



Title: Mobile Street Trading Consent holder wishes to trade outside of the restrictions set out within Warwick District Council's Street Trading Policy.

Lead Officer: Rachael Russell

Portfolio Holder: Judy Falp

Public report

Wards of the District directly affected: Leamington Brunswick

Contrary to the policy framework: Yes

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Head of Service	01.11.22	Marianne Rolfe
Legal Services	01.11.22	Sue Mullins

1. Summary

- 1.1 Members are asked to consider a renewal application for a Street Trading Consent to trade outside the hours and restrictions set out within Warwick District Council's Street Trading Policy.

2. Options available to the Panel

- 2.1 Members are asked to consider the information contained in this report and decide whether the Street Trading Consent for Mr Hayer should be amended.

The following options are available to members:

Option 1 – Grant the consent as requested;

Option 2 – Grant the consent with amended hours and/or added conditions, or;

Option 3 – Refuse the application.

3. Details for Consideration

- 3.1 The Council's Street Trading Policy states that:

"In considering applications for the grant or renewal of a street trading consent the following factors should be considered:

a) Public Safety

Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.

b) Public Order

Whether the proposed activity presents or could present a risk to public order.

c) The Avoidance of Public Nuisance

Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

d) Local Area Needs

Consideration will be given to the character of the area (e.g. conservation area)"

- 3.2 The Street Trading Policy also states that:

"The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the Licensing and Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate."

- 3.3 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.
- 3.4 Anyone who exposes goods for sale within the District needs a Street Trading Consent issued by the Council. Upon receiving the application officers referred to the current Street Trading Policy which permits trading between the hours of 06:00 and 18:00.
- 3.5 Mr Hayer originally applied for a Street Trading Consent in 2021. He was required to attend a Licensing and Regulatory Panel as he requested to trade from Wednesday to Saturday from 17:00 to 21:00. On that occasion the Licensing and Regulatory Panel granted the consent as requested. The consent was issued for twelve months. A copy of the decision is attached as appendix 3.
- 3.6 Mr Hayer has applied to renew his Street Trading Consent in order that he may continue to sell hot food from his mobile unit known as Kebab Shack located outside Khalsa Leamington Hockey Club, 10 Wise Street, Leamington Spa. A Street Trading Consent is issued for twelve months. A copy of the application form along with supporting documents is attached as appendix 1. A copy of the Council's Street Trading Policy is attached as appendix 2.
- 3.7 On his application form, Mr Hayer has requested consent to trade from 06:00 to 23:00 Monday to Sunday. This is outside of the hours set out in Warwick District Council's Street Trading Consent Policy and therefore, the Licensing and Regulatory Panel need to decide if these hours should be approved.
- 3.8 The Licensing team have received no complaints regarding this Street Trading Consent.

4. Legal comments

- 4.1 The relevant legislation relating to street trading is set out in the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2 The Council adopted the provisions of this Act in 2007 allowing the regulation and control of Street Trading and the current Street Trading Consent Policy which has been in force since October 2016 is attached at Appendix 2.
- 4.3 When granting or renewing a Street Trading Consent the Council may include any conditions that it thinks are reasonably necessary.
- 4.4 Without prejudice to the power of the Council to attach any conditions that they think are reasonably necessary, they may also include conditions specifically to prevent: -
 - (a) obstruction of the street or danger to persons using it; or

(b) nuisance or annoyance (whether to persons using the street or otherwise).

- 4.5 The Local Government (Miscellaneous Provisions) Act 1982 does not provide any direct right of appeal against a decision made in relation to a street trading consent. Therefore, a consent holder aggrieved by a decision would only be able to challenge that decision by making an application for a judicial review

5. Policy Framework

5.1. Fit for the Future (FFF)

- 5.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

- 5.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#).

5.2.1 External impacts of proposal(s)

People - Health, Homes, Communities - The Street Trading Policy recognises that residents within, and visitors to the District, need a safe and healthy environment to live, work and visit and that Street Traders are important to the local economy and vibrancy of the District.

Services - Green, Clean, Safe – None.

Money- Infrastructure, Enterprise, Employment - The Street Trading Policy relates to current legislation, and, where possible, to local factors, allowing flexibility and the potential to expand and augment the local economy and promote cultural issues.

5.2.2. Internal impacts of the proposal(s)

People - Effective Staff – None.

Services - Maintain or Improve Services - None.

Money - Firm Financial Footing over the Longer Term - None.