square and advise that, at the appropriate time, similar action should be taken regarding traders likely to be affected by future developments.
4. Advise the Planning Services and Built Environment Business Managers of the need to alert Environmental Health, at the earliest possible time, of redevelopments which may affect street traders.
5. Note the Executive Board's request that the Area Committee and General Purposes Licensing Committee review the locations of the existing Bonn Square street traders in the light of the refurbishment proposals and note that a report will be forthcoming from the Bonn Square Project Manager on this matter later this Autumn.
6. Instruct the Environmental Health Business Manager to pursue the provision of mains electricity supplies at kebab van sites.
7. Note the proposed Dispersal Plan proposed by the Nightsafe project and the implications which this may have for the locations of kebab vans and that a report regarding this will be presented to the CSW Area and General Purposes Licensing Committees at a later date.

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| 8. Note that the Clean Neighbourhoods and Environment Act 2005 provides the Council with additional powers for the control of litter and other environmental nuisances which have been the cause of many complaints surrounding kebab vans and that the use of these new powers is being explored currently. |
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## 1. BACKGROUND

This report has been written in response to concerns raised about the kebab vans operating in Oxford under the City Council's street trading consent scheme. The concern, which triggered this report, is to do with disorder and environmental nuisance associated with customers. However there are also concerns that several of the well-established kebab van sites conflict with redevelopment schemes for Bonn Square and Broad Street. These particular sites are discussed in section 7 "Site Specific Concerns".

Oxford City Council licenses 16 kebab vans under its street trading consent scheme. The street trading consents are administered and monitored through the City Council's Environmental Health service.

Each kebab van trades from a fixed kerbside location. The approved hours of operation are typically from early evening to 3 a.m., 7 days a week. In practice, each kebab van operates within this time band according to market demand. Other conditions apply to the Consent such as requirement to keep the site clear of rubbish as well as compliance with food safety requirements.

Many of the kebab van sites have been operating for sometime, as much as 3 decades in a couple of cases and most since before the Consent scheme was introduced in 1986. Most kebab van sites are in the city centre. The non-city centre sites are Woodstock Rd, Banbury Road, London Road and Cripsey Road.

Recent unsuccessful attempts to relocate the Pembroke Square kebab van pitch elsewhere suggest that all suitable kebab van sites have been exhausted i.e. pitches that will receive the customer footfall whilst satisfying police and Highways concerns about safety.

Clearly there is a large market for the kebab van trade and they serve many 1000s of satisfied customers. Whilst kebab vans are seen by many as part of the late night problems in the city centre, their popularity means that they may be a useful component in a late night revellers dispersal plan.

## 2. POLICY POSITION

There is no explicit Oxford City Council policy regarding the trading of kebab vans in the city. The current position has developed over a number of decades. When the street trading Consent scheme was introduced in 1986, it was simply applied to the status quo of kebab vans trading in the city. Since that time, some of the sites

have changed via negotiation between the City Council and the trader and overall the number of sites has increased to satisfy demand.

Should the City Council wish to change the situation, either to phase them out, delete specific sites or to explicitly support the current provision, it is advised to adopt a policy to this effect outlining the grounds for doing so. The implications of reducing the number of sites is explored in (4.3) "Legal implications of removing a trading Consent or refusing a license to a kebab van operator" later in this report.

### **3. ISSUES/COMPLAINTS**

Complaints records are only to hand for the last 6 years and relate largely to rubbish, oil spillage and generator noise – see Appendix A. Some have been one-off incidents, which the City Council's Environmental Health service (EH) may not have been able to verify, or where the problem has been swiftly rectified. A few sites have been the subject of more continuous complaints, usually noise. It is also recognised that some complaints are made to councillors or non-EH officers and may not have been formally relayed to EH.

The site that has been the subject of most complaint has been that at Pembroke Square. The complainants have alleged rodent infestation caused by rubbish from the van, customer noise and public disorder and urination in the vicinity. On November 4<sup>th</sup> 2002, the Public Entertainment and Other Matters Licensing Committee considered a report from EH on the matter and concluded that the complaints were unjustified. See Appendix B for the report and minute of the meeting.

The most common general complaints about kebab vans are:

- **Anti-social behaviour**

The late night behaviour, usually fuelled by alcohol, of many young people in Oxford city centre has significantly deteriorated over recent years. City centre residents bear the brunt of this behaviour through disturbed nights, rubbish, vomit and urination on their property and at times fear for personal safety.

Any location where people are likely to congregate such as bus stops, taxi ranks or kebab vans can be a focus for rowdy and often aggressive behaviour. At its mildest it can be noise and at its worst intimidating and occasionally violent behaviour. Although kebab van queues (as well as bus and taxi queues) are a potential source of rowdiness and disturbance for neighbouring properties, there are more incidents of disorder and fights in or outside of enclosed spaces such as pubs, clubs and fast food shops. It should also be recognised that kebab van operators themselves have been subject to abuse.

Current licensing practice means that many pubs and clubs are turning customers out at around about the same time. The new licensing law will introduce flexible

licensing hours with the intention that drinkers will be more dispersed on the streets rather than the crowds caused by the traditional “chucking out” time.

- **Use of power generators**

There are concerns about the reliance on diesel and petrol generators. Aside from causing noise that has on occasion been the subject of complaint from neighbours, they present a potential hazard to kebab van operators and customers.

Most of the kebab van sites are suitably located for installation of a mains electrical supply. The kebab van operators have previously indicated their willingness to cover the cost of this but given that the costs are considerable (in the region of £5,000 plus) and uncertainty over the future use of some sites, this view may have changed. However, the benefits are considerable and, in some locations such as St Giles and Broad Street, the mains supply could be used for other events.

It is recommended that officers explore the option of mains supplies further and implement directly where the trader is prepared to cover the cost, otherwise reporting back to the relevant committee if there are alternative options.

- **Litter**

Kebab van operators are required to keep the area adjacent to their van clear of rubbish. What they cannot control is litter spread by their customers further down the street.

The problem of fast food litter is not restricted to kebab vans and their customers; much of it clearly comes from other outlets. Investigations of complaints of persistent litter around kebab vans have not been able to sustain the argument that the kebab van is the main source of litter.

## **4. LEGAL CONTEXT**

### **4.1 Street Trading Consent Scheme**

The kebab vans are trading under a Consent from the City Council, issued under powers derived from the Highways Act 1980 as amended by the Local Government (Miscellaneous Provisions) Act 1982. Oxford City Council’s Consent scheme was introduced in 1986.

The following sites have been approved for kebab vans, providing for a total of 16 vans:

- Banbury Road outside No 263, 1 van
- Bonn Square outside No 13a “Bank House”, 1 van
- Broad Street outside No 17, 1 van
- Castle Street East side layby, 1 van

- Cripsey Road junction with Botley Road, 1 van
- George Street outside No 25, 1 van
- High Street outside Lincoln College Library, 1 van
- High Street outside University College, 1 van
- London Road outside Nos 73/75, 1 van
- Pembroke Square St Aldates end, 1 van
- Queen Street outside Clarendon Centre, 1 van
- St Aldates outside Christchurch, 1 van
- St Ebbes Street outside No 32, 1 van
- St Giles layby outside Taylorian Institute, 2 vans
- Woodstock Road outside Radcliffe Infirmary, 1 van

Trading is only allowed between the times of 6:30pm to 3:00am Monday to Saturday.

The list of standard conditions attaching to such Consents is contained in Appendix C. These conditions place a greater responsibility upon the Kebab Van operator for maintenance of the area surrounding the van than the premises license that will also have to apply from November 2005.

The granting and renewal of a Consent is entirely at the Council's discretion. However, as in all things, the Council must be seen to behave reasonably and determine each application on its merits. Ending a Consent for reasons outside of the control of the kebab van operator is likely to be deemed disproportionate and unreasonable.

To date when a Consent has been revoked, it has been as a result of the Consent Holder's to meet the conditions in one form or another. On these occasions, a Consent has been issued for the site to another hot food trader.

The standard conditions state that the Consent is personal to the applicant but can be transferred to a member of the Consent Holder's family upon the Consent holder's death. This could be amended so that there is no presumption of transfer providing the Council with the opportunity to end the Consent and delete the late night trading pitch if it chooses. In such circumstances a member of the family would be able to apply for a Consent alongside anyone submitting an application – all such applications to be considered on their merits.

It can also be argued that a Consent is a possession (see 4.3 below) and as such possibly subject to the same treatment as any other possession upon the owner's death, however the Council's response to this can be determined on a case-by-case basis

## **4.2 Licensing Act 2003**

The Licensing Act 2003 introduced a new licensing regime and centralises all responsibility for licensing to local authorities, making Oxford City Council the

Licensing Authority for Oxford. (Previously, responsibilities were split between the Magistrates Courts and the local authority – for example, the Magistrates would issue alcohol licenses and the City Council public entertainment licenses.)

The role of the Licensing Authority is to weigh up the merits of any representation against the application; in essence its role is that of honest broker operating within the limits of the legislation as laid out in the Act. In considering the granting of a premises license (or any other type of license), the City Council has a duty to balance the needs of residents, visitors, pub/club operators and businesses. In the absence of any representations, the City Council has no choice but to grant the license.

The provision of late night refreshment is defined as a licensable activity under the Licensing Act 2003 and includes 'take-away' premises and hot food vans. Mobile food vans supplying hot food or drink from a regular pitch between the hours of 11 p.m. and 5 a.m. will be required to hold a Premises License from Nov 2005 in addition to a "Consent" described in 4.1 above.

The Council's Policy Statement provides that the Licensing Authority will look carefully at late night refreshment premises and expects applicants to address issues such as:

- o hours of operation, to prevent public nuisance to nearby premises, or problems of noxious smells and anti-social behaviour
- o supervision of queues and the management of large numbers of clientele descending on the premises at certain times;
- o layout of premises to cope with patrons e.g. position of counters, entrances & exits
- o litter control and environmental activities, such as litter picking, provision of litter bins, street sweeping & washing;
- o CCTV, and
- o public safety, including the type of power supply to be used where the application is for a trading vehicle or moveable structure.

(In point of fact, all of these issues can also be addressed under the Street Trading Consent Scheme which enables the council to attach such conditions as it sees fit and reasonable to a street trading consent.)

The premises operator can only be responsible for what happens within the curtilage of the property. In the case of kebab vans, the premises will almost certainly be interpreted as the van itself not the public space surrounding it.

Existing licensed premises will be deemed to have "grandfather rights" and the only consultee is the Police. These existing premises will be automatically licensed unless the Police made a strong case to the contrary. Kebab vans, having been trading under a "consent" scheme, are not deemed by the Licensing Act to have been "licensed" and therefore do not qualify for grandfather rights. Therefore each kebab van operator has to apply for a premises license and any person or

organisation may make representations to the City Council regarding such an application during the required consultation period

With kebab vans, unlike most other fresh license applications, the City Council will be able to weigh up the representations against granting of the license against what is known about the existing operation. Therefore unless fresh evidence is presented against the granting of a premises license for an existing kebab van, it is unlikely that the Council will be able to refuse to grant the license.

Once granted, any license can be reviewed if fresh evidence is produced relating directly to the licensing objectives.

The Licensing Authority reports that it has received 14 applications for premises licences from kebab van operators. The consultation period on some has closed. In the cases where the consultation period has closed, if there have been no representations from responsible authorities or interested parties the applications will be granted.

#### **4.3 Legal implications of removing a trading Consent or refusing a Premises License to a kebab van operator**

A street trading consent may be granted for any period not exceeding 12 months but can be revoked at any time.

There is no statutory procedure to be followed for the revocation of street trading consents and significantly there is no right of appeal against a decision to refuse, revoke or vary a street trading consent. However, the Council is under a duty to remit the whole or part of any fee paid for the consent.

The legislation provides no right of appeal to a Consent holder in the event that the consent is revoked. The Council must follow the rules of natural justice if it intends to revoke a street trader's Consent. It follows that where a trader has been complying with the Consent conditions and responding reasonably to changing circumstances, the Council should have exceptional grounds for ending the Consent.

There is also the potential for a Human Rights Act challenge. Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions. Case law in the European Court has ruled that licences fall within the meaning of possessions. It might be argued that street trading Consents are capable of being a possession. In any event this isn't an absolute right if it can be demonstrated that revoking a Consent is in the public interest and subject to the conditions provided for by law.

The Head of Legal & Democratic Services can find no examples of compensation awards in the event that a street trading Consent is revoked. However the Council could potentially face claims that it is taking away the owner's livelihood in revoking a street trading consent and be required to make compensation.



The refusal of a Premises License issued under the Licensing Act 2003 will simply mean that the kebab van cannot trade after 11 p.m. It is unlikely that there can be a sustainable objection to a Premises License application that would not apply equally to the issuing of a trading Consent.

#### **4.4 The Clean Neighbourhoods and Environment Act 2005**

This Act provides new powers to the City Council for a range of environmental nuisances, which have been cause for concern in the city centre such as flyposting, graffiti and litter. Under this Act, the City Council has the power to designate Litter Control Areas and issue fixed penalty notices to offenders.

It is proposed that City Works report back to the CSW Area Committee in due course on how these powers by either the City Council or its partners will be used to deal with litter and other environmental problems in the city centre, especially those occurring at night.

### **5. FINANCIAL IMPLICATIONS**

Kebab van street trading Consents currently generate in the region of £60,000 annual income to the Council that contributes towards the costs of the City Council's street trading administration and enforcement service. Many of the costs of this service are largely constant, irrespective of the number of traders. A reduction in Consent income would either drive up the charge to the remaining traders or require additional funding from the Council.

The City Council may face compensation claims should it revoke a street trading Consent.

### **6. POLICE COMMENT AND DISPERSAL PLAN**

The Police have stated that they hold no evidence to object to licenses (or trading consents) for kebab vans. Whilst, without doubt, any congregation of drunken people at any time or place can spark off problems, indoor fast-food venues/clubs generate more disorder problems than kebab vans. The City Centre Inspector has stated that redesigning of bus and taxi services, as well as reviewing the provision of kebab vans to aid the speedy dispersal of revellers and queue management problems out of the city centre ASAP would be the greater contribution towards reducing public nuisance and disorder. (Appendix D contains a letter from Thames Valley Police outlining its position.)

The City Council's Community Safety team has suggested that a plan for the dispersal of the late night revellers should be implemented. This plan would be an agreed partnership between all relevant bodies (nightclubs/pubs, police, emergency services, public transport operators, City Council etc) to reduce the level of nuisance caused by late night revellers by reducing the number of pinch points in the city centre. Such a plan should also improve the homeward journey

for the revellers as well. For example, the dispersal plan would develop transport hubs to move people as swiftly as possible out of the city centre with kebab vans etc located at and en route to the hubs rather than encouraging migration in other directions. Other cities, such as Blackpool, Manchester and Bedford, have adopted similar approaches.

The "Nightsafe " board has undertaken to develop and implement this dispersal plan. The dispersal plan may well produce recommendations for the relocations of certain kebab vans, probably later this autumn.

## **7. SITE-SPECIFIC CONCERNS**

### **7.1 Pembroke Square**

This has been referred to earlier and the findings of a review of this site are contained in Appendix B. Due to ongoing neighbours complaints, the Street Trading Officer continues to seek an alternative site for this trader.

### **7.2 Bonn Square**

Sadly, a member of the public was assaulted and died whilst queuing at this kebab van site. The incident could have occurred at any late-night queuing location. During the subsequent investigation it was found that the kebab van shielded the queue from CCTV coverage. The Street Trading officer is exploring (with the police and highways) the possibility of re-positioning the kebab van so that the CCTV observes the queue.

This is the one site that the Police have expressed any concern about, as it tends to attract larger crowds than the other vans with the greater potential for public disorder.

On July 11<sup>th</sup> 2005, Executive Board approved a report regarding the refurbishment of Bonn Square. The Board decided to progress the refurbishment scheme through to planning approval stage, asking the Central, South & West Area Committee and General Purposes Licensing Committee to review the location of the Bonn Square street traders in the context of the design and function of the Square after refurbishment. The project manager will bring a report addressing this matter to both committees in the autumn when the refurbishment scheme has been drawn up in more detail and the impact on the current pitches can be more accurately assessed.

Street trading sites likely to be affected are a daytime coffee bar kiosk, a night-time kebab van and a weekly-let day time pitch although there are a number of sites opposite which could be affected, whether by this development or the Westgate redevelopment. The coffee bar and kebab van have been trading from this site for some years and to mitigate possible compensation action being taken by these traders should the City Council need to rescind their trading consents (see 7.3 below for further discussion of this point), the City Council's Street Trading Officer

has given notice to the traders of the possible future revocation of the consents. Once there is greater certainty over which traders will be affected, the City Council will need to work with the traders to assess whether alternative acceptable sites are available. Should no acceptable alternative site be available, the Council will at least have behaved as reasonably and given as much notice as possible.

### **7.3 Broad Street**

Long-term redevelopment proposals for Broad Street may conflict with the established kebab van site outside Blackwell's art shop and any other street trading which may be introduced to the street. As with Bonn Square, notice should be given to the affected traders when there is a better sense of the timescales involved.

This report has been seen and approved by Peter Warren-Tibbett (Street Trading Officer, Environmental Health), John Copley (Environmental Health Business Manager), Jeremy Franklin (Legal and Democratic Services), the Portfolio Holder for Community Safety (Susan Brown), Fiona Bartholomew (Bonn Square Project Officer, Planning Services)

**Appendix A Summary of complaints**

	Trader	Year 03/04	Year 02/03	Year 01/02	Year 00/01	Year 99/00	Comments
1	Cripley Rd	Nil	Nil	Nil	Nil	Nil	
2	St Giles	Rubbish	Generator noise	Generator noise	Nil	Nil	Generator noise (combined with No. 4)
3	Broad St	Nil	Nil	Nil	Oil spill	Nil	
4	St Giles	Oil spill Rubbish	Generator noise	Generator noise	Rubbish	Generator noise	Generator noise (combined with No. 2)
5	Queen St	Location Oil Spill	Nil	Nil	Nil	Nil	Oil spill was malicious
6	St Ebbes	Rubbish	Oil spill	Nil	Nil	Nil	
7	Bonn Sq	Oil spill Generator	Nil	Nil	Nil	Nil	New operator spoils record
8	High St	Nil	Nil	Nil	Nil	Nil	
9	Pembroke Sq	Public noise Litter etc	Public noise Litter etc	4.10.01 Henderson complaint	Public noise (Mowat & Pembroke)	Nil	History of complaints by college & residence – consider location wrong
10	Headington	Trader competition	Generator noise	Nil	Generator noise	Nil	
11	St Aldates	Bus obstruction Public noise	Public noise	Nil	Nil	Nil	Trader located to new position giving rise to neighbour complaints
12	Castle St	Nil	Nil	Nil	Nil	Nil	
13	George St	Rubbish	Nil	Nil	Nil	Nil	
14	Summertown	Nil	Nil	Nil	Nil	Nil	
15	High St	Nil	Nil	Nil	Nil	Nil	
16	Woodstock Rd	Nil	Nil	Nil	Nil	Nil	

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Appendix B Report relating to complaints about the Pembroke Square site and minute of meeting.

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**Report to: Public Entertainment and Other Licensing Committee**

**Premises: Kerbside Street Trader, Pembroke Square, Oxford.**

		<b>WARDS AFFECTED</b>
<b>Report of:</b>	<i>Environmental Health Business Unit Manager</i>	
<b>Report Author:</b>	<i>Peter Warren-Tibbetts Environmental Health Tel no. 01865 252561 Email: dtreadwell@oxford.gov.uk</i>	
<b>Lead Member Responsible:</b>	<i>Councillor Stannard</i>	
<b>Overview and Scrutiny Committee Responsibility:</b>	<i>Environment Overview and Scrutiny Committee</i>	
<b>Key Decision:</b>	<i>No</i>	
<b>SUMMARY AND RECOMMENDATIONS</b>		
<p>This report concerns the consideration of complaints relating to a night time hot food trader at Pembroke Square, Oxford.</p> <p>Ward Councillors, the Police and Oxfordshire County Council have been consulted on the matter.</p> <p>The Committee is <b>RECOMMENDED</b> to determine the complaints and consider what course of action it might wish to take.</p>		

### Introduction

- 1 This report is to bring to the attention of Members problems associated with a street trader where it is alleged customers are causing noise and disturbance.

### Background

- 2 In 1986 the Council designated areas within which street trading was controlled. This included the majority of locations which were already used by established street traders at the time of the introduction of the scheme.
- 3 Conditions were applied to establish operational standards and in general the system has worked well.
- 4 The scheme is administered and enforced by Environmental Health to ensure that it operates within the standards required by the Council.

### Current Situation

- 5 The street trader operates a night time hot food sales van at a roadside location in Pembroke Square and has done so since before the control scheme was introduced in 1986.
- 6 Similar complaints were received in 1992 and were resolved by a temporary restriction on the hours of operation. The restriction was subsequently lifted in 1994 and the trader has operated without complaint until late last year when complaints were received from Pembroke College following the installation of a new Master at the college.
- 7 Since the initial complaint in October 2001 further complaints have been received from Commonwealth House and representatives of St Aldates Church.
- 8 Complainants have alleged rodent infestation, noise from customers and urination in adjacent areas.
- 9 Investigation has confirmed that there is a definite smell of urine especially following weekends. However, there is no evidence which points to the trader's customers being responsible. The bus stops across the road attract a significant number of people during the evenings in addition to the flow of pedestrians.
- 10 Rodent activity is alleged to be supported by litter left by customers although the trader routinely sweeps the area around the van and removes any litter or food debris at the conclusion of trading.

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- 11 Investigation of the alleged public disorder (excessive noise, fighting etc.) has shown that this is no worse than other locations in the city centre, especially after midnight, but the lack of any effective street lighting and the availability of vehicle parking in Pembroke Square tends to make this area attractive to young people. Thames Valley Police agree that the poor lighting and absence of CCTV coverage encourages anti-social behaviour by those determined to act in this way.
  - 12 Night time monitoring by Environmental Health staff has confirmed that it is a busy trading location attracting pedestrian and car based customers. During this monitoring no public order matters have been observed. The trader routinely collects any litter left in the vicinity of his trading location at the conclusion of trading.
  - 13 It is confirmed by Thames Valley Police that behaviour of young people in the city centre has significantly deteriorated over the past five years and where locations do not inhibit anti-social behaviour this regrettably takes place.

#### **Consultations**

- 14 Letters have been sent to the Police and Oxfordshire County Council seeking their views.
- 15 Responses to the consultations are at Appendix 1.

#### **Human Rights Act**

- 16 Article 1 of Protocol 1 of the Human Rights Act provides that every person is entitled to the enjoyment of his possessions. Any interference with a street consent must be proportionate. It should also be in the public interest and subject to the conditions provided for by law.

<p>THIS REPORT HAS BEEN SEEN AND APPROVED BY THE ENVIRONMENTAL HEALTH BUSINESS MANAGER AND THE LEGAL SERVICES BUSINESS MANAGER</p>
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PUBLIC ENTERTAINMENT AND OTHER MATTERS  
LICENSING COMMITTEE

Monday 4th November 2002

**21. KERBSIDE STREET TRADER, PEMBROKE SQUARE**

The Environmental Health Business Manager submitted a report (previously circulated and now appended) and addressed the Committee. Details of complaints about Mr. Kaveh's kebab van from Mr. Henderson of Pembroke College and from St. Aldate's Church were given to the Committee.

Mr. Kaveh was present at the meeting accompanied by his legal representative, Mr. Hodson, who commented on the report.

Mr. Kaveh was given the opportunity of addressing the Committee and to ask questions. Mr. Kaveh said that if his customers dropped litter, his staff always make sure that it is cleared up. He also stated that he never trades after 3.00 am and that his staff use the toilet facilities at George and Danver coffee shop

The Chair agreed to accept as urgent business a petition in support of Mr. Kaveh signed by a large number of customers, including 79 Pembroke College students.

After all the parties had had the opportunity to sum up, Mr. Kaveh and his legal representative and the Environmental Health Business Manager retired from the room to allow the Committee to consider its decision.

Having considered the report, the representations that it heard and the petition in support, the Committee resolved to take no action on this occasion as the complaints against Mr. Kaveh were not substantiated.

The reasons for the Committee's decision were that it was satisfied that, from what it had heard and read, the complaints were unjustified. The Committee also recommended that Mr. Kaveh continue with the high standards that he said applied to the running of his vending service.



## Appendix C

### General conditions attached to kebab van street trading consents

1. No street trading shall take place except between 6.30pm and 3.00am on any evening Monday to Sunday inclusive (Kerbside location).
- OR
- No trading shall take place except between 10.00am and 9.00pm on any day of the week. (Pavement location).
2. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Safety (General Food Hygiene) Regulations 1995. Advice on these requirements is available from the Environmental Health Department.
  3. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Oxford City Council.
  4. No water or waste material shall be discharged on to the highway or any adjacent property.
  5. The Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition. (The Consent Holder's vehicle shall be maintained in roadworthy condition, taxed, insured and with a current MOT Certificate.)
  6. At least one refuse container shall be provided by the Consent Holder and placed on the pavement near to the stall/vehicle and be available for use by customers. A notice shall be displayed requesting customers to deposit litter in a waste container.
  7. The Consent Holder shall ensure that the area in the vicinity of the vehicle/stall is kept clear at all times of all refuse originating from their trade and from customers and, in particular, shall leave the site clear of refuse at the completion of trading.
  8. The Consent Holder shall ensure that the stall/vehicle is positioned only in the marked out area of the Consent Street for which a Street Trading Consent is issued.
  9. The name of the Consent Holder shall be displayed conspicuously on the stall/vehicle. A copy of the Consent shall be carried by the operator when trading and must be produced when requested by Council Officers or a Police Officer.
  10. If a Consent Holder or employee is requested to move the vehicle/stall by a Council Officer they shall immediately comply with that request.

11. Each Consent Holder shall ensure that disabled persons and wheelchair users can be adequately served. This may involve serving customers from outside the vehicle/stall.
12. The Consent Holder's stall shall not exceed 2.3 metres in height.
13. The Consent Holder shall not park a vehicle on any part of a footway.
14. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued.
15. The Consent Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. Where a generator or bottled gas appliance is present, then a suitable fire extinguisher shall be provided. In addition, a fire blanket shall be provided in vehicles selling hot food.
16. The Consent Holder may terminate this Consent by written notice to the Council. A refund of the fee will be payable on a pro rata basis but the Council will keep at least £50 of the fee.
17. This Consent is personal to the Consent Holder and is not transferable except upon the death of the Consent Holder. The Consent may then be transferred to a member of the Consent Holder's family.
18. If a Consent Holder fails to comply with any of the conditions attached to this Consent, they will risk having the Consent revoked and prosecution.
19. The above General Conditions may be varied by any Specified Conditions relating to a particular location as listed on the Consent Certificate.
20. The Consent Holder shall not place any signs or any object upon the pavement except within the marked out area of the Consent Site for which the Consent Holder holds a Street Trading Consent.
21. Annual fees may be paid in advance.
22. Quarterly instalments in advance must be paid by the following dates: 1 April, 1 July, 1 October and 2 January.

Appendix D



THAMES VALLEY  
**POLICE**

Chief Insp George WRIGLEY  
OPERATIONS

St Aldates Police Station  
St Aldates  
Oxford  
OX1 1SZ  
Tel. 01865 266207  
Fax. 01865 266035

Rebecca Carley  
Area Committee Coordinator  
Oxford City Council  
Blue Boar Street  
Oxford

Date 19 August 2005

Dear Rebecca

City Centre Dispersal Late at Night

I am writing in relation to the issues that we face concerning alcohol related violence in the city.

As a member of the Nightsafe Project Board, Oxford Police Area are currently involved in a study of the movement of revellers during the evenings and early mornings within Oxford city centre. The aim of the study is to develop a plan of dispersal management that will help reduce the level of alcohol-related crime and anti-social behaviour in Oxford City Centre. It will look at the pinch points and pedestrian flows within the city centre, often centred close to kebab vans, taxi ranks, bus stops, etc. and will seek to address these potential areas for disorder.

At present the Oxford Police Area does not support the removal of trading consents or premises licenses from all kebab vans in the city centre. However if evidence suggests that certain vans are contributing to the level of crime and anti-social behaviour, we will make representation to the Licensing Committee. The current location of kebab vans will be considered by the study.

The safety of all is paramount and there is a need for all businesses and partners to work with the Project Board at finding a solution.

Oxford Police Area and the Nightsafe Board Members look forward to working in partnership with all stakeholders to make the city centre a safe and vibrant entertainment area.

I am happy to discuss this with you at anytime

Yours sincerely

pp George Wrigley