

Agenda

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Licensing and Registration Sub Committee

Date: **Monday 29 October 2012**

Time: **5.00 pm**

Place: **Council Chamber, Town Hall**

For any further information please contact:

Lois Stock, Democratic Services Officer

Telephone: 01865 252275

Email: lstock@oxford.gov.uk

Licensing and Registration Sub Committee

Membership

Chair

Vice-Chair

Councillor Colin Cook	Jericho and Osney;
Councillor Van Coulter	Barton and Sandhills;
Councillor Michael Gotch	Wolvercote;
Councillor Gwynneth Royce	St. Margaret's;

HOW TO OBTAIN AGENDA

In order to reduce the use of resources, our carbon footprint and our costs we will no longer produce paper copies of agenda over and above our minimum internal and Council member requirement. Paper copies may be looked at the Town Hall Reception and at Customer Services, St Aldate's and at the Westgate Library

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AGENDA

Pages

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members are asked to declare any disclosable pecuniary interests they may have in any of the following agenda items. Guidance on this is set out at the end of these agenda pages

3 PROCEDURE TO BE FOLLOWED

Guidance is attached.

1 - 6

4 BREACH OF STREET TRADING CONSENT CONDITIONS - MISS ARZU DE JESUS NEVES

Report of the Head of Environmental Development attached.

The Sub Committee is asked to determine what action to take in response to the contents of the report.

7 - 18

5 BREACH OF STREET TRADING CONSENT CONDITIONS - MR MEHDI KARROUCHI AND MRS WADEYA KARROUCHI

Report of the Head of Environmental Development attached.

The Sub Committee is asked to determine what action to take in response to the contents of the report.

19 - 48

6 APPLICATION FOR A VACANT APPROVED SITE

Report of the Head of Environmental Development attached.

The Sub Committee is asked to determine the application received as laid out in the report.

49 - 60

7 APPLICATION FOR A VACANT APPROVED SITE.

Report of the Head of Environmental Development attached.

The Sub Committee is asked to determine the application received as laid out in the report.

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8 MINUTES

77 - 84

Minutes of the meeting held on 24th September 2012 attached.

9 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 three members of the Council (councillors) who are also members of the Council's General Purposes Licensing Committee. In some circumstances it may sit with a quorum of 2 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, the representations received and of any other relevant material
 - The application and any other supporting material supplied by the applicant
 - Any observations on the application 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 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 Sub-Committee consider is disruptive, the Sub-Committee 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 authority may specify.

10. Before the end of the hearing any person who was required to leave the hearing under paragraph 11 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 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 briefly to summarise 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: 29th October 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Breach of Street Trading Consent Conditions – Miss Arzu De Jesus Neves

Summary and Recommendations

Purpose of report: To consider a Street Trading Consent where the street trader has not adhered to the conditions of the Street Trading Policy.

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation(s):

Committee is recommended to determine what action to take in relation to Miss Arzu De Jesus Neves Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

Legislative Background/Legal Framework

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 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.

2. The Sub Committee may attach any conditions to a Consent that it considers “reasonably necessary”.

Policy Considerations

3. 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 of the Policy states that the Head of Environmental Development is authorised to:

“5.2(c) refer applications to the Licensing and Registration Sub Committee; (i) when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent.”

Reasons for Referral to Licensing & Registration Sub Committee

4. The Consent has been referred to the Sub-Committee in accordance with paragraph 5.2 of the Policy as Miss De Jesus Neves has failed to act as the principal operator and have day to day control of the vehicle she holds a Street Trading Consent for and has allowed unauthorised employees to operate her vehicle. These issues have raised concerns as to who is the principal operator of Chefs Corner and whether the pitch is being sub let. Miss De Jesus Neves is therefore in breach of condition 16, 17 and 18 of the General Conditions for Annual Street Trading Consents. A full copy of Miss De Jesus Neves’s Consent and Conditions can be found at Appendix A.

“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 with 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.”

5. Licensing Officer, Samantha Howell visited Site 5 Queen Street, known as Chefs Corner on 20th September 2012 as part of a Council lead Multi Agency inspection evening. Upon inspection Miss De Jesus Neves was not available. Two males identified as Mr Adrian Babei and Mirek

Mirochna were working within the vehicle. Mr Babei and Mr Mirichna are not registered as employees with the Council as required by conditions 17 and 18 of the consent. When Samantha Howell asked the whereabouts of Miss De Jesus Neves that evening, the two men had no comprehension of whom Miss De Jesus Neves was and explained that they worked for Mr Ulas. Mr Ulas is a registered employee at Site 14 Queen Street. The two men were able to produce the Street Trading Consent for the vehicle at Site 5, but did not understand what it was. A copy of the Street Trading Inspection Report can be seen at Appendix B.

6. Environmental Health Officer, David Stevens was also in attendance that evening as part of the Multi Agency Inspection. He inspected the van and found food safety contraventions regarding food storage, temperature recording and witnessed a lack of food hygiene training and it was apparent to him that basic business practices needed to be improved.
7. Samantha Howell asked Mr Babei and Mr Mirochna to call whoever was in charge of the vehicle and request them to attend the site. Mr Ulas arrived shortly after the phone call and explained that Miss De Jesus Neves was away and he was helping in the interim.
8. Prior to the Multi Agency Inspection evening, colleagues Mandy Wallington and Daniel Barker, Environmental Enforcement Officers, had passed intelligence to Miscellaneous Licensing that over a four week period - from 23rd August 2012 to 13th September 2012 - they had not witnessed Miss De Jesus Neves presence during evening compliance checks at the vehicle. The Officers noted that two men had been in attendance each time the vehicle was observed.
9. Miss Neves attended an appointment with Samantha Howell on Monday 1st October to discuss the Multi Agency inspection. Miss Neves was reminded of her conditions and the importance of asking for advice if she is unclear on following them.

Relevant Background Information

10. The renewal application submitted by Miss Neves, for the period April 2012 – March 2013, was put before Licensing and Registration Sub Committee on 17th April 2012. This was due to Miss Neves failure to take up her street trading consent and trade from the site and concerns regarding a previous unsatisfactory food hygiene inspection. See Appendix C for the full Decision Notice.

Financial Implications

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

Legal Implications

12. 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 judicial review and if the decision were held to be unreasonable then compensation may result.
13. 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.

Human Rights Act Considerations

14. 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.
15. Nevertheless, with the advice of Law & Governance and in the interests of fairness, the Licensing Officer has taken the Human Rights Act 1998 into account and considers that the potential interference with the rights of the applicant would be proportionate, in the public interest and subject to the conditions provided for by law.

Name and contact details of author: Samantha Howell
Tel: 01865 252558
Email: sjhowell@oxford.gov.uk

Background papers: Appendix A – Consent and Conditions
Appendix B – Street Trading Inspection Report
Appendix C – Decision Notice 17th April 2012

Version number: 2

Environmental Development

St. Aldate's Chambers, 109 St Aldate's, Oxford OX1 1DS

Switchboard: 01865 249811

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www.oxford.gov.uk



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

Oxford City Council grant a Street Trading Consent to:

Licence Holder: Miss Arzu De Jesus Neves

Consent Number: 12/00944/STREET

Consent Issued: 27th June 2012

Valid From: 27th June 2012

Valid To: 31st March 2013

Fee: £5591

Vehicle/Stall Details: Towability Trailer

Area/Site: Street Trading Site 5 Junction with New Inn Hall Street and Queen Street Oxford

Permitted Trading Days and Hours: Monday - Sunday trading between 18:30 to 03:00

Articles Sold: Hot Food and Soft Drinks

Special Conditions:

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
AP

STCONS



John Copley
Head of Service

General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of: 2⁷th June 2012 to 31st March 2013.
2. The operational hours shall be:
Between the hours of 18:30 and 03:00 on Mondays
Between the hours of 18:30 and 03:00 on Tuesdays
Between the hours of 18:30 and 03:00 on Wednesdays
Between the hours of 18:30 and 03:00 on Thursdays
Between the hours of 18:30 and 03:00 on Fridays
Between the hours of 18:30 and 03:00 on Saturdays
Between the hours of 18:30 and 03:00 on Sundays
3. The street trading consent relates to the following area/site only: Street Trading Site 5 Junction with New Inn Hall Street and Queen Street
4. The street trading consent relates to the following vehicle/stall only: Towability Trailer
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.

Special Conditions

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.

STREET TRADING INSPECTION

www.oxford.gov.uk



	Street Trading Site:	5, Queen Street / Bonn Square
		Comments / Actions
1	Street Trading Consent Holder <i>If not on site, who is in charge and are they a registered employee with Oxford City Council?</i>	Adrian Babei Marek Mirochna. Two males working on the van not registered.
2	Street Trading Consent on Display and Street Trader ID Cards Available	street trading consent available. NO ID cards available.
3	Premises Licence Summary on Display <i>If applicable</i>	NO
4	Full Premises Licence Available <i>If applicable</i>	NO
5	Condition of Vehicle/ Stall <i>Clean, safe, well maintained & presentable</i>	Issues flagged regarding temp recording, food storage, food training & overclothing.
6	Vehicle/ Stall within Allocated Site	Yes
7	Basic First Aid Kit Available	Yes
8	Fire Blanket and Foam Fire Extinguisher Available <i>Vehicles selling hot food</i>	Yes & Yes
9	Any Additional Comments	Miss Neves not present. Few issues with food storage, see points 5. Main concerns about unregistered workers that do not know who Miss De Jesus Neves is.

Signed:

Licensing Officer

Name:

S. Howell

Signed:

N/A

Consent Holder/ Employee

Name:

N/A - Follow up with Miss De Jesus Neves

Time:

01:00

Date:

20/09/2012

Contact Details:

Licensing & Development
Environmental Development
St Aldates Chambers
109 St Aldates
Oxford
OX1 1DS
Telephone: 01865 252558
Email: street_trading@oxford.gov.uk

Oxford City Council

Local Government (Miscellaneous Provisions) Act 1982

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

Applicant: Miss Arzu De Jesus Neves

Premises: Street trading site 5, Junction of New Inn Hall St and Queen St, Oxford

Date of Hearing: 17th April 2012

Hearing before the Licensing and Registration Sub Committee

The Sub Committee heard from:

- Dawn Cox (Licensing Authority)
 - Miss De Jesus Neves (Applicant)
- (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.

The Sub Committee were satisfied that the evidence showed Miss Neves had failed to take up and trade from the allocated site, which is a prime location for street trading. The Sub Committee also heard that there had been a history of food hygiene breaches. The Sub Committee were therefore satisfied that the circumstances were contrary to the Council's corporate priority of promoting a vibrant and sustainable economy and also indicated concerns over public safety in relation to poor food hygiene

However, the Sub Committee accepted Miss Neve's evidence that she had recently achieved a level 3 food hygiene certificate and expected to be in position to begin trading from a refurbished van in the near future. The Sub Committee found that Miss Neves should be given a final opportunity to trade from the site.

The Sub Committee found that Miss Neves consent should be renewed for a further 12 months, but that the Head of Environmental Development should be authorised to revoke the consent without further reference to the Sub Committee in the event that she had not commenced trading by 30th June 2012.

Decision:

The Application for renewal of street trading consent is **granted for a period of 12 months** with delegation to the Head of Environmental Development to revoke the consent without further reference to the Sub Committee in the event the consent holder has not commenced trading, to the satisfaction of the Head of Environmental Development, by 30th June 2012.

The consent is granted subject to the Oxford City Council general conditions applicable to street trading consents.

Signed:

Clark Brundin

Councillor Clark Brundin (Chair)

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To: Licensing & Registration Sub Committee

Date: 29th October 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Breach of Street Trading Consent Conditions – Mr Mehdi Karrouchi and Mrs Wadeya Karrouchi

Summary and Recommendations

Purpose of report: To consider a Street Trading Consent where the street trader has not adhered to the conditions of the Street Trading Policy.

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation(s):

Committee is recommended to determine what action to take in relation to Mr and Mrs Karrouchi's Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

Legislative Background/Legal Framework

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 of the Act the Council can manage street trading by designating streets as "consents streets", "licence streets" or "prohibited 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.

2. The Sub Committee may attach any conditions to a Consent that it considers “reasonably necessary”.

Policy Considerations

3. 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 of the Policy states that the Head of Environmental Development is authorised to:

“5.2(c) refer applications to the Licensing and Registration Sub Committee; (i) when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent.”

Reasons for Referral to Licensing & Registration Sub Committee

4. The Consent has been referred to the Sub-Committee in accordance with paragraph 5.2 of the Policy as Mr and Mrs Karrouchi have failed to comply with a legal notice served on them by Lyndsey Key Environmental Health Officer from the Commercial Regulation Team. Mr and Mrs Karrouchi are therefore in breach of conditions 6 and 9 of the General Conditions for Annual Street Trading Consents. A copy of Mr and Mrs Karrouchi’s Consent and Conditions can be found at Appendix A.

“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.”

“9 The Consent Holders vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance.”

5. Lyndsey Key, Environmental Health Officer, wrote to Mr and Mrs Karrouchi on 26th March 2012 following a routine food hygiene inspection. A number of contraventions were found during the inspection. These contraventions included issues with Mr and Mrs Karrouchi’s food safety management system, food business registration, fridges and freezers at home, hot holding, disinfecting water containers, hot water supply, washing vegetables, over clothing, hand washing, chopping boards and waste (see Appendix B).
6. Lyndsey Key, wrote to Mr and Mrs Karrouchi again on 13th June 2012 following a revisit to the premises. The majority of food safety legislation contraventions from the original inspection had not been addressed and as a result Hygiene Improvement Notices were served (see Appendix C).
7. In spite of the assistance offered to Mr and Mrs Karrouchi by Lyndsey Key, as of 5th October 2012 the Hygiene Improvement Notices still

remain only partly complied with. A legal case is currently being compiled by the Commercial Regulation Team.

Relevant Background Information

8. The renewal application submitted by Mr and Mrs Karrouchi, for the period April 2012 – March 2013, was put before Licensing and Registration Sub Committee on 20th March 2012. This was due to a noise complaint and breaches of conditions. See Appendix D for the full Decision Notice.

Financial Implications

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

Legal Implications

10. 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.
11. 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.

Human Rights Act Considerations

12. 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.
13. Nevertheless, with the advice of Law & Governance and in the interests of fairness, the Licensing Officer has taken the Human Rights Act 1998 into account and considers that the potential interference with the rights of the applicant would be proportionate, in the public interest and subject to the conditions provided for by law.

Name and contact details of author: Samantha Howell
Tel: 01865 252558
Email: showell@oxford.gov.uk

Background papers:

Appendix A – Consent and Conditions

Appendix B – Letter re Contraventions 26th March 2012

Appendix C – Letter re Contraventions & Hygiene Improvement Notices 13th
June 2012

Appendix D – Minutes of Licensing and Registration Sub Committee 20th
March 2012

Version number: 2

Environmental Development

St. Aldate's Chambers, 109 St. Aldate's, Oxford OX1 1DS

Switchboard: 01865 249811

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

Oxford City Council grant a Street Trading Consent to:

Licence Holder: Mr Mehdi Karrouchi and Mrs Wadeya Karrouchi

Consent Number: 12/01255/STREET

Consent Issued: 2nd April 2012

Valid From: 2nd April 2012

Valid To: 31st March 2013

Fee: £7315

Vehicle/Stall Details: RX05 OFU

Area/Site: Street Trading Site High Street North Side outside Scrivens Opticians

Permitted Trading Days and Hours: Sunday - Thursday trading between 18:30 to 03:00
Friday - Saturday trading between 18:30 to 04:00

Articles Sold: Hot Food and Soft Drinks

Special Conditions:

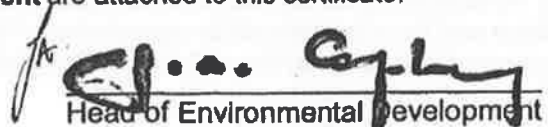
1. Any generator used by the Consent holder shall be a 'quiet' generator approved in writing by the Licensing Authority.
2. All materials shall be cleared away and the allocated space vacated no later than 30 minutes after the end of operational hours.
3. Clear signs shall be displayed at the point of sale reminding customers to remain quiet and respect local residents.

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



STCONS

John Copley
Head of Service

General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of: 2nd April 2012 to 31st March 2013.
2. The operational hours shall be:
Between the hours of 18:30 and 03:00 on Mondays
Between the hours of 18:30 and 03:00 on Tuesdays
Between the hours of 18:30 and 03:00 on Wednesdays
Between the hours of 18:30 and 03:00 on Thursdays
Between the hours of 18:30 and 04:00 on Fridays
Between the hours of 18:30 and 04:00 on Saturdays
Between the hours of 18:30 and 03:00 on Sundays
3. The street trading consent relates to the following area/site only: Street Trading Site High Street North Side outside Scrivens Opticians.
4. The street trading consent relates to the following vehicle/stall only: RX05 OFU
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.

Special Conditions

1. Any generator used by the Consent holder shall be a 'quiet' generator approved in writing by the Licensing Authority.
2. All materials shall be cleared away and the allocated space vacated no later than 30 minutes after the end of operational hours.
3. Clear signs shall be displayed at the point of sale reminding customers to remain quiet and respect local residents.

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.

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Mr. and Mrs. Karrouchi

26th March 2012

Dear Sir and Madam,

**REGULATION (EC) 852/2004 FOOD HYGIENE (ENGLAND) REGULATIONS 2006
RE: ROUTINE FOOD HYGIENE INSPECTION AT MEHDI'S MOBILE FOOD VEHICLE, HIGH STREET, OXFORD**

Further to my inspection and revisit of the above premises on 15th February 2012 and 29th February 2012 respectively, the matters on the attached schedules are in need of your attention. I apologize for the delay in writing to you.

I was very disappointed not to find a documented food safety management system or any monitoring records at the premises at the time of my inspection. This has been raised on the last two inspections and has contributed to the disappointing Food Hygiene Rating Scheme as below. If I am not able to see this document at the time of my next revisit, a Hygiene Improvement Notice will be served to ensure the works are carried out.

Schedule A relates to contraventions of the legislation specified. Please read these carefully and ensure the works required are completed within 1 month of the date of this letter unless otherwise stated. Please confirm in writing or by e-mail when these actions have been attended to.

Schedule B relates to items that although not classified as contraventions are considered to be good practice. I recommend that you incorporate these into your general operation.

Food Hygiene Rating Scheme

Please note, as from the 1st April we will be operating the Food Hygiene Rating Scheme. The scheme is a Food Standards Agency initiative to provide consumers with at-a-glance information about hygiene standards in food businesses found during planned inspections. The aim is to help them to make informed choices about where they eat out or shop for food. **You will be awarded a rating of 1 – Major Improvement Necessary.** Further information on the scheme can be found at www.food.gov.uk/hygieneratings and www.oxford.gov.uk.

If you would like to discuss any issues arising from the inspection or this letter please do not hesitate to contact me.

If you consider any of the work required in this letter is unreasonable please contact my Team Manager Lesley Rennie on 01865 252836.

Yours faithfully,



Lyndsey Key
Environmental Health Officer

Schedule A: Contraventions

Name & Address of Business: Mehdi's, mobile business trading from High Street, Oxford

Date of Inspection and Revisit: 15th and 29th February 2012

Inspecting Officer: Lyndsey Key

CONFIDENCE IN MANAGEMENT

1. Written Food Safety Management System

It is a legal requirement that food businesses have a written food safety management system based upon the principles of HACCP and suitable to the size of the business. There was no documented food safety system at the premises on either of my visits. Neither were there any other associated monitoring records, e.g. cleaning schedule or temperature records. The easiest way to comply with this element is to obtain and complete the Safer Food Better Business (SFBB) Caterers pack. You can order the SFBB pack free of charge from the Food Standards Agency by ringing 0845 606 0667. When you receive the pack you must complete all blank boxes that apply to your business and train the staff on the parts of the pack relevant to their role. *Regulation (EC) 852/2004 Article 5 para 1*

You must also ensure that you make all the relevant checks alongside the SFBB and I strongly suggest that some of these are recorded, e.g. written temperature checks of:

- fridge temperatures twice a day
- hot holding temperature checks twice daily
- two cooked/reheated food temperature checks a day

Written temperature checks provide due diligence, allow managers to monitor staff and enable you to quickly act on any problems.

2. Food Business Registration

- a) At the time of my visit you had curry on the menu, which I was advised is made at Mr. Hussain's home. If you are to continue catering at home, the home address must be registered as a separate food business and be included on our programme of inspections. You can register the food business by completing the food business registration form online at http://www.oxford.gov.uk/PageRender/decER/Food_Safety_for_Businesses_occw.htm or by contacting the Food Team for a paper copy of the registration form. *Regulation (EC) No 852/2004 Article 6 Paras 1 and 2*
- b) Could you also clarify what the registered address of the business is? I have several addresses on my records following the inspection and I would like to ensure we have the correct information on our database.

3. Fridges and Freezers at Home

Mr. Hussain advised me that there are further fridges and freezers at his home, which are used to store food when it is not on the mobile. Regular checks should be made to ensure that fridges are keeping high risk foods below 8°C and that freezers are keeping food solidly frozen. I strongly recommend that you make a note of these checks when you have made them. Records should be kept together with those of appliances on the mobile. *Regulation (EC) No 852/2004 Article 6 Paras 1 and 2*

HYGIENE AND SAFETY

4. Hot Holding

You must make ongoing checks that food which has been cooked or reheated and is intended to be sold hot, is held at or above 63°C. You had no way of checking the temperature of cooked foods or hot held foods as you did not have a probe thermometer on either of my visits to the premises. I understand that you often have a quick turnover of food. However, you must have a system to manage the potential food safety risks. Hot food can be kept for service, or on display for sale, for a single period of up to 2 hours at a temperature below 63°C. After 2 hours food must be restored to a suitable temperature (below 8°C or above 63°C) and then kept at that temperature until it can be used safely or thrown away. *Food Hygiene (England) Regulations 2006 Schedule 4 para 2 and 7*

5. Disinfecting Water Containers

You advised me that the water containers used for drinking water are not disinfected. Water containers must be cleaned and disinfected on an ongoing basis to reduce levels of bacteria, e.g. by Milton's solution or similar. *Regulation (EC) No 852/2004 Annex II Chapter V Para 1(a)*

6. Hot Water Supply

At the time of my revisit on 29th February there was no hot water at the mobile. You advised me that you had opened 20 minutes previously. You had already started preparing food. When I asked about the hot water you switched on the Burco boiler and shortly after there was hot water. You must ensure that you have your hot water supply in place prior to preparing any food in the business. Food handlers could not have hygienically washed their hands prior to handling food. *Regulation (EC) No 852/2004 Annex II Chapter III Para.2(e)*

7. Washing vegetables

At the time of the inspections I saw salads being prepared without first being washed. Unless otherwise stated on the packet, salad must be washed prior to eating to help remove debris and bacteria off. *Regulation (EC) 852/2004 Article 5 para 1*

8. Overclothing

On my visits I noted that employees had not put on their overclothing prior to handling food. You must ensure that all persons working in food handling areas wear suitable, clean, and where appropriate, protective clothing. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

9. Hand Washing

There was no hand wash soap provided at the wash hand basin at the time of my revisit. Regular hand washing is important in ensuring good personal hygiene. All staff should be reminded of the need for this prior to starting or returning to work, and specifically after using the toilet, after handling rubbish, after smoking, after taking a break and after handling raw food. Wash hand basins must be provided with warm water, suitable soap and a means of hygienic hand drying. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

In addition, I strongly recommend that:

- The wall mounted hot water unit is repaired or replaced to provide hot water to the wash hand basin and equipment sink and
- That cold water is pumped directly to the sinks without having to pour water from a container. Having to mix water to a comfortable temperature at the moment is likely to discourage food handlers from washing hands and cleaning adequately. Repetitive lifting of heavy water containers may also put strains on employee's backs etc.

Schedule B: Advice

Name & Address of Business: Mehdi's, mobile business trading from High Street, Oxford

Date of Inspection and Revisit: 15th and 29th February 2012

Inspecting Officer: Lyndsey Key

1. Food Business Registration

I understand that Mr. Istikhar Hussain is mainly involved in the day to day running of the business. If the arrangement is that the business is purely leased from Mr. and Mrs. Karrouchi and Mr. Hussain is the 'food business operator', a new food business registration form will need to be completed and submitted. The food business registration form can be found and completed online at

<http://www.oxford.gov.uk/PageRender/decER/OpeningaNewFoodBusinessWhatyouneedtodo.htm>.

2. Food Hygiene Training Certificates

At the time of the inspection I wasn't able to see any food hygiene certificates for Mr. Hussain or other members of staff. I recommend that you keep a copy of food hygiene certificates at the premises.

3. Hot Food Temperature Checks

I recommend that a probe thermometer is used to check the core temperature of hot food and food you reheat. A temperature of 75°C for 30 seconds will indicate that food is heated to a high enough temperature to kill bacteria.

4. Fitness to Work

For your information, staff should be 'fit for work' at all times. This means that they must not be suffering from, or carrying, an illness or disease that could cause a problem with food safety. People who are not 'fit for work' could spread harmful bacteria to food. Any member of staff who has diarrhoea and/or vomiting should report it to their manager immediately and either stay at home or go home straight away. People suffering from these symptoms often carry harmful bacteria on their hands and can spread them to food or equipment they touch. Staff should not return to work until they have had no symptoms for 48 hours.

Regulation (EC) No 852/2004 Annex II Chapter VIII para. 2

CLEANING AND STRUCTURE

10. Chopping Boards

One of the white chopping boards used in the business was deeply scored and stained. Stained and deeply scored boards can harbour bacteria and should be replaced. *Regulation (EC) No 852/2004 Annex II Chapter III Para.2(b)*

11. Waste

There were bags of waste in the van at the time of my revisit alongside food. Some bags smelled strongly. I was advised that the waste was from last night. I understand that through your Council refuse disposal service, waste can be left on the street at the end of the night and that there would be no need for you to store waste in the van. Waste must not be stored directly next to food, as the food could become contaminated. Ideally, waste should not be stored in food areas at all. It should be disposed of as soon as possible to maintain hygiene and to reduce the possibility of pest activity. *Regulation (EC) No 852/2004 Annex II Chapter III Para.2(f)*

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Appendix C

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Mr. Mehdi Karrouchi

13th June 2012

Dear Sir,

**REGULATION (EC) 852/2004 FOOD HYGIENE (ENGLAND) REGULATIONS 2006
RE: FOOD SAFETY REVISIT OF MEHDI'S, NORTH SIDE OF HIGH STREET, OXFORD AND
SERVICE OF HYGIENE IMPROVEMENT NOTICE 131/LK/2012**

Following my revisit of the above premises on 8th June 2012, I was extremely disappointed to note that the majority of food safety contraventions stated in my letter of 26th March 2012 remain unaddressed. The matters in the attached schedule are in need of your immediate attention. Please also be aware that failure to comply with food safety legislation may also have serious implications in relation your Street Trading Licensing consent.

Although it has been raised on several subsequent food hygiene inspections there was still no documented food safety management system or any monitoring records at the premises. Therefore please find attached Hygiene Improvement Notice 131/LK/2012. It is an offence not to comply with the Notice. Therefore you should read the Notice and attached information carefully. If you do not understand the Notice, you should obtain legal advice.

Schedule A relates to contraventions of the legislation specified. Please read these carefully and ensure the works required are completed by the timescales specified. Please confirm in writing or by e-mail when these actions have been attended to. Failure to address these points may lead to further formal action.

If you have any queries please do not hesitate to contact me. If you consider any of the work required in this letter is unreasonable please contact my Team Manager Lesley Rennie on 01865 252836.

Yours faithfully,

Lyndsey Key
Environmental Health Officer

Schedule A: Contraventions

Name & Address of Business: Mehdi's Hot Food Van, Trading at North Side of High Street, Oxford

Date of Revisit: 8th June 2012

Inspecting Officer: Lyndsey Key

CONFIDENCE IN MANAGEMENT

1. Written Food Safety Management System – see Hygiene Improvement Notice 131/LK/2012

It is a legal requirement that food businesses have a written food safety management system based upon the principles of HACCP and suitable to the size of the business. There was no documented food safety system at the premises on any of my visits. Neither were there any other associated monitoring records, e.g. cleaning schedule or temperature records.

The easiest way to comply with this element is to obtain, complete and maintain the Safer Food Better Business (SFBB) Caterers pack. You can order the SFBB pack free of charge from the Food Standards Agency by ringing 0845 606 0667.

When you receive the pack **you must:**

- Fully complete all blank boxes that apply to your business in the 4 C's section and Management section
- Suitably train the staff on the parts of the pack relevant to their role. You can record this information in the staff training section

You must also ensure that you make important ongoing food safety checks at the premises, including:

- The daily opening and closing checks stated in the SFBB pack and recorded in the diary
- Fridge temperatures should be checked on an ongoing basis to ensure they can keep high risk food at less than 8°C. You should record two of these checks each day.
- You must check that hot held food is being kept above 63°C, if kept for longer than 2 hours. You should record one/two of these checks each day.
- The core temperature of products you cook for the first time or reheat must be sufficient to kill bacteria, i.e. above 75°C. I strongly suggest that you check that high risk food is adequately cooked with a probe thermometer where appropriate (visual checks are OK for some foods). One/two hot food temperature checks should be recorded daily.

The diary section of the SFBB can be used to record the above monitoring points or you can make your own monitoring sheets. Written records provide due diligence, allow managers to monitor staff and enable you to quickly act on any problems. As the mobile is managed by Mr. Cacan, it is important that monitoring records are made so that you can check the business is being run in compliance with the law. As the food business operator, you are legally responsible for ensuring food safety at the business. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – see Hygiene Improvement Notice 131/LK/2012

2. Food Stored Elsewhere

I understand that some of the food for the business is stored at Bodrum Fish Bar. In addition to the food safety hazards on the mobile, you must also ensure that the food safety hazards are controlled at delivery and storage, including the above temperature checks of appliances etc..

When you have permanent address to store food for the business, please inform me. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – immediately and ongoing

3. Staff Training

Despite having food hygiene training certificates to display, the food hygiene knowledge of the food handlers at the time of my visit was poor in areas, e.g. knowledge of the importance of disinfection. You must review your staff training needs and retrain where necessary. *Regulation (EC) No 852/2004 Annex II Chapter XII para 1*

Timescale – 2 months

HYGIENE AND SAFETY

4. Temperature Control

There was no means of checking temperatures at the time of my visit, as there were no thermometers on the mobile. Obtain thermometers to check fridge temperatures and temperature of hot food. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – 1 week

5. Cross Contamination

There were raw defrosting burgers in the fridge next to bread and above drinks cans. Raw food must never be stored above or next to ready to eat food, as the ready to eat food could become contaminated and make people ill. *Regulation (EC) No 852/2004 Annex II Chapter IX para 3*

Timescale – immediately and ongoing

6. Hot Holding

You must make ongoing checks that food which has been cooked or reheated and is intended to be sold hot, is held at or above 63°C. You had no way of checking the temperature of cooked foods or hot held foods as you did not have a probe thermometer. I understand that you often have a quick turnover of food. However, you must have a system to manage the potential food safety risks. Hot food can be kept for service, or on display for sale, for a single period of up to 2 hours at a temperature below 63°C. After 2 hours food must be restored to a suitable temperature (below 8°C or above 63°C) and then kept at that temperature until it can be used safely or thrown away. *Food Hygiene (England) Regulations 2006 Schedule 4 para 2 and 7*

Timescale – immediately and ongoing

7. Disinfecting Water Containers

You advised me that the water containers used for drinking water are not disinfected and the outside of the containers were dirty. Water containers must be cleaned and disinfected on an ongoing basis to reduce levels of bacteria, e.g. by Milton's solution or similar fortnightly. *Regulation (EC) No 852/2004 Annex II Chapter V Para 1(a)*

Timescale – immediately and ongoing

8. Overclothing

Food handlers did not have any hygienic overclothing. You must ensure that all food handlers wear suitable, clean, and where appropriate, protective clothing, e.g. apron. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

Timescale – immediately and ongoing

9. Hand Washing

Staff could not wash their hands effectively at the time of my visit because there was equipment in the wash hand basin and there was no safe and effective means of mixing warm water. Mr. Cacan suggested that he would wash his hands under the tap of the Burco boiler. This poses a serious scald risk and must not be done.

Regular hand washing is essential in ensuring food safety. At the least, you must provide a plug to the wash hand basin in order to mix warm water to wash hands in. If you continue to use the Burco boiler for hot water provision, then a suitable container must be used to transfer the water to the basin, e.g. metal jug. I strongly recommend that water is pumped directly to the sinks and that the mounted water heater is repaired or replaced to provide hot water to the wash hand basin and equipment sink. This will encourage positive hand washing practices and will make cleaning easier.

All staff should be reminded of the need to wash hands prior to starting or returning to work, and specifically after using the toilet, after handling rubbish, after smoking, after taking a break and after handling raw food. Wash hand basins must be provided with warm water, suitable soap and a means of hygienic hand drying, e.g. paper towels. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

Timescale – immediately and ongoing

10. Disinfection

There was no disinfectant or sanitiser, e.g. antibacterial spray, available at the time of my visit. All surfaces/equipment which comes into contact with high risk foods and hand contact points (including taps, appliances and handles) must be disinfected on an ongoing basis with a suitable food safe disinfectant/sanitiser. Soap alone will not kill bacteria. *Regulation (EC) No 852/2004 Annex II Chapter V Para 1(a)*.

Timescale – immediately and ongoing

CLEANING AND STRUCTURE

11. Waste Water

Mr. Cacan advised me that he puts waste water down the street drains. You must not do this. Waste water must be put into the foul sewer system, e.g. at home. *Regulation (EC) No 852/2004 Annex II Chapter VI, para.1*

Timescale - immediately and ongoing

12. Light Fitting

The light fitting above the deep fat fryer was hanging loose and was dirty. Repair/replace/remove the light fitting to ensure easy cleaning and maintain in a clean condition. *Regulation (EC) No 852/2004 Annex II Chapter I Para 1*

Timescale – 2 months

**The Food Hygiene (England) Regulations 2006
Regulation 6**

HYGIENE IMPROVEMENT NOTICE

Reference Number: 131/LK/2012

1. To: Mr. Mehdi Karrouchi
At:

2. I have reasonable grounds for believing that you are failing to comply with Regulation (EC) 852/2004, Article 5, Paras 1, 2 and 4 because;

You have failed to put in place, implement and maintain a permanent procedure or procedures based on Hazard Analysis and Critical Control Point (HACCP) principles;

(This is commonly known as a food safety management system.)

in connection with your business at;

Mehdi's Hot Food Van, Trading at North Side of High Street, Oxford

3. In my opinion, the following measures are needed for you to comply with the Hygiene Regulations: **Please refer to the attached schedule.**

4. The measure or measures that will achieve the same effect must be taken by: 20th July 2012

5. *It is an offence not to comply with this hygiene improvement notice by the date stated.*

Signed:

Date: 13th June 2012

Name: Lyndsey Elizabeth Key

Address: St. Aldate's Chambers
109 St Aldate's
Oxford
OX1 1DS
E-mail:

Tel: 01865 252734
Fax: 01865 252344
lkey@oxford.gov.uk

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

NOTES

1. In the opinion of the authorised officer you are not complying with the Hygiene Regulations as described in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.
2. You are responsible for ensuring that the work is carried out within the period specified, which must be at least 14 days from the date of the notice.
3. You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

YOUR RIGHT OF APPEAL

4. In accordance with Regulation 20 of the Food Hygiene (England) Regulations 2006, if you disagree with all or part of this notice, you can appeal to the Magistrates' Court. You must appeal within one calendar month of the date of the notice or the period ending with the date stated in paragraph 4 of the notice, whichever ends earlier.
5. If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the Regulations mentioned in the notice, you may still be prosecuted for failure to comply with those Regulations.
6. When the appeal is heard, the Magistrates' Court may confirm, cancel or vary the notice.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE
Offenders are liable to be fined and/or imprisoned for up to 2 years.

Health Development

Direct Line: 01865 252734

Fax: 01865 252344

E-mail: LKey@oxford.gov.uk

Oxford Town Hall

St. Aldate's

Oxford OX1 1BX

Central Number: 01865 249811

www.oxford.gov.uk



Mrs. Wadeya Karrouchi

13th June 2012

Dear Madam,

**REGULATION (EC) 852/2004 FOOD HYGIENE (ENGLAND) REGULATIONS 2006
RE: FOOD SAFETY REVISIT OF MEHDI'S, NORTH SIDE OF HIGH STREET, OXFORD AND
SERVICE OF HYGIENE IMPROVEMENT NOTICE 132/LK/2012**

Following my revisit of the above premises on 8th June 2012, I was extremely disappointed to note that the majority of food safety contraventions stated in my letter of 26th March 2012 remain unaddressed. The matters in the attached schedule are in need of your immediate attention. Please also be aware that failure to comply with food safety legislation may also have serious implications in relation your Street Trading Licensing consent.

Although it has been raised on several subsequent food hygiene inspections there was still no documented food safety management system or any monitoring records at the premises. Therefore please find attached Hygiene Improvement Notice 132/LK/2012. It is an offence not to comply with the Notice. Therefore you should read the Notice and attached information carefully. If you do not understand the Notice, you should obtain legal advice.

Schedule A relates to contraventions of the legislation specified. Please read these carefully and ensure the works required are completed by the timescales specified. Please confirm in writing or by e-mail when these actions have been attended to. Failure to address these points may lead to further formal action.

If you have any queries please do not hesitate to contact me. If you consider any of the work required in this letter is unreasonable please contact my Team Manager Lesley Rennie on 01865 252836.

Yours faithfully,

Lyndsey Key
Environmental Health Officer

Cc. Mr. Huseyin Cacan,

Schedule A: Contraventions

Name & Address of Business: Mehdi's Hot Food Van, Trading at North Side of High Street, Oxford

Date of Revisit: 8th June 2012

Inspecting Officer: Lyndsey Key

CONFIDENCE IN MANAGEMENT

1. Written Food Safety Management System – see Hygiene Improvement Notice 132/LK/2012

It is a legal requirement that food businesses have a written food safety management system based upon the principles of HACCP and suitable to the size of the business. There was no documented food safety system at the premises on any of my visits. Neither were there any other associated monitoring records, e.g. cleaning schedule or temperature records.

The easiest way to comply with this element is to obtain, complete and maintain the Safer Food Better Business (SFBB) Caterers pack. You can order the SFBB pack free of charge from the Food Standards Agency by ringing 0845 606 0667.

When you receive the pack you must:

- Fully complete all blank boxes that apply to your business in the 4 C's section and Management section
- Suitably train the staff on the parts of the pack relevant to their role. You can record this information in the staff training section

You must also ensure that you make important ongoing food safety checks at the premises, including:

- The daily opening and closing checks stated in the SFBB pack and recorded in the diary
- Fridge temperatures should be checked on an ongoing basis to ensure they can keep high risk food at less than 8°C. You should record two of these checks each day.
- You must check that hot held food is being kept above 63°C, if kept for longer than 2 hours. You should record one/two of these checks each day.
- The core temperature of products you cook for the first time or reheat must be sufficient to kill bacteria, i.e. above 75°C. I strongly suggest that you check that high risk food is adequately cooked with a probe thermometer where appropriate (visual checks are OK for some foods). One/two hot food temperature checks should be recorded daily.

The diary section of the SFBB can be used to record the above monitoring points or you can make your own monitoring sheets. Written records provide due diligence, allow managers to monitor staff and enable you to quickly act on any problems. As the mobile is managed by Mr. Cacan, it is important that monitoring records are made so that you can check the business is being run in compliance with the law. As the food business operator, you are legally responsible for ensuring food safety at the business. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – see Hygiene Improvement Notice 132/LK/2012

2. Food Stored Elsewhere

I understand that some of the food for the business is stored at Bodrum Fish Bar. In addition to the food safety hazards on the mobile, you must also ensure that the food safety hazards are controlled at delivery and storage, including the above temperature checks of appliances etc..

When you have permanent address to store food for the business, please inform me. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – immediately and ongoing

3. Staff Training

Despite having food hygiene training certificates to display, the food hygiene knowledge of the food handlers at the time of my visit was poor in areas, e.g. knowledge of the importance of disinfection. You must review your staff training needs and retrain where necessary. *Regulation (EC) No 852/2004 Annex II Chapter XII para 1*

Timescale – 2 months

HYGIENE AND SAFETY

4. Temperature Control

There was no means of checking temperatures at the time of my visit, as there were no thermometers on the mobile. Obtain thermometers to check fridge temperatures and temperature of hot food. *Regulation (EC) 852/2004 Article 5 para 1*

Timescale – 1 week

5. Cross Contamination

There were raw defrosting burgers in the fridge next to bread and above drinks cans. Raw food must never be stored above or next to ready to eat food, as the ready to eat food could become contaminated and make people ill. *Regulation (EC) No 852/2004 Annex II Chapter IX para 3*

Timescale – immediately and ongoing

6. Hot Holding

You must make ongoing checks that food which has been cooked or reheated and is intended to be sold hot, is held at or above 63°C. You had no way of checking the temperature of cooked foods or hot held foods as you did not have a probe thermometer. I understand that you often have a quick turnover of food. However, you must have a system to manage the potential food safety risks. Hot food can be kept for service, or on display for sale, for a single period of up to 2 hours at a temperature below 63°C. After 2 hours food must be restored to a suitable temperature (below 8°C or above 63°C) and then kept at that temperature until it can be used safely or thrown away. *Food Hygiene (England) Regulations 2006 Schedule 4 para 2 and 7*

Timescale – immediately and ongoing

7. Disinfecting Water Containers

You advised me that the water containers used for drinking water are not disinfected and the outside of the containers were dirty. Water containers must be cleaned and disinfected on an ongoing basis to reduce levels of bacteria, e.g. by Milton's solution or similar fortnightly. *Regulation (EC) No 852/2004 Annex II Chapter V Para 1(a)*

Timescale – immediately and ongoing

8. Overclothing

Food handlers did not have any hygienic overclothing. You must ensure that all food handlers wear suitable, clean, and where appropriate, protective clothing, e.g. apron. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

Timescale – immediately and ongoing

9. Hand Washing

Staff could not wash their hands effectively at the time of my visit because there was equipment in the wash hand basin and there was no safe and effective means of mixing warm water. Mr. Cacan suggested that he would wash his hands under the tap of the Burco boiler. This poses a serious scald risk and must not be done.

Regular hand washing is essential in ensuring food safety. At the least, you must provide a plug to the wash hand basin in order to mix warm water to wash hands in. If you continue to use the Burco boiler for hot water provision, then a suitable container must be used to transfer the water to the basin, e.g. metal jug. I strongly recommend that water is pumped directly to the sinks and that the mounted water heater is repaired or replaced to provide hot water to the wash hand basin and equipment sink. This will encourage positive hand washing practices and will make cleaning easier.

All staff should be reminded of the need to wash hands prior to starting or returning to work, and specifically after using the toilet, after handling rubbish, after smoking, after taking a break and after handling raw food. Wash hand basins must be provided with warm water, suitable soap and a means of hygienic hand drying, e.g. paper towels. *Regulation (EC) No 852/2004 Annex II Chapter VIII Para. 1*

Timescale – immediately and ongoing

10. Disinfection

There was no disinfectant or sanitiser, e.g. antibacterial spray, available at the time of my visit. All surfaces/equipment which comes into contact with high risk foods and hand contact points (including taps, appliances and handles) must be disinfected on an ongoing basis with a suitable food safe disinfectant/sanitiser. Soap alone will not kill bacteria. *Regulation (EC) No 852/2004 Annex II Chapter V Para 1(a)*.

Timescale – immediately and ongoing

CLEANING AND STRUCTURE

11. Waste Water

Mr. Cacan advised me that he puts waste water down the street drains. You must not do this. Waste water must be put into the foul sewer system, e.g. at home. *Regulation (EC) No 852/2004 Annex II Chapter VI, para. 1*

Timescale - immediately and ongoing

12. Light Fitting

The light fitting above the deep fat fryer was hanging loose and was dirty. Repair/replace/remove the light fitting to ensure easy cleaning and maintain in a clean condition. *Regulation (EC) No 852/2004 Annex II Chapter I Para 1*

Timescale – 2 months

**The Food Hygiene (England) Regulations 2006
Regulation 6**

HYGIENE IMPROVEMENT NOTICE

Reference Number: 132/LK/2012

1. To: Mrs. Wadeya Karrouchi

2. I have reasonable grounds for believing that you are failing to comply with Regulation (EC) 852/2004, Article 5, Paras 1, 2 and 4 because;

You have failed to put in place, implement and maintain a permanent procedure or procedures based on Hazard Analysis and Critical Control Point (HACCP) principles;

(This is commonly known as a food safety management system.)

in connection with your business at;

Mehdi's Hot Food Van, Trading at North Side of High Street, Oxford

3. In my opinion, the following measures are needed for you to comply with the Hygiene Regulations: **Please refer to the attached schedule.**

4. The measure or measures that will achieve the same effect must be taken by: 20th July 2012

5. *It is an offence not to comply with this hygiene improvement notice by the date stated.*

Signed:

Date: 13th June 2012

Name: Lyndsey Elizabeth Key

Address: St. Aldate's Chambers
109 St Aldate's
Oxford
OX1 1DS
E-mail:

Tel: 01865 252734
Fax: 01865 252344
lkey@oxford.gov.uk

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

NOTES

1. In the opinion of the authorised officer you are not complying with the Hygiene Regulations as described in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.
2. You are responsible for ensuring that the work is carried out within the period specified, which must be at least 14 days from the date of the notice.
3. You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

YOUR RIGHT OF APPEAL

4. In accordance with Regulation 20 of the Food Hygiene (England) Regulations 2006, if you disagree with all or part of this notice, you can appeal to the Magistrates' Court. You must appeal within one calendar month of the date of the notice or the period ending with the date stated in paragraph 4 of the notice, whichever ends earlier.
5. If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the Regulations mentioned in the notice, you may still be prosecuted for failure to comply with those Regulations.
6. When the appeal is heard, the Magistrates' Court may confirm, cancel or vary the notice.

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Schedule to Hygiene Improvement Notice Reference: 131/LK/2012

**The Food Hygiene (England) Regulations 2006
Regulation 6**

HYGIENE IMPROVEMENT NOTICE

Business Name: Mehdi's Hot Food Van

Business Address: Trading at North Side of High Street, Oxford

Complete and implement a documented food safety management system based on HACCP principles. It must incorporate effective monitoring and controls at critical points in your food operation to ensure food is safe to eat. Your food safety management system must be written out, or recorded in readable electronic form.

The full and accurate completion of the Safer Food Better Business Caterer's pack, in conjunction with temperature records would enable you to comply with this requirement.

Signed.....

Date: 13th June 2012

NOTES

1. In the opinion of the authorised officer you are not complying with the Hygiene Regulations as described in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.
2. You are responsible for ensuring that the work is carried out within the period specified, which must be at least 14 days from the date of the notice.
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Minutes of Licensing and Registration Sub Committee 20th March 2012

The Head of Environmental Development submitted a report (previously circulated, now appended). Samantha Howell (Licensing Officer) presented the report to the Sub Committee.

Mr Karrouchi (Applicant) accompanied by Mr Hussain, attended the meeting and presented their case. Mr Bird and Mr Fletcher (Interested Parties, Oriol College) also attended and outlined their concerns and objections to the Sub Committee.

The Sub Committee resolved that its deliberations on this case should be taken in private, on the grounds that the discussions would focus on the financial and business dealings of the applicants.

Licensing Officers and Mr Hussain and Mr Karrouchi withdrew whilst the Sub Committee considered the case.

Having taken all evidence into account, both written and oral, the Sub Committee were satisfied that the evidence showed there had been a number of breaches of the conditions attached to consent no. 11/00026/STREET during the last year, specifically:

- Condition 11 - not positioned in allocated space.
- Condition 18 - unauthorised staff.
- Condition 7 - noise nuisance.
- Condition 8 - waste disposal.

The breaches of condition were also contrary to objective (c) *The Avoidance of Public Nuisance* and (h) *No Highway obstruction* of the Council's Street Trading Policy.

Whilst the Applicant appeared to have taken steps to remedy the breaches regarding unauthorised staff and waste disposal the problems of noise nuisance and the vehicle not always being positioned in its allocated space continued to result in complaints.

The Sub Committee understood the Applicant's explanation that occasionally the allocated space was occupied by unauthorised vehicles. However, the Sub Committee has no control over unauthorised parking and whilst it was no doubt frustrating to the Applicant it was not a defence to trading outside his allocated space. Any trading which took place outside that space would not be covered by the Consent and would therefore be unlawful and could be subject to enforcement action.

The Sub Committee found that the primary causes of the Objector's complaints were noise nuisance from the Applicant's generator and the continuance of noise after the end of authorised trading hours.

In order to address the cause of the nuisance the Sub Committee found it necessary to attach the following further conditions to the renewed consent:

1. Any generator used by the Consent holder shall be a 'quiet' generator approved in writing by the Licensing Authority.
2. All materials shall be cleared away and the allocated space vacated no later than 30 minutes after the end of operational hours.
3. Clear signs shall be displayed at the point of sale reminding customers to remain quiet and respect local residents.

The Sub Committee wished to remind the Applicant that even once renewed the Consent could be referred back to the Sub Committee at any time if conditions continued to be breached with the possibility of revocation of the Consent.

Decision:

The Application for renewal of street trading consent is **granted for a period of 12 months**. The consent is granted subject to the Oxford City Council general conditions applicable to street trading consents and the additional 47 conditions set out above.

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To: Licensing & Registration Sub Committee

Date: 29th October 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Application for a vacant approved site.

Summary and Recommendations

Purpose of report: To seek determination of an application for a Street Trading Consent to fill a vacant approved street trading site.

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 Akim Akkouche and Mrs Christine Akkouche. Mr and Mrs Akkouche have applied to trade from approved street trading Site 6 Broad Street outside number 17. The site is currently only approved for evening trading.
2. Mr and Mrs Akkouche have been granted initial Street Trading Consent authorised by the Head of Environmental Development. They now wish to obtain a 12 month Consent.
3. A full copy of Mr and Mrs Akkouche's application can be found at Appendix A of this report.

Legislative Background/Legal Framework

4. 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 “consents streets”, “licence streets” or “prohibited 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.
5. The Sub Committee may attach any conditions to a Consent that it considers “reasonably necessary”.

Policy Considerations

6. 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 for longer than three months”.

7. 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

8. This matter has been referred to Licensing & Registration Sub Committee as, Mr and Mrs Akkouche have previously been given Consent by the Head of Environmental Development and Site 6 Broad Street outside number 17, is an approved evening site but the applicants wish to use it during the day.
9. Mr and Mrs Akkouche have applied to operate 'Crepes o Mania' from the site. Their application is for organic sweet and savoury French crepes and Belgian Waffles. They wish to continue trading Monday to Sunday 10:00 to 18:00.
10. Mr and Mrs Akkouche have invested in a top of the range mini van to run their business from (see Appendix A). They come with a good reference from the University of Oxford as they had permission to trade from the University Parks for some years (see Appendix A). The van has been inspected by Environmental Health Officers at the Vale of White Horse District Council and found to be satisfactory.
11. Since Mr and Mrs Akkouche have traded from street trading, Site 6 Broad Street outside number 17, we have received no complaints from traders, Highways or Thames Valley Police. Mr and Mrs Akkouche have built good relations with the surrounding businesses.

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
Tel: 01865 252558
Email: sjhowell@oxford.gov.uk

Background papers:

Appendix A – Application from Mr and Mrs Akkouche

Version number: 2

www.oxford.gov.uk

**New Applicant Form**

Oxford City Council
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	MR & MRS A & M.C AKKouche
Trading Name (if any)	Crêpes o Mania
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	Organic Sweet & savoury French Crêpes (pancakes) and Belgian waffles <div data-bbox="906 1854 1273 2069" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Environmental Development Oxford City Council 17 JAN 2012 Received </div>

If you intend to sell food & drink what is the address where the vehicle/trailer will be stored when not in use	
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)	Yes or No 1 st choice: N°6 Broad Street outside N°17 2 nd choice: N°3 St Giles outside Taylor's Inst 3 rd choice: N°4 Banbury Road outside N°263 4 th choice: N°16 St Aldates outside Christ Church 5 th choice: N°20 St Giles outside N°65
Proposed days and times of trading	Days: 7 DAYS/week Times: 10am until 6pm
Vehicle registration number, make and model – if applicable	Not purchased yet
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)	Yes or No My wife and myself
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	
Public Safety	(a) Those 5 sites are already in night time activities (except N°6) and a day time uses will not alter or obstruct in any way.
Public Order	(b) There will be no obstruction to pedestrians or vehicles or force exits.
The avoidance of public nuisance	(c) The only noise will be from a small silent generator in accordance with health & safety.

Appearance of the stall or vehicle	(d) we haven't purchased the vehicle as yet, but if a licence is granted to us here is an picture of the type of operation we would like to get (see picture attached)
Needs of the area	(e) There is only 2 similar type of operation in Oxford city centre (one in the cover market/one in front of Wat gate). So I believe that there is a great scope for the product due to cosmopolitan nature of the city.
Environmental Credentials	(f) we are serving 70% of our crêpes in recycling paper cones and we are using mainly organic locally sourced food (Eggs, Flour etc.)
Food Traders	(g) My wife and myself have been in the catering industry for more than 20 years and I personally hold a current Level 2 Food Hygiene Certificate.
Highway	(h) The locations we are asking permission for are already in use at night time, so we assume that they are already in accordance with highway policies.
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.	N/A we are willing to trade on day time only
Do you agree to comply with the Street Trading policy?	<input checked="" type="radio"/> Yes or No

Any additional information to add to this application form - please write here.

Dear Councillors,

We we like to seek the permission to set up our Mobil Crêpes unit in Oxford city center, our first choice would be in Broad street at site N°6, followed by St Giles and St Aldates.

What is Crêpesomanie?

Crêpesomanie is a savory and sweet crêpes-making business founded in Oxford in 2007.

Its mobile crêpe unit has supplied traditional, savory and sweet Breton style crêpes to special events, college balls and private functions throughout the city and has occupied a pitch in the University Parks since September 2011.

Why are our Crêpes special?

We sell sweet and savory crêpes made from locally-grown organic Flour (provider of Oxford Bread group) - Our goal is to provide high quality, healthy and delicious food at reasonable price to locals and visitors of Oxford.

Mode of operation

We will be open seven days a week from 10 am until 6 pm.

References

Mr W Sawyer Superintendent Oxford University Parks
(see Ref letter)

We would be happy to provide more details of our ideas and plans to the council at your request.

Akim & Christine AK Kouche - Crêpesomanie

DECLARATION

Our Street Trading Policy contains measures intended to combat illegal working, money laundering, fraud, tax evasion, food poisoning and other crime. 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. For further information, see <http://www.oxford.gov.uk/websitetools/privacy.cfm>.

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: 12 / 01 / 12



UNIVERSITY PARKS DEPARTMENT
South Lodge, South Parks Road, Oxford OX1 3RF



To whom it may concern

Ref.

2 November 2010

Mr Akkouche, who trades as Crepes o Mania has had permission to trade in the University Parks since 2008. During that time we have found him to be a reliable person to do business with. He has honoured the commitments he made to the Curators of the University Parks. He has paid rent and other charges promptly. He has traded in a responsible manner and is well respected and liked by his many regular customers.

Yours sincerely

A handwritten signature in cursive script that reads "W Sawyer".

Mr W Sawyer
Superintendent

WSWS

To: Licensing & Registration Sub Committee

Date: 29th October 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Application for a new 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 Mehmet Yilmaz. Mr Yilmaz has applied to trade from a new proposed site. The site he has proposed to trade from is on Warneford Lane, Oxford.
2. A full copy of Mr Yilmaz's application can be found at Appendix A of this report. Mr Yilmaz has attached a map and photos of the proposed site.

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 “consents streets”, “licence streets” or “prohibited 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 Yilmaz has approached the Council with a new site proposal. Mr Yilmaz has applied for a 12 month Consent.
8. His application is for hot and cold food, including breakfast in the morning and kebabs, burgers, chips, hot and cold drinks in the afternoon/late evening.
9. Mr Yilmaz wishes to trade from Warneford Lane, Monday to Sunday 0700 to 0300 the following day.
10. Upon receiving the application, Miscellaneous Licensing carried out a consultation with Thames Valley Police, Oxfordshire County Council Highways, Environmental Development and Ward Councillors. During the 14 day consultation one response was received from Oxfordshire County Council Highways who had no objections (see Appendix B).

Financial Implications

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

Legal Implications

12. 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.

13. 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

14. 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
Tel: 01865 252558
Email: sjhowell@oxford.gov.uk

Background papers:

Appendix A – Application from Mr Mehmet Yilmaz
Appendix B – Consultation Response Oxfordshire County Council Highways

Version number: 2

12/02 5571 STREET



Appendix A

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	MEHMET YILMAZ
Trading Name (if any)	YILMAZ KEBABS
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	KEBAB'S, BURGER'S, CHIPS, HOT AND COLD SOFT DRINK'S

If you intend to sell food & drink what is the address where the vehicle/trailer will be stored when not in use	
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)	<input checked="" type="radio"/> Yes or No
Proposed days and times of trading	Days: Monday to Sunday = Every day Start = 07.00 am - 03.00 am next Times: following day.
Vehicle registration number, make and model - if applicable	
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)	<input checked="" type="radio"/> Yes or No
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	
Public Safety	(a) BECAUSE OF THE LOCATION OF THE TRAILER (CAR PARK) SERVICING FROM THE PATHWAY SIDE THERE WILL BE NO OBSTRUCTION CAUSED FOR THE OTHER ROAD USERS, LITTER BIN WILL BE PROVIDED FOR THE CUSTOMERS TO PREVENT CLUTTERING. FIRE EXTINGUISHER AND FIRST AID KIT FITTED.
Public Order	(b) STREET TRADING ACTIVITY WON'T REPRESENT ANY SUBSTANTIAL RISK TO PUBLIC ORDER. PLEASANT, FAMILY ENVIRONMENT WILL BE PROVIDED FOR ALL CUSTOMERS. ALCOHOL RESTRICTION WILL HELP IN GAINING LOYAL CLIENTS.
The avoidance of public nuisance	(c) THE LOCATION OF THE VAN WILL BE AWAY FROM THE RESIDENTIAL AREA. MISBEHAVIOUR AND ABUSE WON'T BE TOLERATED IN REGARDS TO CUSTOMERS AS WELL AS MEMBERS OF STAFF. SILENT GENERATOR WILL BE IN USE.

Appearance of the stall or vehicle	(d) The vehicle will be of smart appearance, in a good working condition and ALWAYS CLEAN TO ENCOURAGE CUSTOMERS TO VISIT AND FUTURE RETURNS.
Needs of the area	(e) 12 ft Long 6 ft wide UK, OXFORD, OX3 WARNEFORD LANE HEADINGTON
Environmental Credentials	(f) AS MENTIONED BEFORE I WILL PROVIDE LITTER BIN FOR THE CUSTOMERS, THE MAIN MATERIALS USED WILL BE PAPER & PLASTIC WHICH WILL BE SORTED & CORRECTLY UTILISED.
Food Traders	(g) I HOLD LEVEL 2 AWARD IN FOOD SAFETY FOR CATERING MEETING THE UK/EU STANDARDS FOR FOOD HYGIENE AND SAFETY
Highway	(h) THERE WILL BE NO DANGER TO THOSE WHO HAVE A RIGHT TO USE THE ROAD AND NO OBSTRUCTION FOR EMERGENCY ACCESS. THE OPERATING TIMES AND LOCATION OF THE MOBILE TRAILOR WON'T PREVENT FROM MAINTAINING
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.	
Do you agree to comply with the Street Trading policy?	<input checked="" type="radio"/> Yes or No

Any additional information to add to this application form - please write here.

DECLARATION

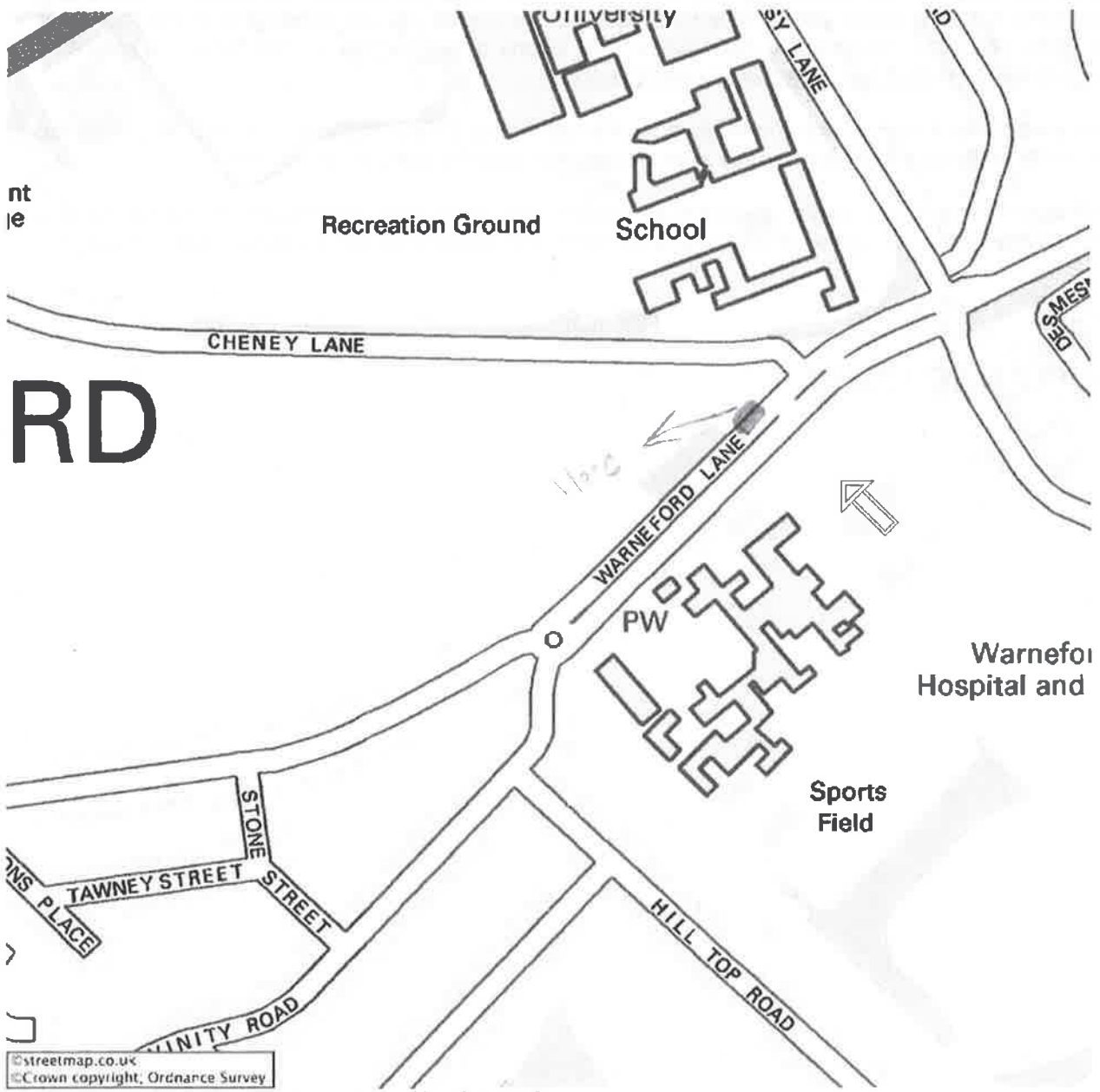
Our Street Trading Policy contains measures intended to combat illegal working, money laundering, fraud, tax evasion, food poisoning and other crime. The data you provide will assist in preventing crime and ensuring public safety. When you sign this application you are consenting to the sharing of this data with other Government Agencies in their efforts to combat crime. For further information, see <http://www.oxford.gov.uk/websitetools/privacy.cfm>.

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 MD (The declaration must be signed by the applicant)

Date: 01 / 05 / 2012



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Google

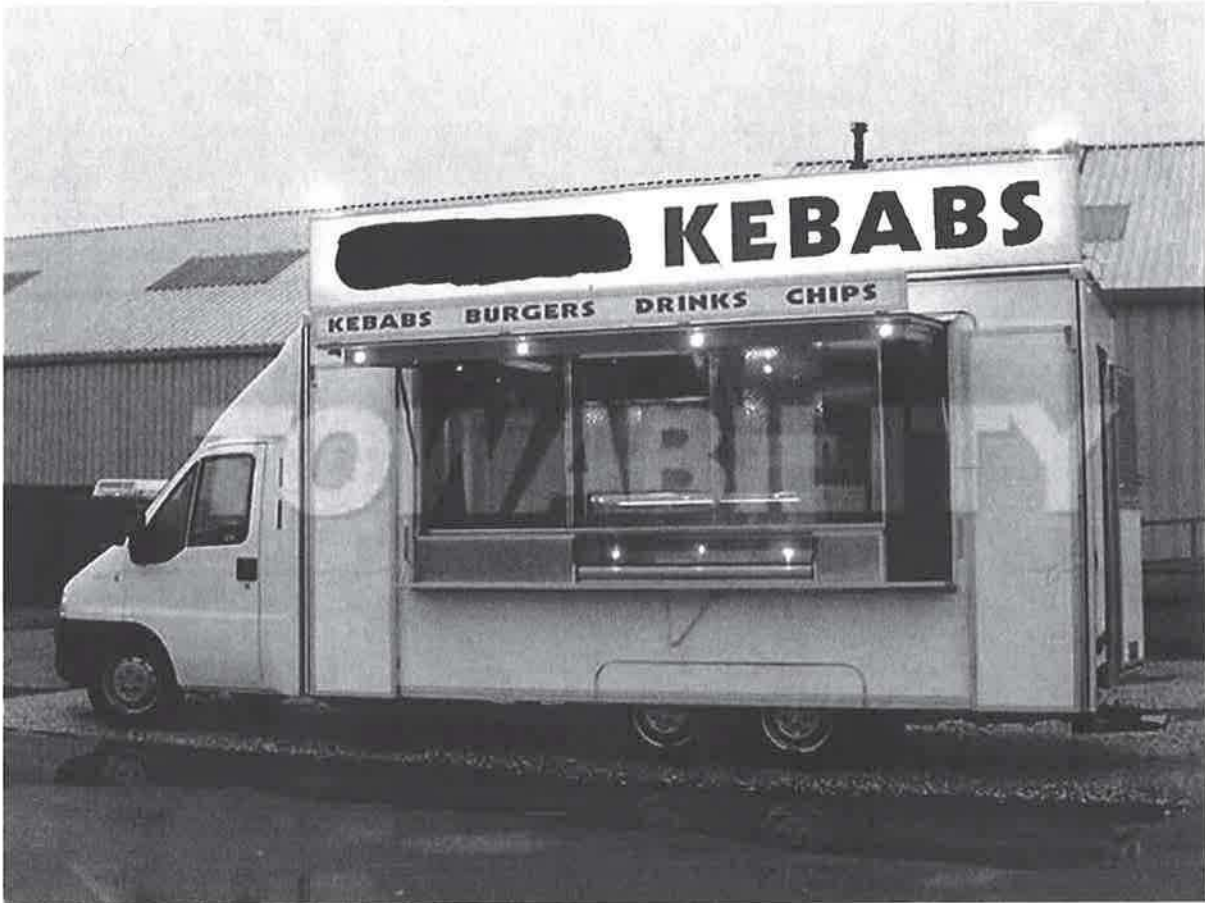
To see all the details that are visible on the screen, use the Print link next to the map.



Google

Address **Warneford Ln**
Oxford, Oxfordshire OX3, UK







HIGH SPEED
TRAINING

CERTIFICATE OF ACHIEVEMENT

High Speed Training certifies that

Mehmet Yilmaz

has completed

Level 2 Award in Food Safety for Catering

A certified and interactive online training course meeting
the UK/EU standards for Food Hygiene & Safety

www.highspeedtraining.co.uk

Gary Fowler on behalf of High Speed Training



Issued by High Speed Training on: 08/11/2011
Certificate Number: 670-155667-159202

HOWELL Samantha J.

From: Walker1, Steve - Environment & Economy - Highways & Transport
[Steve.Walker@Oxfordshire.gov.uk]
Sent: 04 July 2012 13:46
To: HOWELL Samantha J.
Subject: RE: Street Trading Consent Application - Warneford Lane, Oxford
Follow Up Flag: Follow up
Flag Status: Completed

Hi Samantha,

Sorry I have been away however OCC have no issues with this application.

Regards

Steve

From: HOWELL Samantha J. [mailto:sjhowell@oxford.gov.uk]
Sent: 29 June 2012 10:26
To: CLEMENTS Sophie; Powley, Katherine - Environment & Economy - Highways & Transport; Walker1, Steve - Environment & Economy - Highways & Transport; David.westendorp@thamesvalley.pnn.police.uk; RENNIE Lesley; Councillor WILKINSON Ruth; Councillor RUNDLE David George
Cc: COX Dawn
Subject: RE: Street Trading Consent Application - Warneford Lane, Oxford
Importance: High

Good morning,

Further to Sophie's earlier consultation email, can I please remind you that comments must be made regarding this application for street trading consent by **5pm today**.

If no comments are made the licence will be deemed granted following John Copley's approval.

Kind regards,

Samantha

Samantha Howell | Licensing Officer | Environmental Development | St Aldate's Chambers | 109 St Aldate's | Oxford | OX1 1DS | 01865 252558

From: CLEMENTS Sophie
Sent: 14 June 2012 16:21
To: 'katherine.powley@oxfordshire.gov.uk'; 'Steve.walker@oxfordshire.gov.uk'; 'David.westendorp@thamesvalley.pnn.police.uk'; RENNIE Lesley; Councillor WILKINSON Ruth; Councillor RUNDLE David George
Cc: COX Dawn; HOWELL Samantha J.
Subject: Street Trading Consent Application - Warneford Lane, Oxford

Good Afternoon,

We have received an application for a new street trading consent and street trading site. Mr Yilmaz wishes to trade from Warneford Lane, Oxford.

Mr Yilmaz is seeking permission to trade from Warneford Lane, Oxford between the

hours of 7am and 3am (following day) Monday - Sunday. His business proposes to provide kebabs, burgers, chips, hot drinks and cold soft drinks.

Please find attached Mr Yilmaz's application and supporting documents.

Can I please have any comments regarding this application by **28th June 2012**.

If you have any queries, please contact Samantha Howell on 01865 252558 or email sjhowell@oxford.gov.uk

Kind regards,

Sophie Clements | Licensing Assistant | Environmental Development | St Aldate's Chambers | 109 St Aldate's | Oxford | OX1 1DS | 01865 252561

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Agenda Item 8

LICENSING AND REGISTRATION SUB COMMITTEE

Monday 24 September 2012

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

OFFICERS PRESENT: Lois Stock (Democratic and Electoral Services Officer), Allan Hibberd and Daniel Smith (Law and Governance)

10. APOLOGIES FOR ABSENCE

None given

11. DECLARATIONS OF INTEREST

None given

12. PROCEDURE TO BE FOLLOWED

Resolved to note the procedure

13. SEXUAL ENTERTAINMENT VENUE LICENCE RENEWAL

In Attendance

The following people were present at the meeting:-

Gemma Cleaver (City Council Trainee Solicitor – present as an observer)

On behalf of the Applicant

Alistair Thompson (Owner of the premises)]
Robert Opher (Designated Premises Supervisor)
James Rankin (Counsel for the Applicant)

Interested Parties

Sue Tanner
Marguerite Robinson (speaking on behalf of Roberta Nicholls)
Jennifer Pegg
Paul Hernandez (East Oxford Conservatives)
Farida Anwar
Cynthia Harper (St Ebbes New Development Residents' Association – SENDRA)
Kate Clayton-Hathaway
Claire Cochran
Eileen Cameron
Andrea Berryman
Natalie Brooke

Louise Livesey.

The Head of Environmental Development submitted a report (previously circulated, now appended) concerning an application to renew a Sexual entertainment Venue (SEV) licence for the premises known as The Lodge, Oxpens Road.

Allan Hibberd (Licensing Officer) introduced the report.

Louise Livesey sought to introduce additional material that she stated had been submitted as part of her representation but excluded from the agenda supporting papers.

Mr Rankin (on behalf of the Applicant) objected on the grounds that he had not been given sufficient time to consider what was very detailed information. In addition, the Council's own procedures for hearings stated that information should be supplied at least seven working days before the hearing, or with the consent of all other parties, after that time. On this occasion he could not consent to its submission.

Councillor Coulter, chairing the hearing, and having taken advice from Daniel Smith (Legal Advisor), ruled that the information therefore should not be taken into account and it was not circulated.

For the Applicant

Mr Rankin presented the Applicant's case.

Background to the application.

Mr Rankin outlined the history of the premises known as The Lodge. He explained that it had first been situated in Pennyfarthing Place and had subsequently moved to premises previously known as The Coven on Oxpens Road. The application for a SEV licence at this site had been heard and granted on 12th July 2011. The application before the Sub Committee was a renewal of the SEV licence.

Current licence

Mr Rankin submitted that all the previous objections to a SEV licence for the Lodge at Oxpens Road had been heard when its former licence was granted. There had been a detailed examination of the appropriateness of the area in July 2011, and since then there had been no change in circumstances. No new houses had been built, no new schools, places of worship or nursery schools had opened. The premises and area remain exactly the same, other than the old flooring shop had become a MOT centre.

The applicant understood the objectors' views, but these were not relevant considerations for the Council. The premises had been well run since the licence had been granted. The Police visited the site weekly and neither they nor Environmental Health had found anything untoward during their inspections, indeed neither had objected to the current application.

Objections to the application

Most objections that had been submitted were on moral grounds, with concerns expressed about the way in which women were displayed, but if placed to one side, and the issues of change in circumstances and the management of the premises were explored, there were in fact very few objections about the way in which these premises were run.

One objection had submitted a photograph in which it was alleged that dancers were mingling with clients outside the premises, but the women shown there were customers and not dancers. There was a condition controlling the number of smokers to be outside at any one time, but in any event, there was nothing to prohibit dancers and customers from mixing. Dancers had their own smoking area.

Door supervisors should always wear a high visibility jacket; and this would be enforced.

The capacity of the premises was 150, which was far fewer than when the premises had been The Coven. Problems associated with the former premises had been dealt with; the old large sound system had been removed and the place had been re-laid out in a stylish manner - which included 28 CCTV cameras. Four SIA registered door staff were on duty, and the manager, DPS and DJ were all SIA registered as well. SEV premises caused far fewer public order problems because they were not focussed on drinking. There was an admission fee and drinks were relatively expensive.

Location of premises

The premises were situated in a lightly populated area. The location had been sought with appropriateness in mind. Customers generally arrived and departed by car or taxi.

It should not be overlooked that a large number of letters of support had been submitted as well as letters of objection.

Answers to questions

The following information was provided in answer to questions from Councillors and Interested Parties.

- (1) Dancers worked on a self employed basis;
- (2) There were 12 direct employees at The Lodge;
- (3) The majority of customers arrived by car or taxi;
- (4) No survey of the home addresses of customers had been taken, but it was known that many were from Oxford and the immediate neighbourhood;
- (5) The club had an arrangement with a local taxi firm to provide taxis when customers wished to leave. 99% left through vehicular means;
- (6) The club had not sought to actively engage with the local community. No-one from the local community had come to the club with any concerns;
- (7) The Lodge caused far fewer problems than The Coven;
- (8) Dancers paid £20 house fee to dance. Each dance cost the customer £20, of which the club received £7 commission. There were regular

- sessions when dances were “commission free”. There were no fines for dancers who dressed incorrectly or who did not attract enough customers;
- (9) The club provided a safe, clean environment for the dancers, including door staff who escorted them to a taxi or their car at the end of the night. It was a condition of the licence that dancers were escorted to a safe place at the end of their shift;
 - (10) No adverts were placed to attract dancers – it was all done by “word of mouth”. There was an application form on the club’s website, but women were not actively canvassed to be dancers;
 - (11) The Lodge may be listed on other websites that exist to group SEV venues together as a source of information, but this could happen without the knowledge of the club’s owners.

Interested Parties objecting to the Application.

The following people spoke in objection to the application:-

Marguerite Robinson

People’s attitude towards the club had changed, in that people now found it inappropriate for a place like Oxford. Oxford was a seat of learning, and young people came to it from all over the world. Parents would have grave misgivings about sending their children to Oxford knowing that a venue such as The Lodge existed here. It is not an appropriate business for the centre of Oxford and many visitors are surprised to see it operating here. Now that it is operating, there has been a change of attitude towards it.

The presence of the club makes women afraid to walk the streets alone, and it does not help improve the general attitude towards women. The location of The Lodge has not changed, but people use the ice rink late at night, and coaches come and go at various hours. The premises are in an unsuitable location. In addition, the advertising hoarding near the railway station is offensive.

Paul Hernandez

The venue does not fit in with the local neighbourhood and it increases the chances of violence against women.

Sue Tanner

Evidence from women living near to the club shows that people going to and from the club cause alarm and distress to them.

Louise Livesey

Louise Livesey made the following points:-

Submissions on the application.

Ms Livesey submitted that the Council’s website, upon which comments could be made on the application, did not work for much of the consultation period; and she felt that this had an effect upon submissions.

Of the letters in support, 60% were from people associated with The Lodge, either through employment or as contractors and therefore they had a vested interest in it. There was no evidence that the rest of the submissions were from local people.

Location of premises

This club does not exist in a vacuum.

The nearest residential area is 300m from the club with car parks, the ice rink and a college very close by (within 100m). The area has changed by the very opening of the club. It is a club run by men for men. Many women in Oxford now felt uncomfortable because of its very existence.

The Council's economic policy for the area put it within the West End Redevelopment Area and promoted a stronger economic role. The club does not fit with this. Social inclusion is also put at risk by the presence of this club in this area. There could be new housing in Oxpens, and this club (as a site of gendered sexual abuse) could threaten redevelopment plans. As the applicants state that most customers arrive by taxi or car, it would be easy to situate this club elsewhere outside the City.

There is a question about the benefit of this club to the local economy. It only provides a small number of jobs and many dancers travel from much further afield to work here.

Licensing Objectives.

The four licensing objectives that the Council must promote were the prevention of public nuisance, the prevention of crime and disorder, the promotion of public safety and the protection of children from harm. However, this club violated the first three, in that people had been solicited for sex in the area, and had suffered damage to cars and houses by clients leaving the club. Sexually explicit phrases were also shouted in the area. The applicants had not engaged with the local residents concerning the running of this venue.

Safety.

There was a question about whether clubs of this nature contributed to an atmosphere that was conducive to the sexual abuse and rape of women.

In answer to a question from Ms Livesey, Natalie Brooke (Oxford Sexual Abuse and Rape Crisis Centre) stated that there had been an 18% increase in people contacting the centre since the club opened in November 2011. In addition, women contacting the centre stated that they felt threatened by its presence.

Mr Rankin (on behalf of the Applicant) at this point stated that much of the evidence being related was based on hearsay, that some of it related to police forces in Cornwall and Bath and North East Somerset, and so was irrelevant to Oxford.

Questions to the Interested Parties

The following information was provided in answer to questions from Councillors:-

- 1 The presence of lap dancing clubs was felt to be conducive towards sexual violence;
- 2 A survey of local residents had been carried out in Oxford, and 108 responses received.

At this point Mr Rankin suggested again that less weight should be attached to this as evidence for it was based on hearsay

No questions from the Applicant to the Interested Parties.

Closing Submissions

Interested Parties

The Interested Parties objecting to the Application re-iterated the following points:-

- The club was not in harmony with Council strategy and future plans;
- It had an impact on local residents;
- There were questions about its location and its contribution to the area. It may work well internally, but once in the locality it has a material detrimental effect externally.

Applicant

Mr Rankin, on behalf of the Applicant, made the following points:-

- What was the motivation behind objectors' representations? Were they local residents expressing their concerns or groups putting forward their views? There was no hard evidence from local people that this club caused any detriment to them.
- Most people would not know that the club even existed in its current location. It was completely innocuous;
- The advertisement hoarding by the railways station showed only a women's face and could not be said to be offensive, even more so when the hoarding next to it (for skin cream) showed a naked woman;
- No-one from Thames Valley Police had made any representation against the application or concerning a negative effect from the club upon the local area – had this happened, it might give more weight to arguments about a change of circumstances;
- There was no evidence of a correlation between the opening of the club and an 18% rise in references to the sexual violence support group – this could have been caused by a host of other factors;
- No-one has complained that the club is badly run;
- The Council decided a year ago that the area was appropriate – to say otherwise now would be perverse.

Daniel Smith – Legal Advisor to the Hearing.

At this point, Mr Smith asked the Applicants to confirm that they sought to renew their existing licence with all existing conditions. The Applicants confirmed this.

Mr Smith pointed out, in relation to some points made in some of the representations seeking additional conditions to control advertising, that it was a condition of the existing licence that the premises could not place advertisements on their building or any indication of the nature of the operation taking place. The Sub Committee had no power to control advertisements elsewhere, and did not have the power to prevent them from advertising completely. The Sub Committee noted this.

Mr Smith also gave advice that some reports relied on by the objectors were anonymous and hearsay. Such evidence could be taken into accounts but only limited weight should be given to it. The Sub Committee also had to consider whether it was fair to the Applicant to rely on such evidence when those making the report were not available to be questioned.

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

The Sub Committee then returned and Councillor Coulter announced that the sub Committee was not yet in a position to announce its decision but would do so in writing within five working days, in accordance with paragraph 26 of the Sub Committee hearing procedures.

The decision, subsequently released on 26th September 2012, was as follows:-

Having considered all representations, both written and oral, the Sub Committee RESOLVED to REFUSE the application as applied for, for reasons set out in the Decision Notice appended to these minutes.

(Councillor Gotch asked that his minority view, disagreeing with this decision, be recorded)

14. MINUTES

Resolved to confirm as a correct record the minutes of the meeting held on 30th July 2012, with the following amendments (in bold type):-

Minute 22 – final paragraph to read:-

“Councillor Royce asked that her concerns about the food generally served from **these types of street trading pitches (including the use of condemned meat, kitchens in garages and untrained staff)**, and that she felt unable to support any of the applicants on this occasion, be minuted.”

Minutes 23 (2) to read:-

“Delegate to officers the power to suspend the licence **immediately** should Mr Elouath fail to pay at the required time in future”

15. MATTERS EXEMPT FROM PUBLICATION

None

The meeting started at 5.00 pm and ended at 7.37 pm

Oxford City Council

Local Government (Miscellaneous Provisions) Act 1982

**Hearing under paragraph 10 of Schedule 3 of the Act
In respect of an Application for Renewal of a Sexual
Entertainment Venue Licence**

Applicant: Alistair Lockwood Thompson

Premises: The Lodge, Oxpens Rd, Oxford. OX1 1RX

Date of Hearing: 24th September 2012

Hearing before the Licensing and Registration Sub Committee.

**Sub Committee Members: Councillors Van Coulter (Chair), Colin Cook,
Michael Gotch and Gwynneth Royce.**

The Sub Committee heard from:

- Allan Hibberd (Licensing Officer)
- James Rankin (Counsel for the Applicant)
- Marguerite Robinson (Objector)
- Paul Hernandez (Objector)
- Sue Tanner (Objector)
- Louise Livesey (Objector)

(As set out in the minutes to the meeting)

The Sub Committee considered a report submitted by the Head of Environmental Development.

Decision and reasons of the Licensing Registration Sub Committee

1. The Sub Committee examined all the documents submitted and considered all the representations made at the hearing. The Sub Committee had particular regard to the written objections concerning the location of the premises and the Council resolution of 19/04/2010 concerning generally inappropriate locations for sexual entertainment venues.

2. The Resolution of 19/04/2010 states that “*sexual entertainment venues are not generally appropriate near or in locations / or areas containing any of the following:*
 - *Historic buildings or tourist attractions,*
 - *Schools, play areas, nurseries, children’s centres or similar premises,*
 - *Shopping complexes,*
 - *Residential areas,*
 - *Places of worship, ”*
3. The Sub Committee found that the relevant locality for the purposes of deciding the application is the area near to the premises.
4. Taking into account the ground of refusal at paragraph 12 (d) of Schedule 3 of the Act the Sub Committee found that renewal of the licence would be inappropriate having regard to the character of the relevant locality or use to which premises in the vicinity are put.

The Sub Committee reached this conclusion for the following reasons:

- The premises are near to Oxford Ice Rink, Oxford and Cherwell Valley College and the Oxpens car and coach park. The Ice Rink is a facility which attracts many children, young people, families and tourists and the College is similar to a school. The Sub Committee therefore felt the Resolution of 19/4/2010 on generally inappropriate locations was engaged in respect of the Ice Rink and College.
- The Oxpens car and coach park, whilst not an 'attraction' in itself, nevertheless brings many tourists, visitors and local residents into the area of the premises at all hours. The operation of a sexual entertainment venue in the locality was therefore not appropriate.
- The Oxpens road is a busy transport link and pedestrian route for visitors and residents living in the St Thomas and St Ebbs areas, a sexual entertainment venue was not appropriate in such a well used location.
- The increasing concentration of student accommodation in the area, including development of student housing at Luther Court, Mill Street and Park End St, meant an increased use of the locality by young and possibly vulnerable students as a route to and from their accommodation.

- Many of the representations received indicated there had been a negative change in the character of the vicinity brought about by the opening of the premises.
 - Many of the representations received indicated that the operation of premises had created a hostile atmosphere in the locality and a heightened fear of the risk of sexual violence. Whilst acknowledging there was no evidence of any violent incidents attributable to the operation of the premises, the Sub Committee gave weight to the representations and felt the heightened fear reported was at least in part due to the existence of the premises and the type of entertainment it operated. The Sub Committee were mindful of the Council's duty under section 17 of the Crime and Disorder Act 1998 to take reasonable steps to prevent crime and disorder.
 - Of particular concern were reports contained in the representation of Louise Livesey concerning incidents of harassment by users of The Lodge toward a user of the Ice Rink. Whilst recognising these reports were both anonymous and hearsay and accordingly carried limited weight, the Sub Committee nevertheless took some account of them.
5. The Sub Committee recognised that its findings were a departure from the Council's decision to grant the licence in July 2011 but found that as a differently constituted Sub Committee with the benefit of evidence concerning the operation of the premises over the last year, they were entitled to reach a different conclusion.
 6. The Sub Committee were aware of the human rights considerations as set out in paragraphs 26 and 27 of the Head of Environmental Development's report, but found that the Applicant's right to protection of his licence was not a right so significant as to override their own calculation of the public interest.

Decision: The Application is **refused** on the grounds that a sexual entertainment venue at the Premises would be inappropriate, having regard to the character of the relevant locality and the use to which other premises in the vicinity are put.

Signed:

Van Coulter

Councillor Van Coulter (Chair)

Date: 26th September 2012

Note:

- Any statutory rights of appeal against this decision are set out in paragraph 27 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.