

Regulatory Sub-Committee Report



milton keynes council

Street Trading Consent Renewal Application - K&A Only Food and Sauces, Deans Road, Old Wolverton

Report author

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Exempt / confidential / not for publication

No

1. Purpose

- 1.1. To determine a renewal of street trading consent application for K&A Only Food and Sauces trading from Deans Road in Old Wolverton. If granted, the application would continue to permit street trading from that location between 0730 and 1330 hrs (six hours). Please find attached the application at **Annex A** and the trading location at **Annex B**.
- 1.2. Where no representations are made within the 28 days the decision will be made without referral to the Sub-Committee under the delegated powers.

When an application receives representations, and they cannot be resolved, then the application must be determined by the Regulatory Sub-Committee. In this instance we have received a representation from the Highways Department.

2. Recommendation

- 2.1. To identify either means of mitigation to permit trading in this area, or to identify a suitable location in the immediate vicinity.

3. Actions and Options

- 3.1. The Sub-Committee has three options:
 - (a) to grant the renewal application for 12 months or less;
 - (b) to grant the renewal application with conditions (i.e. change location);
or
 - (c) to refuse the renewal application outright.

There is no appeal process against Sub-Committee decisions on Street Trading.

4. Issues and Choices

- 4.1. All street trading applications must go through a public consultation process. A notice is erected in the street trading location and a consultation document is sent to several groups as listed in section 18 of the Street Trading policy (extracted end of the report).
- 4.2. The applicant provided all the necessary information required for street trading application including DBS, suitable public liability insurance, plan of location, photos of the trading vehicle and paid the fee.
- 4.3. The Licensing Team has received a representation from MKC Highways (attached at **Annex C**).
- 4.4. A decision on whether an application should be granted should consider sections 5-10 of the Milton Keynes Council Street Trading Policy (extracted at the end of the report): Public Safety; Commercial need; Prevent of Crime and Disorder; Prevention of Public Nuisance; Sustainability and product type and the suitability of trading unit.
- 4.5. The representation specifically looks at road safety and references concern with the impact of the trader in this location and how it could impede sight lines and force vehicles into oncoming traffic.
- 4.6. Section 11 of the MKC Street Trading Policy (extract end of the report) references the suitability of the applicant as an individual. There is no concern with the applicant in this respect.
- 4.7. The applicant has held street trading consent at this location since it was transferred to her in January 2020. Prior to that, street trading consent was permitted in this location since 2017. Looking back further, a trader was permitted in the carpark closer to Old Wolverton Road until that road was made prohibited in 2017. Consequently, the trader was required to move further south away from the 60 meter prohibited zone as shown at **Annex B**.

Members should note that street trading consent has been permitted in this exact location since October 2017. However, that is not to say that the representation from Highways is not valid. The Highways Department are the authority on road safety and their views in respect of public safety should be considered fully.

- 4.8. Officers have attempted to avoid the need for a Sub-Committee by trying to facilitate the selection of an alternative location on the road. However, at the time of writing, no compromise had been found. There are other locations on Deans Road that may be safer for street trading. Members will want to ask the

applicant why that particular location is preferable to an alternative position on the road. Discussion with the applicant suggest the current location is preferable due to visibility to customers and a current arrangement she has with local businesses.

- 4.9. An inspection of the trader was carried out in March 2020 as part of a wider Street Trader project. The applicant was advised to ensure she displays the street trading consent document and to remove some chairs that were kept on the highway for customers. It was also advised that the trading location at the time of the visit was just within the 60m prohibited zone. She was advised to move further south in future. Consequently, there may be some conflict with this exact trading location and road safety, as the 60 meter zone pushes the vehicle towards the bend in the road.
- 4.10. Street trading consent is granted to a road and the plan provides some element of flexibility. It is acknowledged that especially in commercial / industrial areas, other vehicles parking / traffic conditions etc make it difficult for the trader to park in the exact location as stated on the plan. However, that does not permit the trader to trade in a prohibited location. Attached at **Annex D** shows the overhead view of locality (no traffic).

5.0 Implications

5.1 Policy

The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 - Street Trading, that allows adopted highway to be designated as 'Prohibited' or 'Consent' for street trading purposes. Deans Road is designated as a 'consent' street and this means trading on this street or within 60 metres of its centre line is only permitted if a valid consent is held by the trader. Adopted highway is highway that is maintainable at public expense.

The location is close to Old Wolverton Road, which has been designated Prohibited.

MKC has a Street Trading Policy that came into effect on 1 April 2017.

A decision to revoke the application will require the Council to return the application fee to the applicant.

5.2 Resources and Risk

Part of the fee structure for street trading is to ensure compliance with street trading conditions.

5.3 Legal

There is no appeal against the decision to refuse or grant a street trading consent, as it is a consent and not a licence, but a trader may reapply for this street, but only after a year has passed from date of refusal.

Background Papers: Milton Keynes Council Street Trading Policy 2019 - 2022

Extract of MKC Street Trading Policy:

5. PUBLIC SAFETY

- 5.1 The proposed location of street trading activity should not present a significant risk to the public in terms of highway safety or/and obstruction. This would include consideration of factors such as: - interference with sight lines for road users and access to pedestrian crossings. Applications in respect of sites that have previously been the subject of a refusal due to the unsuitability of the location are unlikely to be accepted.

6. COMMERCIAL NEED

- 6.1 Any new application will include consideration of the number and type of existing traders and businesses in the vicinity. Consent is unlikely to be granted within 250 metres of an existing street trader.

7. PREVENTION OF CRIME AND DISORDER

- 7.1 The proposed activity should not present a risk to public order. This is likely to be an issue in respect of applicants wishing to trade during later hours. This is because in some circumstances a trading location can act as a focus point of anti-social behaviour.

8. PREVENTION OF PUBLIC NUISANCE

- 8.1 Consideration will be given to those measures to be taken by a trader to reduce and control the risk of nuisance from noise, litter, vermin, fumes, odours and the disposal of associated waste.

9. SUSTAINABILITY AND PRODUCT TYPE

- 9.1 A trader should set out measures to reduce the environmental impact of their proposed activity as part of their application. Typically, this could include the use of recyclable products and energy efficient processes.
- 9.2 Consideration will also be given to the type of products sold and the suitability of the products at the location concerned. It should be noted that applications which propose to sell articles of firearms, replica firearms, tobacco or animals will not be accepted.

10. SUITABILITY OF TRADING UNIT

- 10.1 The vehicle, trailer or stall to be used will be of a good quality design / build and should not be of an appearance to the detriment of the quality of the street scene. The unit may be inspected by an authorised officer of Milton Keynes Council prior to any consent being issued. The unit shall comply with any legal requirement relating to the trading activity proposed and in particular with the following legislation and any subsequent revisions thereof:

11. SUITABILITY OF APPLICANT

11.1 When determining an application for the grant or renewal of a street trading consent the council will consider relevant information relating to the suitability of the applicant to hold such a permission including:

(a) whether the applicant has any relevant unspent convictions:

A Basic Disclosure from the Disclosure and Barring Service (DBS check) shall be submitted with each application (see 16.2 e). The certificate must not be older than three months at the time of its submission. Any unspent convictions or proven criminal behaviour shall be taken into account in assessing the suitability of the applicant, such as dishonesty, violence, sexual and indecency related offences, drugs, theft and deception (attached as Appendix C).

(b) refusal or neglect in paying fees due to the council for a street trading consent.

(c) previous failures of the applicant, without reasonable excuse, in respect of a previous street trading consent.

18 WHO WILL THE COUNCIL CONSULT?

18.1 Before any new consent is granted the council will normally consult with the following agencies or persons in respect of new applications. A period of 28 days will be allowed for comments to be received:

(a) Thames Valley Police.

(b) Highways (Milton Keynes Council).

(c) Relevant Parish / Town Councils.

(d) Environmental Health (Milton Keynes Council).

(e) Milton Keynes Council Ward Councillors.

(f) Trading Standards (Milton Keynes Council).

(g) Estates (Milton Keynes Council).

(h) Public Health (Milton Keynes Council).

(i) Any schools within the local area of the trading location.