



Agenda Item 4

Licensing and Regulatory Panel
14 November 2023

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

Lead Officer: Rachael Russell

Public report

Wards of the District directly affected: Leamington Clarendon

Contrary to the policy framework: No

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	25.10.23	Marianne Rolfe
Legal Services	25.10.23	Sue Mullins

1. Summary

- 1.1 Members are asked to consider two new Static Street Trading Consent applications. The applicant wishes to trade outside the Street Trading Policy hours. Members are also asked to consider adding a further condition being requested by Licensing.

2. Options available to the Panel

- 2.1 The Panel is asked to consider the information contained in this report and decide whether the Street Trading Consents for Mr Chiles should be granted.

The following options are available to the Panel:

Option 1 – Grant the consents as requested;

Option 2 – Grant the consents requested with such additional conditions attached to the Street Trading Consents as the Panel considers to be reasonably necessary

Option 3 – Refuse the applications.

3. Details for Consideration

- 3.1 Mr Dennis Chiles currently has a touring street trading consent for his ice cream van (WDCSTC0001) Mr Chiles renews his consent annually and his current consent expired on 31.10.2023. Licensing Department records for Mr Chiles go as far back as 2008.
- 3.2 Mr Chiles has applied for two new static Street Trading Consents: one for Newbold Street, Leamington Spa and one for Dormer Place, Leamington Spa. The applications are attached as **Appendix 1**. Mr Chiles also wishes to trade to 19:00.
- 3.3 Mr Chiles previously appeared before a Licensing and Regulatory Panel in May 2022 to request that condition 5 of his touring street trading consent be removed. This request was refused. The decision letter is attached as **Appendix 2**.
- 3.4 By way of background information, and to explain the current applications before the Panel, the Licensing Department have been undertaking pro active enforcement during the summer months of 2023 and have witnessed Mr Chiles breaching his touring Street Trading Consent on occasions, specifically condition 5.
- 3.5 There were also three complaints received from residents on Newbold Terrace in March 2022 and June 2022 regarding ice cream vans parked for prolonged periods of time outside Jephson Gardens and on Newbold Street. Mr Chiles' ice cream van was identified as being one of those ice cream vans.
- 3.6 Both the streets that Mr Chiles is applying to trade from have parking restrictions, limiting parking to two hours (unless a permit holder) and no return within 4 hours. Licensing Officers therefore feel it is appropriate that,

should the Panel choose to grant the consents applied for, that a condition is added restricting the time Mr Chiles could trade at each location, to ensure that parking restrictions are not breached.

- 3.7 The Licensing team consult with Warwickshire Police, Environmental Health and Warwickshire County Council when a new application is received. No objections were received for either application.

- 3.8 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)"

- 3.9 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."

- 3.10 A copy of the Street Trading Policy is attached as **Appendix 3**.

- 3.11 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.

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 has adopted the provisions of this Act 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 6.
- 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.