

PUBLIC PROTECTION COMMITTEE: 9 February 2015

Report of the Head of Regulatory Services

APPLICATION TO AMEND A STREET TRADING LICENCE

1. Background

- 1.1 The Licensing Section has received an application from Mr Tim Harris to vary his Street Trading Licence. Mr Harris is currently licensed under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to sell baguettes, jacket potatoes, pre-cooked hotdogs and non-alcoholic drinks.
- 1.2 Mr Harris is applying to vary his licence so he can also sell burgers.

2. Details.

- 2.1 At its meeting of 4th August 2015, the Public Protection Committee approved the change in street designation of part of Working Street to a licence street, to allow Mr Harris to relocate his street trading business from Central Square due to the redevelopment of the area.
- 2.2 When Mr Harris was located at Central Square he was also licensed to sell burgers, however following objections received during the consultation period for the change in street designation Mr Harris agreed not to sell burgers at the Working Street site.
- 2.3 The vast majority of the objections to the change in street designation originated from the Hayes Island Snack Bar on the basis of unfair competition, and much of the discussion at the Committee centred on what goods would be sold by Mr Harris, as Hayes Island Snack Bar sold similar goods.
- 2.4 Mr Harris has been trading from the Working Street site since September 2015. He has stated that the relocation of his site has adversely affected his business and many of his previous customers (from the Central Square site) have been asking for burgers which he is no longer able to sell.
- 2.5 Mr Harris is requesting to add burgers to his street trading licence again to bring back some of the trade he has lost.
- 2.6 An objection to the variation application was received on 26th January 2016 and is detailed in Appendix A

3. **Street Trading Legislation**

- 3.1 Street trading is controlled by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Under this legislation, the Council may only refuse an application on any of the following grounds:
- (a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
 - (b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
 - (c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution passed by the Council [in Cardiff there is no such resolution];
 - (d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (e) that the applicant has at any time been granted a street trading licence by the Council and has persistently refused or neglected to pay fees due to them for it or charges due to them for the collection of refuse, the cleansing of streets, and other services rendered by them to her in her capacity as licence-holder;
 - (f) that the applicant has at any time been granted a street trading consent by the Council and has persistently refused or neglected to pay fees due to them for it;
 - (g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence
- 3.2 Mr Harris is a long established licenced street trader and it is unlikely that any of the grounds for refusal listed above apply.

There are other businesses within the vicinity that the Committee might be aware of. There is currently one other licensed street trader on a different pitch in Working Street who is licensed to sell fruit and vegetables. The only permanent premises on Working Street selling food is Atigiano coffee shop. There are also seasonal temporary markets.

However even if these businesses were affected by the proposal Ground (b) for refusal – namely that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade – does not apply. This is because “the street” for this purpose is the designated licence street in which Mr Harris’s stall is located, and that is only a part of Working Street large enough to accommodate his stall.

4. Achievability

This report contains no equality personnel or property implications.

5. Legal Implications

5.1 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that a street trading licence shall specify:

(a) The street in which, days on which, and times between which the licence holder is permitted to trade; and

(b) The description of articles in which he is permitted to trade.

5.2 As indicated in Section 3 of this Report, an application for a street trading licence in a Licence Street can only be refused on the grounds specified at paragraph 3.1.

5.3 If the Council was minded to refuse the application it would have to inform Mr Harris of the ground on which it would refuse and give him the opportunity to make representations. However there are no grounds on which the Committee may refuse the application.

6. Financial Implications.

6.1 This report contains no direct financial implications

7. Recommendation

7.1 It is recommended that the Committee determine the application made by Mr Tim Harris to vary his street trading licence.

Dave Holland
HEAD OF REGULATORY SERVICES

12 January 2016

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: Minutes of the Report of the Director of Governance & Legal Services to the Public Protection Committee: 'Control of Street Trading – Working Street' 4th August 2015.

