

Licensing Sub-Committee 5 – 30th October 2007

Report of the Director of Law and Property

Application for the Variation/Renewal of a Consent to Engage in Street Trading

Purpose of Report

1. To consider the application for the variation/renewal of consent to engage in street trading made by Mr Harry James Jones.

Background

2. Mr Jones was first granted a consent to engage in street trading in 1984. This consent was to sell candyfloss, toffee apples, hot snacks (other than items sold by the other street traders in the Market Place area) from a kiosk on Mondays to Saturdays inclusive (in conjunction with the Kiddies' ride only) in "Market Street" (High Street), Dudley, from 9.00 a.m. to 9.00 p.m., Mondays to Saturdays.
3. On 29th April 1991, the then Administration, Property and Legal (Urgent Matters) Sub-Committee reviewed all street trading consents granted in Dudley Town Centre, and the Sub-Committee resolved that Mr. Jones' application should be refused.
4. On 15th July 1991, Mr Jones made a further application for the grant of a street trading consent as outlined in paragraph 2 above. This application was refused by the Sub-Committee on 14th October 1991.
5. On 30th November 1993, Mr. Jones applied for a street trading consent to sell pork baps, turkey baps and chestnuts from 6th December 1993, to 8th January 1994, in conjunction with the Kiddies' ride.
6. On 13th December 1993, the Chief Legal and Property Officer, in consultation with the Chairman, refused this application.
7. On 15th May 1995 Mr Jones made application for the grant of a street trading consent in Market Street, Dudley, to sell "faggots and peas" from a vehicle 12ft high, 6ft 6" wide and 7ft high, from 9.00 a.m. to 6.00 p.m. plus any late shopping evenings in conjunction with the operation of his kiddies' ride.
8. Mr Jones brought to the attention of the Sub-Committee that his proposal would not conflict with any existing traders in Dudley Town Centre as no-one else sold "faggots and peas".

9. The Sub-Committee considered his application on 27th July 1995, when it was resolved that Mr Jones' application should be granted subject to conditions.
10. All conditions were fulfilled on 19th December 1995, and accordingly a Street Trading Consent was issued to Mr Jones to sell faggots and peas in Market Street, Dudley from a vehicle 12ft high x 6ft 6" wide and 7ft long between 9.00 a.m. - 6.00 p.m. on Monday - Saturday plus any late shopping evenings in conjunction with the operation of the kiddies ride. That consent bore the expire date of 19th December 1996.
11. On 20th February 1996 Mr Jones made application for a variation to the food that he was allowed to sell, ie:

Soft drinks, candy floss, chips and beans together with bacon and egg and sausage sandwiches.
12. This matter was considered by the Sub-Committee on 6th March 1996 when it was resolved that Mr Jones' application should be granted.
13. On 15th December 1997, the Licensing Officer wrote to Mr Jones following a complaint that Mr Jones was in breach of conditions of his street trading consent by selling pork burgers/sandwiches.
14. On the 29th June 1998, Mr Jones made application for the renewal of his street trading consent.
15. On Thursday 23rd July 1998, following a further complaint, two Licensing Enforcement Officers visited Mr Jones' stall and saw that he was again selling pork burgers.
16. On 23rd September, the Licensing Officer again wrote to Mr Jones in respect of the breach of condition on his street trading consent. He was reminded that his consent only allowed him to sell faggots and peas, soft drinks, candy floss, bacon, bacon and egg and sausage sandwiches, and informed him that his street trading consent would not be renewed until written confirmation was received from Mr Jones that he would comply with the conditions of his consent and that he would not offer for sale pork burgers.
17. On 30th September 1998, confirmation was received in writing from Mr Jones, and his street trading consent was issued.
18. On 12th July 2000, Mr Jones made application for the renewal and variation of his street trading consent. He wished to sell the following items in addition to the items already permitted:-

Hot Dogs, various burgers and vegetarian foods.
19. Mr Jones also requested that the Committee consider granting him a permit to trade from a new unit of the same size.

20. This matter was considered by the Policy (Licensing) Sub-Committee on 21st November 2000. The Sub-Committee resolved that Mr Jones' licence be renewed on the same terms and conditions as the previous licence. They also resolved that Mr Jones' application to trade from a new unit be approved, subject that prior to trading from the new unit, signs stating 'Burgers and Hot Dogs' be blocked out. That consent has subsequently been renewed.
21. On 18th October 2006 the Licensing Office received a letter from Mr Jones requesting a variation of his consent to engage in street trading. Mr Jones requested to sell hot dogs and hamburgers.
22. The variation was circulated to the West Midlands Police, the Directorate of the Urban Environment, Planning Department, Andrea Jones - the Town Centre Manager, and Julie Jones - the Commercial Operations Manager for Corporate Estates. None of the agencies raised any objections.
23. This matter was considered by the Committee on 5th December 2006. The Committee resolved that the application for variation be approved.
24. On 8th March 2007 a letter of objection was received from a fellow trader (Mr Smith) Ringside Refreshments objecting to the street traders consent already issued to Mr Jones.
25. Mr Smith was informed by the Licensing Officer that Mr Jones's consent did not expire until 24th July 2007 and that his letter would be held on file until such time an application was received from Mr Jones for the renewal of his street trader's consent. A copy of that letter of objection is attached to this report as Appendix 1.
26. On 15th May 2007 Mr Jones made application for the variation of his consent to engage in street trading by the introduction of a new vehicle. A copy of that letter of application together with a photograph of the vehicle are attached to this report as Appendix 2.
27. That application was circulated as in paragraph 22 above. None of the agencies raised objections.
28. On 25th June 2007 Mr Jones made application for the renewal of his consent to engage in street trading. A copy of the application is attached to this report as Appendix 3.
29. This matter was due to be considered by the Committee on the 25th September 2007. Mr Smith who raised objections to the application was in attendance and submitted further representation which he wished to put before the Committee. A copy of those representations are attached to this report as Appendix 4.
30. The Committee resolved that in the absence of Mr Jones that the matter be deferred to the meeting of the 30th October 2007.
31. This application falls within the Council's responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

32. If the application for the consent is refused, then the Council is obliged to refund the fee paid by the applicant.

Law

33. The grant of consents to engage in street trading is governed by Part III of Schedule IV to the Local Government (Miscellaneous Provisions) Act 1982. High Street/Dudley is a consent streets designated as such by a resolution of the Council. To trade without such a consent is an offence.
34. Paragraph 7(2) of Schedule IV of the 1982 Act, states that the Council may grant a consent if it thinks fit and, when granting or renewing a consent, the Council may attach such conditions as it considers necessary.
35. Paragraph 10 of Schedule IV of the 1982 Act, states that a street trading consent may be granted for one period not exceeding 12 months but may be revoked at any time.
36. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which the trade/may trade and the times between which or periods for which he may trade.
37. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

38. This report takes into account the Council's policy on equal opportunities.
39. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendations

40. That the Committee determine Mr Jones' applications.

John Poyles

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers