

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**MISCELLANEOUS LICENSING SUB-COMMITTEE**

**22 JANUARY 2016**

**APPLICATION FOR A STREET TRADING CONSENT – WELCH WAY.**

**WITNEY**

**REPORT OF THE PUBLIC PROTECTION MANAGER**

**(Contact: Nicola Neyhaul Tel: (01993) 861377)**

(The Sub-Committee's decision on this matter will be a resolution.)

**1. PURPOSE**

To consider and determine an application for a Street Trading Consent.

**2. RECOMMENDATION**

That the Sub-Committee considers and determines the application in the light of the provisions of the Local Government (Miscellaneous Provisions) Act 1982, the Council's policy and such evidence as may be submitted at the meeting.

**3. BACKGROUND**

- 3.1. Mr Ulosoy has submitted an application for a Street Trading Consent for a Kebab Van trailer in Welch Way, Witney The application is attached at Appendix A along with a letter from the applicant and a photo and plan of the trailer and proposed location.
- 3.2. The applicant seeks to operate a Kebab Van trailer on the pavement in the area outside the Nat West Bank (a Consent area) in Witney Sunday-Thursday 1800hrs-0100hrs and Friday and Saturday 1800hrs-0400hrs. The stall size takes up a total surface area of 4.45sq m and as such falls inside our policy of 9 sq m. However the application falls completely outside the scheme of delegation for the hours of pavement hot food sales which are currently 1000hrs-1800hrs. Consultations have taken place with Witney Town Council, Local Ward Members, Thames Valley Police, Oxfordshire County Council (Highways), Environmental Health (Food and Safety WODC), Environmental Pollution and Enforcement (WODC), Witney Chamber of Commerce, Nat West Bank, Halifax bank and the Congregational Church.
- 3.3. Thames Valley Police have no objections.
- 3.4. Oxfordshire County Council has requested the applicant guarantees to pay for any damage incurred to the footway by the trailer. The applicant has complied with this request and OCC have now confirmed they are satisfied with the proposal.
- 3.5. Witney Town Council objects to the application on the grounds that its' understanding is that street trading is not permissible in Welch Way or the High Street after 6pm in the evening.
- 3.6. The Congregational Church have asked that if a street trading consent is granted, that the application is reviewed after one year.

- 3.7. There were no other responses to the consultation.
- 3.8. If this application for a street trading consent is successful, Mr Ulosoy would, in addition, have to apply for a Late Night Refreshment Licence under the Licensing Act 2003. Any hot food or drink sold between 2300hours and 0500hours requires a licence under this legislation. This would be the subject of a statutory 28 day consultation and public site notice and newspaper advertisement.
- 3.9. If the Miscellaneous Sub Committee is minded to grant this application the Public Protection Manager requests that he be given delegated authority to approve further applications providing the details remain unchanged.

#### **4. ALTERNATIVES/OPTIONS**

- 4.1 The Sub-Committee could decide to grant the application as submitted or subject to modification.
- 4.2 The Sub-Committee could decide to refuse the application.

#### **5. LEGAL IMPLICATIONS**

- 5.1. Paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 permits the Licensing Authority to grant a street trading consent at the discretion of the District Council if they think fit, provided that the applicant is not under 17 years of age, or the application does not relate to any trading on a highway in relation to which a control order has been made. In addition the Authority may attach reasonable conditions as it sees fit.
- 5.2. There is no right of appeal against the decision of the Council, but the Council is under a duty to act fairly and reasonably.

#### **6. REASONS**

The decision taken will be made on the basis of the Council's responsibility for determining applications for street trading consents. Although each case must be decided on its merits, any decision made should have regard to the following:

- Objections received
- Observations of consultees

#### **The report supports the Councils corporate aims to:**

- Protect and enhance the environment

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#### Background Papers

None.