

WEST OXFORDSHIRE DISTRICT COUNCIL

MISCELLANEOUS LICENSING SUB-COMMITTEE

22 JANUARY 2016

**APPLICATION FOR A STREET TRADING CONSENT – MARKET PLACE,
CHIPPING NORTON**

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 Slade has submitted an application for a Street Trading Consent for a Flower stall in Market Place Chipping Norton. The application is attached at Appendix A along with a letter from the applicant and a plan of the proposed location.
- 3.2. The applicant seeks to operate a flower stall Friday 0800-1600hrs and Saturday 0800-1300hrs. The trading area proposed is approximately 24 sq m and as such falls outside our policy of a maximum of 9 sq m. The Public Protection Manager also does not wish to exercise delegated authority in granting this application. Consultations have taken place with Chipping Norton Town Council, Local Ward Members, Thames Valley Police, Oxfordshire County Council (Highways), Environmental Health (Food and Safety WODC), Environmental Pollution and Enforcement (WODC), and "Experience Chipping Norton".
- 3.3. Members should be aware of some history surrounding this application. Mr Slade has traded in Chipping Norton since 2009.
- 3.4. On 5 March 2010 and 23 April 2010 Mr Slade was observed to be trading in an area in excess of our policy and leaving his van parked behind the stall all day causing an obstruction. Mr Slade was given a written warning for these offences on 3 June 2010.
- 3.5. On 30 November 2012 on receipt of a complaint from a trader in the town Mr Slade's stall was again observed trading from the same area and was given another written warning.
- 3.6. In December 2014 Licensing officers again visited the stall on receipt of another complaint. Mr Slade admitted his trading area was excessive and agreed to reduce it. Mr Slade then applied for an extra pitch size for some dates in the lead up until Christmas but the council received more complaints he was trading over

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double the area permitted. On 22 January Mr Slade was written to and reminded his pitch size was 9 square meters i.e approximately one gazebo size.

- 3.7. On 19 June 2015, following more complaints from Members of the Public and other traders Mr Slade was again visited on site by two Licensing Officers. Although Mr Slade had applied for an extension of his pitch for that particular date, the trading area was far in excess of two pitches, occupying an area adjacent to a defibrillator, using all the steps leading to the highway, round the other side of the gazebo and at the rear of his van. The van was again parked in situ all day in breach of parking regulations. During the visit Mr Slade was very un-cooperative and became aggressive and swore repeatedly at the two Officers. The assistant on the stall that day also swore at the Officers. Mr Slade was asked to attend the Council officers on 25 June 2015 to discuss the matter but did not attend. Mr Slade was issued with a final written warning sent to his home address.
- 3.8. On 3 July 2015 Officers again visited to take photographs of Mr Slade's set up and it was identical to how it had been observed on 19 June and described above. Some photographs were taken and these are at Appendix B.
- 3.9. Mr Slade responded to the final written warning by making a complaint about the Council Officers and maintained that in the Autumn of 2013 an Officer agreed he could trade from an area with two gazebos and when he paid for the extra pitch he assumed it was between the second gazebo and the defibrillator. He also submitted a petition of support for his presence as a trader in the town.
- 3.10. The complaint was investigated by the Public Protection Manager who said that the Officer referred to in the visit of Autumn of 2013 had said that no discussion took place regarding the overall size of his stall and reminded Mr Slade of the Parking regulations.
- 3.11. Mr Slade was not happy with the response and replied that he had always traded and parked in this manner and was not sure why it was now an issue. He requested the complaint be escalated to Stage 2 of the Council's complaints process.
- 3.12. The Head of Service responded to this complaint on 18 September, reminding Mr Slade that his street trading consent expired on 18 October 2015 and enclosing a renewal form and the street trading policy document. He reminded Mr Slade of previous letters, his final written warning and the Parking restrictions. He informed Mr Slade that the Public Protection Manager did not wish to exercise delegated authority to granting a street trading consent in this instance and that the matter would be referred to the Licensing Sub Committee.
- 3.13. On 12 November Mr Slade's application for renewal was received. It was incomplete and returned to him as he had not answered all the questions. The application was complete on 30 November 2015 when Mr Slade submitted a plan of the area in which he proposed to trade. Despite his last consent expiring on 18 October 2015 the Licensing Authority was minded to treat it as a renewal and instigated a 28 day consultation process as detailed in para 3.2.
- 3.14. It would appear clear from the application that Mr Slade wishes to pay for a single street trading consent (£2,424.05) but to continue to trade from the same surface area previously utilised i.e 24 sq m. The Sub-Committee is invited to consider whether payment of an additional fee is appropriate given that the extra area is made unavailable to other traders.
- 3.15. Thames Valley Police have raised no objection to this application.

- 3.16. There were no other responses to the consultation.
- 3.17. If the Sub Committee is minded to grant this application, as it is likely to be an annual 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.