

**Street Trading Appeal**

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

**Executive Summary**

In line with our Street Trading Policy an application for Street Trading consent was refused because a representation has been 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 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 appeal from Mrs Maria Herriot against the refusal of a street trading consent to trade in a private car park owned by and to the left of Orchard View Garage, Twyford Court, Hampstead Lane, Yalding, ME18 6HG

**This report makes the following recommendations to this Committee:**

That Members give consideration to the application for a street trading consent by Mrs M. Herriot taking into account the consultation representation (Appendix 4)

**Timetable**

<b>Meeting</b>	<b>Date</b>
N/A	

# Street Trading Appeal

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	<ul style="list-style-type: none"> <li><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></li> </ul>	Senior Licensing Officer
<b>Cross Cutting Objectives</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Risk Management</b>	<ul style="list-style-type: none"> <li><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></li> </ul>	Senior Licensing Officer
<b>Financial</b>	<ul style="list-style-type: none"> <li><i>A refund will be required in the event of an unsuccessful application.</i></li> </ul>	Senior Licensing Officer
<b>Staffing</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Legal</b>	<ul style="list-style-type: none"> <li><i>The Council has adopted the provisions in relation to Street Trading Consent from the Local Government (Miscellaneous) Provisions Act 1982</i></li> </ul>	Senior Lawyer (Contentious), Mid Kent Legal
<b>Privacy and Data Protection</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Equalities</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Public Health</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Crime and Disorder</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Procurement</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified.</i></li> </ul>	Senior Licensing Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 On 18 November 2020 an application for a street trading consent was received from Mrs Maria Herriot to trade in a private car park owned by and to the left of Orchard View Garage, Twyford Court, Hampstead Lane, Yalding, ME18 6HG. The application form is attached as Appendix 1 and the landowners permission as Appendix 2.
- 2.2 The days and hours applied to trade are Monday to Thursday 7am to 9pm, Friday & Saturday 7am to 10pm and Sunday 9am to 4pm. and the goods sold will be hot and cold food including sandwiches, breakfast and meals also hot and cold drinks.
- 2.3 A location map and photos showing the proposed trading site are attached as Appendix 3.
- 2.4 The 14 day consultation period for this application ran from 25<sup>th</sup> November – 9<sup>th</sup> December 2020 and 1 objection was received. The main concern is that the location would cause congestion in what is already a busy area for traffic and there is a lack of parking for large vehicles. The full concerns raised can be found at Appendix 4.
- 2.5 Once the consultation period had ended the representation was 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 10th December 2020 can be seen attached as Appendix 5.
- 2.4 A request for appeal was received on the 10th December 2020 and is attached as Appendix 6.
- 2.7 Mrs Herriot in response to e-mails sent to her on 10<sup>th</sup> & 16<sup>th</sup> December 2020 (Appendix 7) gave response to the concerns raised as follows:-

1. There is no off-road parking for larger vehicles.

*We don't envisage larger vehicles needing to park an issue, as we aren't aiming our business at lorry drivers. There are also limitations to the size of vehicles able to access the site due to the bridge restrictions at either end of Hampstead Lane. The majority of our*

*customers are expected to make use of our delivery service. We will be offering a delivery service to lorry drivers parked appropriately outside of the village to help alleviate this potential problem. We will also refuse to serve anyone inappropriately parked, as we have the same concerns and only wish to provide a service to local residents and existing tourism.*

2. There is no on-road parking as the frontage abuts double yellow lines and opposite the site is densely parked by residents, customers of The Boathouse, visitors and is in constant use.

*We will have a handful of spaces available to us off-road in the Orchard View Garage overflow car park. There is also on-road parking approximately 100m up the road toward Little Venice Country Park & Marina. As a takeaway and delivery service customers would be parked for a limited short amount of time.*

3. There is concern that any illegal parking on the double yellow lines will cause congestion at the traffic lights.

*We will make it clear to customers that they will not be served if parked illegally and advise them of where to park before serving them. We do not wish to be responsible for any congestion and will work with councils and agencies to ensure no congestion is a direct result of our customers.*

4. The Environment Agency require unobscured access to their depot, additional double yellow lines were installed to achieve this.

*We will make it clear to customers that they will not be served if parked illegally and advise them of where to park before serving them. We do not wish to be responsible for obscuring any access to any premises and will work with councils and agencies to ensure our customers do not cause any obstructions to The Environment Agency's depot.*

5. The use of this site will greatly reduce the overflow parking to the existing business and push existing vehicles onto the very over congested highway.

*Mark Newman, owner of Orchard View Garage will address this concern personally. But this overflow car park is never full and I believe a number of the owners of vehicles there pay to use this space to store cars. Once we're there paying a higher rate, these cars will have to find alternative storage/parking somewhere else on private land, not onto the congested highway.*

6. It is in close proximity to the traffic lights and vehicles waiting to turn right onto the site will cause a backup onto the single track bridge.

*It's very flattering that one would think that we will be so busy as to cause 200 yards of congestion from vehicles turning into the site. But I think this highly unlikely that we would have the number of vehicles visiting us at any one time. However, if such a problem should occur, we will take immediate action and direct the traffic on and stop such a congestion.*

7. The hours of working will create light and noise pollution in the open countryside.

*We will be using subtle warm lighting, not flashing or bright floodlights. As for noise, we won't be playing music or selling alcohol. It's not a particular noisy environment where voices would need to be raised.*

8. The hours of working will have the potential to attract anti-social behaviour.

*We are not selling alcohol, which is often associated with anti-social behaviour. Generally speaking anti-social behaviour occurs outside of our intended trading hours of 7 am to 9 pm. However, we will not stand for any anti-social behaviour and should such behaviour occur, we would put an immediate stop to it.*

9. The application states only one member of staff; how do they propose deliveries?

*As we hadn't finalised who would be working for us at the time the application was submitted, we were advised to just add the one certainty for the time being. We will employ as many people as is necessary to run the business as effectively and efficiently as possible. So there will be at least one locally employed delivery driver and an additional member of staff to help with cooking and serving.*

**N.B.**

*We would liked to have been able to include a petition of support from local residents to reinforce the need of the service we would be providing, but unfortunately Covid hasn't made this possible.*

*We understand Yalding Parish Councils concerns, but can assure them that we will work with them and do our utmost to minimise disruption and maximize the benefits to Yalding and the surrounding community. We are highly supported and respected by many residents who feel this would be highly beneficial to them, especially older residents who can have a traditional, hot, home cooked meal delivered to their door.*

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 8

### **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.

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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 as to fail to do so would not meet our legal requirements and could be challenged

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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 N/A

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### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 N/A

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### **8. REPORT APPENDICES**

8.1 Application Form

8.2 Landowners letter of permission

8.3 Location Map and Photos

8.4 Objection – Yalding Parish Council

- 8.5 Refusal E-mail
- 8.6 Applicants request to appeal
- 8.7 Applicants response.
- 8.8 Hearing Procedure

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## **9. BACKGROUND PAPERS**

[Street Trading Policy](#)