

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE

19 DECEMBER 2017

Title:

APPLICATION FOR STREET TRADING CONSENT – HIGH STREET, CRANLEIGH

[Wards Affected: Cranleigh West]

Summary and purpose:

Waverley Borough Council is the Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1982, and the purpose of this report is to determine an application for a licence to trade in a designated 'consent' street.

How this report relates to the Council's Corporate Priorities:

Street trading controls relate to the Council's Corporate Priority of **Environment** - Protecting and enhancing Waverley's unique mix of rural and urban communities

Financial Implications:

Traders wishing to operate within a Consent Street are liable for an annual charge. This is currently set at £280 per year.

Legal Implications:

The Council is under no duty to grant consent to trade on a street that has been designated as a Consent Street. There is no right of appeal against the refusal of consent or the application of conditions attached to a Consent. However, the Human Rights of the applicant could be affected if they do not receive a fair hearing. Under Human Rights legislation, the existing Consent is considered a possession and should not be revoked without good reason. The Council must act reasonably in making a decision taking into account the legislation.

Background

1. Street Trading is defined as the selling or exposing or offering for sale of any article (or living thing) in a street. Such activity may cause nuisance and may be controlled by local authorities.
2. In 1992, Waverley Borough Council adopted powers under the Local Government (Miscellaneous Provisions) Act 1982, to control street trading by the designation of 'prohibited', 'licence' and 'consent' streets.

A 'Prohibited' street means a street in which street trading is prohibited;

A 'Consent' street means a street in which street trading is prohibited unless the Council has given consent.

A 'Licence' street means a street in which street trading is prohibited without a licence granted by the Council.

3. A street which is designated as a Consent Street covers trading, for example, by mobile food vans trading on streets or in an official lay-by. The Council is under no duty to grant consent to trade on a street that has been designated as a Consent Street. There is no right of appeal against the refusal of consent, or the application of conditions attached to a Consent, contained in the 1982 Act.
4. Consents to operate in Waverley Borough Council are currently chargeable at £280 per year. The Council may attach such conditions to a Consent as it considers reasonably necessary. Such conditions can include requirements that would help prevent the obstruction of the street or danger to persons using it; or nuisance or annoyance, whether to persons using the street or otherwise. In addition, the conditions can specify where the holder of the consent can trade and also at what times he or she may do so. The Council has a policy for determining such applications. The relevant Head of Service may grant the application unless it is subject to objections.
5. Street trading controls apply to the High Street in Cranleigh in its entirety as a designated consent street. A copy of the Council's list of prohibited and consent streets is included with this report as Annexe 1.
6. On 19 June 2017 an application for a Street Trading Consent (applicant - Andrey Andreev) was heard by the Licensing and Regulatory Committee of Waverley Borough Council due to seven (7) valid objections being received to the application.
7. It was the decision of the Committee to permit a 6 month consent to the applicant to trade in Cranleigh High Street. The consent was issued on 30 June 2017 and will expire on 30 December 2017. A copy of the consent is included with this report as Annexe 2.
8. A valid application dated 17 November 2017 (hand delivered to the Council Offices on the same date) has been received from Mr Andrey Andreev to renew his consent to trade as 'Kebab Burger Van' in Cranleigh High Street (outside 41 High Street-The Post Office). A copy of the application form is included as Annexe 3 to this report. The applicant has applied to trade 7 days a week between 1730hrs and 2300hrs at this location.
9. A 28 day consultation period, as required under the Council's Street Trading policy was started on 17 November 2017. This consultation period will close on 16 December 2017.
10. Your officers have consulted Cranleigh Parish Council, Cranleigh Councillors, Cranleigh Chamber of Commerce, Waverley Borough Council's Planning Department, Surrey Police, Surrey Fire and Rescue Service, Surrey County Council Highways Authority and other relevant consultees as part of the consultation period.
11. In total one (1) objection has been received to the application at the time of writing this report (6 December 2017). This objection has been included as an attachment to this report as Annexe 4

12. Matters which have been highlighted as concerns include increased littering, concerns of anti-social behaviour (Public Order and Public Nuisance), that there is sufficient current provision within the local area (Needs of the area) and that this is not in-keeping with the area.
13. Since the issuing of the 6 month consent, some complaints have been received by Environmental Health of littering around the area of this street trader. These complaints have been highlighted to the applicant who has advised that they will increase their litter picking in the area. These complaints are being monitored.
14. No statements of support have been received.
15. If further objections or statements of support are received prior to the Committee date, these will be made available.

Recommendation

That the Licensing and Regulatory Committee determine the application from Mr Andrey Andreev for a consent to trade outside 41 High Street, Cranleigh.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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