

CENTRAL MILTON KEYNES STREET TRADING ARRANGEMENTS – ‘PITCH A’

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1. Purpose

- 1.1 To consider an application for the continued use of an street trading position – ‘Pitch A’ situated outside of Xscape Central Milton Keynes on public parking for a further period of 3 years or until the land is required for redevelopment

2. Recommendation

- 2.1 That the committee agree to Pitch A being available to sell hot and cold food but excluding alcohol from 23:00 – 05:00hrs each day for a period of up to 3 years

3. Details and Outcomes

- 3.1 Over 3 years ago four experimental street trading locations, known as Pitches A, B, C, & D were created in Central Milton Keynes. The rationale for their creation was to provide legitimate street trading for mobile traders rather than enforcement action being taken during anti-social hours trying to combat illegal trading activities that were taking place.
- 3.2 For a variety of reasons only Pitch A is currently commercially viable and the existing trader has expressed a wish to continue to trade for a further 3 years. On the advice of the Procurement Team the Licensing Team holds a waiting list for the pitches, but currently there are no names on the list. Dialogue is taking place with the existing trader at Pitch A.
- 3.3 The Committee had previously agreed a 1 year extension on the basis that it maybe more appropriate to make the pitch available on an annual basis as it may attract additional revenue. However such a short period of time may put off potential traders applying for this pitch as they would find it difficult to recoup their capital outlay and make a working profit all within a 12 month period.
- 3.4 Due to the recession, the 2009/10 fee pitch fee was frozen at £5200 as the trader demonstrated that business was less then anticipated. As the same trader is now keen to enter into a new arrangement with the Council for up to 3 years the fee will be increased in line with the Consumer Price Index (CPI) – circa 4% The existing Civil Licence document refers to the Retail Price Index but since 2003 the Government has used the CPI as a measure of inflation. As a consequence, the fee will increase by circa £200 per annum. In the event of the proposal being agreed by the committee then the last quarter

average CPI figure will be used and the Civil licence will be amended accordingly.

3.5 The land used for Pitch A is owned by the Homes and Communities Agency. The Council has the right to use it for car parking and 4 years ago the Transport Division agreed that the bays could be used for Street Trading purposes between 23:00 – 05:00 hrs with any income being credited to the Environmental Health Licensing revenue account. This income is used to cover the cost of providing street trading advice and enforcement activities throughout the Borough.

3.6 In order to minimise crime and disorder in the vicinity of the pitch, the trader cannot sell alcohol, and must hold a Premises Licence to sell hot food after 2300hrs. The Police require the trailer to have its own CCTV equipment

4. **Implications**

4.1 Policy

There is no formal Street Trading policy, however the committee are empowered to make such decisions as they see fit in respect of Street Trading arrangements in Milton Keynes providing that they come within the scope of the legislation

4.2 Resources and Risk

The 2010/11 Licence Fee was £5200, with an increase by applying the last quarter CPI it will increase to circa £5400. The CPI will apply annually thereafter.

4.3 Legal

The Council issue a Civil Licence to Trade rather than granting permission under the Licensing Act 2003 or the Local Government (Miscellaneous Provisions) Act 1982

Background Papers: MKC Statement of Licensing Policy.

Annex 1

Summary of changes to the existing policy incorporated into the draft revised statement of licensed policy that was consulted upon

Paragraph 1.2. No significant change

Paragraph 2.1 Individual licensing objectives no longer specified due to potential changes in legislation

Paragraph 3.2 Additional bullet points regarding notification to residents and no presumption of grant included as per guidance

Paragraphs 3.3 and 3.4: Updated information on MK information

Paragraphs 3.6; 3.7 and 3.8: Updated data and précised

Paragraph 4.1: List of specific consul tees deleted and replaced with generic commitment to consult all necessary parties.

Paragraph 5.3.1: Revised to account for potential legislative change.

Paragraph 5.3.6: Amended wording to strengthen the position on 'garages selling alcohol. New paragraphs added at 5.3.7 and 5.3.8 following case law

Paragraph 5.3.7 Amended wording at new 5.3.9 to account for potential legal change

Paragraph 7.1.2 Reference to specific Council priorities removed to enable flexibility as priorities change

Paragraph 7.2.3: Deleted as unnecessary

Paragraph 7.2.4: Updated priorities. Amended and becomes 7.2.3

Paragraph 7.3.4: Amended to account for current partners.

Paragraph 7.5.1: Amended wording to allow all relevant guidance to be used

Section 8 'Anti social Behaviour': Relocated in policy under heading 'Regulatory arrangements'

Paragraph 9.1 (now new paragraph 8.1): Improved wording refers to specific legislation.

Paragraph 9.2.5: Deleted. Unnecessary

Paragraph 9.5.1: Deleted. Unnecessary

Paragraph 9.9: Deleted. Duplication with revised 8.4

Section 10 'Designated Sports Grounds': Relocated in Policy under 'Regulatory Arrangements'

Section 11' Disability Discrimination Act 196': Relocated in Policy under 'Regulatory arrangements

Section 12 'Human Rights Act': Relocated in Policy under Regulatory Arrangements

Paragraph 13.3 (now at paragraph 10.3) strengthened in respect issues arising from patrons leaving premises

Paragraph 13.4 Reference to powers under the Licensing Act removed as duplication. No significant change. Now at paragraph 10.11

Paragraph 13.5 – Paragraph clarified. No significant change

Paragraph 13.8 – amended wording. No significant change

Paragraph 13.9 – amended wording. No significant change

Paragraph 13.10.1 – amended wording. No significant change

Paragraph 13.11 now moved to new section 11.

Paragraph 13.12 Deleted as unnecessary

Paragraph 13.13 Deleted as unnecessary

Additional paragraphs included at a new section 14 to account for circuses and also the role of the Safety Advisory group

Paragraph 15.1 Amended wording to account for potential legislative change

Paragraph 16.3 Deleted but incorporated into new paragraph 14.1

Additional paragraphs added to new document at 18.1.9.and 18.1.10 to reflect current practice on issued licences including plans

Paragraph 18.2 Additional bullet point confirming location can be a factor on applications included on new paragraph 17.2

Paragraph 18.3.1 Amended wording now at 17.3.1. No significant change

New section 18.6 in revised policy to incorporate Glass safety including guidance into main body of policy

Paragraph 19.1 Clearer wording incorporated at new paragraphs 18.1 to 18.1.5

Paragraph 19.1.3 Amended wording to at 18.1.8 to strengthen action that can be taken.

Paragraph 19.1.4 on toughened glass moved to standalone section at paragraph 18.6

Paragraph 22.1 Amended wording at new paragraph 23.1 to reflect potential legal change

Paragraph 22.2 Amended wording at new paragraph 23.2 to reflect potential legal change

Paragraph 23.8 Deleted. Duplication.

Paragraph 24.5 Deleted. Not necessary

Paragraph 25.1 Additional criteria added to list at revised paragraph 26.1 detailing matters relevant to review proceedings

Paragraph 26.2 Amended wording at new paragraph 27.2 to reflect legislation. Not significant

Annex 4 – Deleted. The ‘pool’ of conditions was seldom referred to by applicants or sub committee and was outdated