

LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Thursday 13 October 2022
Time: 10.00 am
Venue: Maidstone Museum, St Faith Street, Maidstone

Membership:

Councillors Garten, Sams, Trzebinski and Coates (Substitute Member)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies
2. Notification of Substitute Members
3. Election of Chairman
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information
7. Street Trading Appeal - Mr Chu 1 - 24

ALTERNATIVE FORMATS The reports included in Part I of this agenda can be available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact **Democratic Services** on committee@maidstone.gov.uk or **01622 602899**.

Issued on Wednesday 5 October 2022

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

Licensing Sub Committee

13th October 2022

Street Trading Appeal – Mr Chu - 22/02789/STRCON

Final Decision-Maker	Licensing Sub Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	High Street

Executive Summary

In line with our Street Trading Policy an application for Street Trading consent was refused by the licensing officer under their delegated powers because two representations were received containing relevant objections. In these circumstances a street trading consent must be refused and the applicant given the option to appeal to the Licensing Sub Committee. The applicant has exercised their right to appeal and so the matter must now be considered by Licensing Sub Committee, who will consider the application, representations and original decision and determine the appeal.

Purpose of Report

Members are asked to consider and determine the appeal from Mr Wing Hung Chu against the refusal of a street trading consent to trade outside 35 Week Street, Maidstone, Kent. If the appeal is dismissed, no street trading consent will be granted. If the appeal is upheld, the Licensing Team will issue a street trading consent in accordance with the application made.

This report makes the following recommendations to this Committee:

That Members give consideration to the application for a street trading consent by Mr Wing Hung Chu taking into account the consultation representations (Appendix 3 and Appendix 4)

Timetable

Meeting	Date
Licensing Sub Committee	13 th October 2022

Street Trading Appeal – Mr Chu - 22/02789/STRCON

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> <i>There is no impact on Corporate Objectives as the matter has been dealt with in accordance with our Street Trading policy. Determination of applications in accordance with policy and merits provides a consistent approach to trading on the streets of the Borough.</i> 	Senior Licensing Officer
Cross Cutting Objectives	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Risk Management	<ul style="list-style-type: none"> <i>Risk Management issues are covered within the approach taken by Street Trading policy and the processing of this application has been in accordance with policy. Any appeal against this decision will be by way of judicial review and a consistent policy should mitigate against success of any such challenge.</i> 	Senior Licensing Officer
Financial	<ul style="list-style-type: none"> <i>A refund will be required in the event of an unsuccessful application.</i> 	Senior Licensing Officer
Staffing	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Legal	<ul style="list-style-type: none"> <i>The Council has adopted the provisions in relation to Street Trading Consents from the Local Government (Miscellaneous) Provisions Act 1982.</i> <i>There is no further right of appeal following the decision of the Licensing Sub Committee.</i> 	Helen Ward, Lawyer (Contentious)
Privacy and Data Protection	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Equalities	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Equalities & Communities Officer
Public Health	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer

Crime and Disorder	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Procurement	<ul style="list-style-type: none"> <i>No implications have been identified.</i> 	Senior Licensing Officer

2. INTRODUCTION AND BACKGROUND

2.1 On 28 July 2022 an application for a street trading consent was received from Mr Wing Hung Chu to trade outside 35 Week Street, Maidstone, Kent. The application form is attached as Appendix 1.

2.2 The days and hours applied to trade are Monday, Tuesday & Thursday to Sundays 8.30am to 5.30pm and the goods sold will be organic and speciality coffees.

2.3 A location map and photos showing the proposed trading site are attached as Appendix 2.

2.4 The 14 day consultation period for this application ran from 28th July– 11th August 2022. Two objections were received from Mr Kristian Van Haeften and Mr David Bolesworth, both hold current street trading consents for Week Street and both believe the granting of a further consent for the area would be detrimental to the surrounding businesses. Mr Boleworth especially as he currently provides a coffee outlet for Week Street. Both traders also believe a further trader in the location would cause congestion in what is already a busy pedestrian area. The full concerns raised can be found at Appendices 3 & 4.

2.5 Once the consultation period had ended the representations were considered in relation to the criteria for determining street trading applications found in the Street Trading Policy (STP). Officers gave regard to section 4, Page 8 of the STP, choosing a trading location/pitch, specifically 4.1.2 "the goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity" and 4.1.3 "Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises" (also page 13, 6.4.2 and page 14, 7.1.2 STP). The application was refused by officers because it was felt that the objectors consultation responses had clearly outlined the site to be unsuitable for a further consent holder.

2.6 A copy of the refusal e-mail sent on 11th August 2022 can be seen attached as Appendix 5.

2.4 A request for appeal was received on the 24th August 2022 and is attached as Appendix 6.

2.7 Mr Chu in response to the e-mail sent to him on 11th August 2022 responded as follows:-

Thank you for your email outlining the objections for street trading on Week Street.

The first objection doesn't state that my coffee business will affect other traders especially as the area is being developed, I assume that the footfall would naturally increase anyway. I found there are only two Cafe called "PUDDINGS" next to HSBC (Week Street front) & "John's DINER" next to KFC (Week Street end). They are both far away from my suggested the trade location. Other than that, KFC, Mcdonald's, Burger King and Wendy's is coming soon but they are not focus on coffee business. So, I don't think I have enough power to affect their benefit as our little business model is completely different. My mobile coffee bike taking up a space of only 3 x 2 metres squared & selling drinks and snacks only.

The second objection, I haven't seen this street trader selling hot-dog and coffee over the last year & this year. I spoke to the existing street traders; they trade on Week Street for many years and they said never seen it too. Could you please give me more information? Is this trader currently active?

I have seen there are TWO street traders selling ice-cream on Week Street and their location is not far away to each other. Will they affect to each other & existing businesses selling ice-cream? To be fair, hope it is not a double standard.

If I were to change the location, would this help with the objections? It would be the corner of Union Street & Week Street or Earl Street & Week Street. Both areas are more space & won't affect passer-by.

There are so many empty shops on Week Street at the moment. Nowadays, peoples are looking for a good quality and diversified choices of foods or drinks. It will help to make a business attractive to customers. Most importantly, it should keep customers coming back and make the business more successful.

I have read an article called "Maidstone Proposed Town Centre Strategy" from Borough Insight magazine by Maidstone Borough Council. It is about how to revitalize Maidstone Town Centre in many ways. I am moving to UK from Hong Kong (BNO scheme) with my family last year. I just wish I can become a self-employee for livelihood and also to do my part for the community with my good quality coffee & feature Coffee-Bike. Hope you are considering my application again. Many thanks.

Please find attached photos(Appendix 7) as support the point of view.

2.8 Attached to this report is the procedure that is used for hearing applications with representations. The Committee in considering the application may wish to follow the procedure, adapting as necessary. Appendix 8

3. AVAILABLE OPTIONS

3.1 To uphold the appeal so that the Licensing Authority grant the consent as applied for, subject to the standard conditions found at page 18 of the Policy.

- 3.2 To uphold the appeal so that the Licensing Authority grant the consent subject to such additional conditions that the Sub - Committee considers appropriate
 - 3.3 To dismiss the appeal.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members needs to consider the application in accordance with our Street Trading Policy and consider whether the reasons for refusal were sufficient when determining this application for Street Trading Consent
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5. RISK

- 5.1.1 There are no Risk Management issues as the matter has been dealt with in accordance with our Street Trading policy.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 N/A
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 N/A
-

8. REPORT APPENDICES

- 8.1 Application Form
 - 8.2 Location Map and Photos
 - 8.3 Objection – Mr Kristian Van Haeften
 - 8.4 Objection – Mr David Bolesworth
 - 8.5 Refusal E-mail
 - 8.6 Applicants request to appeal
 - 8.7 Photos
 - 8.8 Hearing Procedure
-

9. BACKGROUND PAPERS

[Street Trading Policy](#)



**Local Government (Miscellaneous Provisions) Act 1982
Application for a Street Trading Consent**

- 1. Name of Applicant (BLOCK CAPITALS)
 - a) Surname MR/MRS/MISS..... CHU
 - b) Forename (s) WING HUNG

- 2. Address of Applicant (BLOCK CAPITALS)
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

- 3. Telephone Number
 - [REDACTED]

- 4. Email Address
 - [REDACTED]

- 5. Date of Birth
 - [REDACTED]

- 6. National Insurance Number
 - [REDACTED]

- 7. Details of the articles/food/drink that you propose to sell
 - Exclusive organic coffee
 - specialties, sustainability and
 - professional barista handcraft.

- 8. Give details of the exact site from which you intend to trade (enclose plan with site detailed)
 - 35 Week Street, Maidstone

- 9. State precisely the days of the week and hours that you intend to trade.
 - 6 days per week
 - Monday - Tuesday
 - Thursday - Sunday
 - 8:30am - 5:30pm

10. Give Details: Mobile Coffee Bike
- a) if a stall/structure/vehicle
b) of the approximate dimensions of the stall/structure/vehicle 3m (L) x 1.5m (W) x 2m (H)
c) the vehicle registration number(s) Not Applicable
d) colour of vehicle Black frame with a wooden workspace
e) the trading name you use Coffee-bike Mobile Coffee Company
f) do you intend to use chimes or a loudspeaker No
11. If selling food or drinks:
- a) you need to be registered with the **Environmental Health Department** in respect of food hygiene. Are you so registered? Yes/No (if registered elsewhere, please state with which local authority)
- Yes
.....
- b) state where your goods will be stored when not being offered for sale
- A storage compartment for dry goods on the bike itself
.....
12. State where trade refuse will be deposited..... Not Applicable
- NOTE: UNDER THE 1990 ENVIRONMENTAL PROTECTION ACT YOU ARE UNDER A DUTY OF CARE TO DISPOSE OF ANY REFUSE IN A CORRECT MANNER, FOR WHICH A CHARGE CAN BE LEVIED.
13. If not trading on the highway, state whether consent has been granted for use of land and provide proof of consent Not Applicable
14. a) State whether an application for a street trading licence or consent has previously been made by you (or your assistant(s) if any) to any other local authority. Yes/No
- b) If yes, state whether such licence or consent has been:
- | | | |
|--|-------|---------|
| | (i) | Granted |
| | (ii) | Refused |
| | (iii) | Revoked |
- c) If any licence or consent has been refused or revoked give details of the local authority and a brief outline of the circumstances

No

15. Have you been convicted of any of the following offences involving:

- | | |
|--|--------|
| Violence | Yes/No |
| Dishonesty/theft/handling/burglary | Yes/No |
| Consumer protection or fair trading | Yes/No |
| Public health or food hygiene contraventions | Yes/No |
| Prohibited from running a food business | Yes/No |

If yes, please specify details giving date and place of conviction and sentence imposed.....

16. State the number of assistants that will be used (including their names and addresses, dates of birth and National Insurance Numbers). If none, please write "none". **Please note that assistants must be accompanied and supervised by the consent holder at all times.**

One assistant: Name: Winnie Chan / Address [REDACTED]
[REDACTED]

17. If a consent is granted and you have a mobile vehicle (not a trailer), do you wish to be included on the Kent County Council's Emergency Plan list? ~~Yes~~/No

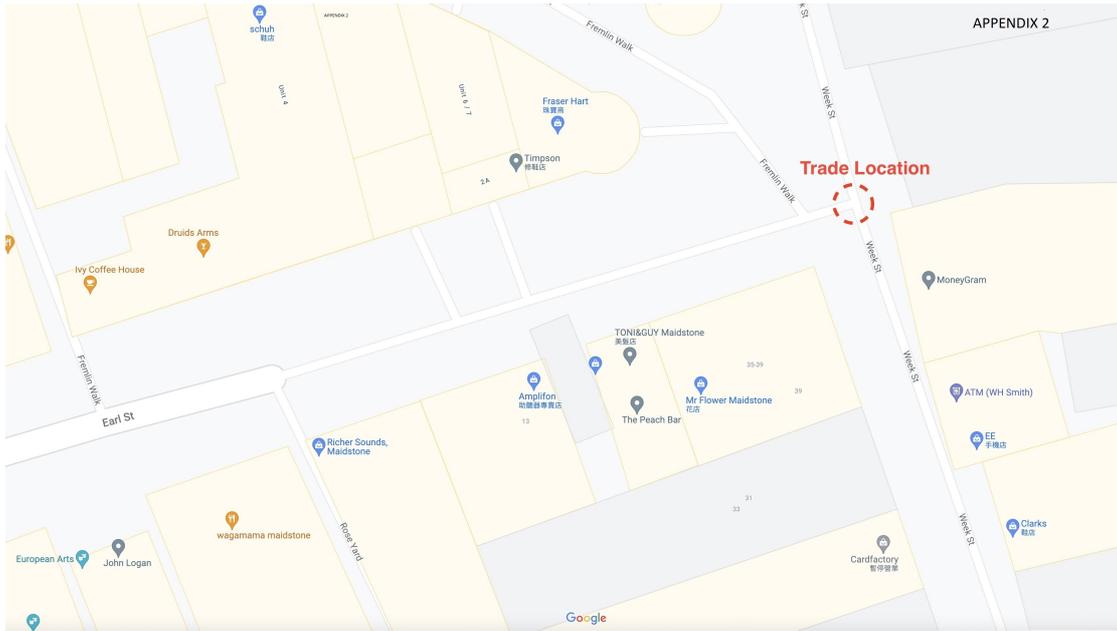
(In the event of an emergency you may be contacted at short notice to provide food and drink to stranded lorry drivers parked on the M20 motorway in Maidstone. This would be supervised by the police)

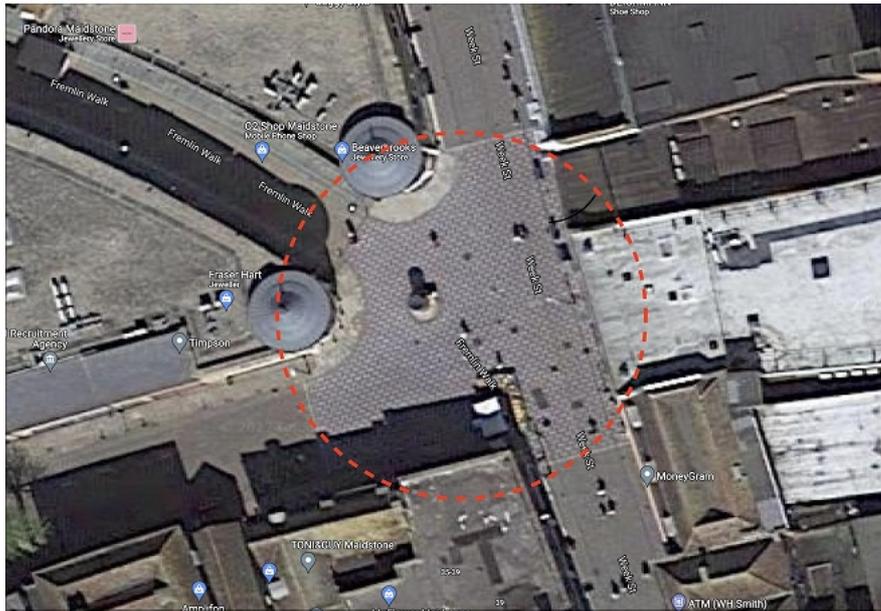
I, WING HUNG CHU, hereby apply for the grant of a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and make the following declaration:

DECLARATION

- a) That if a consent is granted, I undertake to comply with the terms and conditions relating to the consent. I understand that failure by me or any of my assistants employed by me, with or without payment, will render both me and my assistants liable to prosecution and may also result in the revocation of my consent
- b) That I am over 17 years of age
- c) That the answers to the questions are true and complete in every way
- d) That the police may make enquiries into this application and may divulge the results to the Maidstone Borough Council
- e) That I have read and understood the notes attached to this application form.

Maidstone Borough Council takes its obligations under the data protection legislation very seriously and will not disclose information to any unauthorised person. Information may be shared with other services within the council or disclosed to other local and public authorities or government agencies that have a legitimate reason to request the







From: Kristian Van Haeften
Sent: 28 July 2022 19:46
To: Kerry Watson <KerryWatson@Maidstone.gov.uk>
Subject: Re: Street Trading Application - Week Street

Hi Kerry

I think personally that at this current time another street trader within this area selling items that many existing business are already selling and struggling to keep going would not be beneficial to anybody .

So I would like to oppose this application on this basis and also that the area applied for could become to overrun.

Thx Kerry kind regards

Kristian van haeften

From: David Bolesworth
Sent: 01 August 2022 14:29
To: Licensing (MBC) <LicensingMBC@maidstone.gov.uk>
Subject: New street trading application

Hi , to whom it may concern, I have received an email from Kerry Watson of Licencing asking for my views on a new Street trading application from a gentleman who wishes to trade with an organic coffee stall in Week Street Maidstone outside of WHSmith's As you are all fully aware I already have my Street trading licence for Week Street for hotdogs & hot drinks from which I do already sell all types of coffee including organic , different types of hot teas including organic specialty's & hot chocolate.

Therefore I am going to object firstly on that reason but also regarding the siting of the stall outside WHSmith's , I'm afraid I cannot see where precisely it could go as there is no space & also we have Wendy's Burgers restaurant opening shortly on the corner of Week Street & Earl Street so I do believe that the hot drinks sector is very well catered for in that precise area of town. I have included some photos of Week Street taken on Saturday to illustrate what I mean about space on that location yours sincerely David Bolesworth

Sent from my iPhone







From: Kerry Watson
Sent: 11 August 2022 11:08
To: Chu Denis
Cc: Lorraine Neale <LorraineNeale@maidstone.gov.uk>
Subject: Street Trading Application - Update

Dear Mr Chu

Local Government (Miscellaneous Provisions) Act 1982
Section 3 and Schedule 4 – Street Trading
Application for Selling: Organic Coffee Specialities

With reference to your application dated 25th July 2022 under the above Act, I regret to inform you that Mr John Littlemore, Head of Housing and Community Services cannot determine your application for a street trading consent due to objections having been received, (see attached).

The Council has decided that if an objection is received, the applicant will have the right to make a request to the Head of Housing and Community Service for an appeal hearing before a group of Members. If you wish to make a request please write stating your reasons for the appeal and a Licensing Sub Committee may be arranged to discuss your application.

If I do not hear from you within 28 days from the date of this letter I will assume that you do not wish to pursue your application further. I will then arrange for a refund of the Consent fee to be sent to you in due course.

According to the Act, a person who engages in street trading in a Consent Street without being authorised to do so is guilty of an offence and is liable to prosecution. This applies while applications are being considered by the Council. Therefore, if you trade without Consent you are liable to prosecution.

You should be aware that the Council may refuse to grant Consent if, despite being informed that a Street Trading Consent is required, an applicant continues to trade within the Borough.

Kind regards
Kerry Watson

Licensing Team
Maidstone Borough Council

Wing Hung Chu – Week Street

Objections Received:

28th July 2022 – Mr Van Haeften

'I think personally that at this current time another street trader within this area selling items that many existing businesses are already selling and struggling to keep going would not be beneficial to

anybody. So I would like to oppose this application on this basis and also that the area applied for could become to overrun.'

1st August 2022 – Mr Bolesworth

'As you are all fully aware I already have my Street trading licence for Week Street for hotdogs & hot drinks from which I do already sell all types of coffee including organic, different types of hot teas including organic specialty's & hot chocolate.

Therefore I am going to object firstly on that reason but also regarding the siting of the stall outside WHSmith's. I'm afraid I cannot see where precisely it could go as there is no space & also we have Wendy's Burgers restaurant opening shortly on the corner of Week Street & Earl Street so I do believe that the hot drinks sector is very well catered for in that precise area of town.'

From: Chu Denis
Sent: 24 August 2022 15:42
To: Kerry Watson <KerryWatson@Maidstone.gov.uk>
Cc: Lorraine Neale <LorraineNeale@maidstone.gov.uk>
Subject: Re: Street Trading Application - Update

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Kerry,

I would like to appeal the objections for street trading on Week Street.

Thanks very much in advance for your help.

Kindest regards,
Denis Chu

New Location 1 : Union Street & Week Street



New Location 2 : Earl Street & Week Street





There are TWO street traders selling ice-cream on Week Street and their location is not far away to each other. (Photo took by 21 AUG 2022)



Cafe: "PUDDINGS" next to HSBC
(Week Street front)



21 Cafe: "John's DINER" next to KFC
(Week Street end)



Borough Insight magazine by Maidstone Borough Council (SUMMER 2022)



LICENSING SUB COMMITTEE**ORDER OF PROCEEDINGS**

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services or relevant Officer will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services or relevant Officer if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services or relevant Officer and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.