

Licensing Committee

26 November
2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Street Trading Consent – Mr David Bolesworth

Final Decision-Maker	Licensing Committee
Head of Service	John Littlemore
Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	High Street

This report makes the following recommendations to the final decision-maker:

1. That Members give consideration to the letter from Mr Bolesworth, asking for variation of the terms of his current street trading consent by the addition of types of goods.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable

<i>Meeting</i>	<i>Date</i>
Policy and Resources Committee	N/A
Council	N/A
Other Committee	N/A

Street Trading Consent – Mr David Bolesworth

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 That Members give consideration to the application for additional goods to be added to the existing street trading consent held by Mr D Bolesworth taking into account the consultation representations

2. INTRODUCTION AND BACKGROUND

- 2.1 On the 27 August 2015 a letter was received from Mr David Bolesworth (Appendix A) requesting additional goods be added to their existing consent LN/000005332 (Appendix B) which is valid from 1 April 2015 to 31 March 2016
- 2.2 The consent currently allows for the sale of whippy Ice cream and slush puppies. The additional requested goods are for sausages and hot drinks, in order to allow Mr Bolesworth to trade throughout the year and not be restricted by the seasons.
- 2.3 The usual consultation for the additional items took place for 14 days from 3 September until 17 September 2015 responses were received from the following raising no objections :-

Development Control Planning
Kent Highways
Kent Police
Environmental Health
Town Centre Management
- 2.4 Three representations were received from Gourmet Street Food, Environmental Health Enforcement and Fremlin Walk Centre (Appendix C)
- 2.5 Other businesses/people consulted and no objections received were:-

W H Smith – Week Street
Marks & Spencers – Week Street
Fruit Stall – Junction of Earl/Week Street
Ann Summers – Week Street
Bills – Week Street
Beaverbrooks - Junction of Fremlin Walk/Week Street
Gourmet Street Foods – Stall in Fremlin Walk
Fraser Hart - Junction of Fremlin Walk/Earl Street/Week Street
Carphone Warehouse – Week Street
Mr Bean Coffee House – Week Street
Living Café – Earl Street
Councillor English - Ward Member
Councillor Mrs Wilson - Ward Member

Councillor Mrs Joy- Ward Member

- 2.6 The objection from the Gourmet Street food company was received on 4 September 2015, their main concern is that this would be direct competition for them and they believe that the smell from onions if they are cooked as part of the operation would be an issue. It would be inconsistent to allow frankfurters and sausages which were not permitted for their stall. The objection from Environmental Enforcement was received on 15 September 2015 this refers back to complaints about smells received in 2009 when the stall had consent to sell hotdogs. The objection from Fremlin Walk Centre was received on 16 September 2015 they also believe it to be in direct competition with a traders providing similar products at Fremlin walk.
- 2.7 On the 17 September 2015, the Head of Housing and Community Services wrote to Mr Bolesworth (Appendix D) informing him that he was unable to determine the application due to the objections received and informed him of his right to be heard by Committee if he wished to do so. In a letter from Mr Bolesworth (Appendix E) received on 5 October 2015 he has confirmed that he wishes for the matter to come before the Committee.
- 2.8 Mr Bolesworth has previously operated a hot dog stall at this site and the history of that operation is as follows:-

In June 2008 Mr D Richardson applied for a street trading consent to sell hot dogs from the site as specified for the current application. No objections were received and the consent was granted for the duration 22 July 2008 – 21 July 2009. During the period of July – December 2008 complaints were received regarding smells from the stall and so the Environmental Health Department monitored the situation and the matter was reviewed at Licensing Committee on 5 March 2009, where it was decided to allow the consent to continue until its expiry on 21 July 2009. Environmental Health was asked to continue monitoring the site and that the matter goes back to Licensing Committee at renewal whether objections were received or not. Environmental Health was asked to provide a report and attend at that meeting.

On 26 June 2009, the renewal application for the hot dog stall was received and the matter went to Licensing Committee on 16 July 2009 where the grant was refused on the grounds that the hot dog stand “detracts from the overall shopping purpose of the area and experience for all of the Town Centre as a whole and should not continue”

On 5 April 2012, Mr D Bolesworth applied for a street trading consent to sell hot dogs from the same site. Objections were received and the matter went to Licensing Committee on 16 October 2012, where the decision to grant was refused on the grounds “that street trading of the nature applied for at this location would be inappropriate as it would detract from the general ambience and openness for pedestrians of one of the busiest areas of the town centre as a shopping experience, by the barrow and its customers”.

3. AVAILABLE OPTIONS

- 3.1 To grant the consent
 - 3.2 To grant the consent with additional/specific conditions attached
 - 3.3 To refuse grant
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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The application for consent should be determined as to fail to do so would not meet legal requirements and could be challenged.
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5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 14 day consultation with all relevant parties and local business for the additional items took place from 3 September until 17 September 2015 in accordance with MBC Policy on Street Trading and three representations were received as a result of that consultation.
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6 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities		[Head of Service or Manager]
Risk Management		[Head of Service or Manager]
Financial	None	[Section 151 Officer & Finance Team]
Staffing		[Head of Service]
Legal	Contained within the body of the report	[Legal Team]
Equality Impact Needs Assessment		[Policy & Information Manager]
Environmental/Sustainable Development		[Head of Service or Manager]
Community Safety		[Head of Service or Manager]

Human Rights Act		[Head of Service or Manager]
Procurement		[Head of Service & Section 151 Officer]
Asset Management		[Head of Service & Manager]

7 REPORT APPENDICES

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

- Appendix A Application form
- Appendix B Current Street Trading Consent
- Appendix C Copy of objections
- Appendix D Head of Housing and Community Service letter
- Appendix E Mr Bolesworth Appeal letter
- Appendix F Street Trading Policy
- Appendix G Hearing Procedure

8 BACKGROUND PAPERS

None