

**LICENSING PANEL
16 OCTOBER 2018**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
HATICE ANIL BUNKER T/A B&B PLUS KEBABS, CROWTHORNE ROAD NORTH,
BRACKNELL**

APPLICATION TO VARY 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 the determination of street trading consent applications is attached at **Annex A**.

2 APPLICATION DETAILS

- 2.1 On 25/07/2018 an application was made by Hatice Anil Bunker to vary the street trading consent for the van known as 'B&B Plus Kebabs', currently trading from Crowthorne Road North, Bracknell.
- 2.2 The application is to authorise street trading during the following periods:
Sunday - Thursday: 16:30 to 01:00
Saturday - Sunday: 16:30 to 03:00
- 2.3 The currently authorised trading hours are as follows:
Monday - Sunday: 16:30 to 23:00
- 2.4 A copy of the application form is attached at **Annex B** and a map showing the proposed trading location is attached at **Annex C**.
- 2.5 A copy of the existing street trading consent is attached at **Annex D**. Only the trading hours are proposed to change, so the trading vehicle and items to be sold will remain as per the existing consent.

3 CONSULTATION

- 3.1 A consultation was carried out in line with section 2.2 of the Council's policy, for the period 31/07/2018 to 28/08/2018.
- 3.2 In total, three objections have been received.

- 3.3 Two objections are from Ward Members representing the 'Wildridings and Central' ward. These are attached at **Annex E** and **Annex F**. These objections raise concerns regarding the potential impact on local residents should the trading hours be extended.
- 3.4 The third objection is from the Council's Environmental Health team. Concerns are raised that the proposed hours are too late for the location in question. This objection is attached at **Annex G**.

4 SUPPORTING INFORMATION

- 4.1 The Licensing Act 2003 requires businesses to obtain a premises licence where they are carrying out the activity of 'late night refreshment'. Late night refreshment being the sale or supply of hot food or drink between the hours of 23:00 and 05:00.
- 4.2 Thus, between 23:00 and 05:00, the sale of hot food or drink from a street trading van requires both a street trading consent and a premises licence.
- 4.3 A premises licence for B&B Plus was applied for in April 2018. One objection was received during the consultation period, however this was subsequently withdrawn, and the licence was therefore granted on 26 June 2018.
- 4.4 The premises licence authorises late night refreshment for the periods:
Sunday - Thursday: 23:00 to 01:00
Friday - Saturday: 23:00 to 03:00
- 4.4 It subsequently became apparent that following the issue of the premises licence, B&B Plus started using these trading hours without applying to vary the street trading consent. This was brought to our attention after a complaint was received from a local resident relating to late night noise from the generator and customers of the trader. This is the complaint as referenced in the Environmental Health Officer's objection at **Annex G**.
- 4.5 It was brought to the attention of B&B Plus that they were trading outside the hours authorised by their street trading consent, and that the consent needed to be varied to align with the hours authorised by the premises licence. The variation application was subsequently submitted and the trader returned to the existing authorised hours, which cease at 23:00 daily.

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 H**. 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

Contact for further information

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