

**LICENSING PANEL
11 JUNE 2020
10.00 AM - 12.22 PM**



Present:

Councillor Marc Brunel-Walker (Chairman)
Councillor Nick Allen
Councillor Nigel Atkinson

Also present

Councillor Mrs Tina McKenzie-Boyle (Substitute - not required to step in)
Sinan Koc, Applicant's appointee
Wayne Scott, Traffic Manager
Cllr Turrell, Ward Councillor
Dr Sophie Needs, Environmental Health Officer
Amanda Ward, Licensing Officer
Donald Adams, Legal Advisor
Lizzie Rich, Clerk

20. Declarations of Interest

There were no declarations of interest.

21. The Procedure for Hearings at Licensing Panels

The procedure for hearings at Licensing Panels was noted by all parties

22. Application to vary street trading consent for Kings Kebabs, Bagshot Road, Bracknell RG12 9SE

The application was to vary the existing Street Trading Consent at the specified location, namely, to extend the total permissible number of hours of trading at the site, by seeking consent for an earlier commencement to trading each day. The application sought consent to trade between the hours of 07:00 to 01:00 Monday to Wednesday, 07:00 to 02:00 Thursday, 07:00 to 02:30 Friday and Saturday and 07:00 to 01:00 on Sunday. Under the existing Street Trading Consent, the Applicant, trading as King's Kebabs, had consent to trade from the location from 18:00 each day up to the aforementioned terminal hours of trading. The application before the Panel did not seek any variation to the existing consented terminal hours of trading each day.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant and his appointee;
- the Interested Parties' representations including the Traffic Manager, Environmental Health, two ward Councillors and one local resident;

together with reference to the Council's own Policy for Determination of Street Trading Consents and paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that there had been no representations made by the Police, or any of the other Responsible Authorities.

The Panel Hearing included an adjournment during which the Environmental Health Officer and the Applicant discussed and reached an agreement through mediation that the following trading hours would be acceptable to both:

Monday to Wednesday 07:30 to 01:00
Thursday 07:30 to 02:00
Friday 07:30 to 02:30
Saturday 08:00 to 02:30
Sunday 09:00 to 01:00

After careful consideration of all written and oral representations before it, the Panel determined to grant a variation to the Applicant's Street Trading Consent, by permitting those (as above) varied trading hours as mediated between the Environmental Health Officer and the Applicant on the day of the Hearing, rather than the sought extended trading hours as had originally been applied for. The Panel determined that Bracknell Forest Council's Street Trading Consent - Standard Conditions (Annex K of the Agenda documents) continue to attach and apply in full to the varied Street Trading Consent.

Reasons

The Panel heard orally from the Applicant's appointee, and from the Environmental Health officer, Traffic Management officer, and Councillor Chris Turrell. The Panel also took into consideration written representations from one local resident, and from another ward Councillor who were not present at the meeting.

The Environmental Health officer outlined her concerns that the trading start hours as applied for were too early and would provide little respite for residents from the noise associated with the business trading on site. As the Street Trading Consent conditions permitted traders to arrive on site 15 minutes before the start of trading hours, there were concerns that this would mean noise from the site would start too soon after the closing time a few hours before. Having mediated with the applicant on the day of the Hearing, the Environmental Health officer agreed that her objection in respect of noise would be settled if the trading hours commenced from 07:30 Monday to Friday, 08:00 Saturday and 09:00 Sunday. This was hoped to provide local residents with sufficient respite from noise from the site following closing hours.

The Environmental Health officer also raised concerns about litter at the site, and the Panel noted that when the trader left the site each evening they were required to take their bin with them. The applicant advised that he was not able to guarantee what his customers did with their litter after he left the site, although efforts were made to keep the site clean during trading hours. The Panel noted that the Environmental Health team had other means of enforcement under separate legislation to deal with litter and waste at the site, should any action be required.

The Traffic Manager raised concerns about the extension of hours into the daytime which would clash with the trading hours of nearby businesses. There were concerns that the other businesses on the slip road attracted customers who would need to park safely, and that customers parking to use the kebab van would use up car parking spaces required for these businesses. It was noted that during the existing trading hours, this was not an issue as the nearby businesses had mostly closed by the time the trader started work at 18:00, and so there was more space for customers to park safely.

Councillor Turrell supported the Traffic Manager's comments and added that the slip road used by the trader was also used by a filling station, KFC, and the business units nearby, and that it was critical to maintain free flow to all businesses. Councillor Turrell also commented that some motorists had been using the bus stop across the road to park, then crossing the central reservation to access the kebab van.

The Panel also noted that there were currently particular traffic issues in the lay by due to the recent reopening of KFC as a drive through collection service following the COVID-19 lockdown, which had added to traffic pressure on the slip road. However, it was understood that this pressure would likely be temporary.

In considering the likely impact of the variation on existing highway users, nearby residents and surrounding businesses, the Panel noted the concerns of the Traffic Manager and Councillor Turrell that traffic at the site would increase during daytime business hours. However, the Panel considered that there was insufficient evidence before it to conclude that this would likely be obstructive to the slip road or to the highway.

The Panel noted that the Applicant had been trading at the consent site since 1996 and were conscious of the fact that there had been no complaints regarding the business since March 2018, and that there had been no representations from the Police, Fire Authority, Planning Authority or Licensing Authority or from surrounding local businesses. The Panel also noted the Applicant's comment that some of his current customers are already those arriving on foot waiting to have their vehicles repaired at the nearby Kwik-Fit garage.

In conclusion, and on balance, the Panel was satisfied with the appropriateness of the amended hours of trading as had been mediated between the Applicant and Environmental Health officer.

The Applicant is reminded that under the granted varied Street Trading Consent, the registered trading vehicle shall arrive no more than 15 minutes prior to the start of the permitted trading time and shall vacate the site no later than 15 minutes after the end of the permitted trading time.

The Applicant is also reminded of the continuing requirement under the Street Trading Consent to abide by Bracknell Forest Council's Street Trading Consent – Standard Conditions, including conditions numbers 21 to 24 as to the required steps to be taken in seeking to prevent waste, either from the trading operation itself or from its customers, being illegally deposited and to ensure that the immediate area in the vicinity of the trading operation is kept clear at all times of such waste whilst the applicant is on site.

The Panel wished to remind all parties of the mechanism for potential review or even revocation of a granted Street Trading Consent if the mandatory Standard Conditions are not complied with, or if there were any issues arising from trading at the site.

CHAIRMAN