

**LICENSING PANEL
6 SEPTEMBER 2017**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
MR EDIP KOZLUCA, STAR KEBAB, MARKET STREET, BRACKNELL**

APPLICATION TO RENEW STREET TRADING CONSENT

1 LEGAL

- 1.1. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 contains provisions enabling local authorities to control street trading by designating streets as Licence Streets, Consent Streets or Prohibited Streets.
- 1.2. Street trading is only permitted on Licence or Consent Streets if the Council has given permission by way of a Licence or Consent. Permission cannot be given to trade in Prohibited Streets. Street trading is not controlled in streets that have not been designated by the Council.
- 1.3. The Council has designated all streets and any land within 150 metres of the highway within the Borough as Consent Streets.
- 1.4. The Council's policy for determination of Street Trading Consent applications is attached at **Annex A**.

2 APPLICATION DETAILS

- 2.1. On 12/07/2017 an application was made by Mr Edip Kozluca to renew the Street Trading Consent for the van known as 'Star Kebab', trading from Market Street, Bracknell.
- 2.2. A copy of the application form is attached at **Annex B** and a map showing the trading location is attached at **Annex C**.
- 2.3. A copy of the most recent Consent issued is attached at **Annex D**.

3 "MINDED TO REFUSE"

- 3.1. The Licensing Authority is "minded to refuse" to renew the Consent. This was confirmed to Mr Kozluca in a letter dated 19/07/2017. A copy of this letter is attached at **Annex E**.
- 3.2. Mr Kozluca has requested this matter to be determined by a Panel from the Licensing Committee. This request was confirmed in writing via an email from Mr Kozluca's agent on 27/07/2017.

4 BACKGROUND

- 4.1. Market Street has undergone development in recent years, which has resulted in an increase in the number of retail outlets. Further retail and residential developments are presently under construction with more at the planning stage, which will likely lead to

increasing pressure upon the very limited parking provision which allows customers to access these retail options. By removing this street trading pitch, the intention is to restore the parking availability and thereby reduce the likelihood of unauthorised parking and the increased threat to road users and pedestrians associated with such actions.

- 4.2 A variation application was submitted in May 2014 to alter the permitted hours stated on the Street Trading Consent. This application was refused in a letter dated 20/05/2014. However, this letter also states that Mr Kozluca should consider finding another trading location as it could not be guaranteed the pitch on Market Street would remain available in the future. A copy of this letter is attached at **Annex F**.
- 4.3 Further to the application made on 13/10/2016 by Mr Kozluca to renew his Consent for the period 01/12/2016 to 31/05/2017, a letter dated 20/10/2016 was sent advising that it was intended to present a report to the Licensing and Safety Committee regarding the situation. The letter confirms to Mr Kozluca that the intention was for no further Street Trading Consents to be issued for the pitch beyond the period covered by the pending application, i.e. beyond 31/05/2017. A copy of this letter is attached at **Annex G**.
- 4.4 On 09/02/2017 Mr Kozluca applied for Planning Permission for a pitch located in the car park at the Peel Centre (reference: 17/00179/FUL). Permission was granted in a decision letter dated 06/04/2017 for the use of two parking spaces to provide siting for a kebab van. However, it is understood that Mr Kozluca was denied permission to trade from this location by the land owner. It is noted that Mr Kozluca was advised in a letter dated 06/12/2016 to seek permission from the land owner, a copy of this letter is attached at **Annex H**.
- 4.5 As a consequence of the later opening of the town centre regeneration, which was delayed from "Spring 2017" to 07/09/2017, it was agreed that the Mr Kozluca's Street Trader Consent could be renewed on a short term basis. Consents were therefore granted for the periods 01/06/2017 to 30/06/2017 and 01/07/2017 to 31/07/2017.

5 SUPPORTING INFORMATION

- 5.1 At the time of writing this report, a total of 17 letters/emails of support for Mr Kozluca have been received. These are attached at **Annex I**.
- 5.2 Several of the letters raise matters that are not in question, for example the quality of the food provided or the cleanliness of the trade vehicle. One letter refers to the fact that the decision is based on an 'over subscription' of food vendors on Market Street and 'snobbery on the perception of a street vendor'. Neither of these are factors that impact on the decision. The letters contradict each other on the issue of parking, with some acknowledging that parking is an issue on Market Street, where others state that they have never witnessed a problem.
- 5.3 There is also a petition in support of Mr Kozluca. The petition, available at www.change.org, is titled "*After 28yrs Edip who runs the local Kebab van deserves a spot in the new lexicon!*" with wording as follows:

Edip has run the kebab van on market street for 28yrs. He is now being told that there will not be a place for him in the new town.

It's completely out of order as he has nowhere else to go which means no business and no home as he provides for his wife and kids. This is beyond out of order as he's nowhere near the lexicon. Either let him stay or find him a new spot!

At the time of writing, the petition contains 357 signatures.

6 COMMITTEE OPTIONS

- 6.1 Under paragraph 7(2) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 the Council may grant a Consent if they think fit. The Council is not under any duty to grant a Consent and need not specify any grounds for refusal. Therefore, the matter to grant or refuse an application for a Consent is at the total discretion of the Council.
- 6.2 The options available to the Committee have to be considered in light of the Council's Policy at **Annex A**.
- 6.3 There is no statutory right of appeal against the Council's decision to refuse to grant a Consent. However, any decision could be the subject of a judicial review which would result in legal fees to defend the review and further costs which we would seek to recover if the review was unsuccessful. In the event of a successful review the Council may also have to pay the other party's costs

Background Papers

Local Government (Miscellaneous Provisions) Act 1982

Bracknell Forest Borough Council Street Trading Consent Standard Conditions

Contact for further information

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