

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.

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Background papers:

Appendix A – Application from Mr Erik Muller and current Street Trading Consent

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