

**To:** Licensing & Registration Sub Committee

**Date:** 26 April 2016

**Report of:** Head of Planning & Regulatory Services

**Title of Report:** Application for the renewal of a Street Trading Consent – Mr Khalid Shihadeh

## Summary and Recommendations

**Purpose of report:** To seek determination of an application to renew a Street Trading Consent.

**Report Approved by:**

**Finance:** Jonathan Marks  
**Legal:** Daniel Smith

**Policy Framework:** Street Trading Policy  
A vibrant and sustainable economy

**Recommendation(s):**

**Committee is requested to determine Mr Khalid Shihadeh's application to renew his street trading consent, taking into account the details in this report and any representations made at this Sub-Committee meeting.**

## **The Application**

1. An application has been submitted to renew the Street Trading Consent for the period 1 April 2016 to 31 March 2017 for street trading site 25 St Aldate's End, Pembroke Square, Oxford. The applicant is Mr Khalid Shihadeh. The application form can be found at Appendix A.
2. Mr Shihadeh held Consent for the period 1 April 2015 to 30 September 2015. A full copy of Mr Shihadeh's Street Trading Consent 2015/2016 and General Conditions for Annual Street Trading Consents can be found at Appendix B of this report. The renewal is being referred to the Sub Committee in accordance with the Street Trading Policy as the consent holder has not traded during the last year.

## **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 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.
4. 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**

5. The Street Trading Policy was adopted by Council in April 2015 and came into force on 14 April 2015 for existing traders. Paragraphs 5.14 and 5.10 of the Policy state:
  - “5.14 At this renewal time, the Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.”
  - “5.17 Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing and Registration Sub-Committee.”

The factors to be considered when deciding an application for renewal are set out in Paragraph 5.8 of the Policy including “Needs of the Area”.

## **Reasons for Referral to Licensing & Registration Sub Committee**

The renewal application has been referred to the Sub-Committee in accordance with paragraphs 5.14 and 5.17 of the Policy due to Mr Shihadeh’s failure to take up his street trading consent and trade from the site. The site is a prime location for daytime street trading and we have received a number of enquires for it.

## **Financial Implications**

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

## **Legal Implications**

8. 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). Any decision to terminate a street trading consent may be subject to a judicial review. If termination is held to be unreasonable then compensation may result.
9. Any decision to refuse a renewal application 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**

10. 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.
11. 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](mailto:showell@oxford.gov.uk)

### **Background papers:**

Appendix A - Renewal Application  
Appendix B - Street Trading Consent and conditions for 2015/16 period

**Version number: 2**

This page is intentionally left blank