

Licensing Sub-Committee Report
Report of the Senior Specialist for Licensing
Author: Mike Smith
Tel: 01483 444387
Email: mike.smith@guildford.gov.uk
Date: Friday 15 March 2024

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

1. Purpose of Report

1.1 The report asks the Licensing Sub-Committee to consider an application for the grant of a Street Trading Consent for a mobile coffee van at the popular beauty spot of St Martha's Hill on Halfpenny Lane, Chilworth. A redacted copy of the application (submitted online) is included as Appendix 1 and a site location map is attached as Appendix 2.

2. Strategic Priorities

2.1 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. 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 for 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 business. 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, maintaining the safety and wellbeing of our residents and protecting the local environment.

3. Background

3.1 There is no current street trading consent in place for the van, this is a new application seeking permission to trade.

3.2 Whilst this is a new application, there are other similar vans which operate at other popular countryside destinations.

3.4 An application was submitted for the van and subject to the public consultation standards outlined in the Street Trading Policy.

3.5 The application requests to trade between the hours of 08:00 to 17:00 for Mondays to Sundays throughout the year. The proposed trading location is a section of land at the popular beauty spot on St Martha's Hill, Halfpenny Lane. The land is owned and managed by Surrey County Council's Countryside Service who have granted permission for the unit to trade from this location.

3.6 The application requests to sell coffee, tea, hot chocolate, cold drinks, packaged snacks, cakes, bakes and biscuits. The application describes the unit as a converted horse box trailer. Images of the pod provided by the applicant is attached as Appendix 3.

4. Public Consultation

4.1 The application was in consultation from 19 January and 16 February 2024. 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 Protection service made comment on the potential for congestion, litter and noise. In addition they noted established facilities at nearby Newlands Corner.

- 4.4 Representations were received from the following Ward Councillors and are attached as Appendix 5:
- 4.5 Councillors Bob Hughes and James Walsh expressed concern about congestion and litter.
- 4.6 Representations were received from St Martha's Parish Council and are attached as Appendix 6:
- 4.7 St Martha's Parish Council expressed concern about the impact on the use of the location and access barrier, traffic, parking, litter and use of the church.
- 4.8 There were 11 representations from other persons and are attached as Appendix 7:
- 4.9 Ten (10) representations from members of the public objected to the application on the grounds of amenity to the area, traffic, parking and litter. One representation was in support of the application.

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.
- 5.2 The applicant seeks to sell drinks and snack from a beauty spot position on St Martha's Hill which is popular with walkers and those accessing the countryside.
- 5.3 Potential concern about traffic, litter, parking, and local amenity have been raised during the consultation, although it is noted that the application has been submitted with the approval of Surrey County Council Countryside Service who manage the land.
- 5.4 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.

5.7 The Policy also seeks to ensure that there is no conflict between street trading and established business. There is a café at Newlands Corner approximately 1km walk away across the countryside.

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 application seeks approval for a mobile coffee trailer offering drinks and snacks on at St Martha’s Hill, 7 days a week.

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 26 March 2018 seeks to ensure that there is no conflict between street trading and ensuring the character of the local area. The application has been submitted with the support of Surrey County Council Countryside Service who manage the area.

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:

Executive Head for Regulatory Services:

Legal Services:

Appendices:

Appendix 1: Application Form

Appendix 2: Site Location

Appendix 3: Pictures of unit

Appendix 4: Consultation Responses from Responsible Authorities

Appendix 5: Consultation Responses from Ward Councillors

Appendix 6: Consultation Responses from Parish Council

Appendix 7: Consultation Responses from Residents