
TITLE: APPLICATION FOR CONSENT TO TRADE FROM A LOCATION DEFINED AS A CONSENT STREET IN ACCORDANCE WITH THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982.

Committee: Licensing (Non-Statutory) Sub-Committee

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Report number:

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1.0 Issue

- 1.1 To consider an application to trade from a location defined as a Consent Street within the East Cambridgeshire district boundary.

2.0 Recommendations

- 2.1 That Members consider the report, and determine:
- (i) To grant the application as applied for; or
 - (ii) Grant the application with any variation deemed reasonably necessary subject to the Council's approved standard conditions and any other specific conditions or restrictions the Committee deem reasonable and appropriate.
 - (ii) To refuse the application.

3.0 Background

- 3.1 A new application has been received from a Leah Francombe of 42 Stretham Road Wilburton CB6 3RX 119A to sell flowers from the Darling Buds of Wilburton flower stall to be permanently located on the right-hand side of the front garden area of 42 Stretham Road, Wilburton, CB6 3RX, during the times listed in the table below:

Day	Hours
Monday to Sunday	10:00 to 18:00

- 3.2 The full application form and location photo of the trading stall can be found in **Appendix 1**.

- 3.3 In accordance with the Council's policy the following organisations/ people were consulted:
- Cambridgeshire Constabulary
 - Cambridge County Council highways department,
 - Environmental Services
 - Planning
 - Relevant Ward Cllr(s), and Parish Council(s)
 - Property owners within 100metres who directly overlook the proposed location.
- 3.4 During the consultation period Officers received a total of four valid objections from residents living within 100 metres of the trading location to the granting of consent (**see Appendix 2**). No objections were received from the other Statutory Consultees.
- 3.5 In addition to the objections mentioned in paragraph 4.4, Officers received three objections from persons not living within the 100metres consultation boundary which have not been validated for the purposes of this report.
- 3.6 Those opposing the application cited that the location was too close to Mill Lane residential properties, and their vehicle access, and raised public safety issues regarding vehicle movement and parking. They suggested that the trading stall might be relocated to the left-hand side of the premises adjacent to the premises driveway to allow customers to park there.
- 3.7 In response to the objections raised, the applicant has suggested that the bushes in Millfield Lane, next to the right-hand side of the premises might be removed to create a parking bay for persons stopping temporarily to buy flowers from the stall which is by means of an 'honesty box'. The details and measurements of this are **Appendix 3** of the report.

4 Arguments/Conclusions

- 4.1 In considering applications for the grant of a Street Trading Consent, as well as the individual merits of the application and the relevant legislation, the Street Trading Policy provides that the Council may have regard to the number, nature and type of traders already trading within a consent area when determining an application, and when determining an application for the grant or renewal of a Street Trading Consent the following factors will be considered:

a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

b) Public Order

Whether the street trading activity represents, or is likely to represent a substantial risk to public order.

c) The Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

d) Highway

The location and operating times will be such that the highway can be maintained in accordance with the Cambridgeshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

e) Compliance with legal requirements

Trading should only be conducted from a trading unit that complies with relevant legislation. Observations from relevant officers will be considered on this point.

4.2 The Council's Street Trading Policy states that the Council will normally grant a Street Trading Consent unless, in its opinion:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site;
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited;
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes;
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes but note that competition issues will not be a consideration;
- There is a conflict with Traffic Orders such as waiting restrictions;
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes;
- The trading unit obstructs the safe passage of users of the footway or carriageway;
- The trading unit is not considered to be suitable in style or in keeping with the location requested.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- The site does not allow the Consent Holder, staff and customers to park in a safe manner;

- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- In the case of a renewal application the previous year's fees have not been settled, and/or the consent holder has been the subject of substantiated complaints.

4.3 The Licensing Committee can only consider comments regarding the flower stall element of the objections raised when making their decision. Parking for activities carried on inside the premises is a planning matter, as licensing does not cover this sort of trading from a premises.

4.4 With regards to parking and nuisance generally, these issues would be covered by Condition 20 of the standard street trading conditions, should consent be granted. If following grant, street trading activity cause issues, the street trading conditions would become enforceable, and the street trading consent can be withdrawn.

4.5 The Street Trading Policy allows Members and Officers to depart from the policy where there are clear and compelling reasons for doing so.

5 Additional Implications Assessment

5.1 In the table below, please put Yes or No in each box:

Financial Implications	Legal Implications	Human Resources (HR) Implications
Yes	Yes	No
Equality Impact Assessment (EIA)	Carbon Impact Assessment (CIA)	Data Protection Impact Assessment (DPIA)
No	No	No

Legal Implications

5.2 The Local Government (Miscellaneous Provisions) Act 1982 contains adoptive provisions enabling local councils to control street trading by designating streets as Licence Streets, Consent Streets or Prohibited Streets.

5.2 Street trading is only permitted in Licence or Consent Streets if the Council has given permission by way of a licence or consent. Permission cannot be given to trade in Prohibited Streets. Street trading is not controlled in streets that have not been designated by the Council, or in areas covered by one of the exemptions within the legislation.

5.3 The Council reviewed its street trading resolutions in 2015, and following a consultation exercise all streets (as defined by the "1982 Act") in the district were designated as Consent Streets, with the exception of the A10, A11 and

A14 trunk roads which were designated as Prohibited Streets. This change took effect from 1 April 2016.

- 5.4 In accordance with the Council's Street Trading Policy, applications that do not attract objections can be dealt with via delegated powers to officers. However, if an objection is received, the application must be determined by Members.
- 5.5 In April 2018 minor amendments were made to the Street Trading Policy, to enable the Licensing Sub-Committee, or the main Licensing Committee to determine such applications. These amendments came into effect on 11 April 2018.
- 5.6 Schedule 4 paragraph 7(2) of the "1982 Act" provides that the Council may grant a consent if they think fit, subject to observing the mandatory grounds for refusal at sub-paragraph 7(3). No mandatory grounds of refusal are applicable to this application.
- 5.7 The Council is not under any duty to grant a Street Trading Consent and need not specify any of the statutory grounds for refusal. Therefore, the matter to grant or refuse an application for a Street Trading Consent is at the total discretion of the Council. However, the Council must have regard to its Street Trading Policy, which outlines the approach that it will take in determining applications of this sort, and any comments submitted in support of, or in opposition to the granting of the application. Members will need to give full reasons for their decision.
- 5.8 Accordingly the Committee may:
 - (i) Grant the application as it stands in which case it will be subject to the Council's approved standard conditions (**see Appendix 4**).
 - (ii) Grant the application with any variation deemed reasonably necessary subject to the Council's approved standard conditions and any other specific conditions or restrictions the Committee deem reasonable and appropriate.
 - (iii) Refuse the application.
- 5.9 Street Trading Consents can be issued for a maximum of twelve months but can be issued for shorter periods.
- 5.10 Street Trading Consents can be revoked at any time.

Financial Implications

- 5.11 The cost of convening a Licensing (Non-Statutory) Sub-Committee to determine an application is covered by the fees paid by those applying for Consent.
- 5.12 There is no formal right to appeal, however, should the Council's decision be subject to a judicial review, legal fees to defend the review would be accrued.

- 5.13 An Equality Impact Assessment (EIA) is not required as this does not relate to a service provided by the Council or a decision on a change of policy, but a regulatory disciplinary matter relating to an individual.

6.0 Appendices

- 6.1 Appendix 1 - Application and trading location photo
Appendix 2 - Consultee objections
Appendix 3 - Applicant's response to objections
Appendix 4 - Standard trading conditions

7.0 Background Documents

Local Government (Miscellaneous Provisions) Act 1982

East Cambs Street Trading Policy 2016

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Local Government (Miscellaneous Provisions) Act 1982	Room SF204 The Grange Ely	Stewart Broome Licensing Manager 01353 616287 stewart.broome@eastcambs.gov.uk
East Cambs Street Trading Policy 2018		