

To: Licensing & Registration Sub Committee

Date: 24 July 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Application for vacant approved sites

Summary and Recommendations

Purpose of report: To seek determination of applications received in competition for a Street Trading Consent to fill two vacant approved Street Trading sites.

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 from the applications received, which applicants they wish to grant Street Trading Consent, in order to fill vacant approved:

- site 5 - junction with New Inn Hall Street and Queen Street, and
 - site 10 - outside Scrivens Opticians North Side High Street;
- taking into account the details in this report and any representations made at this Sub Committee meeting.

The Applications

1. The Miscellaneous Licensing Team have received fourteen applications for the vacant approved Street Trading sites. The applicants are:

- Mr Huseyin Cacan
- Mr Hassan Khalil
- Mr Mustafa Durdu
- Mr Abdullah Boz
- Mr Rasim Ulas

- Mrs Hulya & Mr Rasim Ulas
 - Mr Antonio De Jesus Neves
 - Mrs Leila & Mr Soulainan Aidi
 - Mr Hussam Hayatleh
 - Mr Mohammed Hayatlah
 - Mr Sajjad Malik
 - Mr Waad Subhi Namek
 - Mr Ahmad Amory
 - Mr Shakhil Ahmed
2. Full copies of each application can be found in the Appendices of this report. Each applicant has detailed in their application how they intend to fulfil Oxford City Council's Street Trading criteria.
 3. A complete list of the site(s) each applicant has applied for can be found in the Appendices of this report. This has been attached to assist Councillors with regards to the applicant's preference of a Street Trading site.

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 Head of Environmental Development is authorised to:

"5.2(c) refer applications to the Licensing and Registration Sub Committee where there is competition for a vacant approved site."
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 there is competition for two vacant Street Trading sites, as per section 5.2 (c) of Oxford City Council's Street Trading Policy.

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. 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.
11. 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

12. 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.

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Background papers:

Appendix A – Application for the vacant sites

Appendix B – List of applicants and site(s) applied for

Appendix C – General Conditions of Street Trading Consent

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