

**CHILTERN DISTRICT COUNCIL  
LICENSING AND REGULATION COMMITTEE - 28 June 2016**

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*Background Papers, if any, are specified at the end of the Report*

**STREET TRADING CONSENT APPLICATION**

**Contact Officer:** Nathan March 01494 732056 nmarch@chiltern.gov.uk

**RECOMMENDATIONS**

- **To refuse the application for a Street Trading Consent, accordance with the Council's Street Trading Policy due to the concerns raised in the objection from the Town Council and that there could be a loss of amenity caused by noise and odour from the trader;**

**1. Background**

- 1.1. The Local Government (Miscellaneous Provisions) Act 1982 contains adoptive provisions enabling local councils to control street trading by designating streets as Licence Streets, Consent Streets or Prohibited Streets.
- 1.2. Street trading is only permitted in Licence or Consent Streets if the Council has given permission by way of a licence/consent. Permission cannot be given to trade in Prohibited Streets. Street trading is not controlled in streets that have not been designated by the Council.
- 1.3. The Council adopted these provisions in 1984 and following a consultation exercise designated a large number of streets throughout the district as Consent Streets which are primarily in and around town centres.
- 1.4. In accordance with the Council's Street Trading Policy 2012 attached as Appendix 1, applications that do not attract objections can be dealt with via delegated powers to officers. However if an objection is received, the application must be determined by the Licensing & Regulation Committee.

**2. The Application**

- 2.1. An application has been received from Mr Khushi Mohammed of 269 Langley Road, Slough to sell Indian foods from a catering trailer situated on High Street, Chesham near the Clock Tower (as indicated on the plan attached as appendix 2) between the hours of 08:00 and 18:00 Monday, Tuesday, Thursday & Friday. A copy of the application is attached as appendix 3.
- 2.2. In accordance with the Council's Street Trading Policy, , the following organisations/people were consulted:-
  - Thames Valley Police,
  - Bucks Fire and Rescue Service,

- Transport for Bucks, Bucks County Council.
- Environmental Health (Food, safety and noise)
- Ward and Parish or Town Councillors

2.3. During the consultation period, the licensing authority received one representation from the Chesham Town Council which is attached as appendix 4. The representation raises concerns over the trading location not being suitable as it falls within a conservation area and that there are already sufficient provisions for food and drink in the vicinity. Concerns were also raised about an increase in vehicular traffic in the pedestrian dominated area and the proximity to residential properties above the surrounding shops.

2.4. The licensing authority did not receive representations from any other consultees.

2.5. Mr Mohammed had previously submitted an application for a Street Trading Consent further up the High Street in Chesham to which no objections were received. The consent was therefore granted and Mr Mohammed began to trade. Shortly after trade starting, the Council received a number of complaints and it was found that the site that was being used was not suitable as the trailer was blocking the highway/pavement.

2.6. Mr Mohammed voluntarily surrendered this Consent and engaged with Transport for Bucks prior to submitting this application to ensure that the same issue did not arise.

2.7. There are no other existing Street Trading Consents in the immediate vicinity of this location.

### **3. Consideration**

3.1. In considering applications for the grant of a Street Trading Consent as well as the individual merits of the application and the relevant legislation the Street Trading Policy provides that the following factors should 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) Highway

The location and operating times will be such that the highway can be maintained in accordance with Buckinghamshire 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.

3.2. The Council's Street Trading Policy states that the Council will normally grant a street trading consent unless, in its opinion:

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site;
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited;
- c) There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes;
- d) There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes *but note that competition issues will not be a consideration*;
- e) There is a conflict with Traffic Orders such as waiting restrictions;
- f) The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes;
- g) The trading unit obstructs the safe passage of users of the footway or carriageway;
- h) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- i) The site does not allow the consent holder, staff and customers to park in a safe manner;
- j) The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

#### 4. Decision

4.1. Schedule 4 paragraph 7 (2) of the 1982 Act provides that the Council may grant a consent if they think fit subject to the Mandatory grounds for refusal at subparagraph (3)

4.2. The Council is not under any duty to grant a Street Trading Consent and need not specify any of the statutory grounds for refusal. Therefore, the matter to grant or refuse an application for a Street Trading Consent is at the total discretion of the Council. However, the Council must have regard to its Street Trading Policy, which outlines the approach that it will take in determining applications of this sort and will need to give full reasons for its decision.

4.3. Accordingly the Committee may:

4.3.1. Grant the application as it stands in which case it will be subject to the Council's approved standard conditions.

4.3.2. Grant the application with any variation deemed reasonably necessary subject to the Council's approved standard conditions and any other specific conditions or restrictions the Committee deem reasonable and necessary.

4.3.3. Refuse the application.

4.4. The Council has already approved a set on standard conditions which are attached at appendix 5 which will apply to and will be imposed on any Street Trading Consent that is granted.

4.5. There is no statutory right of appeal against the Council's decision to refuse to grant a Consent but any decision could be the subject of a judicial review which would result in legal fees to defend the review and further costs which we would seek to recover if the review was unsuccessful. In the event of a successful review the Council may also have to pay the other parties costs

## 5. Background Papers

- The Local Government Miscellaneous Provisions Act 1982.
- The Council's Street Trading Policy.
- Application file ref 16/00078/STREET