

To: General Purposes Licensing Casework Sub Committee

Date: 31 July 2023

Report of: Head of Regulatory Services & Community Safety

Title of Report: Application for Street Trading Consent on Blackbird Leys Park

Summary and recommendations	
Purpose of report:	To inform the determination of an application for street trading consent
Corporate Priority:	Enable an inclusive economy Support thriving communities
Policy Framework:	Street Trading Policy 2023 Council Strategy 2020-2024
Recommendation(s): That the General Purposes Licensing Casework Sub-Committee resolves to:	
1.	Determine the applications, taking into account the details in this report and any representations made at this Sub-Committee meeting.

Introduction and background

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 “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 decisions.
2. 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”.
3. This application for street trading is for a new pitch to sell food and drink in Blackbird Leys Park, behind the Leisure Centre, adjacent to the astroturf pitches.

Determination of Applications for Consent

4. Prior to a Consent being granted or refused, the application is subject to a 14 day consultation period with stakeholders being given the opportunity to share observations and concerns. Our stakeholders include Oxfordshire County Council Highways Authority, Thames Valley Police, Oxford City Council Planning Service, Oxford City Council Environmental Health Services (Commercial Pollution and Food Safety) and Ward Councillors. All comments received are taken into consideration when determining the grant of a Consent.
5. The Street Trading Policy 2023 requires new Street Trading applications to be referred to the Council's General Purposes Licensing Casework Sub-Committee who will use the criteria listed in the Policy in their determination of the application. A range of Criteria are listed, with each case being assessed on its merits and individual circumstances, where appropriate, may be taken into consideration. When there are representations, the Responsible Head of Service acting under delegated powers may refuse an application.

Reason for referral to Licensing Sub Committee

6. The application is referred to the Licensing Sub Committee as per point 5 above.
7. Mr Morris-Smith is seeking to regularise his trading from this position. Whilst he holds an existing street trading consent, allowing him to trade from a position on Grenoble Road, he has been trading in this position without the benefit of consent.
8. The application is for trading from a Renault van converted into a food trading unit. The applications and supporting documents can be found in the appendixes to this report.
9. At the time of writing this report, no comments had been received from stakeholders. Any comments received prior to the hearing will be presented to the subcommittee for consideration.
10. The proposed pitch is directly behind Blackbird Leys Leisure centre, adjacent to the astroturf pitch. Access to the pitch from the leisure centre car park is prevented by immovable bollards, and so access is gained using the park entrance off Cuddesdon Way and driving across the field.
11. The applicant wishes to trade Monday – Friday 06:00 – 20:00 and Saturday/Sunday 07:00 – 19:00. These times represent a deviation from the standard timings laid down in section 17.2 of the policy, the sub-committee will have to consider whether to deviate from the policy in this regard should they choose to grant the consent.
12. Blackbird Leys Park is on occasion used for events, should the sub-committee choose to grant the consent they should consider whether it is appropriate to allow trading to continue on days when there are large events taking place in the park, or whether trading should be restricted/prevented on these days.
13. Any consent granted will be issued to expire on 31 March 2024 in line with the Council policy of having a single renewal date. A renewal application may be made to the Council prior to 1 February 2024 should they wish to continue trading after 31 March 2024.

Policy Considerations

14. The Policy requires that when determining an application for the grant or renewal of a Consent, the Council will consider the following factors, as per section 6.8 of the Policy:

(a) Public safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include: 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) Avoidance of public nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public, particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be maintained in good condition, be of smart appearance and meet the 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. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

(e) Needs of the area

The demand for the articles for sale and the geographical location of the proposed site.

(f) Environmental sustainability

Measures to minimise the impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, recycling and waste disposal.

(g) Food safety and food offer

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health. Consideration will be given to applicant's ability to meet SUGAR SMART Oxford criteria (see Annex 3 for guidance).

(h) Highway safety 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.

15. The application has been reviewed by officers, and it is considered to be a valid application.

Financial implications

16. The Council collects fees for Street Trading Consents. Predicted income from Consent fees are included in the Council's budget.

Legal issues

17. The Sub Committee may grant a Street Trading Consent if it 'thinks fit'. 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.

18. 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

19. 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.

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Appendices	
Appendix A	Mr Morris-Smith application pack
Appendix B	Map of Blackbird Leys Park