

To: Licensing & Registration Sub Committee

Date: 7th October 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Application for a new street trading 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 Timothy Chapple and Mr Matthew Barlow. Mr Chapple and Mr Barlow have applied to trade from a new proposed site on Broad Street, Oxford.
2. A full copy of Mr Chapple and Mr Barlow's application can be found at Appendix A of this report. The applicants have attached a map and photos of the proposed site. They have also attached pictures to illustrate the vehicle they intend to trade from.

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 Chapple and Mr Barlow have approached the Council with a new site proposal. They have applied for a 12 month Consent.
8. The application is to sell hot food, specifically fish goujons, chicken goujons, vegetarian goujons, fries, hot and cold drinks and snacks including chocolate bars and crisps.
9. Mr Chapple and Mr Barlow wish to trade from the area as per appendix A on Broad Street, Monday to Sunday 1100 to 1900.
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.
11. Oxfordshire County Council Highway Authority commented that there is a review of Broad Street currently underway that may affect how they view street traders in the future, but at present they do not object to the application, providing that specific conditions are attached to any Consent granted. The specific conditions they require to be put on the Consent, if the Committee are minded to grant, are to

- (a) suspend the Consent whenever an officially approved event takes place on Broad Street, unless the Consent holder obtains written permission from the event organiser to remain in place, and
- (b) suspend the Consent whenever the Highways Authority requires Broad Street to be closed.

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.

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Background papers:

Appendix A – Application from Mr Tim Chapple and Mr Matthew Barlow

Version number: 3

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	TIMOTHY JAMES PHILIP CHAPPLE & MATTHEW JOHN BARLOW
Trading Name (if any)	GOUJON MONKEY
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	FISH GOUJONS, CHICKEN GOUJONS, VEGETARIAN GOUJONS, FRIES, HOT & COLD DRINKS, SNACKS (EG. CRISPS & CHOCOLATE BARS)

<p>If you intend to sell food & drink what is the address where the vehicle/trailer will be stored when not in use</p>	
<p>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)</p>	<p>No Annex 1 – Map showing the proposed site and surrounding area Annex 2 & 3 – Photos of proposed site</p>
<p>Proposed days and times of trading</p>	<p>Days: Monday - Sunday Times: 11am – 7pm</p>
<p>Vehicle registration number, make and model – if applicable</p>	<p>Vehicle will be purchased on license being granted. The proposed vehicle (which will be purchased if a license is granted) is a Citroen H Van. Photographic examples of this type of vehicle are included in Annex 4 & 5.</p>
<p>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)</p>	<p>No Expect to employ additional operator on license being granted (employee form to follow)</p>
<p>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</p>	
<p>Public Safety</p>	<p>(a) The proposed site is in a dead zone between a row of bollards on one side and two bollards marking the edge of a set of cycle racks on the other side. This section of the highway has no through flow of traffic and the unit will not cause any obstruction to either vehicles or pedestrians. The unit will be positioned so that there is sufficient space between it and the cycle racks for no obstruction to access to the cycle racks to be caused. The unit's rear serving hatch will face curb side for curb side service only. The unit will comply with current fire safety regulations and will be fitted with a serviceable fire blanket and foam extinguisher. Therefore, risk to the public from fire hazard will be controlled and minimised. The unit will be kept in a hygienic condition in accordance with recommended food hygiene standards and all operators will have completed the food hygiene training certificate level 2 or higher. In addition, a first aid kit will be present on the unit, all operators will hold an up to date basic first aid certificate and at least one working mobile phone will be accessible at all times. The MOT for the vehicle will be kept up to date and all mirrors and lights will be kept in working order so that the risk of danger when the vehicle is reversing into position (so that the rear serving hatch is facing the curb side) is minimised.</p>

Public Order	(b) We will not be undertaking any activities which represent any risk to public order.
The avoidance of public nuisance	(c) We will not be undertaking any activities which are likely to represent a risk of nuisance to the public from noise or misbehaviour. The appliances will be run from a modern low noise generator in order to minimise noise and there should be no other causes of noise from the unit.
Appearance of the stall or vehicle	(d) The proposed vehicle (which will be purchased if a license is granted) is a Citroen H Van. Photographic examples of this type of vehicle are included in Annex 4 & 5. The approximate dimensions of the vehicle are 4.26m long by 1.99m wide. The vehicle will be newly decorated externally, with the predominant colour being Oxford Blue, to present a clean and smart looking appearance which will complement the George Street surroundings.
Needs of the area	(e) The proposed site is a roadside location, outside number 14 Broad Street, in a dead zone between a row of bollards on one side and two bollards marking the edge of a set of cycle racks on the other side. A map of the proposed site and surrounding location, including the location of other catering outlets in the vicinity is enclosed (annex 1). Two photos of the proposed location are also enclosed (annexes 2 & 3). There are no other outlets in the vicinity which are offering a comparable type of food - gourmet fish/chicken goujons and fries. This outlet will therefore offer a unique and interesting alternative to the Oxford City Centre food market place.
Environmental Credentials	(f) There will be no additional impact on street surfaces and materials as the unit will be a fully functioning and road worthy vehicle. The power supply will be a modern low noise generator and will have no impact on the local environment. Where possible all ingredients will be sourced from local suppliers in order to minimise the carbon footprint. Where possible all packaging will be from recycling material and/or recyclable packaging. Food waste/other recycling options will be maximised to reduce the waste which has to be landfilled. Refuse originating from the operation of the unit will be disposed of by a licensed waste carrier and the site will be clear of refuse at the completion of trading.

	<p>No water or waste material will be discharged on to the highway or any adjacent property. The area in the vicinity of the stall/vehicle will be kept clear of all refuse at all times.</p> <p>A bin will be provided adjacent to the unit to contain waste created by customers.</p>
Food Traders	<p>(g) The applicant holds a current Level 2 Food Hygiene Certificate accredited by CHARTE INSTITUTE OF ENVIRONMENTAL HEALTH</p>
Highway	<p>(h) The unit will not cause any obstruction or danger to the highway as the proposed site is a current dead zone with no through flow of traffic or access requirements.</p> <p>Outside the operating times of 11am to 7pm the site will be clear of the vehicle so access can be gained for highway maintenance. Also, as the proposed unit is a road worth vehicle, it can be easily removed from the site during operating hours, if necessary, should emergency access be required at these times.</p>
<p>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.</p>	N/A
Do you agree to comply with the Street Trading policy?	Yes
Any additional information to add to this application form - please write here.	

DECLARATION

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information, see <http://www.oxford.gov.uk/websitetools/privacy.cfm>.

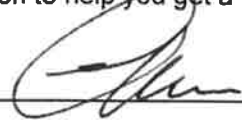
The data you provide will assist in preventing crime and ensuring public safety. When you sign this application you are consenting to the sharing of this data with other Government Agencies in their efforts to combat crime.

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)

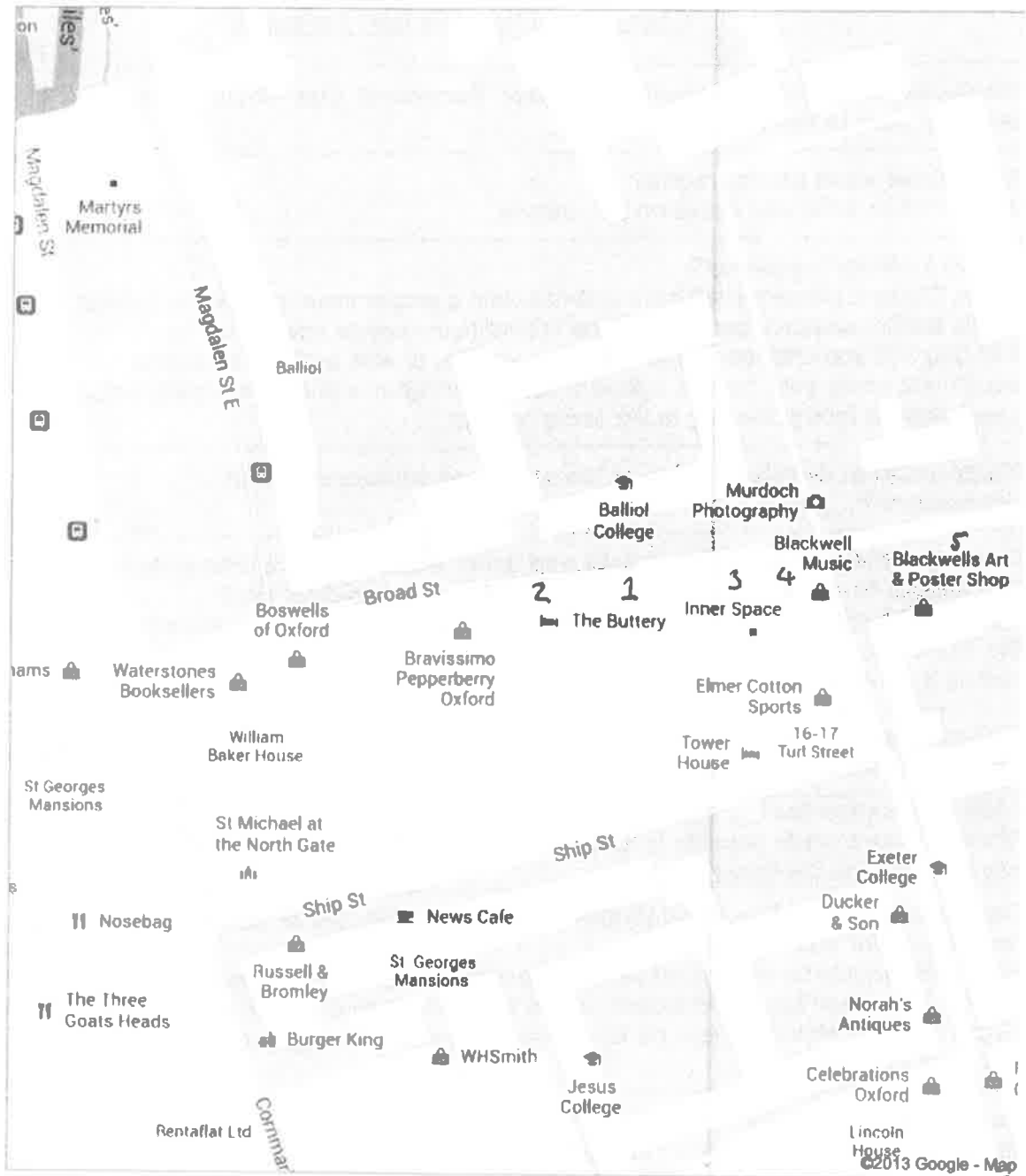
Date: 24, 6, 2013.

M. Balow.

24/6/2013.

Annex 1

Google



- 1 - Proposed site
- 2 - The buttery
- 3 - Cafe Creme
- 4 - Moltons
- 5 - Street trading site (currently selling crepes)

Annex 2

Google

Address 51

Address is approximate



Google

Address **Broad Street**

Address is approximate









Certificate of Completion

TIMOTHY CHAPPLE

has completed the Level 2 elearning module for

Food Safety

Date: 6/2/2013

Centre: 61237



For information about CIEH qualifications, visit www.cieh.org
(C0A9E634-0B11-409F-A2E1-98659E89AF-1F) T4F0000047349



Local Government (Miscellaneous Provisions) Act 1982

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

Applicants: Timothy Chapple and Matthew Barlow – trading as Goujon Monkey

Premises site: Broad Street, Oxford

Date of Hearing: 7th October 2013

Hearing before the Licensing and Registration Sub Committee

The Sub Committee heard from: - Samantha Howell (Licensing Authority)
- Timothy Chapple & Matthew Barlow (Applicants)

(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.

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 is necessary to impose conditions allowing the suspension of the consent at certain times. Also, in the interests of reducing environmental impact it is 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:

- ***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.***
- ***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.***
- ***All packaging and utensils for use by customers shall be made of biodegradable or recyclable materials.***

Signed:

Van Coulter

Councillor Van Coulter (Chair)