

To: General Purposes Licensing Casework Sub Committee

Date: Monday 25th March 2024

Report of: Head of Planning and Regulatory Services

Title of Report: Street Trading Renewal Application from Consent Holder Mr James Sheriff

Summary and recommendations	
Purpose of report:	This report contains information specific to a Street Trading Consent Holder in order that the Sub-Committee may decide an application.
Corporate Priority:	Enable an inclusive economy. Support thriving communities
Policy Framework:	Street Trading Policy 2023
Recommendation(s):	
<ol style="list-style-type: none"> 1. That the General Purposes Licensing Casework Sub-Committee determines whether to approve or refuse the application for renewal referred to in this Report 2. That the General Purposes Licensing Casework Sub-Committee refers the matter of procedural review of the Street Trading Applications procedure to the General Purposes Licensing Committee for consideration. 	

Appendices	
Appendix 1	Current Site Location for Little Blue Van
Appendix 2	Street Trading Consent Renewal Application

Introduction and background

3. Under the Council's Street Trading Policy 2023 (The Policy) it is for the General Purposes Licensing Casework Sub-Committee to decide applications to renew Street Trading Consent when there has been a complaint about the trader, or the trader has breached the conditions of their Street Trading Consent in the past year. The Policy also requires that the suitability of applicants for new or renewed Consent be considered.

4. This report contains specific details concerning a Consent Holder Renewal Application for Sub-Committee consideration. The report also refers to an in-progress review of how Street Trading application consultations are administered by both Councils and an examination of how the respective regulatory regimes are related.

Reasons for Referral to General Purposes Licensing Casework Sub Committee

5. Mr James Sheriff (the Applicant) was granted Consent to trade from a new pitch Frideswide Square, on 18th December 2023. The site is shown in Appendix 1 to this Report.
6. On 9th January 2024 officers from the Business Regulation Team in Planning and Regulatory Services were informed by colleagues in the Civil Enforcement Team (CET) at Oxfordshire County Council that the trading location used by the Little Blue Van is located within a Restricted Zone, that is, a location subject to a Traffic Restriction Order (TRO), wherein no parking or loading/unloading is allowed at any time.
7. Discussions and correspondence between BRT and County Council Team officers commenced promptly. County CET agreed to suspend enforcement action temporarily. It was established that information about the Restricted Zone had not been communicated to BRT officers during the standard application consultation carried out in November. As a result, the officer report to the 18th December Sub Committee did not contain this information.
8. On 16th January an officer from County CET served a Parking Contravention Notice (PCN) on the Applicant. This action was reversed following representations from BRT, given ongoing communication. County CET have since stated that, for this site, they cannot suspend enforcement action beyond 31st March 2024. They have added that complaints have been received about the location of the Little Blue Van and that the vehicle potentially would cause damage to the footway, which has not been designed to accommodate vehicular traffic.
9. The renewal application for 2024-25 made by the Applicant on 22nd January 2024 is attached at Appendix 2. Given the information supplied by the County CET, a renewal based on this application would enable the Applicant to continue to trade in a location which is in breach of a TRO and where he is likely to receive a Parking Contravention Notice every time he trades. Such a consent would also run contrary to Section 6.4 of the current Street Trading Policy (the Policy), which includes the statement that: *Consents will not normally be granted where: There is a conflict with Traffic Orders such as waiting restrictions)....*
10. The Applicant has been advised of this position and has been invited to make representation at the Sub-Committee Meeting

Determination of Applications for Consent

11. 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 Policy requires that the application will be referred to the General Purposes Licensing Sub-Committee.
12. Therefore, the General Purposes Licensing Casework Sub-Committee is asked to determine whether to approve or refuse the application for renewal referred to in this Report.

13. The Report is valid at the time of circulation and officers will provide the Sub Committee with updates regarding the matters it covers where applicable.

Suitability of Applicants

14. All applicants are asked to make a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974. Since 2022/23 the application requirements have also included submission of a CRB report.

15. Officers are not aware of any information which would adversely affect the consideration of Applicant Suitability

Procedural Review of Street Trading Consultations

16. The extended liaison between the respective County and City Council teams referred to in para. 7 has also led to a review of how Street Trading application consultations are administered by both Councils and an examination of how the respective regulatory regimes are related. This review currently is still in progress. Since a review of this kind may affect the Council's current Street Trading Policy, it is recommended that the General Purposes Licensing Casework Sub-Committee refers the matter of procedural review of the Street Trading applications procedure to the General Purposes Licensing Committee for consideration.

Financial implications

17. There are no direct foreseeable direct financial implications of this application.

Legal issues

18. This report relates to the determination of applications for Street Trading Consent renewal. It does not relate to any proceedings for legal offences nor for the recovery of debt in the Civil Courts.

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.

20. Nevertheless, with the advice of Law & Governance and in the interest 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.

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