

<b>LICENSING COMMITTEE</b>		<b>AGENDA ITEM No. 5</b>
<b>17 NOVEMBER 2011</b>		<b>PUBLIC REPORT</b>
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**APPLICATION: APPEAL AGAINST REFUSAL TO GRANT A STREET TRADING CONSENT**

**APPLICANT:** Mr James McLay, 110 Kirk Meadow, Peterborough, PE3 8JJ

**LOCATION:** Unipart, Newark Road, Peterborough

## 1. PURPOSE OF REPORT

- 1.1 Members are asked to consider and determine an appeal from Mr James McLay against the refusal to grant a street trading consent taking into account the following:
- The completed application, including landowners consent, for the grant of a street trading consent – **Appendix A**
  - Photographs showing the proposed street trading area – **Appendix B**
  - The appeal letter from Mr McLay dated 3<sup>rd</sup> November 2011 – **Appendix C**
  - The email from Peter Tebb, Peterborough City Council Network Team Manager, objecting to the application – **Appendix D**
  - The letter from Peterborough City Council rejecting the application – **Appendix E**

## 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 24<sup>th</sup> October 2011 Mr McLay submitted an application for a new street trading consent for a pitch in the car park area of Unipart which is situated in Newark Road - **see Appendix A**. The application is to trade hot food and drink from a static unit Monday to Friday between 6am & 11pm.
- 3.2 An email objecting to the issue of the consent was received from Peter Tebb, Peterborough City Council's Network Manager – **see Appendix D**. The substance of Mr Tebb's objection is that the positioning of a street trader at the location applied for would compound the issue of vehicles parking on both sides of the road, restricting the width of the road and blocking access routes in to nearby business units.
- 3.3 As a result of the objection being made the decision **not** to grant the renewal of a consent was made by the Licensing Authority. The decision not to grant the consent was made for the following reason:
- Approval of the application would lead to continued, or an increase in, road safety issues.
- 3.4 Mr McLay was informed of the disapproval of his application and was given the chance to appeal the decision. A copy of the letter sent to Mr McLay can be seen at **Appendix E**.
- 3.5 Mr McLay submitted his letter of appeal on 4<sup>th</sup> November 2011 and this letter can be seen at **Appendix C**.

### 4. IMPLICATIONS

#### 4.1 Corporate Resources

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

#### 4.2 Cross Service Implications

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

#### 4.3 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.

#### 4.4 Financial

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

#### 4.5 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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