

# Application for a renewal of a Temporary Street Trading Licence

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Jhini Mukherjee, Regulatory Services
<b>Papers with report</b>	<b>Appendix 1</b> - Application form <b>Appendix 2</b> - Site map and photos <b>Appendix 3</b> – Street Trading Policy <b>Appendix 4</b> - Objection from Christine Taylor <b>Appendix 5</b> - Objection from James McAlpine <b>Appendix 6</b> - Objection from Sue Whitaker <b>Appendix 7</b> - Objection from Peter Charalambous <b>Appendix 8</b> - Objection from Vishal Mistry <b>Appendix 9</b> - Antisocial Behaviour Team Information <b>Appendix 10</b> - Members Enquiry Information <b>Appendix 11</b> - Minutes from the hearing held on 29 <sup>th</sup> April 2022 <b>Appendix 12</b> – Collation of complaints from previous years <b>Appendix 13</b> – Premises licence <b>Appendix 14</b> – Waste Contract with LB of Hillingdon
<b>Ward name</b>	Heathrow Villages

## 1.0 SUMMARY

A renewal application has been received for a Temporary Street Trading Licence for a 2.0 metre shop front display outside Sarin Express located at 212 High St, Harlington, Hayes UB3 5DS. The applicant seeks to renew the licence to display fruits & vegetables, other household products charcoal and water outside the shop. The application has attracted five objections from local residents.

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

A site map with the front and side elevation of the shop is attached as **Appendix 2**

## 2.0 RECOMMENDATION

2.1 To consider the representations received and to determine whether the applicant is in breach of any of the mandatory or discretionary grounds of the Council's Street Trading Policy under paragraphs 10.3 and 10.5 respectively. Should the Sub-Committee be minded to grant the licence for 6 months, they may consider additional conditions as they deem appropriate under paragraph 10.7 of the Council's Street Trading Policy. The Council's current Street Trading Policy is appended as **Appendix 3**.

## 3.0 APPLICATION

3.1 Name of applicant  
Mr Manpal Singh

3.2 Type of application applied for  
Renewal of a Temporary Street Trading licence for a maximum period of 6 months.

### 3.3 Shop front details

The application is for a shop front display projecting 2.0 metre from the shop front. The area will be used to display fruit & vegetables, other household products charcoal and water outside the shop.

## 4.0 CONSULTATION

### 4.1 Closing date for objections

25<sup>th</sup> March 2024

4.2 The relevant consultees were notified of the application on 8<sup>th</sup> March 2024. The consultees were:

- Highways
- Anti-Social Behaviour Investigations team
- Heathrow Villages Ward Councillors

## 5.0 RESPONSES TO THE CONSULTATION

5.1 5 objections were received from residents and those are attached as **Appendices 4 to 8**.

5.2 No objections have been received from our Highways Team who are our primary advisors in matters relating to unimpeded pedestrian access and emergency routes for applications pertaining to shop-front licences.

## 6.0 FURTHER INFORMATION

6.1 Following receipt of the objections, the Anti-Social Behaviour Team were contacted to provide information held by them on their system. They have provided records of visits which are attached as **Appendix 9**.

6.2 The Members Enquiries Team were also contacted to provide information held on their systems in relation to this premises. A list of Members Enquiries is attached as **Appendix 10**.

6.3 A previous hearing was held for Sarin Express for renewal of its shop-front trading area in April 2022. 3 of the 5 complainants are the same as last time. Minutes from the hearing held on 29<sup>th</sup> April 2022 is appended as **Appendix 11** for your reference.

6.4 Sarin Express attracts objections from repeat complainants every six months when a renewal application is submitted by the applicant. I have collated a few of those complaints here from previous years as **Appendix 12**. The premises is one of the most inspected off-licences on our list based on the complaints we receive. However, we have not yet identified any breaches in relation to its Street Trading Licence conditions from the multiple unannounced visits which have been carried out at the shop in the recent past.

6.5 Sarin Express is an off-licence and holds a premises licence under Licensing Act 2003 which I have appended here as **Appendix 13**. The licensable hours and closing hours of the premises are until midnight and so when it stays open beyond 23.00 hours, it is operating within its legally permissible hours. This is however separate to its Street Trading licence which is only until 23.00 hours and therefore the goods should not be displayed outside the shop beyond this time.

6.6 Notwithstanding the conservation nature of the area, there are no planning restrictions for the location of an off-licence or for that matter a shop-front display in that parade of shops. The London Local Authorities Act 1990 and the Council's Street Trading Policy also do not have any special provisions for conservation areas whereby applicants are barred from obtaining street trading licences.

- 6.7 The Applicant has a waste contract set up with London Borough of Hillingdon where waste is collected weekly. This is appended as **Appendix 14**. There are several other shops along that parade and it is possible that the litter problem is a cumulative result of waste management issues of multiple businesses and without robust evidence it is hard to attribute it to one particular shop.

## 7.0 LEGAL COMMENTS

- 7.1 When considering an application for either the grant, renewal, revocation or variation of a permanent Street Trading Licence the Council will have regard to Part III of the London Local Authorities Act 1990 (as amended) ("the 1990 Act) and Hillingdon's Street Trading Policy.
- 7.2 The granting of a temporary street trading licence is discretionary and the 1990 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.
- 7.3 The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties these include:
- The trader or proposed trader in an application for the grant, renewal or variation of a licence
  - Any applicant for the variation or revocation of a licence
  - Any person who has made representations about an application for either the grant, renewal, revocation or variation of a licence
- 7.4 Upon considering and hearing the parties' representations the Sub-Committee can decide to:
- i. Grant the licence
  - ii. Refuse to grant the licence
  - iii. Grant the licence for a shorter period as determined by the Sub-Committee
  - iv. Grant the licence in full as per the application or with further conditions
- 7.5 If a mandatory ground is established, the application for renewal must be refused.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 In considering applications for the grant or renewal of a street trading licence 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 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 6.6 of the Policy states:**

*"Shop front display applications*

*The Council may authorise shop front displays in the area directly outside a shop. The applicant will usually make an application in whole metres from the boundary of the shop frontage, however in some circumstances, it may be appropriate to issue licences for a portion of a metre. This will be dependent upon the availability of space and level of footfall in the surrounding area."*

- **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. "*

- **Paragraph 10.8 of the Policy states:**

*"Where grounds for refusal do exist, the Council may still award a licence but this could be a modification from what was originally applied for. For example, it may be appropriate to reduce the days/times of trading activity, to reduce the size of the proposed trading area or add conditions."*

7.10 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under s.149 of the Equality Act 2010. In summary s.149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share relevant protected characteristics and persons who do not.

7.11 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics these are:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation

7.12 Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so. The Sub-Committee is advised that such departures could give rise to an appeal or judicial review.

7.13 Any person aggrieved by the Council's decision to refuse or revoke a permanent street trading licence may lodge an appeal to the Magistrates Court within 21 days of receipt of the written decision notice following the outcome of the Sub-Committee.

7.14 There is no right of appeal against a decision to refuse a temporary street trading licence notwithstanding statutory rights to seek Judicial Review proceedings.

7.15 All decision notices will contain full details of the appeal rights including how to lodge an appeal.