

Application for a new Temporary Street Trading Licence

Committee	Licensing Sub-Committee
Officer Contact	Lois King, Regulatory Services
Papers with report	Appendix 1 - Application form Appendix 2 - Site map and photos Appendix 3 – Street Trading Policy Appendix 4 - Objection from Cara Morris Appendix 5 - Objection from Jeff Gibbs Appendix 6 - Objection from Joanna Roberts Appendix 7 - Objection from Mandeep Jhuti Appendix 8 - Objection from Sean Kelly Appendix 9 – Objection from Tracey Batterbee-Spires Appendix 10 – Objection from Dr Shelley Cook Appendix 11 – Objection from Jolene McGowan Appendix 12 – Objection from Julie Hall Appendix 13 – Objection from Karen Rodway Appendix 14 – Objection from Lisa Dubisson Appendix 15 – Objection from Michelle Johnson Appendix 16 – Objection from Shirley Allam Appendix 17 – Objection from Patrick & Marion Egan Appendix 18 – Objection from Sue Simpson Appendix 19 – Highways response to the consultation Appendix 20 – EET enforcement visits Appendix 21 – Details of Members Enquiry Appendix 22 – Correspondence with applicant Appendix 23 – Photos from Licensing Officer visit 19/04/24
Ward name	Ruislip

1.0 SUMMARY

An application has been received for a new Temporary Street Trading Licence for a 2.0 metre shop front display outside Home Needs located at 97–99 High Street, Ruislip, HA4 8JN. The applicant seeks a new licence to display household commodities outside the shop. The application has attracted 14 objections from residents.

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

A site map and photos of the shop are attached as **Appendix 2**

2.0 RECOMMENDATION

2.1 That the Licensing Sub-Committee consider the application, the responses received, the Council's adopted Street Trading Policy and the London Local Authorities Act 1990 (as amended) and determine whether to grant the application for 6 months or to refuse it according to any of the mandatory or discretionary grounds under paragraphs 10.3 and 10.5 respectively of the Street Trading Policy and having regard to the factors in paragraph 10.7.

2.2 Where grounds for refusal do exist the Sub-Committee may still award a licence, but this could be a modification from what was originally applied for e.g. a reduction in the size of the proposed

trading area, a reduction in the days/times of trading activity, to only permit the trade of certain commodities.

- 2.3 Should the Sub-Committee be minded to grant the licence for 6 months, they may also consider additional conditions as they deem appropriate under paragraph 10.7 of the Council's Street Trading Policy. The Council's current adopted Street Trading Policy can be found in **Appendix 3**.

3.0 APPLICATION

3.1 Name of applicant

Mr Rockhallaahmine Agha

Name of assistant

Mr Habibullah Agha

3.2 Type of application applied for

A new 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 metres from the shop front. The area will be used to display household commodities namely plastic storage boxes, flowerpots and suitcases outside the shop.

4.0 CONSULTATION

4.1 Closing date for objections

2nd May 2024

- 4.2 The relevant consultees were notified of the application on 11th April 2024. The consultees were:

- Highways
- Street Scene Enforcement Team
- Parking
- Transport & Town Centre Projects
- Ruislip Ward Councillors

- 4.3 The application was posted on the Council's website.

- 4.4 The applicant was sent a Notice of Application on 11th April 2024 and was instructed to display it in the window of the premises as per the Council's Street Trading Policy. The Notice had to be at least A4 in size and had to be in place and easily visible from the outside of the premises throughout the entire consultation period. Photographic evidence of the Notice on display was received on 22nd April 2024.

5.0 RESPONSES TO THE CONSULTATION

- 5.1 15 objections were received from residents and those are attached as **Appendices 4 to 18**.

- 5.2 The Highways Team, who are the primary advisors in matters relating to unimpeded pedestrian access and emergency routes for applications pertaining to shop-front licences, submitted comments. These are attached as **Appendix 19**.

- 5.3 A response of "No objections from Parking (as long as there is still suitable space for pedestrians to pass on the pavement)" was received from Parking Services.

6.0 FURTHER INFORMATION

- 6.1 On 26th February 2024, the Licensing Service received a complaint from a member of the public about a new shop in High Street, Ruislip called Home Needs displaying goods on the pavement and taking up a lot of pavement space for pedestrians. They also wanted to know if they had a licence to display goods on the pavement.
- 6.2 Enforcement officers were tasked with visiting the premises and details of the visit are attached as **Appendix 20**.
- 6.3 A street trading licence application was received on 9th April 2024.
- 6.4 On Friday 12th April 2024, Mr Agha advised Mrs Mukherjee, a Licensing Officer, that goods were not being displayed on the pavement.
- 6.5 On 15th April 2024, the Licensing Service received an email from the original complainant advising that goods were still on display on the pavement.
- 6.6 On 16th April 2024, a drive by of the premises at approximately 15:00 hours revealed that goods were on display on the pavement.
- 6.7 On 17th April 2024 several more complaints were received about goods being on display on the pavement outside Home Needs.
- 6.8 On Thursday 18th April 2024, an email was sent to Mr Agha reminding him that in the absence of a licence, goods could not be displayed on the pavement. The email is attached as **Appendix 22**.
- 6.9 A visit was made to the premises on Friday 19th April 2024. It was noted that goods namely suitcases, charcoal, shopping trolleys, compost, dustpans and brushes, brooms and mops were on display on the pavement. Photos of the items on display are attached as **Appendix 23**. It was also noted that the Notice of Application was not on display. Mr Habibullah Ullah and Mr Usman were spoken to on site and a follow up email was sent. The email is attached as **Appendix 22**.
- 6.10 The Street Scene Enforcement Team have provided details of visits and the service of a Fixed Penalty Notice which are attached as **Appendix 20**.
- 6.11 A Members Enquiry was received by the Licensing Team on 8th April 2024 in relation to Home Needs displaying goods on the pavement. The Members Enquiry is attached as **Appendix 21**.
- 6.12 In light of the response from the Highways Team, objectors were asked if such a modification to the application would be agreeable in an attempt to commence mediation. However, those objectors who responded indicated that it was not a proposal that they would be prepared to agree to.
- 6.13 The London Local Authorities Act 1990 and the Council's Street Trading Policy do not have any special provisions for conservation areas whereby applicants are barred from obtaining street trading licences.
- 6.14 There are currently 5 premises with street trading licences in High Street, Ruislip. A map of the locations can be found in **Appendix 2**.

Name of business	Address	Size of licensed trading area
The Bag Company	94 High Street, Ruislip	1.0m
Ruislip Green Grocers	134 High Street, Ruislip	1.5m
Abracadabra	108 High Street, Ruislip	1.0m
Daisy Chain	30 High Street, Ruislip	1.0m
Ruislip Collectables	156 High Street, Ruislip	2.0m

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 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 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 1.5 of the Policy** states: *"The Council will not deviate from this policy unless there is an unavoidable reason to do so."*
 - **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 4.1 of the Policy** states: *“A permanent licence will usually be issued to applicants for pitch, shop front and tables and chairs licences and will be valid for one year. In some circumstances, the Council may decide to issue a temporary licence to a new trader, or to a trader renewing a licence where there have been issues with enforcement.”*
- **Paragraph 4.2 of the Policy** states: *“Temporary licences will be issued to applicants for pitch licences where trade is only proposed for one day to six months, or where the trading activity is part of an event or promotion. Temporary licences will also be available to applicants of pitch, shop front or tables and chair licences who may wish to trade seasonally or for short periods of time. For example; where a business is going to be sold and a licence is only required for a short time; a seasonal extension to accommodate trade at specific times of the year.”*
- **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 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 10.1 of the Policy** states: *“The Council has powers to consider a wide range of matters on which to refuse street trading licences. Any decisions made upon these grounds will be evidenced and justified after careful investigation into any responses received to the consultation process. The Council’s decision making powers are split between mandatory and discretionary grounds for refusal.”*
- **Paragraph 10.3 of the Policy** states: *“The mandatory grounds for refusal 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 purpose of the legislation.*
- **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."*

- **Paragraph 13.5 of the Policy states:** *"The intention of the Council is to create a vibrant and thriving shopping environment for residents and also add to the aesthetics of a shopping area."*

- **Paragraph 16. 1 of the Policy states:** *"The Council has powers to issue permanent licences for up to three years and temporary licences for up to six months."*

- **Paragraph 16.2 of the Policy states:** *"The Council will normally issue permanent licences for one year. Temporary licences are issued for periods from one day to six months."*

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:

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

- i. age
- ii. gender reassignment
- iii. being married or in a civil partnership
- iv. being pregnant or on maternity leave
- v. disability
- vi. race including colour, nationality, ethnic or national origin
- vii. religion or belief
- viii. sex
- ix. 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.