

Street Trading Appeal

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	Allington

Executive Summary

In line with our Street Trading Policy an application for Street Trading consent was refused because 2 representations were received containing relevant objections. In these circumstances a street trading consent must be refused and the applicant given the option to appeal. The applicant has exercised his 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 appeal from Mr Adrian Ghinea against the refusal of a street trading consent to trade at the corner of London Road and Hildenborough Crescent, Allington.

This report makes the following recommendations to this Committee:

That Members give consideration to the application for a street trading consent by Mr A.Ghinea taking into account the consultation representations (Appendix 3)

Timetable

Meeting	Date
N/A	

Street Trading Appeal

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 Consent from the Local Government (Miscellaneous) Provisions Act 1982</i> 	
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> 	Senior Licensing Officer
Public Health	<i>Fast food provision is a factor which contributes to the obesogenic environment and of particular concern is provision close to schools with increasing childhood obesity a problem in Maidstone and nationally. This particular provision would be within walking distance of Allington Primary School. Year 6</i>	Senior Public Health Officer

	<i>Children with excess weight in Allington (29.6%) are in line with the national average.</i>	
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 8 October 2020 an application for a street trading consent was received from Mr Adrian Ghinea to trade at the corner of London Road and Hildenborough Crescent, Allington. The application form is attached as Appendix 1.
- 2.2 The days and hours applied to trade are Monday to Sunday 10:00 -22:00 and the goods sold will be Pizza and soft drinks.
- 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 14th – 28th October 2020 and 2 objections were received. The main concerns being that the location would cause a traffic hazard and obstruct pedestrians with particular concern for the disabled and partially sighted, it would also cause disturbance and odours. The objections can be found at Appendix 3.
- 2.5 Once the consultation period had ended all representations were considered in relation to the criteria for determining street trading applications found at page 11 of the Street Trading Policy. The application was refused by officers because it was felt the objections met the following policy criteria at 7.1:-
- d) the Consent, if granted, will result in nuisance to members of the public, residents or local businesses, due to the likely noise, smell, litter, obstruction, disturbance, or other problems which will be caused by granting the Consent.
- e) the size, nature or appearance of the proposed stall and any associated equipment is inappropriate for the proposed location in terms of amenity or public or highway safety.
- 2.6 . A copy of the refusal e-mail sent on 29th October 2020 can be seen attached as Appendix 4.
- 2.4 A request for appeal was received on the 9th November 2020 and is attached as Appendix 5.
- 2.7 Mr Ghinea in response to e-mails sent to him on 26th and 29th October 2020 (Appendix 6) gave his grounds for appeal as:-
- He never parks where he could be an obstruction.

- He has a small, super silent generator which causes minimum noise.
- He has a street trading consent for a location on Sutton Road which is a lot busier and does not understand what the issue is with the London Road location.

2.8 Attached to this report is the procedure that is used for hearing applications with representations the Committee may wish to follow in their considerations, adapted as necessary. Appendix 7

3. AVAILABLE OPTIONS

3.1 To grant the consent as applied for, subject to the standard conditions found at page 13 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 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 as to fail to do so would not meet our legal requirements and could be challenged

5. RISK

5.1 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 Objections - Cllr's Cynthia Robertson and Dan Daley
 - 8.4 Refusal E-mail
 - 8.5 Applicants request to appeal
 - 8.6 Applicants argument.
 - 8.7 Hearing Procedure
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9. BACKGROUND PAPERS

[Street Trading Policy](#)