

APPLICATION FOR A TEMPORARY STREET TRADING LICENCE

Committee	Licensing Sub-Committee
Officer Contact	Jhini Mukherjee, Licensing Service 01895 277433
Papers with report	Appendix 1 - Application Form with plans submitted on 18 September 2018 Appendix 2 - Location map and photos Appendix 3 - Objection from Cllr Keith Burrows, dated 28 September 2018 Appendix 4 - Objection from Cllr David Yarrow, dated 20 September 2018 Appendix 5(1) - Application for planning permission for change of use of the telephone kiosks Appendix 5(2) - Planning Permission for retail purposes Appendix 6 - Deed of Lease, dated 01 August 2018
Ward name	Uxbridge North ward (on the boundary line with Uxbridge South)

1.0 SUMMARY

An application has been received for a new street trading licence for trading from a one metre pitch in front of two redundant red telephone kiosks. These are located on the footway outside 163 High Street, Junction with Baker's Yard, Uxbridge, UB8 1JZ

The application has attracted two objections. One from Councillor Keith Burrows and the other from Councillor David Yarrow.

2.0 RECOMMENDATION

2.1 That the Licensing Sub-Committee grant the licence as applied for having regard to Section 25(5) of The London Local Authorities Act 1990 and the Council's adopted Street Trading Policy.

3.0 APPLICATION

3.1 Name of applicant
Mrs Fatima Inam-UI-Haq

Name of assistant
Mr Umer Shahzad

3.2 Type of application applied for
Application for a new temporary pitch licence.

3.3 Pitch licence details
The application is for a pitch projecting one metre from the edge of the two telephone kiosks. The area will be used to display a selection of non-alcoholic drinks, confectionaries and cigarettes and tobacco products.

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

4.0 CONSULTATION

4.1 Closing date for objections
10 October 2018

4.2 The relevant consultees were notified of the application on 19 September 2018. The consultees were:

- Highways
- Anti Social Behaviour and Environment team
- Ward Councillors

5.0 Responses to the consultation

5.1 We have received two objections relating to this application. One is from Councillor Keith Burrows and the other from Councillor David Yarrow.

The objections are appended in **Appendices 3**, and **4** respectively.

5.2 No objection was received from the Highways Service or the Anti Social Behaviour and Environment Team.

6.0 FURTHER INFORMATION

6.1 The rise of the mobile phone and a decline in payphone usage has resulted in a drastic reduction in the number of phone boxes across the UK and the redundant kiosks are now increasingly being put to inventive uses, from miniature art galleries to pint-sized pubs, shops, flower stalls, etc. The red telephone box which is so quintessentially British and was once a common sight across the land has been repurposed for the 21st century.

6.2 A planning permission was granted to Thinking Outside the Box, a charitable trust, on 5 October 2015, for change of use of the three redundant telephone kiosks on the footway outside 163 High Street Uxbridge to three A1 retail units. The application for planning permission for change of use and the subsequent Planning Permission for retail purposes is attached as **Appendix 5(1)** and **Appendix 5(2)** respectively.

6.3 Thinking Outside the Box, in association with the Red Kiosk Company, are redefining the usage of these telephone boxes across UK to suit modern day needs and requirements and in the process have leased out two of these boxes on the footway outside 163 High Street Uxbridge to the applicant, Fatima Inam-UI-Haq of Original Warrior Ltd, on 1 August 2018. A copy of the Deed of Lease is attached as **Appendix 6**.

6.4 The applicant first came to our attention when she made attempts to start trading from these premises earlier in the year without the correct street trading permissions in place. Subsequently, she was issued with fixed penalty notices and advised to obtain a street trading licence prior to commencement of further trading activities. She was also strongly advised to modify the fixtures, fittings and equipment that was being used so that she was fully compliant with the Grade 2 listing restrictions.

6.5 This is a fresh application with revised plans and this valid Street Trading Application was considered by us only after the unresolved matters relating to Planning were determined. We also understand that the Councils Heritage and Conservation Team accept the revised fixtures, fittings and equipment proposed.

6.6 The applicant has made a valid street trading application for a pitch and has provided us with all the requisite details of the proposed installations in the plans submitted with the application form. A copy of the application form and plans is attached as **Appendix 1**.

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 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 The mandatory grounds for refusal under the Policy are:

- a) The applicant is under the age of seventeen.
- b) The proposed trading location is not within a designated licence street.
- c) The applicant is proposing to sell goods or services which the Council has resolved to ban.
- d) There is not enough physical space within the proposed trading location and any trading activity would have an adverse impact on the surrounding area by causing obstructions to persons or vehicles using the street.
- e) The applicant has made an application to trade in a location which does not satisfy the definition of a 'street' for the purposes of the legislation.

7.3 In accordance with the Policy, 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.

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

- Paragraph 1.3 of the Policy states: *The Council is keen to create a thriving street trading environment which is sensitive to the needs of traders and residents and one which promotes consumer choice and enhances the trading and business opportunities in the borough.*
- Paragraph 1.4 of the Policy states: *In regulating street trading activities, the Council aims to reduce the administrative burdens on applicants and licence holders by reducing administrative burdens from the application process and also creating a clear and transparent guide for traders.*
- Paragraph 2.1 of the Policy states: *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 of the Policy states: *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 of the Policy states: *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."*
- e) *Needs of the area - amongst other things, the Council will consider the demand for the articles for sale, and the geographical location of the proposed site.*

7.5 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.

7.6 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.

7.7 There is no right of appeal against a decision to refuse a temporary street trading licence.