



# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,  
ELY, CAMBRIDGESHIRE CB7 4EE  
Telephone: 01353 665555

MEETING: **LICENSING SUB-COMMITTEE**  
TIME: 2:00pm  
DATE: 30<sup>th</sup> November 2018  
VENUE: Council Chamber, The Grange, Nutholt Lane, Ely  
ENQUIRIES REGARDING THIS AGENDA: Adrian Scaites-Stokes  
DIRECT DIAL: (01353) 665555 EMAIL: [adrian.scaites-stokes@eastcambs.gov.uk](mailto:adrian.scaites-stokes@eastcambs.gov.uk)

## **Conservative Members:**

Councillor Michael Allan  
Councillor Julia Huffer  
Councillor Carol Sennitt  
Councillor Alan Sharp

## **Liberal Democrat Member:**

Councillor Sue Austen

**Quorum:** 3 Members

# A G E N D A

1. **Election of Chairman**  
Election of Chairman of the Licensing Sub-Committee for the remainder of the municipal year
2. **Appointment of Vice Chairman**  
Appointment of Vice Chairman of the Licensing Sub-Committee for the remainder of the municipal year
3. **Declarations of Interest**  
To receive declarations of interest from Members for any items on the Agenda in accordance with the Members Code of Conduct
4. **Determination Of An Application For Consent To Trade From A Location Defined As A Consent Street In Accordance With The Local Government (Miscellaneous Provisions) Act 1982**  
To consider the above matter in accordance with the Hearings Procedure (attached)

**NOTES:**

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.</b> | The maximum capacity for meetings in the Council Chamber has been set by the Fire Officer at 100 persons. Allowing for Member/Officer attendance and room layout constraints, this will normally give a capacity for public attendance of 60.                                                                                                                                                                                                                                                                                                                                                      |
| <b>2.</b> | <p>Fire instructions for meetings:</p> <ul style="list-style-type: none"><li>▪ If the fire alarm sounds please make your way out of the building by the nearest available exit - i.e. the back staircase or the fire escape in the chamber. Do not to use the lifts.</li><li>▪ The fire assembly point is in the front staff car park by the exit barrier.</li><li>▪ This building has an auto-call system to the fire services, so there is no need for anyone to call the fire services.</li></ul> <p>The Committee Officer will sweep the area to ensure that everyone is out of this area.</p> |
| <b>3.</b> | Reports are attached for each agenda item unless marked “oral”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>4.</b> | <p>If required all items on the agenda can be provided in different formats (e.g. large type, Braille or audio tape, or translated into other languages), on request, by calling Main Reception on (01353) 665555 or e-mail:</p> <p><a href="mailto:translate@eastcambs.gov.uk">translate@eastcambs.gov.uk</a></p>                                                                                                                                                                                                                                                                                 |
| <b>5.</b> | <p>If the Committee wishes to exclude the public and press from the meeting a resolution in the following terms will need to be passed:</p> <p>“That the press and public be excluded during the consideration of the remaining items no. X because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item there would be disclosure to them of exempt information of Categories 1, 2 and 7 Part I Schedule 12A to the Local Government Act 1972 (as Amended).”</p>                     |
|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

## **STREET TRADING LICENCES – HEARING PROCEDURE**

The Hearing will normally be in public.

However, where the subject matter of the hearing is likely to involve consideration of exempt matters, then the Hearing will usually take place in private.

A Legal Officer will assist the Committee on matters of law, evidence and procedure.

### **Procedure:**

- 1.** The Chair will welcome the Applicant/Licence Holder (representative) and where appropriate Complainant(s), introduce Members/Officers present, and explain the procedure to be followed.
- 2.** The Chair will ask whether the Applicant/Licence Holder has received the report.
- 3.** The Chair will ask the Licensing Officer to present the report.
- 4.** The Chair will ask the Applicant/Licence Holder whether the content of the report is accurate and follow up if he/she says that it is not.
- 5.** The Chair or Members may ask questions of the Licensing Officer.
- 6.** If a Complainant is present he or she will be asked to give details of their complaint and/or refer to any statement appended to the report.
- 7.** The Chair, Members, or Legal Officer may ask the Complainant questions.
- 8.** The Applicant/Licence Holder may ask the Complainant questions.
- 9.** The procedure will be repeated where there is more than one Complainant.
- 10.** The Applicant/licence Holder (or his/her representative) will be invited to address the Committee in support of their case. He or she may call witnesses in support of his/her case.
- 11.** The Chair/members, or Legal Officer may ask questions of the Applicant/Licence Holder or their witnesses.
- 12.** The Chair will ask whether any officers present have any comments to make or questions to raise. If the officers make any comments they may be asked questions.
- 13.** The Applicant/Licence Holder will then be invited to make a closing statement.
- 14.** The Members and Legal Officer will go into close session. The members will make a decision and record the reasons for this.
- 15.** The Members of the Committee will then return to open session and bring everyone else back into the room. The Chair will announce the decision with reasons and advise that a letter confirming the decision and rights of appeal will be sent within the next 7 days.



East Cambridgeshire  
District Council

## APPENDIX 1

### Local Government (Miscellaneous Provisions) Act 1982

### APPLICATION FOR STREET TRADING CONSENT

- Please familiarise yourself with our terms and conditions before completing this application
- It is an offence to give false information - all questions must be answered.
- An application will not be deemed valid unless the Licensing Authority receives the following documents in addition to a completed and signed application form, and the relevant fee:
  1. One Passport style photo for each applicant
  2. Proof of right to work in the UK<sup>1</sup> for each applicant
  3. A copy of a map clearly identifying the proposed trading location(s) and trading unit boundaries with a red line.
  4. A photo of the front, rear, left and right aspects of the van, cart, barrow, other vehicle or stall from which trading is intended to take place.
  5. Proof of third party and public liability insurance for street trading with a minimum of £2,000,000 liability cover is, or will be in place during the street trading activity.
  6. Gas safety certificate issued by a Gas Safe registered gas engineer, if applicable.
  7. Written report of electrical safety issued by a NICEIC registered electrical contractor, if applicable.
  8. Evidence to confirm food handlers have undertaken a satisfactory level of food hygiene training, if applicable.
  9. Confirmation that the mobile unit is registered under the Food Premises (Registration) Regulations 1991, if applicable.
  10. Where the proposed street trading is from a fixed position, written permission from the land owner of the proposed trading location.

<sup>1</sup> Consents will not be issued to any person who does not have a right to work in the UK at the time of application. In order to confirm your right to work, all applicants must supply suitable documentation such as, a Passport, Biometric Residence Permit, birth certificate, or other approved home office documents.

#### **Please Note**

The Licensing Authority reserves the right to request a DBS criminal record certificate from all applicants stated on the application form. If such a check is required the Licensing Authority recognises the DBS "Update Service" scheme. For more information, please see our website [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk).

### METHOD OF COMMUNICATION

- The Council's primary method of communication is by email.
- The Council may also communicate with you via text message to your mobile phone. As the Council is not a telecommunications company it will be necessary to use the services of a 3<sup>rd</sup> party such as BT or Virgin to provide this facility. Where text messaging is used the Council will observe the principles of the Data Protection Act 1998.
- By signing this application form you are agreeing to permit the Council to contact you using email, phone, text, and traditional paper based communication.

### CONSENT PERIOD

Street trading consents will last 12 months, or until the last daily permit date requested has passed in all cases, unless surrendered by the consent holder, or withdrawn by the Licensing Authority. The period between the first daily permit and the final daily permit cannot exceed 12 months. Street trading consent fees can be found on [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk).

### APPLICANT TYPE

Please indicate who will be the proprietor of the business:

- Sole trader ☒ (complete sections 1 to 8, and 24 onwards)
- Partnership ☐ (complete sections 1 to 16, and 24 onwards)
- Limited Liability Partnership (LLP) ☐ (complete sections 17 onwards)
- Limited Company ☐ (complete sections 17 onwards)

### PROPRIETOR DETAILS

1. Surname: Yasan 2. Forename(s) ZEKI
3. Current registered address: 25 Benedict Street, Ely  
Postcode: CB6 3AU
4. Date of birth: 14 June 1968 5. Telephone: \_\_\_\_\_
6. Mobile: \_\_\_\_\_ 7. Email: \_\_\_\_\_
- 8(a). Are you permitted to work in the UK?: Yes ☒ No ☐
- 8(b). Are there any restrictions?: Yes ☐ No ☒ (If yes, please detail them below)

### ADDITIONAL PROPRIETOR DETAILS

9. Surname: \_\_\_\_\_ 10. Forename(s) \_\_\_\_\_
11. Current registered address: \_\_\_\_\_  
Postcode: \_\_\_\_\_
12. Date of birth: \_\_\_\_\_ 13. Telephone: \_\_\_\_\_
14. Mobile: \_\_\_\_\_ 15. Email: \_\_\_\_\_
- 16(a). Are you permitted to work in the UK?: Yes ☐ No ☐
- 16(b). Are there any restrictions?: Yes ☐ No ☐ (If yes, please detail them below)

### OTHER PROPRIETOR DETAILS

|                                                                                                                                                                |                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 17. Ltd Company/LLP name:                                                                                                                                      |                |
| 18. Current registered address of Ltd Company/LLP:                                                                                                             |                |
| Postcode:                                                                                                                                                      |                |
| 19. Ltd Company/LLP registration number:                                                                                                                       |                |
| 20. Mobile:                                                                                                                                                    | 21. Telephone: |
| 22. Email:                                                                                                                                                     |                |
| 23. Director/ Partner/Company Secretary names:<br>(please indicate all persons registered with Companies House, in the order you would like us to contact you) |                |

### PENDING PROSECUTIONS

24. Does any person named on this application form have any foreign or domestic prosecutions pending against them?: Yes ☐ No ☒  
(If yes, please give details and continue on a separate sheet if needed)

| Date of Court hearing | Offence | Court |
|-----------------------|---------|-------|
|                       |         |       |
|                       |         |       |
|                       |         |       |
|                       |         |       |

### CRIMINAL CONVICTIONS, CAUTIONS, and/or WARNINGS

25. Has any person named on this application been convicted of any foreign or domestic offences, or received any Police cautions, or warnings?: Yes ☐ No ☒ (If yes, please give details and continue on a separate sheet if needed)

NB: There is no need to declare any offences considered "spent" under the Rehabilitations of Offenders Act 1974.

| Date | Offence | Court | Sentence |
|------|---------|-------|----------|
|      |         |       |          |
|      |         |       |          |
|      |         |       |          |
|      |         |       |          |

### TRADING DETAILS

|                                                                                                  |                                            |
|--------------------------------------------------------------------------------------------------|--------------------------------------------|
| Trading name (if applicable):                                                                    | Sutton Kebab Van                           |
| Street name (fixed location), or the name of all the streets you wish to trade (mobile trading): | British Legion Social Club car park Sutton |

|                                                                                                                                                           |           |                                                                              |             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|------------------------------------------------------------------------------|-------------|
| Please indicate whether you wish to apply for a daily permit or an annual consent?:                                                                       |           | Annual: <input checked="" type="checkbox"/> Permit: <input type="checkbox"/> |             |
| Annual consent trading days and times?                                                                                                                    | Day       | Start time                                                                   | Finish time |
|                                                                                                                                                           | Monday    | 5 pm                                                                         | 10.30 pm    |
|                                                                                                                                                           | Tuesday   | - 11 -                                                                       | - 11 -      |
|                                                                                                                                                           | Wednesday | - 11 -                                                                       | - 11 -      |
|                                                                                                                                                           | Thursday  | - 11 -                                                                       | - 11 -      |
|                                                                                                                                                           | Friday    | - 11 -                                                                       | - 11 -      |
|                                                                                                                                                           | Saturday  | - 11 -                                                                       | - 11 -      |
|                                                                                                                                                           | Sunday    | - 11 -                                                                       | - 11 -      |
| Please enter all daily permit trading dates and times (e.g. 4 <sup>th</sup> July – 9am to 7pm, or 4 <sup>th</sup> to 10 <sup>th</sup> July – 9am to 7pm): |           |                                                                              |             |

| GOODS TO BE SOLD (please tick all relevant boxes)   |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clothing                                            | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Electrical spares                                   | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| DIY products                                        | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Hot food and drink (please tick all relevant boxes) | Baked Potatoes <input type="checkbox"/> Fish/Chips <input type="checkbox"/><br>Curry <input type="checkbox"/> Burgers <input type="checkbox"/> Hot Dogs <input type="checkbox"/><br>Kebabs <input checked="" type="checkbox"/> Fried Chicken <input type="checkbox"/><br>Crepes/Pancakes/Doughnuts etc <input type="checkbox"/><br>Sausage/Bacon/Eggs etc <input type="checkbox"/><br>Other (please state below) <input type="checkbox"/> |
| Furniture                                           | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Records, CD's and DVD                               | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Household cleaning goods                            | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Books                                               | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Fresh fish                                          | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Fresh meat                                          | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Fruit and Veg                                       | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Delicatessen                                        | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Flowers and plants                                  | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Ice-cream vendor                                    | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Cakes/bakery                                        | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Arts and crafts                                     | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Other (please state type of goods)                  |                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| DETAILS OF TRADING UNIT               |                                                                                                                                                                                                                                                     |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Type of trading unit:                 | Mobile Catering Unit <input type="checkbox"/> Barrow <input type="checkbox"/><br>Ice-Cream Van <input type="checkbox"/> Cart <input type="checkbox"/><br>Stall <input type="checkbox"/><br>Other (please state) <input checked="" type="checkbox"/> |
| Vehicle registration (if applicable): |                                                                                                                                                                                                                                                     |
| Trading unit measurements:            | Height: 2.10 mtrs.....cms<br>Width: 2.05 mtrs.....cms<br>Length: 4.90 mtrs.....cms                                                                                                                                                                  |

| SUPPORTING DOCUMENTS CHECKLIST                                                                                                                                                     |                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| 1. One Passport style photo for each applicant endorsed as a true likeness by a person of professional standing.                                                                   | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/>                               |
| 2. Proof of right to work in the UK for each applicant                                                                                                                             | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/>                               |
| 3. A copy of a map clearly identifying the proposed trading location(s) and trading unit boundaries with a red line.                                                               | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/>                               |
| 4. A photo of the front, rear, left and right aspects of the van, cart, barrow, other vehicle or stall from which trading is intended to take place.                               | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/>                               |
| 5. Proof of third party and public liability insurance for street trading with a minimum of £2,000,000 liability cover is, or will be in place during the street trading activity. | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/>                               |
| 6. Gas safety certificate issued by a Gas Safe registered gas engineer, if applicable.                                                                                             | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/> N/A: <input type="checkbox"/> |
| 7. Written report of electrical safety issued by a NICEIC registered electrical contractor, if applicable.                                                                         | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/> N/A: <input type="checkbox"/> |
| 8. Evidence to confirm food handlers have undertaken a satisfactory level of food hygiene training, if applicable.                                                                 | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/> N/A: <input type="checkbox"/> |
| 9. Confirmation that the mobile unit is registered under the Food Premises (Registration) Regulations 1991, if applicable.                                                         | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/> N/A: <input type="checkbox"/> |
| 10. Written permission from landowner of trading location                                                                                                                          | Enclosed: <input type="checkbox"/> To follow: <input checked="" type="checkbox"/> N/A: <input type="checkbox"/> |

| DECLARATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Fraud Act 2006</b></p> <p>I hereby declare that I fully understand, have read and checked the details and questions on this application form and the foregoing statements are true. I understand that it is a criminal offence if I or anyone else gives false information, or makes a false representation, or fails to disclose information in order for me to obtain street trading consent. I am fully aware that the provision of a false statement, or information in order to obtain a licence is an offence under the above Act which may result in the refusal of this consent application and any subsequent consent applications for a period of one to three years. I am also aware that any consent granted as a result of breaching the above Act will be immediately withdrawn. A refusal or revocation decision is not reliant on a formal conviction under the above Act being secured.</p> |

I have read the Street Trading Policy, and I undertake, in the event of a consent being granted, to observe and comply with such conditions.

Signed by or on behalf of the applicant<sup>2</sup>

Signed (by the applicant): ..... Date: 29.08.18

Print name: ZEKI YASAN Capacity: owner

Signed (by the applicant): ..... Date: .....

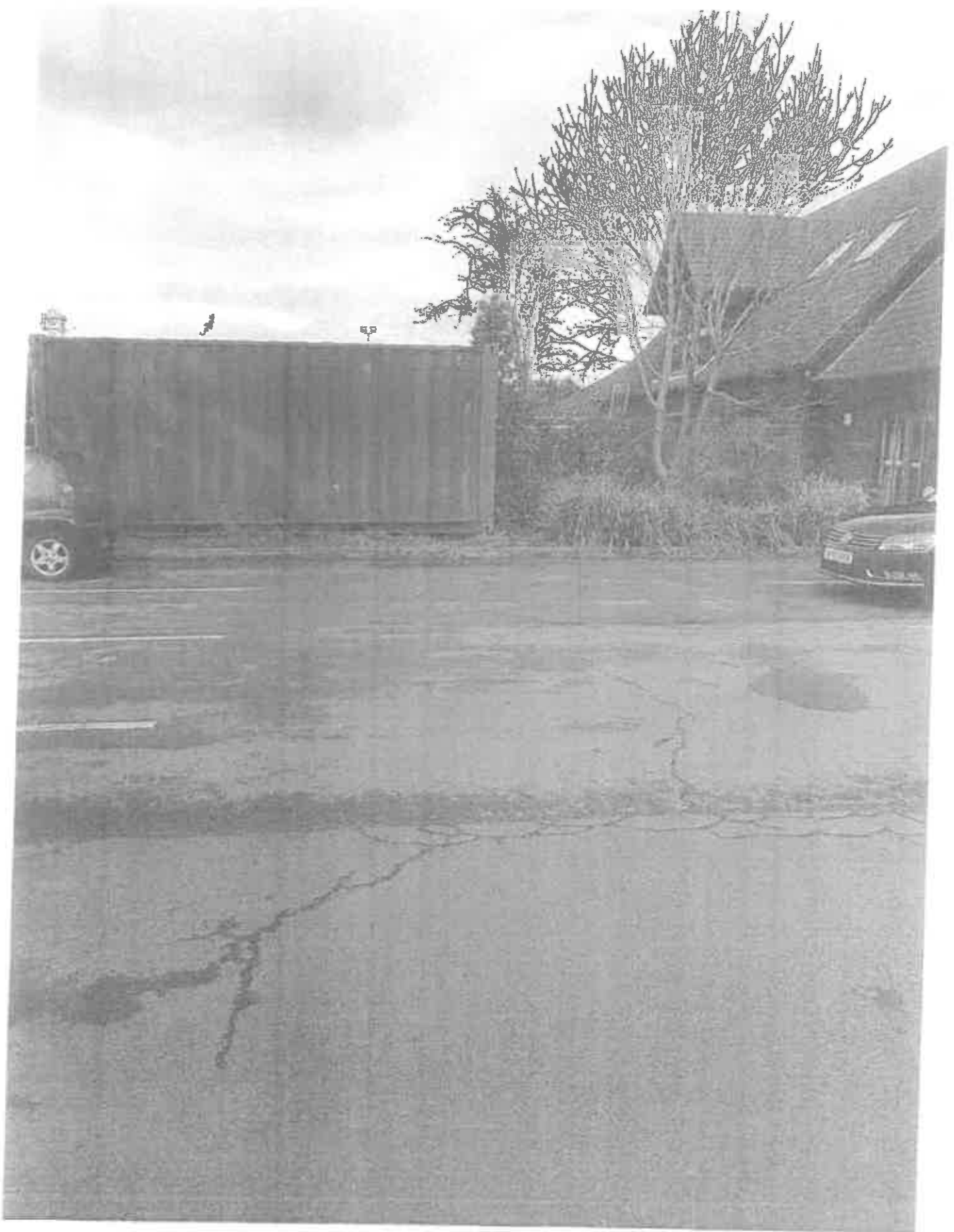
Print name: ..... Capacity: .....

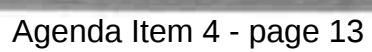
<sup>2</sup> If signing on behalf of a Ltd Company or LLP only one responsible person needs to sign.

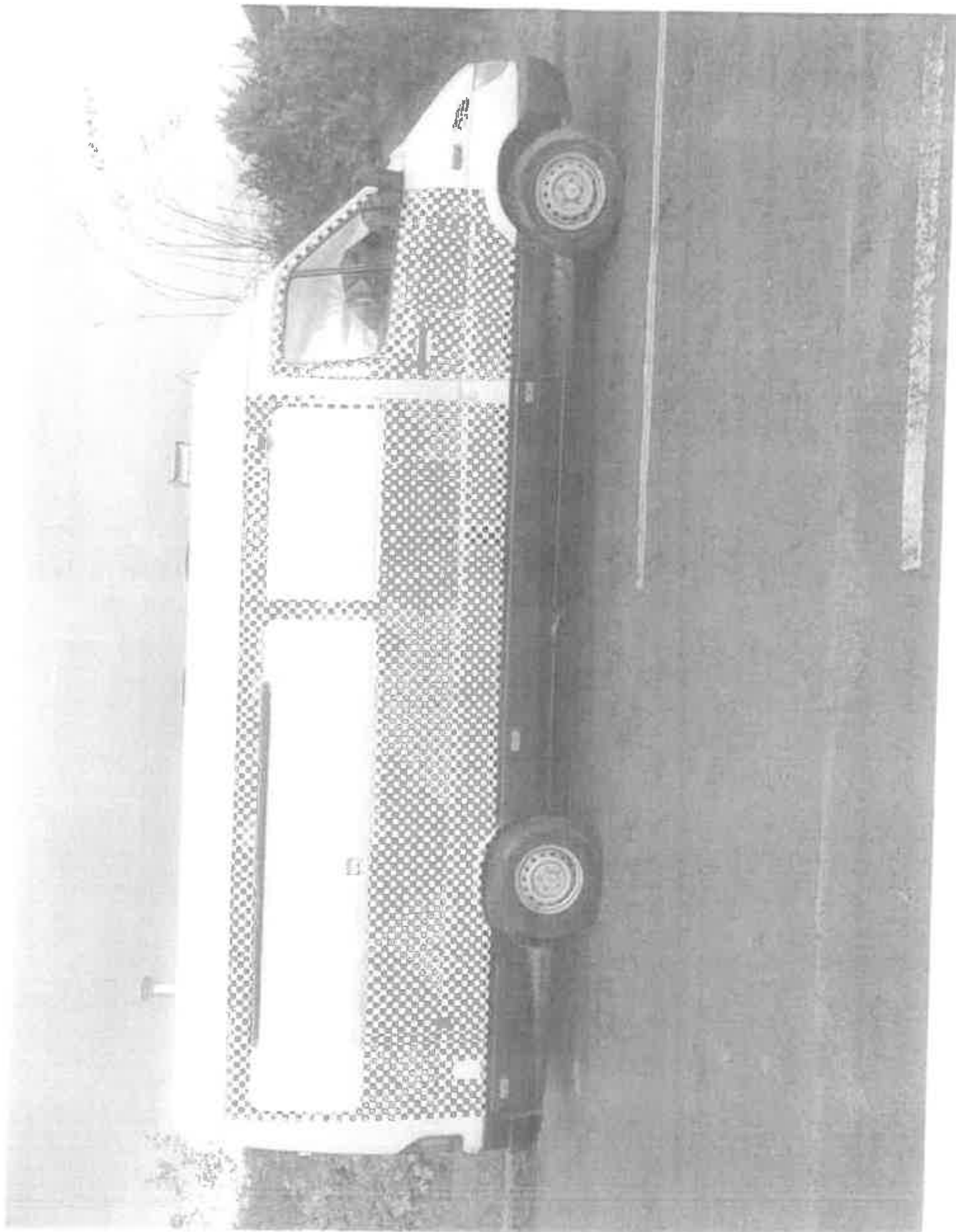
#### DATA PROTECTION ACT 1998

East Cambridgeshire District Council is registered under the Data Protection Act 1998. This allows it to process personal data in performing its lawful business. Information held by the Council, including personal data you provide now or in the future, will be processed in compliance with data protection principles. Your personal data may be used to manage, monitor, improve and promote the Council's services. Where delivery of services or actions is in partnership with others, or dependent on the actions of others, it may also be shared with other persons or bodies in accordance with, and restricted to the terms of information sharing agreements and protocols. To protect public funds it may also be shared with other persons or bodies to prevent and detect fraud.

Further details are available on the Council's website [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk). If you have concerns about the processing of your personal data by the Council you may contact the Data Protection Officer at East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambridgeshire, CB7 4EE or the Office of the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF







## APPENDIX 2

Mr and Mrs Hunter  
62 The Brook,  
Sutton,  
Ely,  
Cambs,  
CB6 2QQ

**Reference: Kebab Van, The Brooklands Centre**

10/10/18

Dear Mr Broome,

Here we go again, this man is obviously not satisfied with what you have allowed him – he wants to control The Brooklands Carpark all week long and flood the village with his kebabs.

He started trading approximately March 2018 for 3 nights per week. We have put up with the smell of kebab meat drifting into our home on the hot summer evenings, so to have this all week long is not fair.

I would like to ask you and your committee a question, put yourselves in our position and also our neighbours – we own our own houses and have worked hard all our lives to buy them, what would you feel like if a situation arose where the value of your home dropped by several thousand pounds because of this kebab van close by?

You have a lot of power in your decision, please give us some thought too.

Yours Sincerely,

P.S Hunter

S.E Hunter

## Stewart Broome

---

**From:** Wendy Foyle  
**Sent:** 24 September 2018 18:03  
**To:** Licensing  
**Subject:** Att Stewart Brooke Sutton Kebab Van  
  
**Categories:** Stewart

Dear Stewart

We are writing to you once again with reference to the Kebab Van in Sutton. As residents immediately effected by the van we are seriously disappointed by the proposed new application.

At the moment we tolerate the van because it is not there all the time and it's limited opening times. We fill that if the van becomes perminant all our previous fears will be realised.

These fears are as follows :-

Constant smells impacting on us enjoying our garden

Constant noise from people assembling at the van

Increased risk of vermin especially if it is sited there permanently

Increased noise if they stop using the Legion for power

Increased litter

Increased traffic and traffic noise

We feel that the van has been given an inch and now wants to take several miles.

Can we ask who in there right minds would want a Burger/Kebab van in ther back garden.

Yours sincerely

Wendy and Duncan Foyle

11 Stirling Way  
Sutton

Ely

Cambs

CB6 2QY

Ref 18/00762/STRCON

Dear Sir

I am writing to object to the extended trading hours of the Sutton Kebab Van

If passed this will treble the Litter, Vermin, and Nuisance Level.

Sutton is well served for Fast Food Delivery Services from Ely and Chatteris

Yours Faithfully

Mr Mr J. Darby

EAST CAMBRIDGESHIRE

09 OCT 2018

CITY COUNCIL

**Stewart Broome**

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**From:** Sutton Royal British Legion <[redacted]>  
**Sent:** 19 September 2018 12:24  
**To:** Stewart Broome  
**Subject:** Re: Application for a street trading permit for Sutton Kebab Van Brooklands Centre Car Park The Brook Sutton CB6 2QQ  
**Attachments:** image003.png  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Good afternoon Stewart

Further to your email regarding Flames Kebab van. I would like to confirm that The Royal British Legion Club, Sutton have no objections to any of the proposals set out in your email.

Kind regards  
Jayne Fosh  
Chairman

## Standard conditions applicable to Street Trading Consents

### General

These Standard Conditions will apply to all licences unless dis-applied or varied by the Environmental Services Manager, or they are over-ridden by the special conditions for special events/markets.

### Standard Conditions

1. Definitions
  - i. 'street' includes –
    - a) any road, footway, beach or other area to which the public have access without payment, and
    - b) a service area as defined in section 329 of the Highways Act 1980 and also includes any part of a street
  - ii. 'street trading' means –
 

the selling or exposing for sale of any article (including a living thing) in a street
2. The Consent granted by the Council is personal to the holder.
3. The consent holder (or a person nominated by the consent holder) shall attend in person at the Consent position for not less than 75% of the time on any day which trading is carried out.
4. The street trading consent only relates to the vehicle/premises stipulated within the Consent.
5. The consent holder can only trade in the goods stipulated in the consent.
6. Ancillary items can be sold where relevant to the goods being traded.
7. Any van, vehicle, barrow, cart or stall shall only be positioned within the designated area as outlined on the plan attached to the Consent, and goods should not migrate outside of the permitted area.
8. Where appropriate the consent holder of any street trading consent and the stall and/or vehicle must comply with all relevant road traffic and highways legislation.
9. Any stall, vehicle, van, barrow, or cart authorised by the Council must be equipped with safe and adequate lighting for operation during the hours of darkness.
10. Where appropriate the consent holder of the street trading consent and the stall and/or vehicle must comply with all relevant food hygiene legislation.
11. The consent holder shall only trade from a stall or vehicle approved by the Council in writing.
12. The Consent may only be transferred to another person with the prior written consent of the Environmental Services Manager.
13. The consent holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
14. The 'permitted hours' will be those stipulated within the Consent.
15. Unless stipulated within the Consent, the van, vehicle, barrow, cart or stall shall be removed from the site at the end of each trading day.

16. The consent holder will vacate the site within 30 minutes of the end of the permitted hours.
17. The consent holder shall not trade in any street designated by the Council as a prohibited street.
18. WC facilities must be made available for staff and members of the public if seating is made available for consumption of food on site.
19. The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council authorised in writing under the appropriate legislation.
20. The consent holder shall conduct his/her business in such a manner to ensure that he/she does not:
  - a) Cause a nuisance from noise, vibration, smoke or smell to the occupiers of adjoining property.
  - b) Cause an obstruction to the vehicles or pedestrians in the street.
  - c) Cause a danger to occupiers of adjoining property or to other users of the street.
21. The consent holder shall not seek to attract attention or custom by shouting or making undue noise or by permitting the playing of music, music reproducing or sound amplification apparatus or any musical instruments, radio or television sets whilst trading under this Consent, other than as specified in the Consent.
22. Refuse storage must be provided adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner.
23. The consent holder shall ensure that the whole of the lay-by and adjacent verge/ footpath (but not the carriageway) to a distance of 10 metres be kept free of litter and refuse at all times whilst resident.
24. A copy of the Consent, suitably protected against the weather shall be displayed in a prominent position on the stall or vehicle at all times when trading is taking place.
25. The holder, or any employee of the holder, shall produce a copy of the Consent on demand when required by a Police Officer or an authorised officer of the Council.
26. Nothing in any consent shall purport to grant to the holder any other licence or permissions required under any other Enactment or requirement and the consent holder is specifically advised to obtain such other approvals as may be required.
27. The holder shall not place on the street any furniture or equipment or advertisement other than as specified in the Consent.
28. No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold or distributed on or about the vehicle or premises. For the purpose of this condition, material is unsuitable if in the opinion of an Officer of the Council authorised under the appropriate legislation, it is indecent, scandalous, offensive or likely to be harmful to any person likely to apprehend it. Items including but not limited to items used for sexual stimulation, and/or weapons likely to cause harm would be considered unsuitable. Material may also be considered to be unsuitable if it is of such a nature as to distract motorists driving on the highway.
29. The name and business address of the consent holder and other address at which the trailer is normally kept or garaged must be conspicuously and legibly displayed upon it in a place where the public may view it. Where this is a private address, suitable contact details must be displayed. The sign must be approved in writing by the Environmental Services Manager.

30. No signage or objects shall be placed on the highway or area surrounding the vehicle / premises without the appropriate permit.
31. Where a structure is not removed at the end of the trading day, no additional permanent or semi-permanent additions or paving shall be erected or constructed adjacent to the structure for which Consent has been granted.
32. Failure to comply with any condition attached to the street trading consent may result in the revocation of such Consent.
33. The holder shall notify the Environmental Services Manager at the Council Offices, The Grange, Nutholt Road, Ely, CB7 4EE in writing of any criminal convictions or other legal proceedings arising out of the use or enjoyment of the Consent.
34. The holder of a Consent shall carry public liability insurance of not less than £10 million, evidence of which shall be supplied to the Council prior to the grant of the Consent.
35. The Council may revoke the Consent at any time.
36. The holder will return the Consent to the Council immediately upon revocation or surrender.
37. In the event of the Consent being surrendered or revoked no refunds will be given. Where Consent is withdrawn by the Council for reasons other than an offence or breach being committed, a proportioned refund will be given.
38. The Council may at any time vary these Conditions without notice.
39. If the Consent Holder Street Trades from any Council Land he/she shall indemnify the Council from and against all loss, damage, costs, liabilities and claims whatsoever arising from its use and occupation of the land.<sup>22</sup>.
40. The Consent Holder and persons manning the stall will ensure their activities do not cause direct and permanent damage the grass and gardens and/or disturb wildlife.

**Additional conditions applicable to Special Events/Markets**

41. All stalls to be issued with a number that must be displayed on the stall.
42. The consent holder should keep records of each stallholder present on the market, to include the stallholder's pitch number, name and company name, their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.
43. The consent holder must not allow the sale of offensive weapons (including imitation firearms, standard firearms, airguns, swords and crossbows)
44. The consent holder must not allow the sale of materials considered offensive, indecent, or considered adult in nature.
45. If the Public Conveniences are required to open beyond 17:00 a charge will be levied in accordance with the Council's fees and charges.
46. If additional Street Cleaning is required as a result of the event, a charge will be levied in accordance with the Council's fees and charges.

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

Applicant: Mr Zeki Yasan

Date: 30 November 2018

Author: Senior Licensing Officer – Stewart Broome

[T144]

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**1.0 PURPOSE/SUMMARY OF REPORT**

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

**2.0 RECOMMENDATION(S)**

- 2.1 That Members consider the report, and determine:

- (i) To grant the application as applied for; OR
- (ii) To 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; OR.
- (iii) To refuse the application.

**3.0 BACKGROUND**

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 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.
- 3.5 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.

#### 4.0 THE APPLICATION

- 4.1 An new application has been received from a Mr Yasan of 25 Benedict Street, Ely, Cambridgeshire, CB6 3AU to sell hot food and drink from a catering unit to be permanently located on the grass verge at the edge of the car park of the Brooklands Centre, The Brook, Sutton, Cambridgeshire during the times listed in the table below:

| Day              | Hours          |
|------------------|----------------|
| Monday to Sunday | 17:00 to 22:30 |

- 4.2 The full application form, location plan, and a photo of the trading unit can be found in **Appendix 1**.

- 4.3 In accordance with the Council's policy the following organisations/ people were consulted:

- Cambridgeshire Constabulary
- Cambridgeshire Fire and Rescue Service,
- Cambridge County Council highways department,
- Environmental Health
- Planning
- Ward, City, town and parish councils
- Property owners within 100metres who directly overlook the proposed location (static pitches only)

- 4.4 During the consultation period Officers received a total of four valid objections to the granting of consent (**see Appendix 2**), and one valid comment supporting the application (**see Appendix 3**).

- 4.5 Those opposing the application cited noise, odour, rubbish, and traffic issues as reasons for their objections.

- 4.6 The supporting comment just stated no objection.

- 4.7 In the period between submitting the application and this report being written, the applicant and one of the objectors, Sutton Parish Council (the landowner) agreed terms that they were both happy with. These are as follows:

| Day                             | Hours          |
|---------------------------------|----------------|
| Monday to Saturday (no Sundays) | 18:00 to 22:30 |

The unit to remain trading from the location permitted on their existing permission, and the trading vehicle to be removed from site daily.

- 4.8 There are no other street trading consent holders in the village, but Mr Yasan currently holds a street trading consent to trade from the Brooklands Centre car park with the following restrictions:

| Day                  | Hours          |
|----------------------|----------------|
| Thursday to Saturday | 18:00 to 22:00 |
| Christmas Eve        | 18:00 to 00:00 |
| New Year's Eve       | 18:00 to 01:00 |

The unit must be removed from site daily.

- 4.9 Mr Yasan has chosen to submit a new application, as he did not wish to affect his other permission whilst attempting to increase his trading hours.
- 5.0 CONSIDERATIONS
- 5.1 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.
- 5.2 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.
- 5.3 The Street Trading Policy allows Members and Officers to depart from the policy where there are clear and compelling reasons for doing so.
- 5.4 On 17<sup>th</sup> and 20<sup>th</sup> April 2018 Environmental Health received complaints from two local residents that Mr Yasan's business was causing odour and vermin issues, and that Mr Yasan was arriving earlier than he was permitted to.
- 5.5 Environmental Health spoke with Mr Yasan to ask that he address any possible failings that may be causing food odour, and sent out diary sheets to the complainants. These sheets were not returned and so the complaints were closed. No further complaints have been received during the first eight months Mr Yasan has been trading.
- 5.6 Licensing Officers attended to see if Mr Yasan was arriving earlier than he should and found no evidence that this was the case.
- 5.7 Mr Yasan provided a large number of supportive comment slips from his customers to support his application.
- 5.8 Sutton Parish Council (the landowner) has given permission to use the land for trading purposes to the new hours they agreed for a temporary trial period of six months.
- 6.0 LEGISLATIVE POSITION/LEGAL IMPLICATIONS
- 6.1 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.
- 6.2. 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.

6.3. 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.

6.4 Street Trading Consents can be issued for a maximum of twelve months, but can be issued for shorter periods.

6.5 Street Trading Consents can be revoked at any time.

#### 7.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

7.1 There are no costs associated with this report, other than the author's time. However, should the Council's decision be subject to a judicial review, legal fees to defend the review would be accrued.

7.2 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.

#### 8.0 APPENDICES

- 8.1 Appendix 1 - Application, location plan, and trading unit photo
- Appendix 2 - Objections
- Appendix 3 - Supporting comment
- Appendix 4 - Standard trading conditions

| <u>Background Documents</u>                                | <u>Location</u>                 | <u>Contact Officer</u>                                                                        |
|------------------------------------------------------------|---------------------------------|-----------------------------------------------------------------------------------------------|
| Local Government<br>(Miscellaneous Provisions)<br>Act 1982 | Room SF208<br>The Grange<br>Ely | Stewart Broome<br>Senior Licensing Officer<br>01353 616477<br>stewart.broome@eastcambs.gov.uk |
| East Cambs Street Trading<br>Policy 2016                   |                                 |                                                                                               |