

Street Trading Appeal – Mr Dudkowski- 23/04936/STRCON

Timetable	
Meeting	Date
Licensing Sub Committee	28 th March 2024

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Licensing Sub Committee
Lead Head of Service	John Littlemore
Lead Officer and Report Author	Lorraine Neale
Classification	Public
Wards affected	Yalding

Executive Summary

In line with our Street Trading Policy, an application for Street Trading consent has been referred to the Licensing Sub Committee for a decision because representations have been received containing relevant objections. In these circumstances a street trading consent cannot be determined and the applicant given the option to appeal or their application will be considered refused. The applicant has exercised their right to appeal and so the matter must now be considered by Licensing Sub Committee.

Purpose of Report

Members are asked to consider and determine the application from Mr Piotr Dudkowski for a street trading consent to trade at Vicarage Road, Yalding.

This report makes the following recommendations to the Licensing Sub-Committee.

Members give consideration to the application for a street trading consent by Mr Piotr Dudkowski taking into account the consultation representations at (Appendix 4) and giving regard to the information provided by all parties at the meeting.

1. Grant the consent as applied for, subject to the standard conditions found at page 18 of the Street Trading Policy, or: -

2. Grant the consent subject to such additional conditions that the Sub Committee considers appropriate, or: -
 3. Refuse the application for a street trading consent.
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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>No implications have been identified</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"> The power for a local authority to issue street trading consents is contained with the Local Government (Miscellaneous Provisions) Act 1982, in particular Schedule 4. Following an application, the authority may grant a consent if they think fit and grant such conditions as they think reasonably necessary. There is no right of appeal against the refusal of an application, although Maidstone Borough Council's Policy allows a recommendation of refusal to be considered by the 	Helen Ward, Lawyer (Contentious Team)

	Licensing Sub Committee.	
Information Governance	<ul style="list-style-type: none"> The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes. 	Senior Licensing Officer
Equalities	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing 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
Biodiversity and Climate Change	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 On 4th December 2023 an application for a street trading consent was received from Mr Piotr Dudkowski to trade at Vicarage Lane, Yalding. The application form is attached as Appendix 1.
- 2.2 The day and hours applied to trade are Saturday only, 4:30pm – 8:30pm to sell pizzas only.
- 2.3 The location maps showing the proposed trading site are attached as Appendix 2.
- 2.4 The 14 day consultation period for this application ran from 4th – 18th December 2023. The following applicable consultees were consulted:-
- Kent Police
 - Kent Highways
 - Maidstone Planning
 - Environmental Health
 - Community Protection Team
 - Parish Council
 - Ward Members

Residents were not consulted as there were none within 100 yards of the site as stipulated in the Street Trading Policy. However two local businesses The Walnut Tree Public House and Yalding Village Club were consulted and neither responded.

Two objections were received from Yalding Parish Council and Kent County Council Highways Department whose main concerns centred around: -.

- The suitability of the siting of the van which was considered to be impractical and unsafe.

Their objections are attached as Appendix 4.

2.5 The objections were considered in relation to the criteria for determining street trading applications found in the Street Trading Policy (STP).

6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

6.4.3 Each application will be decided on its own merits.

2.6 The matter was referred to the Head of Housing and Regulatory Service for decision. Their decision was not to determine the application which received relevant representations and allow the applicant to appeal against the decision to the Licensing Sub Committee.

2.7 Mr Dudkowski was notified of the Head of Housing and regulatory Service's decision by email on 22nd December 2023, attached as Appendix 5.

2.8 Mr Dudkowski emailed his request to appeal against the decision on 8th January 2024, attached as Appendix 6.

2.9 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, attached as Appendix 7.

3. AVAILABLE OPTIONS

3.1 To grant the consent as applied for, subject to the standard conditions found at page 18 of the Policy.

3.2 To grant the consent subject to such additional conditions that the Sub - Committee considers appropriate

3.3 To refuse the application.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members need to consider and determine the application in accordance with our Street Trading Policy.
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5. RISK

- 5.1 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 Not Applicable
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Not Applicable
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Application Form
 - Appendix 2: Location Map
 - Appendix 3: Request for resident consultation
 - Appendix 4/4a: Objections – KCC Highways & Yalding Parish Council (LPC)
 - Appendix 5: Email - Notification of refusal to applicant
 - Appendix 6: Email - Applicants request for appeal
 - Appendix 7: Hearing Procedure
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9. BACKGROUND PAPERS

[Street Trading Policy](#)