

Agenda

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Licensing and Registration Sub Committee

Date: **Wednesday 13 August 2014**

Time: **5.30 pm**

Place: **St Aldate's Room, Town Hall**

For any further information please contact:

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Licensing and Registration Sub Committee

Membership

Chair

Vice-Chair

Councillor Van Coulter	Barton and Sandhills;
Councillor Mary Clarkson	Marston;
Councillor Gwynneth Royce	St. Margaret's;
Councillor Dick Wolff	St. Mary's;

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AGENDA

Pages

1 **APOLOGIES FOR ABSENCE**

2 **DECLARATIONS OF INTEREST**

3 **PROCEDURE TO BE FOLLOWED**

1 - 6

Guidance is attached

4 **REVIEW OF A STREET TRADING CONSENT – MR MATTHEW BARLOW AND MR TIMOTHY CHAPPLE**

7 - 44

The Head of Environmental Development has submitted a report seeking determination of an application to review a Street Trading Consent located on Broad Street.

The Licensing & Registration Sub Committee is requested to review the Street Trading Consent held by Mr Matthew Barlow and Timothy Chapple for the Street Trading Site located on Broad Street in light of complaints received; taking into account the details in this report and any representations made at this Sub Committee meeting.

5 **MINUTES**

45 - 48

Minutes from 15 April 2014

Recommendation: That the minutes of the meeting held on 15 April 2014 be APPROVED as a true and accurate record.

6 **MATTERS EXEMPT FROM PUBLICATION**

If the Sub Committee wishes to exclude the press and the public from the meeting during consideration of any aspects of the preceding agenda items it will be necessary for the Sub Committee to pass a resolution in accordance with the provisions of Section 100A(4) of the Local Government Act 1972 specifying the grounds on which their presence could involve the likely disclosure of exempt information as described in specific paragraphs of Part 1 of Schedule 12A of the Act if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

DECLARING INTERESTS

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed “Declarations of Interest” or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council’s area; licences for land in the Council’s area; corporate tenancies; and securities. These declarations must be recorded in each councillor’s Register of Interests which is publicly available on the Council’s website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members’ Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members’ Code of Conduct says that a member “must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself” and that “you must not place yourself in situations where your honesty and integrity may be questioned”. What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

¹ Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those of the member’s spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

OXFORD CITY COUNCIL

LICENSING and REGISTRATION SUB-COMMITTEE

HEARING PROCEDURES:

Housekeeping Matters

- Mobiles must be switched off
- No smoking throughout the building
- Consumption of food is not permitted

The Meeting

1. The Licensing Casework Sub-Committee will usually consist of four members of the Council (councillors) who are also members of the Council's General Purposes Licensing Committee. With the consent of the Applicant, or person who is subject of the hearing, the Sub-Committee may consist of fewer than four but no fewer than two councillors. At the start of each Sub-Committee meeting a Chair shall be elected from among the members. The Sub-Committee is responsible for reaching a decision upon the application having heard representations and considering all relevant material presented.

The Paperwork

2. Officers of the licensing authority (the City Council) will prepare the paperwork for the application that is to be heard by the Sub-Committee. The paperwork will include:-
 - A summary of the application or matter for determination, the representations received and of any other relevant material
 - A copy of the application and any other supporting material supplied by the applicant
 - Any observations on the application or matter made by the Police or other technical advisor to the Sub-Committee
 - Any representations of objection to the application

Introductions

3. The Chairman will commence the hearing by introducing her or himself and the other Sub-Committee members. The Chair will then ask all of the other parties present to introduce themselves and explain in what capacity they are attending.

Conduct of Proceedings

4. The role of the Chair is to control the proceedings. All questions must be put through the Chair.
5. The Chair will indicate that the members of the Sub-Committee have read and familiarised themselves with the papers and issues. The Chair will stress that the Sub-Committee does not therefore require points to be made or repeated at length.
6. The hearing shall take the form of a discussion. Formal cross-examination shall not be permitted unless the Chairman considers that cross-examination in a particular circumstance would assist. In exercising this discretion to permit cross-examination, the Chairman must have regard to the rules of natural justice and the right to a fair hearing.
7. Members of the Sub-Committee may ask questions to any party to elicit further information. The representative of the licensing authority may also ask questions of any party in order to clarify the evidence and any issues in the case.
8. In considering the application/matter or any representation made by a party the Sub-Committee may take into account documentary or other information relied on by a party in support of their application or representation - provided that copies of the information have been supplied to the Licensing Authority at least seven working days before the hearing or, with the consent of all the other parties, after that time.
9. Where a person attending the hearing is acting in a manner that the Chair considers is disruptive, the Chair may require that the person leave the hearing and may:
 - (a) refuse to permit that person to return; or
 - (b) permit him / her to return only on such conditions as the Sub-Committee may specify.

10. Before the end of the hearing any person who was required to leave the hearing under paragraph 9 may submit in writing any information which they would have been entitled to give orally had they not been required to leave.

Order of Proceedings

11. Any party may be assisted or represented by any person whether or not that person is legally qualified.

The Licensing Authority

12. The representative of the licensing authority shall present the paperwork relating to the application or matter to be heard by the Sub-Committee. The representative shall say who the applicant is, what the application is for and explain the paperwork before the Sub-Committee.

Applicant's case

13. The Applicant will outline their application and present their case and may call witnesses if desired.
14. The Sub-Committee may ask questions of the Applicant.
15. Other parties may ask factual questions of the Applicant. Cross-examination will only be permitted with the consent of the Chair.

Observations of Police and/or Technical advisors

16. Where appropriate the police or technical advisers to the Sub Committee may make their observations.
17. The Sub-Committee may ask questions of the Police and/or technical advisors.
18. Other parties may ask factual questions of the Police and/or technical advisors. Cross-examination will only be permitted with the consent of the Chair.

Objector's case

19. Where written representations of objection have been received the Sub-Committee will have regard to those representations. Any

Objectors attending the hearing may make oral representations in support of their objection and call witnesses if they wish. However, the Sub Committee will not require repetition of points already made in written representations.

20. Where a number of objectors have made representations which are similar in nature the Sub-Committee will expect a spokesperson to be appointed to represent the group.
21. The Sub-Committee may ask questions of any objector.
22. Other parties may ask factual questions of any objector. Cross-examination will only be permitted with the consent of the Chair.

Closing submissions

23. All parties will then be given the opportunity to summarise briefly their key points. The order shall be:-
 - Objectors
 - Police and/or technical advisors
 - Applicant

Determinations

24. At the end of the submissions, the Chair will announce that the hearing is adjourned while the Sub-Committee deliberate in private. The Sub-Committee will be accompanied by the Committee Clerk and Legal Advisor during their deliberations.
25. If it is necessary to recall any party for clarification of any point, then all parties should be recalled.
26. The Chair will either:
 - Announce the decision of the Sub-Committee and confirm that a written determination with reasons will be sent to the parties by a given date.

or

 - Close the hearing and confirm that once a decision has been made a written determination with reasons will be sent to the parties by a given date.

27. In any event a written determination setting out the reasons for the decision will be sent to the parties within five working days of the hearing.

Closed hearing

28. The hearing shall normally take place in public. However, the Sub-Committee may exclude the press and the public from all or part of a hearing where exempt information (*section 100A(4) Local Government Act 1972*) is concerned and the Sub Committee considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

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To: Licensing & Registration Sub Committee

Date: 13 August 2014

Report of: Head of Environmental Development

Title of Report: Review of a Street Trading Consent – Mr Matthew Barlow and Mr Timothy Chapple

Summary and Recommendations

Purpose of report: To seek determination of an application to review a Street Trading Consent.

Report Approved by:

Finance: Paul Swaffield

Legal: Daniel Smith

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation:

The Licensing & Registration Sub Committee is requested to review the Street Trading Consent held by Mr Matthew Barlow and Timothy Chapple for the Street Trading Site located on Broad Street in light of complaints received; taking into account the details in this report and any representations made at this Sub Committee meeting.

Introduction

1. Mr Matthew Barlow and Mr Timothy Chapple currently hold a Street Trading Consent under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 authorising the sale of hot fish and chicken goujons, fries and hot/cold drinks from a Street Trading site on Broad Street. The Consent is being referred to the Sub Committee in accordance with the Street Trading Policy as there have been complaints and concerns about the operation of the hot food van during the current duration of Consent.

Legislative Background/Legal Framework

2. In 1986 the Council resolved that Schedule 4 to the local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'. The street trading site in question is on a street designated as a "consent street". The Sub Committee may grant a consent if it 'thinks fit'. A consent may be granted for a maximum of one year and may be revoked at any time. When exercising this general power Members should only take into account relevant considerations; must give applicants a fair hearing and should give reasons for their decision.
3. The Sub Committee may attach any conditions to a consent that it considers "reasonably necessary".

Policy Considerations

4. The Street Trading Policy was adopted by Council in July 2010 and came into force on 1st January 2011 for existing traders. Paragraph 5.2(c) of the Policy states:

'5.2(c) The Head of Environmental Development is authorised to refer applications to the Licensing and Registration Sub Committee (i) where there has been a complaint about the trader or the trader has broken conditions of their Street Trading Consent in the past year.'
5. The Sub-Committee should have regard to the Policy when making its decision and in particular the objectives in paragraph 5.4 which state:

"5.4 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

(a) Public Safety
Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

(b) Public Order
Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.

(c) The Avoidance of Public Nuisance
Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be of smart appearance and meet criteria, including size, laid down in the standard consent conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle.

(e) Needs of the Area

The demand for the articles for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers. Mitigating measures to minimise the environmental impact of the proposed operation.

(g) Food Traders

Applicants to trade in hot or cold food must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of Environmental Health, or The Royal Society of Health, or The Royal Institute of Public Health and Hygiene.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with the Oxfordshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access."

Background and reasons for referral to Licensing & Registration Sub Committee

6. This consent has been referred to the Sub Committee in accordance with paragraph 5.2(c) of the Policy as a number of complaints have been received.
7. A copy of the Street Trading Consent issued for May 2014 to March 2015 can be found in Appendix A of this report.
8. Street Trading Consent was issued following a hearing of the Licensing and Registration Sub-Committee held on 7th October 2013. The report and decision notice from that Sub-Committee can be found at Appendix B of this report. Although permission was granted on 7th October 2013 the Consent holders did not start to trade until 30th May 2014.
9. The initial complaint was received on 4th June 2014. The nature of the complaint was noise from the generator.

10. Officers investigated and found that during the first two days of trading, the generator used at the goujon van broke down and a temporary generator was installed. The temporary generator was found to be excessively noisy. This issue was quickly resolved by the Consent holders and the generator replaced.
11. Subsequently 4 further written complaints were received by the Business Regulation Team between the 4th and 17th June. The complaints were made by local retailers on Broad Street. Copies of the complaint emails can be found at Appendix C of this report.
12. Corporate Assets have also raised concerns on behalf of their leaseholders and the potential impact on their ability to re-let any vacant units in Broad Street.
13. The current policy for new applications is to consult with the relevant stakeholders, Thames Valley Police, Environmental Health, Oxfordshire County Council Highways Authority and City Ward Councillors, for a period of 14 days. As such there was no requirement for retail premises on Broad Street to be directly consulted regarding a proposed new trader.
14. None of the stakeholders raised any concerns during the consultation period, neither have they done so during the current Consent period.
15. The Business Regulation Team investigated the complaints received. 10 separate visits were made to the site by officers between 4th and 18th June. No odour nuisance or noise nuisance was observed during any of these visits.

Financial Implications

16. The Council collects fees for the Street Trading function. Predicted income from licence fees are included in the Council's budget.

Legal Implications

17. Street Traders cannot be said to enjoy security of tenure. There is no legitimate expectation in law that a consent will be indefinitely renewed and there is no requirement for the Council to give compensation for the loss of any consent (other than any refund of consent fees paid in advance). However, any decision to terminate a street trading consent or refuse an application may be subject to a judicial review and if the decision were held to be unreasonable then compensation may result.
18. Any decision to revoke a consent or refuse a renewal application must be proportionate taking into account all relevant circumstances and the applicants, or consent holder's, right to a fair hearing. An application should not be refused, or consent revoked, arbitrarily or without clear reasons.

19. The concerns raised by Corporate Assets are not relevant matters that the Committee can take into consideration when making a decision, so far as they concern the Council's commercial interests as landlord. Relevant concerns must be linked to the Licensing Objectives or the Street Trading Policy.

Human Rights Act Considerations

20. Article 1 of the first Protocol of the European Convention on Human Rights provides that every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. However a street trading consent is not considered a possession in law and the protection in Article 1 is therefore not directly engaged.

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Background papers: Appendix A – Mr Matthew Barlow and Mr Timothy Chapple Street Trading Consent
Appendix B – Sub-Committee Report and Decision Notice from 7th October 2013
Appendix C – Log of Complaints

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Environmental Development

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**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)****ACT 1982****CERTIFICATE OF STREET TRADING CONSENT**

Oxford City Council grant a Street Trading Consent to:

Consent Holder: Matthew Barlow and Timothy Chapple T/A Goujon Monkey

Consent Number: 13/01596/STREET

Consent Issued: 23rd May 2014

Valid From: 30th May 2014

Valid To: 31st March 2015

Fee: £6,399

Vehicle/Stall Details: Citroën HY Van BVM 245K

Area/Site: Street Trading Site outside No. 14 Broad Street

Permitted Trading Days and Hours:

Trading only permitted between the hours of 11:00 – 19:00 Monday to Sunday.

Articles Sold: Fish Goujons, Chicken Goujons, Vegetarian Goujons, Fries, Hot and Cold Drinks and Snacks.

This certificate of Street Trading Consent is issued subject to the standard street trading conditions and any other additional conditions attached to this certificate.**Possession of this document** does not guarantee that the consent is in force. Its validity may be established by referring to the Councils Licensing Department.**Conditions of Consent** are attached to this certificate.

Authorised Officer

Head of Environmental Development



General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of 30th May 2014 to 31st March 2015.
2. The operational hours shall be:
Between the hours of 11:00 and 19:00 on Mondays
Between the hours of 11:00 and 19:00 on Tuesdays
Between the hours of 11:00 and 19:00 on Wednesdays
Between the hours of 11:00 and 19:00 on Thursdays
Between the hours of 11:00 and 19:00 on Fridays
Between the hours of 11:00 and 19:00 on Saturdays
Between the hours of 11:00 and 19:00 on Sundays
3. The street trading consent relates to the following area/site only: Street Trading Site outside No. 14 Broad Street, Oxford.
4. The street trading consent relates to the following vehicle/stall only: Citroën HY Van BVM 245K
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Development.
6. 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. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. 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. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent Holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent Holder shall be

- displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
10. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate.
 11. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
 12. The Consent Holder's stall shall not exceed 2.3 metres in height nor occupy an area greater than 2 metres x 1 metre.
 13. The Consent Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. A serviceable fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
 14. All hot food vans/trailers are required to carry a basic first aid kit. The Consent Holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
 15. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate that is accredited by the Chartered Institute of Environmental Health, or the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
 16. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.
 17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Environmental Development of the name and address of that person. An administration fee will be payable.
 18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Environmental Development.
 19. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Environmental Development. A refund of the portion of the fee equal to the remaining full months will be payable, less £50 which the Council will retain to cover administrative costs.
 20. Consent Holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £10,000,000 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. Proof of cover must be produced to an officer of Oxford City Council as required.
23. These general conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.
24. Instalments are required quarterly, in advance. On or before the following dates: 1st April, 1st July, 1st October and 2nd January. Annual fees may be paid in advance.

Failure to comply with these conditions

If a Consent Holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be suspended for an indefinite period or revoked. The Consent Holder may also be prosecuted.

To: Licensing & Registration Sub Committee

Date: 7th October 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Application for a new street trading site.

Summary and Recommendations

Purpose of report: To seek determination of an application proposing a new street trading location.

Report Approved by:

Finance: Paul Swaffield

Legal: Daniel Smith

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation(s):

Licensing and Registration Sub Committee is recommended to determine the application received and decide whether to grant a Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

The Application

1. The Miscellaneous Licensing Team have received an application for Street Trading Consent from Mr Timothy Chapple and Mr Matthew Barlow. Mr Chapple and Mr Barlow have applied to trade from a new proposed site on Broad Street, Oxford.
2. A full copy of Mr Chapple and Mr Barlow's application can be found at Appendix A of this report. The applicants have attached a map and photos of the proposed site. They have also attached pictures to illustrate the vehicle they intend to trade from.

Legislative Background/Legal Framework

3. In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 of the Act the Council can manage street trading by designating streets as “consent streets”, “licence streets” or “prohibited streets”. All streets within Oxford are currently designated as “consent streets”. The Sub-Committee may grant a Consent if it “thinks fit”. When exercising this general power Members should only take into account relevant considerations; must give each applicant a fair hearing and should give reasons for their decision.
4. The Sub Committee may attach any conditions to a Consent that it considers “reasonably necessary”.

Policy Considerations

5. The Street Trading Policy was adopted by Council in July 2010 and came into force on 1st January 2011 for existing traders. Delegation is laid out in the Council’s Constitution. Paragraph 5.2 of the Policy states that the General Purposes Licensing Committee appoints a Licensing and Registration Sub Committee to decide street trading applications that are longer than three months.
6. Paragraph 5.4 of the Street Trading Policy states:

“5.4 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

 - (a) Public Safety
Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
 - (b) Public Order
Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.
 - (c) The Avoidance of Public Nuisance
Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.
 - (d) Appearance of the stall or vehicle
The stall or vehicle must be of smart appearance and meet criteria, including size, laid down in the standard consent conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle.

(e) Needs of the Area

The demand for the articles for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers. Mitigating measures to minimise the environmental impact of the proposed operation.

(g) Food Traders

Applicants to trade in hot or cold food must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of Environmental Health, or The Royal Society of Health, or The Royal Institute of Public Health and Hygiene.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with the Oxfordshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access."

Reason for Referral to Licensing & Registration Sub Committee

7. This matter has been referred to Licensing & Registration Sub Committee as Mr Chapple and Mr Barlow have approached the Council with a new site proposal. They have applied for a 12 month Consent.
8. The application is to sell hot food, specifically fish goujons, chicken goujons, vegetarian goujons, fries, hot and cold drinks and snacks including chocolate bars and crisps.
9. Mr Chapple and Mr Barlow wish to trade from the area as per appendix A on Broad Street, Monday to Sunday 1100 to 1900.
10. Upon receiving the application, Miscellaneous Licensing carried out a consultation with Thames Valley Police, Oxfordshire County Council Highways Authority, Environmental Health, Planning and Ward Councillors. During the 14 day consultation comments were received from officers of Oxfordshire County Council Highways Authority.
11. Oxfordshire County Council Highway Authority commented that there is a review of Broad Street currently underway that may affect how they view street traders in the future, but at present they do not object to the application, providing that specific conditions are attached to any Consent granted. The specific conditions they require to be put on the Consent, if the Committee are minded to grant, are to

- (a) suspend the Consent whenever an officially approved event takes place on Broad Street, unless the Consent holder obtains written permission from the event organiser to remain in place, and
- (b) suspend the Consent whenever the Highways Authority requires Broad Street to be closed.

Financial Implications

- 12. The Council collects fees for the Street Trading function. Predicted income from licence fees are included in the Council's budget.

Legal Implications

- 13. The Sub Committee may grant a Street Trading Consent if it 'thinks fit', see paragraph 3 above. A Street Trader cannot be said to enjoy security of tenure and there is no requirement for the Council to give compensation for the loss of any Consent (other than any refund of Consent fees paid in advance). However, any decision to refuse an application or terminate Street Trading Consents may be subject to a judicial review and if held to be unreasonable then compensation may result.
- 14. Any determination of an application for Consent must be proportionate taking into account all relevant circumstances and the Consent holder's right to a fair hearing. An application should not be refused arbitrarily and without clear reason.

Human Rights Act Considerations

- 15. Article 6 of the European Convention on Human Rights provides that every person is entitled to a fair hearing in determination of a civil right or obligation. Applicants should be given a fair opportunity to present their case and respond to any representation against them.

Name and contact details of author: Samantha Howell
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Email: sjhowell@oxford.gov.uk

Background papers:

Appendix A – Application from Mr Tim Chapple and Mr Matthew Barlow

Version number: 3

www.oxford.gov.uk



Application for a Street Trading Consent
Local Government (Miscellaneous Provisions) Act 1982

All data contained in this form will be handled in accordance with the Data Protection Act 1998. Information about how Oxford City Council will handle this data can be found at www.ico.gov.uk and also on www.oxford.gov.uk.

Note: Please refer to the checklist attached before you send in your application form.

Full Name	TIMOTHY JAMES PHILIP CHAPPLE & MATTHEW JOHN BARLOW
Trading Name (if any)	GOUJON MONKEY
Home Address	
Postcode	
Telephone Numbers	Home: Mobile:
Email address	
Date of Birth	
Country of Birth	
Applicants National Insurance number	
Description of articles to be sold	FISH GOUJONS, CHICKEN GOUJONS, VEGETARIAN GOUJONS, FRIES, HOT & COLD DRINKS, SNACKS (EG. CRISPS & CHOCOLATE BARS)

<p>If you intend to sell food & drink what is the address where the vehicle/trailer will be stored when not in use</p>	
<p>Is this an existing site? If Yes please state site No. If the answer is No please provide a map in accordance with the checklist (see attached)</p>	<p>No Annex 1 – Map showing the proposed site and surrounding area Annex 2 & 3 – Photos of proposed site</p>
<p>Proposed days and times of trading</p>	<p>Days: Monday - Sunday Times: 11am – 7pm</p>
<p>Vehicle registration number, make and model – if applicable</p>	<p>Vehicle will be purchased on license being granted. The proposed vehicle (which will be purchased if a license is granted) is a Citroen H Van. Photographic examples of this type of vehicle are included in Annex 4 & 5.</p>
<p>Will you be the sole operator of the vehicle or stall? If the answer is No please complete an employee form for each member of staff (see attached)</p>	<p>No Expect to employ additional operator on license being granted (employee form to follow)</p>
<p>Please read page 4, paragraphs 5.4 and 5.5 of the Street Trading Policy and describe how you are going to meet the following factors in boxes (a)-(h) below</p>	
<p>Public Safety</p>	<p>(a) The proposed site is in a dead zone between a row of bollards on one side and two bollards marking the edge of a set of cycle racks on the other side. This section of the highway has no through flow of traffic and the unit will not cause any obstruction to either vehicles or pedestrians. The unit will be positioned so that there is sufficient space between it and the cycle racks for no obstruction to access to the cycle racks to be caused. The unit's rear serving hatch will face curb side for curb side service only. The unit will comply with current fire safety regulations and will be fitted with a serviceable fire blanket and foam extinguisher. Therefore, risk to the public from fire hazard will be controlled and minimised. The unit will be kept in a hygienic condition in accordance with recommended food hygiene standards and all operators will have completed the food hygiene training certificate level 2 or higher. In addition, a first aid kit will be present on the unit, all operators will hold an up to date basic first aid certificate and at least one working mobile phone will be accessible at all times. The MOT for the vehicle will be kept up to date and all mirrors and lights will be kept in working order so that the risk of danger when the vehicle is reversing into position (so that the rear serving hatch is facing the curb side) is minimised.</p>

Public Order	(b) We will not be undertaking any activities which represent any risk to public order.
The avoidance of public nuisance	(c) We will not be undertaking any activities which are likely to represent a risk of nuisance to the public from noise or misbehaviour. The appliances will be run from a modern low noise generator in order to minimise noise and there should be no other causes of noise from the unit.
Appearance of the stall or vehicle	(d) The proposed vehicle (which will be purchased if a license is granted) is a Citroen H Van. Photographic examples of this type of vehicle are included in Annex 4 & 5. The approximate dimensions of the vehicle are 4.26m long by 1.99m wide. The vehicle will be newly decorated externally, with the predominant colour being Oxford Blue, to present a clean and smart looking appearance which will complement the George Street surroundings.
Needs of the area	(e) The proposed site is a roadside location, outside number 14 Broad Street, in a dead zone between a row of bollards on one side and two bollards marking the edge of a set of cycle racks on the other side. A map of the proposed site and surrounding location, including the location of other catering outlets in the vicinity is enclosed (annex 1). Two photos of the proposed location are also enclosed (annexes 2 & 3). There are no other outlets in the vicinity which are offering a comparable type of food - gourmet fish/chicken goujons and fries. This outlet will therefore offer a unique and interesting alternative to the Oxford City Centre food market place.
Environmental Credentials	(f) There will be no additional impact on street surfaces and materials as the unit will be a fully functioning and road worthy vehicle. The power supply will be a modern low noise generator and will have no impact on the local environment. Where possible all ingredients will be sourced from local suppliers in order to minimise the carbon footprint. Where possible all packaging will be from recycling material and/or recyclable packaging. Food waste/other recycling options will be maximised to reduce the waste which has to be landfilled. Refuse originating from the operation of the unit will be disposed of by a licensed waste carrier and the site will be clear of refuse at the completion of trading.

	<p>No water or waste material will be discharged on to the highway or any adjacent property. The area in the vicinity of the stall/vehicle will be kept clear of all refuse at all times.</p> <p>A bin will be provided adjacent to the unit to contain waste created by customers.</p>
Food Traders	<p>(g) The applicant holds a current Level 2 Food Hygiene Certificate accredited by CHARTE INSTITUTE OF ENVIRONMENTAL HEALTH</p>
Highway	<p>(h) The unit will not cause any obstruction or danger to the highway as the proposed site is a current dead zone with no through flow of traffic or access requirements.</p> <p>Outside the operating times of 11am to 7pm the site will be clear of the vehicle so access can be gained for highway maintenance. Also, as the proposed unit is a road worth vehicle, it can be easily removed from the site during operating hours, if necessary, should emergency access be required at these times.</p>
<p>What is your Premises Licence reference number? Note: If you are providing hot food or drink between 23:00 and 05:00 this will apply.</p>	N/A
Do you agree to comply with the Street Trading policy?	Yes
Any additional information to add to this application form - please write here.	

DECLARATION

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information, see <http://www.oxford.gov.uk/websitetools/privacy.cfm>.

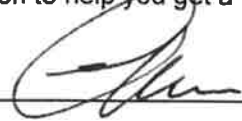
The data you provide will assist in preventing crime and ensuring public safety. When you sign this application you are consenting to the sharing of this data with other Government Agencies in their efforts to combat crime.

I am aware that if any person knowingly or recklessly makes a false statement or omits any material, particular in giving information on this form, that person shall be guilty of an offence.

This means that if you as the applicant or anyone else gives false information or leaves out any information to help you get a Street Trading Consent, you and/or they can be prosecuted in court.

*

Signed



(The declaration must be signed by the applicant)

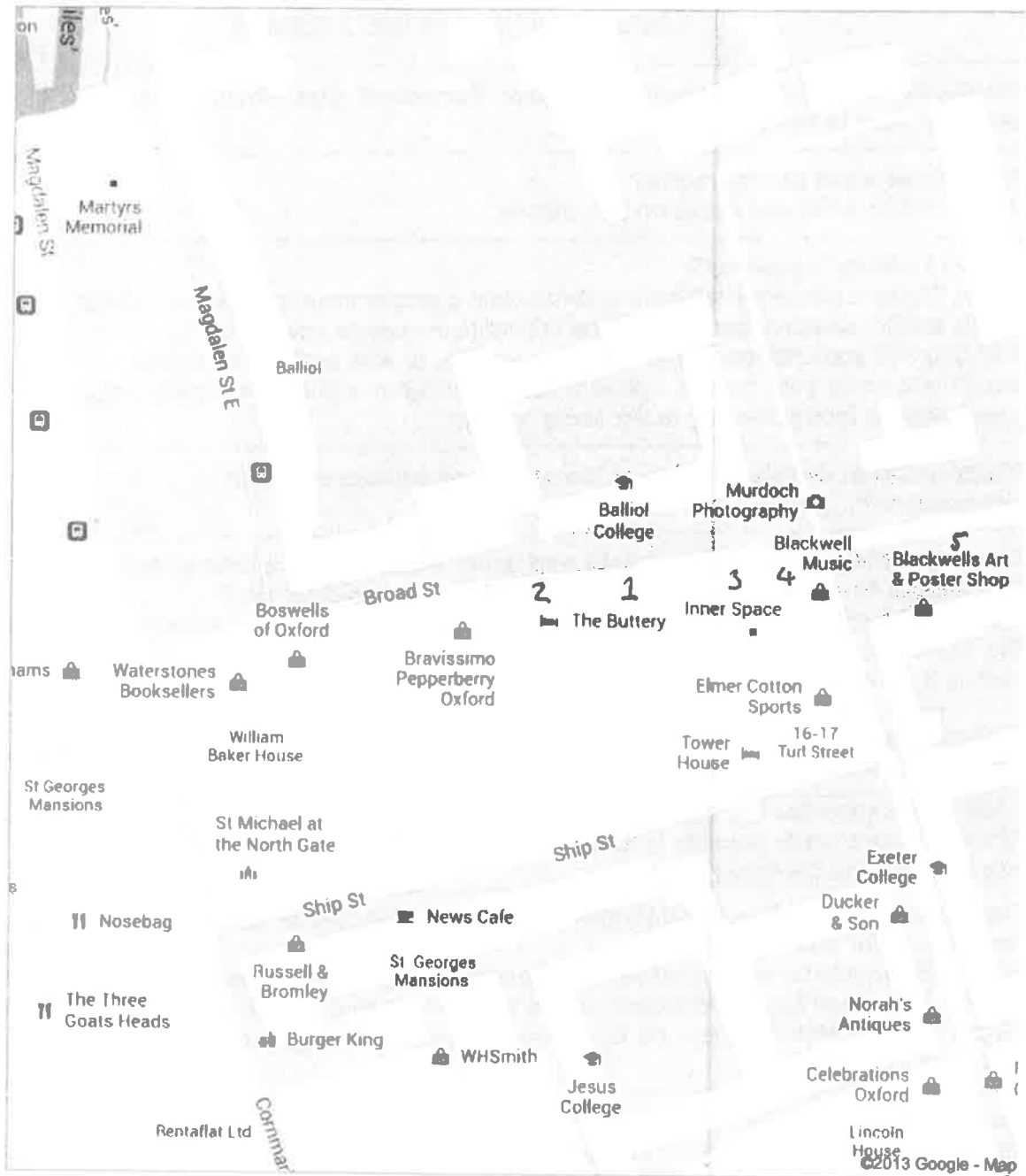
Date: 24, 6, 2013.

M. Balow.

24/6/2013.

Annex 1

Google



- 1 - Proposed site
- 2 - The buttery
- 3 - Cafe Creme
- 4 - Moltons
- 5 - Street trading site (currently selling crepes)

Annex 2

Google

Address 51

Address is approximate



Google

Address **Broad Street**

Address is approximate









Certificate of Completion

TIMOTHY CHAPPLE

has completed the Level 2 elearning module for

Food Safety

Date: 6/2/2013

Centre: 61237



For information about CIEH qualifications, visit www.cieh.org
(C0A9E634-0B11-409F-A2E1-98659E89AF-1F) T4F0000047349



Local Government (Miscellaneous Provisions) Act 1982

Hearing to determine an application for a street trading consent under Schedule 4 of the Act.

Applicants: Timothy Chapple and Matthew Barlow – trading as Goujon Monkey

Premises site: Broad Street, Oxford

Date of Hearing: 7th October 2013

Hearing before the Licensing and Registration Sub Committee

The Sub Committee heard from: - Samantha Howell (Licensing Authority)
- Timothy Chapple & Matthew Barlow (Applicants)

(As set out in the minutes to the meeting)

The Sub Committee also considered a report from Head of Environmental Development.

Decision and reasons of the Licensing Registration Sub Committee

The Sub Committee took into account all evidence before it, both written and oral.

Members of the Sub Committee felt the application met the criteria in the Street Trading Policy and in the absence of any representations against, it should be granted. The Sub Committee found that in the interests of highway safety during large scale events in Broad Street, it is necessary to impose conditions allowing the suspension of the consent at certain times. Also, in the interests of reducing environmental impact it is necessary to attach an additional condition requiring use of biodegradable or recyclable packaging and cutlery.

With a view to promoting healthy eating the Sub Committee asked that the Applicants consider offering some non-fried options on their menu.

The Sub Committee resolved to:-

1. **Grant the application** as applied for subject to the Oxford City Council general conditions applicable to street trading consents.

2. Attach the following additional conditions:

- ***The Consent may be suspended (with a minimum of 28 days' notice to the holder) during any approved event in Broad Street, unless the Consent holder has obtained the written permission of the event organiser to remain in place.***
- ***The Consent may be suspended whenever the Highways Authority requires Broad Street to be closed. In the event of any planned long term closure a minimum of 12 weeks' notice shall be given to the Consent holder.***
- ***All packaging and utensils for use by customers shall be made of biodegradable or recyclable materials.***

Signed:

Van Coulter

Councillor Van Coulter (Chair)

From: [REDACTED]
Sent: 04 June 2014 16:24
To: WHITTON Neil
Subject: Broad st noise - Goujon Monkey

Dear Neil

Seems I just missed your visit today. My colleague asked me to email you, I think to re-iterate our complaint.

The Goujon Monkey fast food van which has sited itself outside our premises yesterday is running a very noisy generator. We've had complaints from customers and staff. Personally I had a headache all yesterday from the noise and couldn't open our windows on a very warm day.

As well as our own discomfort I can't see how it can be helping The Buttery café with their outdoor seating alongside it – not a relaxing environment.

Do you have any powers to ask Goujon Monkey to stop running the generator?

Regards,

From: [REDACTED]
Sent: 05 June 2014 16:12
To: DRUMMOND Alison
Cc:
Subject: Goujon Monkey Odour

Dear Alison

We have noticed the new food seller Goujon Monkey in Broad Street is giving off quite a strong smell of fish which is now coming into our store. We believe this smell will start to get onto our clothing as all the staff members can smell the strong odour and we don't want our merchandise smelling of fish.

We think something needs to be done about this as warmer days are coming and will only make the smell more intense.

Regards

HOWELL Samantha J.

From:
Sent: 06 June 2014 14:19
To: HOWELL Samantha J.
Subject: Broad Street Chip Van

Follow Up Flag: Follow up
Flag Status: Completed

Dear Lesley Rennie and Samantha Howell

I am writing to you both as I understand that Samantha Howell is currently on leave and the licensing team work is being allocated to Lesley Rennie. I will first introduce myself, I am the proprietor of Isola, 12 Broad Street, Oxford, OX1 3AS. Our landlord is Oxford City Council. We have been trading in Oxford since 1985 and are a boutique that sells Italian mens and ladies clothing. Recently, a chip van has been given license to trade in the loading bays on Broad Street, and is situated only a few metres from our shop. Deep fat fryers are continuously in use cooking fish, chips and fried chicken. The van faces the pavement and shops, and the fat frying smells come directly into our shop. The smell is impregnating all the clothes and lots of stock will not be saleable with such a smell. Please bear in mind we sell expensive luxury clothing. If we were to close the door of the shop all the time, we would loose a very significant amount of trade. However, the smell also comes in even with the door closed. Fried fish and chips may smell tempting on passing, but we are faced with the smell the whole day and it is making our staff feel ill. We are paying a huge rent for a premises that currently smells like a chip shop. This is off putting for customers. We find this wholly unacceptable and we request that you move the van as soon as possible. Please let us know what you intend to do about this problem.

Kind Regards.

HOWELL Samantha J.

From:
Sent: 09 June 2014 15:38
To: KEY Lyndsey
Subject: RE: Broad st noise - Goujon Monkey

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Green Category

Dear Lyndsey

Thank you for speaking with Goujon Monkey. He has replaced his generator for a quieter one. However I still contend that it is too noisy and disruptive for the location. We rent our building from The City Council, and on a warm day the only means of making our offices habitable is to open windows. I'm sure you wouldn't enjoy trying to work with someone running a generator right outside your window all day.

Also, as the street outside our Visitor Information Centre is a natural meeting point for visitors, they are now having to stand alongside a trader running noise and fumes. Not such an enjoyable experience.

My request to address these issues remains.

Thank you for notifying me of the prospect of consultation on the Street Trading Policy. I would very much like to contribute to it.

HOWELL Samantha J.

From:
Sent: 11 June 2014 14:37
To: RENNIE Lesley; HOWELL Samantha J.
Cc:
Subject: Broad Street.
Follow Up Flag: Follow up
Flag Status: Completed

Dear All,

I am writing to you in regard to situations that are arising in Broad Street.

Firstly; a fish and chip van has recently appeared outside of our premises, number 13 Broad Street. A number of questions spring to mind, not least wouldn't it have been courteous of the council as our landlord to have at least informed/consulted us prior to it just 'arriving? Also; we sell predominantly clothing. With a fish and chip van come 'odours', which get into clothing and are impossible to get out without washing thus rendering it second-hand! In addition, the noise from the generator, whilst better than when it first arrived, even the 'new quieter model' it does tend to grate a little by the end of the day. I can only imagine what the smells will be like in the heat of the summer?

When as tenants can we expect something to be done regarding these issues? We pay some of the highest rates in the country and yet our landlord continues to not act when asked to intervene. As I've said I've worked in Broad Street for 20 years now and it has gone from being a pleasant environment to work in to a constant battle each and every day.

It clearly states in the terms of our tenancy contract that we can expect to receive 'quiet enjoyment'. No chance of that at the moment.

I look forward to receiving your thoughts.

HOWELL Samantha J.

From:
Posted At: 17 June 2014 14:02
Conversation: Samantha Howell:
Trader's fumes
Posted To: STC
Subject: FAO: Samantha Howell:
Trader's fumes

Dear Samantha,

I am writing to express concerns over the recent arrival of the Goujon Monkey fast food van. I was surprised when the other week, without any consultation, this food van arrived directly outside my gallery and started trading.

I have reservations over this because I believe it is negatively affecting my business. I have worked very hard to secure this location for my gallery, and am paying high rental rates. Given the high financial cost for this space, I hope the interests of my business will be considered.

One of the most serious problems is that the van emits a very strong smell of food grease and fish. Since the van is outside the front of the gallery, the smell enters straight into the gallery, and permeates the whole space. Myself and my team can smell it very strongly, and even worse, I have already had several customers comment negatively on this.

I am a specialist gallery, and every piece of art work I have is rare and of high value. They are works on sensitive materials, and I am extremely concerned that the smell might be absorbed and damage any works we have that are exposed. I presume the surrounding clothes stores next to us are similarly affected by this.

I have also been dismayed to see the staff of the van touting on the street, and interrupting customers of ours as they approach the gallery. The van obstructs the view of the gallery from pedestrians walking on the opposite side of the street, and I am concerned that their A board on the pavement very close to our detracts attention. The van is also extremely noisy, both from the continually running engine, and the radio. This effects the inside of the gallery, as the noise can be heard all the way through to the back of the building.

Taking on this property was an exciting challenge for my business. I was informed by the council that their aim for Broad St was to develop an area of good quality boutique shops, that would give a special and luxury feel to the street. They felt my gallery would fit in extremely well with their plans, and it was partly because of these future developments that I decided to take the property. My business is highly dependant on location and atmosphere. The noise and smell from the van is therefore a negative from the perspective of my business.

It is concerning to be paying extremely high rent for this excellent location, and having this location compromised by a business paying a fraction of the amount.

I look forward to hearing from you and discussing this issue further with you.

Yours faithfully,

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LICENSING AND REGISTRATION SUB COMMITTEE

Tuesday 15 April 2014

COUNCILLORS PRESENT: Councillors Coulter (Chair), Royce and Clarkson.

OFFICERS PRESENT: Lois Stock (Democratic and Electoral Services Officer), Daniel Smith (Law and Governance), Samantha Howell (Licensing Officer) and Lesley Rennie (Business Regulation Team Manager)

54. ELECTION OF CHAIR

Resolved to elect Councillor Van Coulter as Chair of the Sub Committee for this meeting.

55. APOLOGIES FOR ABSENCE

None received

56. DECLARATIONS OF INTEREST

None

57. PROCEDURE TO BE FOLLOWED

Resolved to note the procedure.

58. APPLICATION FOR NEW STREET TRADING SITE

The Head of Environmental Development submitted a report concerning an application for a new street trading site outside 119 Walton Street.

Samantha Howell (Licensing Officer) presented the report to the Sub Committee.

Mr Erik Muller (Applicant) attended the meeting and presented his case.

At this point the Sub Committee, accompanied by its Legal Advisor and Committee Secretary, withdrew to deliberate and make its decision in private.

Having taken into account all submissions, both written and oral, the Sub Committee then returned and announced its decision.

The Sub Committee was satisfied that the application met the criteria outlined in the Street Trading Policy. It noted that there were no adverse representations. The Sub Committee was mindful that the proposed site was a busy and potentially congested area, and that therefore it was necessary and

proportionate to add a condition stating that advertising A-boards must not be used on this site.

Resolved to GRANT the application as applied for, subject to the standard conditions applicable to street trading consents, with an operating time from 5pm to 11pm; and with an additional condition stating that there must be no use of A-boards at this street trading site.

59. APPLICATION FOR NEW STREET TRADING SITE

The Head of Environmental Development submitted a report concerning an application for a new street trading site outside 93 London Road.

Samantha Howell (Licensing Officer) presented the report to the Sub Committee.

Mr Ionut-Daniel Popa (Applicant) attended the meeting and presented his case.

At this point the Sub Committee, accompanied by its Legal Advisor and Committee Secretary, withdrew to deliberate and make its decision in private.

Having taken into account all submissions, both written and oral, the Sub Committee then returned and announced its decision.

The Sub Committee was satisfied that the application met the criteria outlined in the Street Trading Policy. It noted that there were no adverse representations.

Resolved to GRANT the application as applied for, subject to the standard conditions applicable to street trading consents, with an operating time of 6pm to 11pm.

60. MINUTES

Resolved to confirm as a correct record the minutes of the meeting held on 10th February 2014, with the following comments:

Minute 49 – Street Trading site outside 65 St Giles.

Councillor Royce reported that she had seen up to three A-boards at this pitch, plus a container of umbrellas; and she felt this was causing congestion in what was already a crowded area.

Licensing Officers will investigate and give advice to the consent holder as necessary, and will email Councillors with the outcome.

Location maps supplied with applications

Councillor Royce asked that location maps, supplied with applications, be made clearer and more detailed.

Samantha Howell advised that maps were the responsibility of the applicant as it was important that they made a clear and detailed application. However, it was

possible for the licensing authority to supply a map if this would help and she will investigate this and see what can be done to improve clarity.

61. MATTERS EXEMPT FROM PUBLICATION

None.

The meeting started at 5.30 pm and ended at 6.12 pm

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