

**Licensing Sub Committee**  
**5<sup>th</sup> December, 2016**

<b>Contains Confidential or Exempt Information</b>	No
<b>Report Title</b>	Application for a Street Trading Consent: Mean Burger, The service road between 220 (Farnham Road Post Office) and 216-218 (Way to Save) Farnham Road. Slough.
<b>Responsible Officer(s)</b>	Michael Sims – Licensing Manager, Customer & Community Services
<b>Author(s)</b>	Tola Idowu –Licensing Officer, Customer & Community Services
<b>Purpose of Report</b>	Regulatory/Determination of Application for Street Trading Consent

## 1. Recommendations

- 1.1 That Licensing Sub Committee determine the Application.
- 1.2 The Sub Committee may:
  - (a) Grant the Application subject to Conditions, variations, or restrictions the Council thinks reasonably necessary; or
  - (b) Refuse the Application.

## 2. Principles for making decisions

### 2.1 Context

- 2.1.1 As a quasi-judicial body the Sub Committee is required to consider the application on its merits and must act reasonably and rationally. The Sub Committee can only take into account relevant factors and must ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant. The Sub Committee must give fair consideration to the contentions of all persons entitled to make representation to them.
- 2.1.2 The Sub Committee can only consider matters within the application that have been raised through representations.
- 2.1.3 Members should note that the Sub Committee is meeting on this occasion solely to perform the role of licensing authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.

2.1.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to Members when considering licensing applications. In addition as a quasi-judicial body, Members are required to avoid both actual bias and the appearance of bias.

## **2.2 Human Rights & Equality Act Duties**

2.2.1 In determining the application the Sub Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998 and S149 Equality Act 2010. The Act makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention of Human Rights.

2.2.2 When determining the application and considering imposition of conditions the Sub Committee must be satisfied that any decision which interferes with the rights of the applicant or of others only does so insofar as it is necessary to protect the rights of others and that no alternative decisions would be appropriate.

2.2.3 The Sub Committee is specifically referred to the following Convention rights:

- (a) Article 6 (the right to a fair trial);
- (b) Article 8 (the right to respect for private and family life); and
- (c) Article 1 of the First Protocol (the protection of property).

## **3. Application Summary**

3.1 Application for: Street Trading Consent.

3.2 Applicant: Mr Mohsin A Kayani

3.3 Name of Business: "Mean Burger"

3.4 Proposed business: Sale of fast food, consisting of 'gourmet' beef, chicken burgers and 'home made' chips

3.5 Site location: The service on Farnham Road between 220 ("Farnham Road Post Office") and 216-218 ("Way to Save").

3.6 Hours of operation: Monday to Saturday: 19:00 – 23:00 and Sunday: 17:00 - 23:00.

3.7 Consent duration: Annual

3.8 Operating history: The Applicant is not trading at present.

3.9 Trading vehicle: The trailer to be used for the business is white, 10'x6'6"x6'6" and will be towed by an off-road vehicle.

3.10 Site history A Street Trading Consent for the site has previously been granted and an individual had been trading from 2006 until October 2015

- 3.11 Objections A number of local residents have objected to the current application.

#### **4. Background**

- 4.1 On 24 November 1987, Slough Borough Council adopted street trading powers under section 3 and Schedule 4 of Local Government (Miscellaneous Provisions) Act 1982. The Council has designated all streets in their Borough as consent streets. Street trading is only allowed in consent streets with the consent of the Council. The Council may limit the number of consents issued and may attach appropriate conditions to consents.
- 4.2 An individual wishing to offer goods or services for sale, from a fixed stall or location on the public highway, must have a Street Trading Consent issued by the local authority.
- 4.3 The Applicant has submitted an application for a Street Trading Consent as detailed in Section 3 and produced as **Appendix A**
- 4.4 The site is located on the map at **Appendix B**, a photograph of the site for which the Applicant seeks the consent is attached at **Appendix C** and 2 satellite views of the location of the site are attached at **Appendix D**.
- 4.4 A Street Trading Consent for this site was previously granted to “Aleks Kebabs” who operated on this site from at least 2009 to November 2015 until he ceased trading due to ill health. No complaints were received about the operation on Aleks Kebabs. The Applicant’s proposed user is very similar Aleks Kebabs.

#### **5. Policy Considerations**

- 1.1 Slough Borough Council Street Trading Consent Policy.
- 1.2 Slough Borough Council Street Trading Consents Standard Terms & Conditions.
- 1.3 The nature of the business e.g. product sold.
- 1.4 The appearance and suitability of the trading unit.

#### **6. Consultation and Objections**

- 6.1 Copies of all applications are sent to the following for comment:

- (a) Thames Valley Police
- (b) Royal Berkshire Fire and Rescue Service
- (c) Ward Members
- (d) Slough Borough Council – Planning
- (e) Slough Borough Council – Highways
- (f) Slough Borough Council – Transport
- (g) Slough Borough Council – Trading Standards
- (h) Slough Borough Council – Parking and Development
- (i) Slough Borough Council – Food and Safety Team
- (j) Slough Borough Council – Neighbourhood Enforcement Team

- (k) Owners or occupiers of any property within 100 metres of the proposed site. This consultation will be by way of sending a copy of the Notice of Application to the relevant property owners
- 6.2 Owners or occupiers of any property within 100 metres of the proposed site have been consulted by way of a Notice of Application
- 6.3 A copy of the Council's letter is attached at **Appendix E**. Following the consultation exercise; the Council has received a number of objections. Copies of the objections are attached at **Appendix F**.
- 6.4 In summary the objections raise the following matters:
  - (a) The granting of this application would result in noise and anti-social activities.
  - (b) Increase in litter in the form of food waste and drinks cans and bottles.
  - (c) Loss of view to current shop holders if the Consent is granted.
  - (d) Obstruct access onto the service road.

## **7. Conditions**

- 7.1 The Council has a set of Standard Terms & Conditions which apply to any Street Trading Consent.
- 7.2 The Council may also attach such other conditions it considers reasonably necessary.
- 7.3 The Council may at any time vary the conditions of a Consent.
- 7.4 The Council may revoke a Consent at any time.
- 7.5 The Consent is valid for a year and can be reviewed annually.
- 7.6 The holder of a Consent may at any time surrender his Consent to the Council and it shall then cease to be valid.

## **8. Recommendation**

If the Sub Committee are minded to grant the application, it is recommended that the following conditions are imposed on the Consent in addition to the "Street Trading Consents Standard Terms and Conditions" to deal with the objections and concerns raised by nearby residents:

- 8.1 A limit on the hours of trade which can be undertaken by the Applicant,
- 8.2 A bin must be placed on the site and a litter pick of a 25 metre radius of the site undertaken by the Applicant on a daily basis.
- 8.3 The Applicant to remove all rubbish daily.
- 8.4 A prohibition on leaving vehicles at the site overnight.

The Licensing Team can review any further complaints received during the Applicant's first year of trade.

9. Appendices

**Appendix A** – Application

**Appendix B** – Map of the pitch

**Appendix C** – Photograph of the pitch

**Appendix D** – 2 x Satellite views of the location of the site

**Appendix E** – Consultation Letter

**Appendix F** – Objections

10. **Background Information**

Section 3 and Schedule 4 of the Local Government Miscellaneous Provisions Act 1982

Minute 24 November 1987 of Slough Borough Council adopting powers under Section 3 of the Local Government Miscellaneous Provisions Act 1982

Slough Borough Council Street Trading Consents Standard Terms & Conditions

Slough Borough Council Street Trading Consent Guidance