

To: General Purposes Licensing Casework Sub Committee

Date: 15 April 2024

Report of: Head of Planning & Regulatory Services

Title of Report: Street Trading application to extend the terminal hour of trading

Summary and recommendations	
Purpose of report:	To inform the determination of a street trading application to extend the terminal hour of trading
Corporate Priority:	Enable an inclusive economy Support thriving communities
Policy Framework:	Street trading Policy 2023 Council Strategy 2020-2024
Recommendation(s): That the General Purposes Licensing Casework Sub-Committee resolves to:	
1.	Determine the request, taking into account the details in this report and any representations made at this Sub-Committee meeting.

Introduction and background

1. In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 the Council can manage street trading by designating streets as “consent streets”, “licence streets” or “prohibited streets”. All streets within Oxford are currently designated “consent streets” and any trading requires the grant of a street trading consent. Street trading consent may be granted as the Council “thinks fit”. When exercising the power to grant and enforce consents the Sub Committee should only take into account relevant considerations; must give each applicant or consent holder a fair hearing and should give reasons for their decisions.
2. Street trading consent is granted subject to the Council’s standard conditions. The Sub Committee may amend or attach any additional conditions to a Consent that it considers “reasonably necessary”.
3. Mr Shabbir was granted permission to trade from a long standing street trading spot in George Street, Oxford by the General Purposes Licensing Casework Committee in July 2023.

4. Mr Shabbir is a nighttime trader, and was granted the standard nighttime hours as referred to in the policy, which is to say 18:30 – 03:00.
5. Mr Shabbir trades under the business name of Medina Kebabs.
6. We have not received any substantiated complaints relating to Mr Shabbir's manner of trading and Mr Shabbir has complied with any requests which have come his way from the Miscellaneous Licensing Team.
7. The location from which Mr Shabbir trades has received some focus from Oxfordshire County Council, and Mr Shabbir has complied with the county council's directions.
8. As far as the Miscellaneous Licensing Team is aware, Mr Shabbir has adhered to the terms of the Street Trading Consent with which he has been issued.

Reason for referral to Licensing Sub Committee

9. Upon renewal of his street trading consent, Mr Shabbir has requested his hours be extended and wishes for the Committee to consider his request.
10. Section 17.2 of the Oxford City Council Street Trading Policy sets the standard hours for street trading in the evening as "from 18:30 to 03:00 (can be extended to 04:00 Thursdays, Fridays and Saturdays on application and subject to approval."
11. Mr Shabbir initially requested an extension of up to 05:00 every morning, but has not submitted any supporting material or information to support a departure from the stated policy in determining this matter.
12. The request is therefore advanced to the committee to determine whether to extend his hours in accordance with the option (extend to 04:00 on Thursdays, Fridays and Saturdays) provided in the policy.

Policy Considerations

13. The Policy requires that when determining an application for the grant or renewal of a Consent, the Council will consider the following factors, as per section 6.8 of the Policy, it follows that this criteria should also be considered when assessing this request:

(a) Public safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include: 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) Avoidance of public nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public, particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be maintained in good condition, be of smart appearance and meet the 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. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

(e) Needs of the area

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

(f) Environmental sustainability

Measures to minimise the impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, recycling and waste disposal.

(g) Food safety and food offer

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health. Consideration will be given to applicant's ability to meet SUGAR SMART Oxford criteria (see Annex 3 for guidance).

(h) Highway safety 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.

Financial implications

14. The Council collects fees for Street Trading Consents. Predicted income from Consent fees are included in the Council's budget.

Legal issues

15. The Sub Committee may grant a Street Trading Consent if it 'thinks fit'. Consent may be revoked at any time. 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.

16. 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

17. 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 generally considered to be a possession in law and the protection in Article 1 is therefore not directly engaged.

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Appendices (None)