

<b>LICENSING COMMITTEE</b>		<b>AGENDA ITEM No. 5</b>
21 JULY 2011		PUBLIC REPORT
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**APPLICATION: APPEAL AGAINST REFUSAL OF STREET TRADING CONSENT**

**APPLICANT:** Mr Wajid Hussain, 41 Waterloo Road, Peterborough, PE1 3AS

**LOCATION:** Park Crescent, Central Park, Peterborough

## 1. PURPOSE OF REPORT

1.1 Members are asked to consider and determine an appeal from Mr Wajid Hussain against the refusal of a street trading consent taking into account the following:

- The completed new static pitch action sheet – **Appendix A**
- The appeal letter from Mr Hussain dated 11<sup>th</sup> June 2011 – **Appendix B**
- The email reply from the Network Team Manager – **Appendix C**
- Email replies from Councillors Kreling and Shearman – **Appendix D**
- The letter from Stewart Jackson MP – **Appendix E**
- The letters from the Broadway Residents Association and the Friends of Central Park – **Appendix F**.

## 2. BACKGROUND INFORMATION

2.1 On 19 March 2001, in a review document, the Environment Committee resolved that all streets in Peterborough be designated for the purpose of street trading as consented streets.

2.2 The Operations Director, Section Head of Business and Licensing and Licensing Manager have delegated authority to issue, amend, revoke or refuse street trading consents, other than in the City Centre Pedestrian Area (the latter being delegated to the Head of Transport and Engineering).

2.3 The Local Government (Miscellaneous Provisions) Act 1982 (The Act) (Paragraph 7 (2) of schedule 4) states that the Council **may grant a consent 'if they see fit'**.

2.4 There is no statutory procedure outlining how the Authority is to notify the applicant of any objections, however, the applicant must be notified of the substance of any objections to the granting of consent, and given an opportunity to respond to those objections.

2.5 The Act does not give a statutory right of appeal in respect of the refusal, revocation or variation of a street trading consent, though the Environment Committee resolved to give those whose applications for street trading consents that were refused a right of appeal to the Licensing Committee.

- 2.6** In granting permission to trade as a street trader in a consented street the Authority may attach conditions as is deemed reasonably necessary. These will include conditions relating to the location and the times when trading can take place.
- 2.7** Conditions may be varied, or the consent revoked at any time. The holder may also surrender the consent.
- 2.8** Under the Act street trading includes sales from a van, or other vehicle, cart, barrow, or portable stall. Typically street traders are mobile food trailers, ice creams vans and flower sellers. See definitions below;

**Mobile** – Trader that moves from street to street but trades for less than 15 minutes at any one point and does not return to a similar trading position within 2 hours.

**Static** – Trader granted permission to trade from one specific location, the unit must be removed from that location at the end of each trading period.

### **3. APPLICATION**

- 3.1** On 26<sup>th</sup> April 2011 Mr Hussain submitted an application for a street trading consent for a pitch in Park Crescent near to Central Park. **See Appendix G**
- 3.2** The consent application was subject to a 14 day consultation period. As part of the consultation process both Peterborough City Council's Highways department and Ward Councillors for the locality were consulted.
- 3.3** As a result of this consultation process there were six (6) representations made. These representations have been made by the Network Manager representing the Highways department, two (2) Councillors, 2 resident groups and from the local Member of Parliament. Only one of these representations, from Councillor Shearman, was in favour of the consent being granted, albeit with a number of conditions attached.
- 3.4** The other five representations made comment on the following issues pertaining to the grant of a consent :
- The timings applied for;
  - Negative impact on traffic flow in Park Crescent;
  - Safety issues for children; and
  - Another established business in the locality selling ice creams.
- 3.5** As a result of the representations being made the decision **not** to grant the consent was made by the Licensing Authority. The decision not to grant the consent was made for the following reasons :
- Approval of the application would have a detrimental effect on the already limited available parking around Central Park; and
  - The presence of a semi-permanent Ice Cream van would create a safety hazard particularly to children and families congregating in an already congested area of the park (it being one of the main entrances) as the Crescent restricts visibility and there is a constant flow of traffic with cars frequently arriving and leaving to visit the Park.
- 3.6** Mr Hussain was informed of the disapproval of his application and was given the chance to appeal the decision. Mr Hussain submitted his letter of appeal on 11<sup>th</sup> June 2011 and this letter can be seen at **Appendix B**.

#### **4. IMPLICATIONS**

##### Corporate Resources

The Legal Division support the Licensing Team regarding the provision of advice and guidance on street trading matters.

##### Cross Service Implications

Consultation in relation to possible consented sites is undertaken with a number of Council services.

##### Community Implications

Street Trading significantly impacts upon Peterborough in terms of the services provided, employment opportunities, and the look and feel of the City. It also has an impact on the local environment with issues such as litter and competition to local businesses.

##### Financial

The Council's fees for consents issued will cover the costs of administering this scheme.

##### Legal

Guidance has been sought from the Legal Section on the compilation of this report.

#### **5. BACKGROUND DOCUMENTS**

Parts 3 and 4 of Local Government (Miscellaneous Provisions) Act 1982  
Street Trading Application Pack

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