

To: General Purposes Licensing Casework Sub Committee

Date: 5th March 2018

Report of: Head of Planning, Sustainable Development & Regulatory Services

Title of Report: Breach of Street Trading Consent Conditions – Mr Hassan Khalil

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.

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation: The Sub-Committee is recommended to:

Determine the action to be taken in relation to Mr Hassan Khalil's Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

Appendices

Appendix A – Acceptance Form and Street Trading Consent

Appendix B – Letter from Licensing Officer

Appendix C – Letter from Licensing Officer

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 "consents 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. The Sub-Committee may attach any conditions to a consent that it considers “reasonably necessary”.

Policy Considerations

3. The Street Trading Policy was adopted by Council in April 2015 and came into force on 14th April 2015 for existing traders. Paragraph 5.2 of the Policy states that the Head of Planning, Sustainable Development & Regulatory Service 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 in the past year.”

Reason for Referral to Licensing & Registration Sub Committee

4. Consent for site number 6 at New Road opposite County Hall Car Park is currently held by Mr Hassan Khalil. The Consent has been referred to the Sub-Committee in accordance with paragraph 5.2 of the Street Trading Policy as Mr Khalil has failed to make payments at the agreed quarterly periods and is currently in arrears of consent fees to the sum of £6,950.00. He is therefore in breach of condition 28 of the General Conditions for Annual Street Trading Consents.

“28 For annual Street Trading Consents fee installments 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.”

5. Mr Hassan Khalil signed and dated an acceptance form to agree to pay the street trading fees in 4 payments of £1,987.50 (Appendix A).
6. Samantha Broome, Licensing Officer, wrote to Mr Khalil on 17th October 2017 in respect of the arrears on his account giving him 7 days to clear the account, advising him that failure to do so would result in the Council considering the revocation of his Street Trading Consent (see Appendix B). Mr Khalil made contact with Samantha Broome following the letter to explain that he was experiencing family problems and had been out of the country for a lengthy period of time. He confirmed that he would be back soon and would clear the arrears on the account. One payment of £1000.00 was received on 27th November 2017.
7. Samantha Broome wrote to Mr Khalil again on 9th January 2018 in respect of the arrears on his account giving him 7 days to clear the account (see Appendix C). Mr Khalil made contact with Samantha Broome to explain he was out of the country but would be back on 22nd January 2018. On 25th January 2018 Mr Khalil came to St Aldates Reception to discuss the arrears. He gave assurances that he would be able to clear the arrears within the next 10 days.
8. At the time of writing this report no further payments have been received. Mr Khalil's account remains in arrears to the amount of £6,950.00.

Financial Implications

9. The Council collects fees in order to cover the costs of carrying out the Street Trading function. Predicted income from licence fees are included in the Council's budget.

Legal Implications

10. Street trading consents may be revoked with good reason at any time. Any breach of condition, including the condition to pay the appropriate fee, may be a reason for revocation. 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 terminate Street Trading Consents may be subject to a judicial review and if termination is held to be unreasonable then compensation may result.
11. Any decision to revoke a Consent or refuse a renewal application must be proportionate taking into account all relevant circumstances and the consent holder's right to a fair hearing. A Consent should not be revoked nor an application refused arbitrarily and without clear reasons.

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 must be given a fair opportunity to present their case and respond to any representation against them.

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