

Licensing and Regulatory Panel
3 May 2022

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

Lead Officer: Rachael Russell

Portfolio Holder: Judy Falp

Confidential report: Appendices 1 to 5 exempt - Reason 1 & 2

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	19/04/2022	Marianne Rolfe
Democratic Services manager & Deputy Monitoring Officer	19/04/2022	Graham Leach
Legal Services	19/4/22	Sarah Sellers

1. Summary

- 1.1 Members are asked to consider a request from a current Street Trading Consent holder to remove condition numbers 5 & 9 set out within Warwick District Councils Policy from his consent.
- 1.2 Under Schedule 12A of the Local Government Act 1972, some of the information related to this application is classed as exempt under paragraph 1 (any individuals) and paragraph 2 (identity of any individuals). For that reason Appendices 1 to 5 will not be included in the public version of this report but copies of those documents will be made available to the Members.

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 Chiles should be amended.

The following options are available to members:

Option 1 – Remove both the conditions as requested;

Option 2 – Vary the conditions attached to the Street Trading Consent in any way they consider to be reasonably necessary

Option 3 – Refuse the request

3. Details for Consideration

- 3.1 Mr Dennis Chiles has a touring street trading consent for his ice cream van (WDCSTC0001) Mr Chiles renews his consent annually and his current consent expires on 31.10.2022. Our records for Mr Chiles go as far back as 2008.

- 3.2 Since May 2021 the Licensing Department has been dealing with issues relating to reports of ice cream vans being parked in the coach bay outside the entrance at Jephson Gardens on Newbold Terrace for prolonged periods of time.

Condition 5 of any touring street trading consent states:

‘Touring consent holders shall not trade from the same location for more than 15 minutes (or until queuing customers have been served) at any one time. There is to be no return to any location within 2 hours of previous trading.’

- 3.3 By way of background information, and to explain the current application before the Panel, there has been correspondence between the Licensing Department and Mr Chiles in relation to the conditions on his licence, and copies of two letters sent to Mr Chiles are attached at appendices 1 and 2 to the report. These appendices are exempt because they relate to the personal information of the individual.

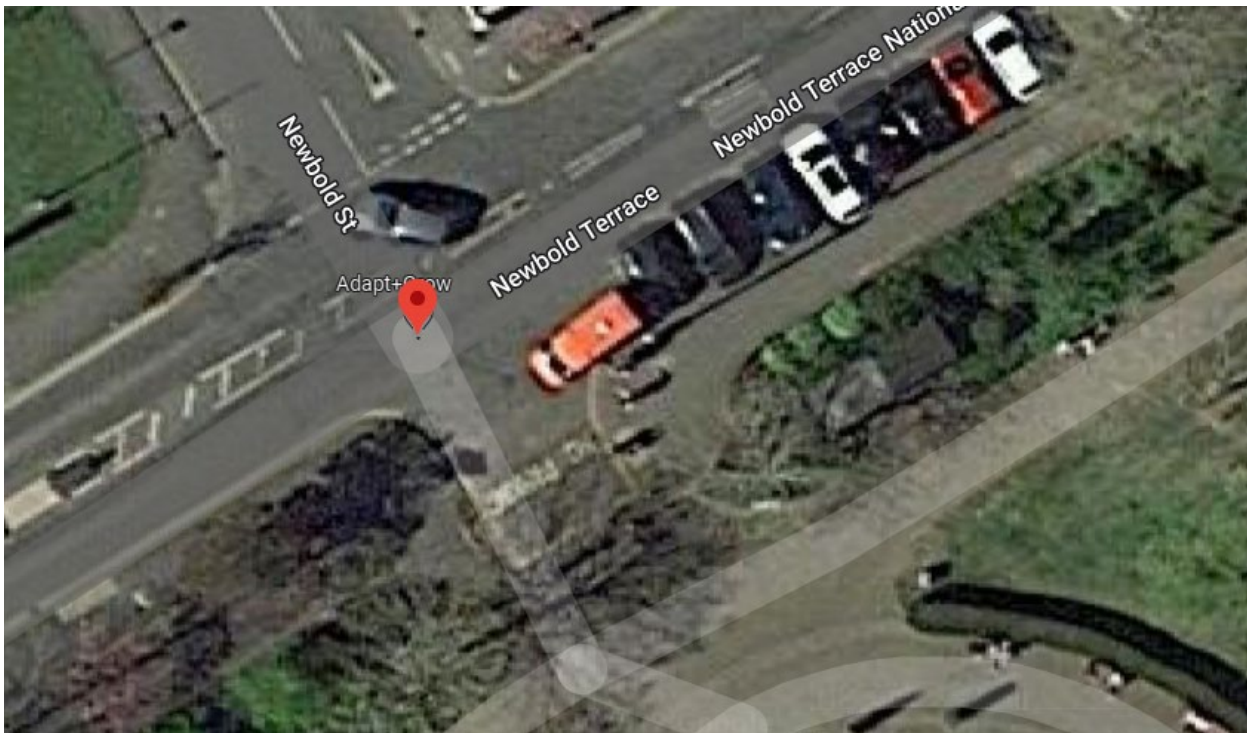
- 3.4 Following on from a visit made by Licensing Officers to the Jephson Gardens area on 23 March 2022 a further letter was sent to Mr Chiles. This document is also exempt, for the same reason and is attached as appendix 3 to the report

Condition 9 of any touring street trading consent states:

'The Consent Holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site in order to remain in control of trading for the majority of trading hours.'

- 3.5 After receiving the first letter dated 21 March 2022 Mr Chiles telephoned the Licensing department and spoke to the Team Leader. The notes of this telephone conversation are attached as Appendix 4.
- 3.6 Following on from the telephone conversation with the Licensing Team Leader Mr Chiles emailed the Licensing department to request a L&R hearing for the removal of conditions 5 & 9 from his consent. This is attached as Appendix 5. Appendices 4 and 5 are also classed as exempt documents because of personal information contained within them..
- 3.7 A copy of the Council's current Street Trading Consent Policy is attached as appendix 6. This has been in force since 2016. All current consent holders were written to at the time and were asked for their comments. A further consultation with consent holders took place in 2021 with a new proposed Street Trading Policy. However, this has not yet been adopted and the 2016 policy is still in place. There is no proposal to amend or remove conditions 5 & 9 in any future policy. There is also a byelaw in place that prevents any traders from trading within the parks owned by WDC in the area.
- 3.8 The Licensing department has previously received applications (not from Mr Chiles) for a static consent to be issued outside the entrance to Jephson Gardens on Newbold Terrace. These have been refused due to the parking restrictions on Newbold Terrace outside the entrance to Jephson Gardens. To issue a consent in a location with parking restrictions would lead to a consent holder operating in contravention on the Road Traffic Act 1988. To assist Members some images have been included in the report.





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 licensing 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.