

Agenda

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Licensing and Registration Sub Committee

Date: **Tuesday 26 November 2013**

Time: **5.30 pm**

Place: **Plowman Room - Town Hall**

For any further information please contact:

Lois Stock, Democratic and Electoral Services Officer

Telephone: 01865 252275

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Licensing and Registration Sub Committee

Membership

Chair

Vice-Chair

Councillor Van Coulter	Barton and Sandhills;
Councillor Gwynneth Royce	St. Margaret's;
Councillor Mary Clarkson	Marston;
Councillor Rae Humberstone	Blackbird Leys;
Councillor Colin Cook	Jericho and Osney;

HOW TO OBTAIN AGENDA

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AGENDA

Pages

1 ELECTION OF CHAIR

The Committee will be asked to elect a Chair of the Committee for the remainder of the 2013/14 council year.

2 ELECTION OF VICE-CHAIR

The Committee will be asked to elect a Vice-Chair of the Committee for the remainder of the council year 2013/14.

3 APOLOGIES FOR ABSENCE

The quorum is two Members and substitutes are allowed.

4 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.

5 PROCEDURE TO BE FOLLOWED

1 - 6

Guidance is attached

6 BREACH OF STREET TRADING CONSENT CONDITIONS - MR HAROON KHAN

7 - 16

The Head of Environmental Development has submitted a report which details a Street Trading Consent where the street trader has not adhered to the conditions of the Street Trading Policy.

The Sub-Committee is asked to determine what action to take in relation to Mr Haroon Khan's Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

7 APPLICATION FOR 12 MONTH STREET TRADING SITE - MR MULLER

17 - 30

The Head of Environmental Development has submitted a report which seeks determination of an application proposing a new street trading location.

The Sub Committee is requested 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.

8 MINUTES

31 - 34

Minutes of the meeting held on 7th October 2013

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 four 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: 26th November 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Breach of Street Trading Consent Conditions – Mr Haroon Khan

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 Haroon Khan'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 the Council can manage street trading by designating streets as "consent streets", "licence streets" or "prohibited streets". All streets within Oxford are currently designated "consent streets" and any trading requires the grant of a street trading consent. Street trading consent may be granted as the Council "thinks fit". When exercising the power to grant and enforce consents the Sub Committee should only take into account relevant considerations; must give each applicant or consent holder a fair hearing and should give reasons for their decision.

2. Street trading consent is granted subject to the Council's standard conditions. The Sub Committee may amend or attach any additional conditions to a Consent that it considers "reasonably necessary".

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. Mr Haroon Khan holds the Street Trading Consent for Street Trading Site 7, New Road opposite County Hall Car Park. The Consent was issued on 1st April 2013 and will expire on 31st March 2014. Mr Khan is permitted to trade Monday to Sunday 18:30 – 03:00hrs and sells hot food and soft drinks.
5. The Consent has been referred to the Sub-Committee in accordance with paragraph 5.2 of the Policy as Mr Khan has been observed by Council Officers trading outside of his permitted hours on three separate occasions over a three month period. Mr Khan is therefore in breach of Condition 2 of the General Conditions for Annual Street Trading Consents.

"2 The operational hours shall be:
Between the hours of 18:30 and 03:00 on Monday
Between the hours of 18:30 and 03:00 on Tuesday
Between the hours of 18:30 and 03:00 on Wednesday
Between the hours of 18:30 and 03:00 on Thursday
Between the hours of 18:30 and 03:00 on Friday
Between the hours of 18:30 and 03:00 on Saturday
Between the hours of 18:30 and 03:00 on Sunday"

A full copy of Mr Khan's Street Trading Consent and General Conditions for Annual Street Trading Consents can be found at Appendix A of this report.

6. On 4th April 2013 a letter was sent to all Street Trading Consent holders regarding an allegation of Street Trading Consent Holders trading longer than their permitted hours (see Appendix B). The letter reminded all traders of the implications if they were caught trading out of hours. The letter also urged traders to contact Miscellaneous Licensing if they were

unclear about the letter. No contact was received from Mr Khan following the letter.

7. On Sunday 18th August 2013 at 03:10hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan trading outside of his permitted hours. As a result Samantha Howell, Licensing Officer wrote to Mr Khan on 28th August setting out the offence committed (see Appendix C). The letter offered an appointment to discuss the matter further and discuss the option of extending the current trading times if necessary.
8. Mr Khan attended an appointment on Tuesday 10th September with Samantha Howell. At this meeting both Mr Khan's Street Trading Consent and Premises Licence were discussed and it was confirmed that Mr Khan only had permission to trade until 03:00hrs Monday to Sunday. Samantha Howell gave advice on how to apply to extend the hours on Mr Khan's Premises Licence by way of a variation under the Licensing Act 2003. It was explained that if the variation was successful the Street Trading Consent would then be amended to reflect the extended hours. Mr Khan left with the appropriate application form, guidance and contact details for the General Licensing Team.
9. On Sunday 13th October 2013 at 03:28hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan Trading outside of his permitted hours. No application had been submitted or approved to extend his hours of trading.
10. On Saturday 26th October 2013 at 03:20hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan Trading outside of his permitted hours.
11. To date no application has been received by the General Licensing Team to extend the hours on Mr Khan's Premises Licence.

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. A Consent may be revoked at any time. 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.
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.

Breach of a condition of a street trading consent is an offence for which the holder may be separately prosecuted.

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 generally considered to be 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 Sub Committee should consider whether any proposed action 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 to all Traders re Trading out of Permitted Hours 4th April 2013

Appendix C – Letter re Breach of Street Trading Consent Conditions 28th August 2013

Version number: 3

Environmental Development

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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: Mr Haroon Khan

Consent Number: 13/00784/STREET

Consent Issued: 9th April 2013

Valid From: 9th April 2013

Valid To: 31st March 2014

Fee: £7490

Vehicle/Stall Details: BX60 EUU Renault

Area/Site: Street Trading Site 7 (opposite County Hall Car Park), New Road, Oxford

Permitted Trading Days and Hours: Trading between the hours of 18:30 and 03:00 Monday - Sunday

Articles Sold: Hot Food and Soft Drinks

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

Authorised Officer

Head of Environmental Development



General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of: 9th April 2013 to 31st March 2014.
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 7 opposite County Hall Car Park, New Road, Oxford.
4. The street trading consent relates to the following vehicle/stall only: BX60 EUU
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Development.
6. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Safety (General Food Hygiene) Regulations 1995. Advice on these requirements is available from the Environmental Health Department. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Oxford City Council. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be

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

21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £10,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued. Proof of cover must be produced to an officer of Oxford City Council as required.
23. These general conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.
24. Instalments are required quarterly, in advance. On or before the following dates; 1st April, 1st July, 1st October and 2nd January. Annual fees may be paid in advance.

Failure to comply with these conditions

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

Environmental Development
Direct Line: 01865 252558
Fax: 01865-252344
E-mail: licensingmisc@oxford.gov.uk

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Mr H Khan

4th April 2013
Our ref: 13/00784/STREET

Dear Mr Khan,

**Street Trading Consent Holders Trading out of Hours
Local Government (Miscellaneous Provisions) Act 1982**

An allegation has been made that many Street Trading Consent holders are trading longer than their permitted hours in the evening/early morning. Oxford City Council must remind all traders that by trading after the hours permitted on your Street Trading Consent you are committing an offence under the Local Government (Miscellaneous Provisions) Act 1982 and the Licensing Act 2003.

Regular checks will be made to ensure compliance with conditions of Street Trading Consent. Any Consent holders caught trading out of hours risk revocation of their Consent and prosecution for the offences of trading without Street Trading Consent or a Premises Licence.

If you are unclear about any of the above information please contact the Licensing Team on 01865 252558 or by emailing licensingmisc@oxford.gov.uk .

Yours sincerely,

P.P. S. Howell

Dawn Cox
Miscellaneous Licensing Team Leader



INVESTORS
IN PEOPLE



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Mr H Khan

28th August 2013
 Our ref: 13/00784/STREET

Dear Mr Khan,

Local Government (Miscellaneous Provisions) Act 1982
Breach of Street Trading Consent Conditions

On Sunday 18th August at 03:10hrs two Council Officers observed you trading outside the permitted hours of your Street Trading Consent. By trading outside of these hours you have committed an offence under the Local Government (Miscellaneous Provisions) Act 1982 and the Licensing Act 2003.

Regular checks are made to ensure compliance with conditions of Street Trading Consent. If you are caught trading outside your current hours of Consent again you risk revocation of Consent and prosecution for the offences of trading without Street Trading Consent or a Premises Licence. A copy of this letter has been sent to General Licensing who may contact you separately regarding the breach of your Premises Licence.

If you wish to look at extending your hours of trading or to discuss this matter further please contact me on the above contact details to arrange an appointment.

Yours sincerely,

Samantha Howell
Licensing Officer
Miscellaneous Licensing

Cc. Julian Alison - General Licensing Team Leader



**INVESTORS
 IN PEOPLE**



To: Licensing & Registration Sub Committee

Date: 26th November 2013 **Item No:**

Report of: Head of Environmental Development

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

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 Erik Muller. Mr Muller applied to trade from a new proposed site outside 221 Banbury Road, Summer Town, Oxford in September 2013. Mr Muller was granted a three month Street Trading Consent by the Head of Service Environmental Development under the delegation of functions in the Street Trading Policy. The site has been a success for Mr Muller and he wishes to extend the Street Trading Consent to a full 12 months.
2. A full copy of Mr Muller's application and current Street Trading Consent can be found at Appendix A of this report.

Legislative Background/Legal Framework

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

Policy Considerations

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

6. Paragraph 5.4 of the Street Trading Policy states:

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

(a) Public Safety

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

(b) Public Order

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.

(c) The Avoidance of Public Nuisance

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

(d) Appearance of the stall or vehicle

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

(e) Needs of the Area

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

(f) Environmental Credentials

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

(g) Food Traders

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

(h) Highway

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

Reason for Referral to Licensing & Registration Sub Committee

7. This matter has been referred to Licensing & Registration Sub Committee as Mr Muller is nearing the end of his three month Street Trading Consent and wishes to extend it to a full 12 month Consent.
8. The current Consent allows Mr Muller to sell wood fired pizza and garlic bread from a purpose built vehicle.
9. Mr Muller wishes to continue to trade from the area as per appendix A, 221 Banbury Road, Monday to Sunday 1830 to 2300.
10. Upon receiving the application, Miscellaneous Licensing carried out a consultation with Thames Valley Police, Oxfordshire County Council Highways Authority, Environmental Health, Planning and Ward Councillors. During the 14 day consultation comments were received from officers of Oxfordshire County Council Highways Authority, Thames Valley Police and local Councillors.
11. Thames Valley Police had no objections to the application. Oxfordshire County Council Highways Authority and local Councillors did raise initial concerns about the use of a further parking space in Summertown and the wood burning element of the vehicle. As a result Mr Muller conducted further research on parking space availability and amended the hours he wishes to trade accordingly. Oxfordshire County Council Highway Authority had no further comments following the amendment to his hours. The local Councillors were assured that the wood burning element would be no different pizza vans already in operation in the City Centre; however we would monitor this element and parking space availability over the duration of the Consent.

12. Mr Muller has traded from the site over the last two months. During that period no comments have been received from any of the original consultees or local residents regarding parking space availability or otherwise. Mr Muller has settled into the site very well and is building a good customer base. Customers are travelling from the City Centre and the wider Oxford area to purchase food from the van. Local residences are happy with the quality of the product and the service provided. A number of local businesses are also making use of the trader.

Financial Implications

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

Legal Implications

14. The Sub Committee may grant a Street Trading Consent if it 'thinks fit', see paragraph 3 above. Consent may be revoked at any time. A Street Trader cannot be said to enjoy security of tenure and there is no requirement for the Council to give compensation for the loss of any Consent (other than any refund of Consent fees paid in advance). However, any decision to refuse an application or terminate Street Trading Consents may be subject to a judicial review and if held to be unreasonable then compensation may result.
15. 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

16. 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 Erik Muller and current Street Trading Consent

Version number: 3



**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.

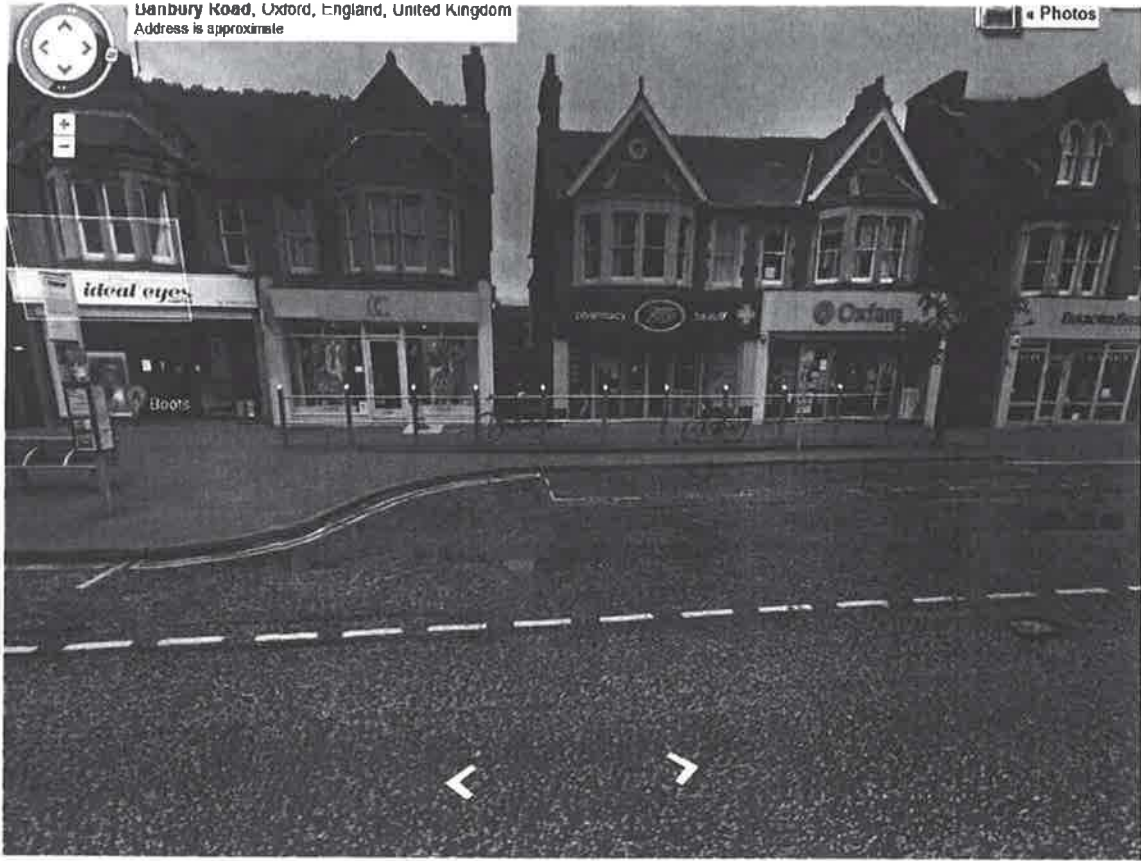
Note: Please refer to the checklist attached before you send in your application form.

Full Name	ERIK MULLER
Trading Name (if any)	RICO'S PIZZA SHACK Ltd
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	wood fired PIZZAS

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 <input checked="" type="radio"/> No opposite BANBURY Rd out Boots
Proposed days and times of trading	Days: MON → SUN. Times: 6.30 PM → 11 PM
Vehicle registration number, make and model – if applicable	BC07 RYX
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 <input checked="" type="radio"/> 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) COMMON SENSE, ALREADY STREET TRADE.
Public Order	(b) Our client base are from homes and passing trade WE will close, as not interested IN after pub trade.
The avoidance of public nuisance	(c) NO Catering, phone orders ready to pick up.

Appearance of the stall or vehicle	(d) Fully LIVERED VEHICLE, CLEAN + TIDY. ALL EQUIPMENT ON ON BOARD.
Needs of the area	(e) PARKING SPACE.
Environmental Credentials	(f) WE ARE LOOKING AT SOLAR ENERGY, AWAITING FINAL QUOTES AND INSTALLATION
Food Traders	(g) NO ONE DOES WOOD FIRED PIZZA, WE WOULD BE A TAKE AWAY SERVICE.
Highway	(h) NORMAL PARKING SPACE ALREADY EXIST.
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.
Do you agree to comply with the Street Trading policy?	<input checked="" type="radio"/> Yes or No







NCASS
NATIONWIDE
CATERERS
ASSOCIATION



City & Guilds
Accredited

NCASS SAFE FOOD LEVEL 3

Awarded to:

Erik Muller

This is to certify that the above named has completed an online course in the following subjects.

Supervisory Management, Food Safety, Microbiology, Hazards, Pest Control, Temperature Control, Cleaning, Contamination Control, Applying & Monitoring Good Food Safety Measures, Quality Control, Contributing to the Food Safety Training of Others and Legislation.

Date Taken: 08/Apr/2013

Valid Until: 08/Apr/2016

R Fox (Director)
On behalf of the Association



Cert No. 5083552

Environmental Development

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

Switchboard: 01865 249811

Fax: 01865 252344

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: Erik Muller T/A Rico's Pizza Shack Ltd

Consent Number: 13/01452/STREET

Consent Issued: 1st October 2013

Valid From: 1st October 2013

Valid To: 31st December 2013

Fee: £1872.50

Vehicle/Stall Details: Registration Number BG07 RYX

Area/Site: Street trading site outside of 221 Banbury Road, Oxford

Permitted Trading Days and Hours: Trading only between the hours of 18:30 and 23:00
Monday – Sunday.

Articles Sold: Wood Fired Pizza

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: 1st October 2013 – 31st December 2013
2. The operational hours shall be:
 - Between the hours of 18:30 and 23:00 on Mondays
 - Between the hours of 18:30 and 23:00 on Tuesdays
 - Between the hours of 18:30 and 23:00 on Wednesdays
 - Between the hours of 18:30 and 23:00 on Thursdays
 - Between the hours of 18:30 and 23:00 on Fridays
 - Between the hours of 18:30 and 23:00 on Saturdays
 - Between the hours of 18:30 and 23:00 on Sundays
3. The street trading consent relates to the following area/site only: Street trading site outside of 221 Banbury Road, Oxford.
4. The street trading consent relates to the following vehicle/stall only: BG07 RYX
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Development.
6. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Safety (General Food Hygiene) Regulations 1995. Advice on these requirements is available from the Environmental Health Department. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Oxford City Council. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be

displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.

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

21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £10,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued. Proof of cover must be produced to an officer of Oxford City Council as required.
23. These general conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.
24. Instalments are required quarterly, in advance. On or before the following dates; 1st April, 1st July, 1st October and 2nd January. Annual fees may be paid in advance.

Failure to comply with these conditions

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

Agenda Item 8

LICENSING AND REGISTRATION SUB COMMITTEE

Monday 7 October 2013

COUNCILLORS PRESENT: Councillors Coulter, Clarkson and Royce.

OFFICERS PRESENT: Samantha Howell (Licensing Officer), Daniel Smith (Law and Governance) and Mathew Metcalfe (Democratic and Electoral Services)

18. ELECTION OF CHAIR FOR THE REMAINDER OF THE COUNCIL YEAR

The Sub-Committee agreed not to elect a Chair for the remainder of the Council Year 2013/14 at this meeting, but to elect Councillor Van Coulter as Chair of the Sub-Committee for this meeting only.

19. ELECTION OF VICE CHAIR FOR THE REMAINDER OF THE COUNCIL YEAR

The Sub-Committee agreed to defer electing a Vice-Chair for the remainder of the Council Year to a future meeting.

20. APOLOGIES FOR ABSENCE

None given.

21. DECLARATIONS OF INTEREST

None declared.

22. PROCEDURE TO BE FOLLOWED

Resolved to note the procedure.

23. APPLICATION FOR A NEW STREET TRADING SITE.

The Head of Environmental Development submitted a report (previously circulated, now appended) concerning an application for a new street trading site on Broad Street, Oxford.

Samantha Howell (Environmental Development) introduced the report.

Timothy Chapple and Matthew Barlow, the applicants attended the meeting.

Councillor Royce asked how the applicants would address healthy eating. In response Timothy Chapple said that they would use real fish fillets, none reconstituted meat and healthy oil.

Councillor Royce raised concerns on the double yellow lines on the proposed site. In response Samantha Howell said that these would be removed and that the County Council as the Highways Authority felt that this was a suitable area. Councillor Royce further stated that she felt that the Panel should be informed in future of discussions to remove double yellow lines.

Councillor Clarkson asked questions concerning the disposal of rubbish such as packaging. In response Timothy Chapple said that a bin would be provided. Matthew Barlow further added that wherever possible any packaging would be made from recycled materials.

In response to further questions from Members, Samantha Howell said that the effect on other businesses i.e. commercial competition was not a relevant matter that the Members could take into consideration.

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

The Sub-Committee then returned and having taken into account all the evidence before it, both written and oral, Councillor Coulter announced that the new street trading location in Broad Street had been granted.

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

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

The Sub-Committee resolved to:

- (1) **Grant the application** as applied for subject to the Oxford City Council general conditions applicable to street trading consents;
- (2) Attach the following additional conditions:
 - (i) The Consent may be suspended (with a minimum of 28 days' notice to the holder) during any approved event in Broad Street, unless the Consent holder has obtained the written permission of the event organiser to remain in place.
 - (ii) The Consent may be suspended whenever the Highways Authority requires Broad Street to be closed. In the event of any planned long term closure a minimum of 12 weeks' notice shall be given to the Consent holder.
 - (iii) All packaging and utensils for use by customers shall be made of biodegradable or recyclable materials.

24. MINUTES

Resolved to confirm as a correct record the minutes of the meeting held on 20th August 2013.

25. MATTERS EXEMPT FROM PUBLICATION

There were no exempt matters, but in accordance with licensing procedures, the Sub Committee held its deliberations in private

The meeting started at 5.30 pm and ended at 6.10 pm

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