

Licensing Regulatory Sub-Committee Report
Report of the Licensing Team Leader
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Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

1. Purpose of Report

- 1.1 The report asks the Licensing Regulatory Sub-Committee to consider an application for the grant of a Street Trading Consent for a mobile food catering 'pod' on the High Street, on the corner with The Shambles, outside GAP Clothing. A site location map is attached as Appendix 1.

2. Strategic Priorities

- 2.1 The aim of local authority Street Trading regulation is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character and safety of the local environment. We aim to ensure this by only issuing Street Trading Consents to those businesses that meet these objectives.
- 2.2 The Council has adopted a Street Trading Licensing Policy in relation to issuing Street Trading Consents, giving guidance on the approach to be taken when considering whether applicants and existing licence holders are suitable to hold a consent in Guildford in line with the aims above. This Policy helps us maintain a consistent approach, builds public confidence and assists in supporting business.
- 2.3 The Council's decision must balance the right of a Street Trading Consent holder to hold that permission against the right of the needs of residents and established retail businesses. A successful regime will help Street Trading businesses to operate and provide assurance to the public and existing retailers. This assists in the strategic priorities of supporting business and maintaining the safety and wellbeing of our residents.

3. Background

- 3.1 There is no current street trading consent in place for the unit. This is a new application seeking permission to trade on Guildford High Street.
- 3.2 The business however does trade at the Friday and Saturday Market on North Street, and monthly Farmers Market on the High Street.
- 3.4 An application was submitted for the unit and subject to the public consultation standards outlined in the Street Trading Policy. A copy of the application form is attached as Appendix 2.
- 3.5 The applicant requests to trade between the hours of 09:00 to 19:00 on Friday and Saturday for up to 28 days per year. The proposed trading location is on the High Street,

on the corner with The Shambles, outside GAP Clothing. The application is to sell ready to eat Indian street food, packaged sauces, pickles, spices and frozen ready meals. The application describes the unit as a purpose built orange catering pod.

3.6 An image of the pod provided by the applicant is attached as Appendix 3.

3.7 The Hygiene standards are rated as 5 out of 5 by Waverley Borough Council.

4. Public Consultation

4.1 The application was in consultation from 21 March to 18 April 2018. Copies of the application were distributed to the responsible authorities and local ward councillors as per the Street Trading Policy.

4.2 Representations were received from the following Responsible Authorities and are attached as Appendix 4:

4.3 The Environmental Health (Food and Safety) service made comment on the potential risk to public safety by the stall being located on the High Street outside of pedestrianised hours.

4.4 The Parking service, who manage the Friday and Saturday North Street Market, made comments that the application may negatively impact on the long standing and successful North Street Market.

4.5 The Street Cleansing service raised concern around the potential additional litter caused and the disposal of any waste that is produced.

4.6 The Council's Economic Development Team have advised that there are two events on where trading should not be permitted. 30 June is National Armed Forces Day and the Rural Craft Association are holding a Summer Festival Craft market between 15 and 23 June on the High Street.

4.7 The Experience Guildford BID have objected on the grounds of public safety due to the proposed hours being when the High Street is not pedestrianised, and potential impact on footfall for the GAP store.

4.8 There were no representations from other persons.

4.9 The applicant submitted an email to the Licensing Service on 25 April in response to the representations received. This email is attached as Appendix 5.

5. Main Considerations/Evaluation

5.1 The aim of local authority Street Trading Consents is to create a street trading environment which compliments premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character and safety of the local environment.

5.1 The applicant seeks to sell Indian 'street food' from a position on the High Street on a Friday and Saturday. The applicant currently trades on those days at the North Street Market.

- 5.2 Potential concerns about safety have been raised during the consultation arising from the applicant seeking to trade whilst the High Street is not pedestrianised. The applicant has offered to only trade during pedestrianised hours to negate this concern.
- 5.3 Concern has also been raised about the unit potentially obstructing an established retailer.
- 5.4 Concern has also been expressed that the granting of a Consent to this unit may detract from the successful North Street Market, which also operates on a Friday and Saturday.
- 5.5 The Street Trading Policy sets out the criteria used to determine suitable trading sites (Section 2.3) and applications (section 2.4). The criteria are:
- **Public Safety:** The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard.
 - **Public Order:** The street trading activity should not present a risk to good public order in the locality in which it is situated.
 - **Avoidance of Nuisance:** The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site.
 - **Character of the Area:** In determining the area for the proposed activity, the following will be taken into consideration:
 - The presence of like outlets already existing in the immediate locality of the proposed street trading site.
 - The general needs of a locality, should no comparable outlets exist. Applicants may be asked to demonstrate to the Council the need for the proposed street trading activity.
 - The quality of the goods sold by the applicant.
 - The appearance of the applicant's stall, van, barrow, cart etc.
 - **Compliance with legal requirements:** The proposed street trading activity should be carried out from a trading unit that complies with all relevant legislation such as food hygiene and health and safety.
 - **Consultees' Observations:** In relation to the points above, consideration will be given to written observations from consultees. Any representations made to the proposed street trading activity will be considered in terms of relevance to the application that has been made.
- 5.6 The Policy also seeks to ensure that there is no conflict between street trading and established markets or significant events taking place in the town centre. As the trader currently trades at North Street Market and seeks to trade on the same days, albeit on the High Street, this application may undermine this objective of the Street Trading Policy.

6. Legal Implications

- 6.1 Street trading is governed by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Schedule"). Paragraph 7 of the Schedule states that, when an authority receives an application for a street trading consent, it may grant it "if they think

fit". The Council may attach such conditions to a consent as they consider reasonably necessary. A consent can be granted for any period not exceeding 12 months and can be revoked at any time.

- 6.2 The Local Government (Miscellaneous Provisions) Act 1982 does not make provision for an unsuccessful applicant to appeal against the decision of the Council in relation to the refusal of a Street Trading Consent.

7. Human Rights Implications

- 7.1 Under Article 6 of the First Protocol of the Human Rights Act 1998, everyone, in the determination of his civil rights and obligations, is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Whilst there is no statutory right of appeal, a dissatisfied applicant has the right to judicially review the Council's decision. This procedure is therefore compliant with Article 6.

8. Conclusion

- 8.1 The applicant seeks approval for a mobile catering pod offering Indian street food on the High Street on a Friday and Saturday, for 28 days in the year.
- 8.2 Representations have been received to the application and the Sub-Committee are invited to consider the application on its merits.
- 8.3 The Street Trading Policy, revised on 26 March 2018 seeks to ensure that there is no conflict between street trading and established markets or significant events taking place in the town centre. This application may undermine this aim.
- 8.4 Consents will be subject to Standard Consent Conditions in all cases in order to promote public safety and avoid obstructions, nuisance and annoyance. Other conditions may be attached to a Consent at the discretion of the Sub-Committee and should be relevant to the particular site and nature of the goods being sold.
- 8.5 The Sub-Committee may take the following options:
- To grant the application as made, subject to the standard conditions, or
 - To grant the application with or without variation, subject to the standard conditions and any other conditions considered necessary to uphold the objectives of the Street Trading Policy, or
 - To refuse the application entirely.

9. Background Papers

[Guildford Borough Council Street Trading Policy](#)

[The Local Government \(Miscellaneous Provisions\) Act 1982](#)

10. Consultation

Report agreed by:

Environmental Health Manager: Justine Fuller, 1 May 2018.

Legal Services: Bridget Peplow, 14 May 2018.

Appendices:

Appendix 1: Site Location

Appendix 2: Application Form

Appendix 3: Pictures

Appendix 4: Consultation Responses from Responsible Authorities

Appendix 5: Consultation Responses from Other Persons