

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.
-

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
-

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.
-

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](#)