

Subject: Application for a Street Trading
Consent: M/s Kim Morley

Status: For Publication

Report to: Licensing Committee

Date: 28th June 2010

Report of: Director of Business

Portfolio

Holder: Environmental Services

Key Decision: No

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To outline the application for a Street Trading Consent situated on Knowsley Park Road, Haslingden.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities:-

- Delivering quality Services to our customers
- Keeping our Borough Clean and Green (Environment)

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report

3.2 The applicant may seek a Judicial Review if not satisfied with a Council decision.

4. BACKGROUND AND OPTIONS

4.1 On the 7th October 2009, Rossendale Borough Council adopted Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982.

4.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 makes provisions for the regulation of street trading. This allows a Local Authority to designate particular streets as prohibited, consent or licensed streets. These are defined as follows;

- A Prohibited Street means a street where trading is prohibited.
- A Consent Street is where street trading is prohibited without the consent of the Council.
- A licensed street is where street trading is prohibited without a licence granted by the Council.

4.3 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as “the selling or offering for sale any article (including a living thing) in a street”. The only parties not affected by the street trading regime will be those contained in Section (1) (2) of the schedule, as reproduced below.

- A pedlar holding a current Pedlar’s Certificate and acting as a pedlar, under the authority of the Pedlars Act 1871.
- A trader as part of an authorised market or fair.
- A trader at a petrol station.
- A trader in association with an adjoining shop premises.
- A roundsman.
- Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
- Trading as a news vendor where, the only articles sold or offered for sale are newspapers and periodicals.

4.4 Schedule 4, Paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 outlines the following with respect to street trading consents:

- 1) An application for a street trading consent or the renewal of such consent shall be made in writing to the district council.
- 2) Subject to sub-paragraph (3) below, the council may grant a Consent if they think fit.
- (3) A street trading consent shall not be granted—
 - (a) to a person under the age of 17 years; or
 - (b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.

4.5 Schedule 4, Paragraph 7 of the Act further outlines the following with respect to street trading consents:

- (1) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—
 - (a) obstruction of the street or danger to persons using it; or

- (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (3) The council may at any time vary the conditions of a street trading consent.
- (4) Subject to sub-paragraph (5) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (5) The council may include in a street trading consent permission for its holder to trade in a consent street—
 - (a) from a stationary van, cart, barrow or other vehicle; or
 - (b) from a portable stall.
- (6) If they include such a permission, they may make the consent subject to conditions—
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
- (7) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (8) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

5. THE APPLICATION

- 5.1 On 11th February 2010, the applicant, Ms Kim Morley, submitted an application for a street trading consent to sell hot food and drink from a catering van.
- 5.2 The application proposes that the catering van will be located on Knowsley Park Road at Haslingden, trading between the hours of 9:00am and 10pm Monday to Sunday. The application form is appended at Appendix A.
- 5.3 Knowsley Park Road is a consent street.
- 5.4 On receipt of the application, the following the Licensing Unit consulted the following organisations.
 - a) Lancashire Constabulary
 - b) Lancashire County Council – Highways Section
 - c) Lancashire County Council – Trading Standards Section
- 5.5 Trading Standards and the Lancashire Constabulary did not respond.
- 5.6 A written response was received from Lancashire County Council Highways Section and is appended at Appendix B. This recommends the Council refuse the application.

- 5.7 To assist the Committee, a number of photographs of the catering van's proposed location are appended at Appendix C.

COMMENTS FROM STATUTORY OFFICERS:

6 SECTION 151 OFFICER

- 6.1 There are no specific financial implications

7. MONITORING OFFICER

- 7.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

- 8.1 There are no specific HR implications.

9. CONCLUSION

- 9.1 The Licensing Committee can either grant or refuse Consent. The Licensing Committee may obtain advice from its legal advisor.

- 9.2 There is no right of appeal against the decision of the Committee but the applicant may seek a Judicial Review.

10. RECOMMENDATION(S)

- 10.1 That the Committee determines the application

11 CONSULTATION CARRIED OUT

- 11.1 Lancashire Constabulary
Lancashire County Highways
Lancashire County Trading Standards

12. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required No

Is a Community Impact Assessment attached No

13. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

Contact Officer	
Name	Tracy Brzozowski
Position	Licensing Manager
Service / Team	Licensing Unit
Telephone	01706 238602
Email address	tracybrzozowski@rossendalebc.gov.uk

Background Papers	
Document	Place of Inspection
Rossendale Borough Council Street Trading Conditions	Appendix D

Appendices	
Document	Appendix Number
Application for Street Trading Consent	Appendix A
Response to consultation from Lancashire County Council Highways Department.	Appendix B
Photographs of the proposed location of the catering van	Appendix C