

LICENSING PANEL
11 JULY 2018

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
OSMAN KOC T/A OZZY'S KEBABS, WILDMOOR HEATH CAR PARK, SANDHURST
ROAD, CROWTHORNE
APPLICATION FOR NEW 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**.
- 1.5 As per section 3 of the policy, the maximum period for new site is one month; to allow for a review of the situation should any unforeseen issues arise.

2 APPLICATION DETAILS

- 2.1 On 10/04/2018 an application was made by Mr Osman Koc for a new street trading consent for a van to be known as 'Ozzy's Kebabs', to trade from Wildmoor Heath Car Park, Sandhurst Road, Crowthorne.
- 2.2 The applicant proposes to sell hot food and drinks between the hours of 17:00 and 23:00, seven days a week.
- 2.3 A copy of the application form is attached at **Annex B** and a map showing the proposed trading location is attached at **Annex C**. Photos of the trading vehicle to be used are attached at **Annex D**.
- 2.4 Agreement in principle has been reached with the Council's Parks & Countryside team for the use of the car park. This agreement would be formalised should a consent be granted by the panel.

3 CONSULTATION

- 3.1 A consultation was carried out in line with section 2.2 of the Council's policy, for the period 01/05/2018 to 22/05/2018.
- 3.2 One objection has been received in relation to the application, attached at **Annex E**.

- 3.3 The objection raises concerns that the siting of a trader in this location will result in an increase in traffic noise, littering, and groups congregating in the car park. The objection also raises security concerns.

4 MEDIATION

- 4.1 A meeting was held on 06/06/2018 at the proposed trading site. In attendance was the licensing officer, applicant, Richard Westwood representing the Parks & Countryside team, and the objector.
- 4.2 The objector's concerns were discussed, as well as the precise location of the trading vehicle within the car park, but no agreement has been reached to mitigate concerns sufficiently for the objector to withdraw their representation.
- 4.3 Following this meeting, further comments were received from this objector, attached at **Annex F**.

5 FURTHER OBJECTIONS

- 5.1 Further to this mediation, six additional objections were received which are attached at **Annexes G to L**. Whilst these comments were received outside of the usual consultation period, it was felt that in the interests of fairness and transparency it was best to include them within this report so that the panel are aware of the concerns raised, including anti-social behaviour, urbanisation of a rural location, potential impacts on the site of special scientific interest (SSSI) special protection area (SPA) and wildlife in general, use of alternative sites, availability of food at other businesses, and the risk of setting a precedent for other businesses. Some comments on each of these points are below.
- 5.2 Antisocial behaviour - it is the opinion of the Council's Parks and Countryside team that having an authorised presence in the car park will reduce existing anti-social behaviour issues in the area. It will be a condition on the street trading consent, should one be granted, that the trader will be responsible for providing a bin and clearing litter in the vicinity.
- 5.3 Urbanisation of a rural location - the vehicle is not a permanent fixture at the trading site as it will not be kept on site during the day or over night. It will be up to the panel to determine whether or not the siting of the trader constitutes an unacceptable urbanisation of the area. Signage on the road is mentioned in one of the objections; to place a sign on the road or pavement, such as an 'A board', permission would be required from the Council's Highways team via a street furniture licence.
- 5.4 Impact on SSSI/SPA/wildlife - the Council's Parks and Countryside team, Berkshire Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT), and Natural England have been consulted in relation to the application and all have confirmed that they do not have any concerns over the likely impact of the trader on the proposed location.
- 5.5 Use of alternative sites - the Council is bound to determine any valid application that is made. The applicant will be able to advise the panel on why this site in particular was chosen if required.
- 5.6 Availability of food at other businesses - the proposed trading site is located approximately 5 miles from the Bracknell Lexicon, mentioned in **Annex I**.

- 5.7 Setting a precedent - any application for a street trading consent is considered on its own merits and in line with Council policy (**Annex A**), based on the type of business proposed, the hours of operation, and the location in question. Either granting or refusing to grant a street trading consent for this location will not set a precedent for potential future application made for this or another site.

5 PANEL OPTIONS

- 5.1 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 therefore the decision to grant or refuse an application for a consent is at the total discretion of the Council.
- 5.2 The options available to the Panel have to be considered in light of the Council's Policy at **Annex A**.
- 5.3 If granted, conditions would be attached to the consent. The standard conditions are attached at **Annex M**. If deciding to grant a consent, the panel can attach further conditions if they believe them to be reasonably necessary.
- 5.4 There is no statutory right of appeal against the Council's decision to grant or 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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