

Application for a Temporary Street Trading Licence

Committee	Licensing Sub-Committee
Officer Contact	Steven Dormer, Regulatory Services
Papers with report	Appendix 1 - Application Form Appendix 2 - Location map and photos Appendix 3 - Objection and Fixed Penalty notices Appendix 4 - Highways response Appendix 5 - Ward Councillor response Appendix 6 - Previous licence
Ward name	Townfield

1.0 SUMMARY

An application has been received for a New Street Trading Licence for a two-metre shop front display outside Sira's, 42 - 44 Coldharbour Lane, Hayes, UB3 3EP. The applicant seeks a licence to display fruit and vegetables. The application has attracted one objection from the Council's Anti Social Behaviour team.

2.0 RECOMMENDATION

- 2.1 Refuse to grant the licence exercising section 10.5 of the Council's adopted street trading policy. This follows the issuing of two fixed penalty notices for unlicensed street trading by the Council's Anti Social Behaviour Team. The Council's Anti Social Behaviour Team have also issued a further fixed penalty notice for failing to control waste.

To further recommend that the Council welcome an application in six months time, providing the applicant meets the required standards as set out in the Council's street trading policy.

3.0 APPLICATION

3.1 Name of applicants

Mr Raghbir Singh Sira - Main applicant

Mr Jatinder Sira - Assistant 1

Mr Gurmail Sira - Assistant 2

3.2 Type of application applied for

Application for a New Shop Front Street Trading Licence.

3.3 Shop front details

The application is for a shop front display projecting two metres from the shop front. The area will be used to display a selection of fruit and vegetables.

- 3.4 A copy of the application form is attached as **Appendix 1**.

- 3.5 A site map and photos of the local area are attached as **Appendix 2**

4.0 CONSULTATION

4.1 Closing date for objections
5 December 2016

4.2 The relevant consultees were notified of the application on 14 November 2016. The consultees were:

- Highways
- Anti Social Behaviour Investigations team
- Ward Councillors

5.0 Responses to the consultation

5.1 An objection was received from the Council's Anti Social Behaviour Team. Two fixed penalty notices were served for unlicensed street trading. A third fixed penalty notice was for failing to control waste. The objection is attached as **Appendix 3**

5.2 A response from the Highways Service confirming they do not have any objection to the application is attached as **Appendix 4**

5.3 Regulatory Services received a response from Councillor Lynne Allen confirming no complaints have been received from local residents. This is attached as **Appendix 5**

6.0 FURTHER INFORMATION

6.1 The premises has held a street trading licence for a number of years with records showing a licence in force since 2009. The previous licence expired in August 2015 **Appendix 6**.

There have been two previous applications received for a licence in 2016. However the applicant did not make a valid application on either occasion. The application was eventually validated on 4 November 2016.

6.2 Further information was requested from the Members Enquiry Team. I can confirm that no members enquiries have been received relating to this premises.

6.3 The applicant has provided the following details of the proposed trading area.

- The items will be displayed on a series of 60mm by 60mm plastic crates
- The display equipment will be set up by shop staff, and at the end of the trading day, staff will disassemble the stock and display.
- The equipment will be stored inside the premises when not in use.
- The applicant is considering changing the display equipment at a later date.
- The applicant informed the licensing officer that he has a waste contract with Enterprise. The refuse bins are stored at the rear of the premises off the public highway.

7.0 LEGAL COMMENTS

7.1 The granting of a temporary street trading licence under the London Local Authorities act 1990 is discretionary and the Act does not set specific criteria for determining temporary

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applications. Determination of applications must therefore be in accordance with the Council's published Street Trading Policy (the "Policy"). Decisions must be in accordance with the policy unless there are strong reasons for departing from it.

7.2 In accordance with the Policy, applicants must be aged 17 years or older and suitability will be assessed on a case by case basis and information about an applicant's enforcement history with the Council may be referred to.

7.3 In considering applications for the grant or renewal of a street trading licence, the following factors specified in the Policy should be considered:

- Paragraph 2.1 - Traders should be aware that this policy relates only to street trading activities and it is the responsibility of the trader to ensure that they are compliant with other legislation. Traders should consider whether their activities are likely to require authorisation and/or compliance with other regulatory regimes. For example; Planning, Building Control, Food Safety, Health & Safety, Control of Waste, Highway Obstruction, Trading Standards, Late Night Refreshment/Entertainment/Alcohol Licensing etc.
- Paragraph 3.2 - The Council will assess the suitability of the applicant on a case by case basis and may have regard to any relevant enforcement history concerning the applicant and/or the location of the proposed street trading.
- Paragraph 9.1 - Where the Council receives feedback or an objection to an application consultation, it will carefully consider whether that feedback/objection may influence the Councils discretionary decision making powers.

- Paragraph 10.5 of the Policy states:

"The discretionary grounds for refusal are:

- a) There are enough street traders in the area offering the same or similar goods to those of the applicant.*
- b) The applicant is unsuitable to hold a licence.*
- c) The applicant has previously demonstrated misconduct or unscrupulous behaviour whilst being the holder of a street trading licence.*
- d) The applicant has failed to comply with the terms or failed to pay a fee of a street trading licence.*
- e) The applicant has failed to propose suitable measures for the storage of perishable items when street trading is not taking place.*
- f) The applicant of a shop front licence is proposing to sell goods or offer services which are not sold or offered for sale within that shop.*
- g) The applicant is not the owner/occupier of a shop outside which a shop front trading licence is sought."*

- Paragraph 10.7 of the Policy states:

"The Council may also have regard to the other following factors when considering the impact on the local area of the proposed trading activity. This may result in additional conditions being imposed upon any licence granted."

- a) *Public Safety – whether the street trading activity represents, or is likely to represent, a substantial risk to members of the public from the point of view of obstruction of the highway for emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that can be reasonably foreseen, that may occur when a trader is using the site.*
- b) *Prevention of Crime and Disorder – whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of an issue for traders wishing to operate as part of the night time economy.*
- c) *Prevention of public nuisance or environmental damage – whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance or environmental issues. Examples include; damage to street surfaces; noise; litter; refuse; vermin; fumes/odours etc.*
- d) *Appearance of trading area – Whether the street trading area is properly constructed and presented and enhances the aesthetic street scene of an area. Guidance will be given to applicants regarding the standard expected by the Council."*

- 7.4 If discretionary grounds for refusal do exist, the Sub-Committee may still decide to award a licence – but this could be for a shorter period than required, or to allow trading only in certain commodities.
- 7.5 Standard conditions will be attached to every street trading licence. Where relevant, the Licensing Sub-Committee may attach specific trading conditions to a street trading licence.
- 7.6 There is no right of appeal against a decision to refuse a temporary street trading licence.