

APPLICATION FOR A NEW STREET TRADING LICENCE – EMPORIUM FOOD CENTRE, 9-15 STATION ROAD, WEST DRAYTON, UB7 7BT

Committee	Licensing Sub-Committee
Officer Contact	Steven Dormer, Licensing Officer 01895 277409
Papers with report	Appendix 1 - Application Form Appendix 2 - Site Map & Photos Appendix 3 - Representation
Ward name	West Drayton

1.0 SUMMARY

Application for a Temporary Street Trading Shop Front Licence for 12 months at Emporium Food Centre, 9-15 Station Road, West Drayton, UB7 7BT.

The Licensing Authority is in receipt of a valid representation from Hillingdon Council's Anti-Social Behaviour Team.

2.0 RECOMMENDATION

To refuse to grant the Temporary Street Trading Licence.

3.0 APPLICATION

3.1 Name of applicant
Emrah Gencer

Name of assistants
Mirkan Senpalit

3.2 Application Details

Mr Gencer has applied for a one metre Temporary Street Trading Shop Front Licence to sell produce. The applicant will be using removable units to display items. The premises will employ one other assistant to help operate the facility.

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

3.5 A site map are attached as **Appendix 2**.

4.0 CONSULTATION

4.1 Closing date of consultation

23 September 2019

4.2 The relevant consultees were notified of the application on 16 September 2019.

5.0 Responses to the consultation

5.1 One objection was received from Anti Social Behaviour Team. **Appendix 3**

5.2 Cllr Sweeting submitted a Members Enquiry to this premises on the 26 July 2019.

6.0 LICENSING OFFICER ASSESSMENT

6.1 Mr Gencer has not demonstrated that he is a responsible retailer. On two occasions the premises has been served with two fixed penalty notices for unlicensed street trading. Mr Gencer has continued to display goods on the public highway despite not having permissions.

Further investigations have revealed that Mr Gencer is using the rear of Drayton Tandoori to dump waste. Mr Gencer is also blocking fire exits and passageways with waste generated from the store.

Upon investigating the Members Enquiry from Cllr Sweeting, it was apparent that the premises used the street waste bin to dispose of waste following deliveries to the store. Gangways in the store have been found to be cluttered with stock, and emergency escape routes were blocked making evacuation in the event of fire problematic.

Emporium does have a premises licence issued under the Licensing Act 2003. Mr Gencer has yet to transfer this licence and vary the Designated Premises Supervisor despite assurances that he would do so.

Mr Gencer is failing to meet one of the conditions of this premises licence which states that a suitable waste contract shall be in place.

The suitability of the applicant is very much a concern. Public safety, disregard to legislation and local policies is something the Sub-Committee should consider when determining this application.

6.2 Officers' Visits

Thursday 22 August 2019

A site visit was conducted. The purpose of the visit was to establish if the goods were being displayed. The goods, at the time of the visit, were being displayed on the public highway without the appropriate licences.

Mr Gencer stated that an application was going to be made to obtain a Street Trading Shop Front licence.

Mr Gencer was advised that the premises licence had not been transferred to reflect the new ownership. The Designated Premises Supervisor had not been amended either.

Emporium is currently not selling alcohol. However, the provision is in place and the information on the licence needs to be accurate.

Mr Gencer gave assurances that he would rectify the issues with the premises licence.

Friday 13 August 2019

A visit was made to the premises with officers from Environmental Protection Team and the Environmental Investigations Team. This was following a Members Enquiry and to check if goods were still being displayed on the public highway.

Goods were still being displayed despite the absence of a licence. A fixed penalty notice was issued for unlicensed Street Trading.

A commercial vehicle was present delivering goods to the premises. In the process of the delivery, staff had disposed of waste into a street receptacle.

I assisted David Holmes in investigating the nature of the complaint regarding the waste management arrangements at Emporium Food Centre. It was apparent that waste was being deposited to the rear of Drayton Tandoori 2 Station Road, West Drayton.

The applicant, Mr Gencer, was informed by Council Officers that his practices were not acceptable. Mr Gencer offered no plausible solution to the issues raised by officers.

When Officers entered Emporium Food Centre, it was apparent that the emergency escape routes could be used satisfactory. Mr Holmes investigated the outside of the property. Mr Holmes established the exits were blocked by waste.

7.0 LEGAL COMMENTS

7.1 Street trading activity within the London Borough of Hillingdon is regulated by Part 3 of the London Local Authorities Act 1990 (as amended).

7.2 In accordance with Section 25(4) of the Act and Paragraph 10.3 of the Council's policy, the council may refuse an application on any of the following mandatory grounds:

- (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 Section 25(6) of the Act and Paragraph 10.5 of the council's policy, the council may refuse an application on any of the following discretionary grounds:

- 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) That the applicant is an individual who has without reasonable excuse failed personally to avail himself fully of a previous street trading licence*
- d) The applicant has previously demonstrated misconduct or unscrupulous behaviour whilst being the holder of a street trading licence.*

- e) *The applicant has failed to comply with the terms or failed to pay a fee of a street trading licence.*
- f) *The applicant has failed to propose suitable measures for the storage of perishable items when street trading is not taking place.*
- g) *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.*
- h) *The applicant is not the owner/occupier of a shop outside which a shop front trading licence is sought."*

7.4 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."*

7.5 Upon considering and hearing the parties' representations, the Sub-Committee can decide to:

1. Grant the licence
2. Refuse to grant the licence
3. Grant the licence for a shorter period as determined by the Licensing Sub-Committee
4. Grant the licence reducing the size of the proposed trading area determined by the Licensing Sub-Committee
5. Grant the licence in full as per the application or with further conditions

7.6 If a mandatory ground is established, the application for renewal must be refused.

7.7 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.

- 7.8 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.
- 7.9 If a licence is due to expire and the Council has not determined the renewal application, the trader may be allowed to continue trading during the interim period. This will usually be allowed save for circumstances where the trader has been subject to enforcement action or other reasons where the Council may not wish for the licence to continue during this period.
- 7.10 Any person aggrieved by the Council's decision to refuse or revoke a street trading licence may lodge an appeal to the Magistrates Court within twenty one days of receipt of the written decision notice following the outcome of the Licensing Sub-Committee.