

# Application for the grant of a new Temporary Street Trading Licence: Europa Furniture, 77 Victoria Road, Ruislip HA4 9BH

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Licensing Officer – Austen Young – 01895 556 533
<b>Papers with report</b>	<b>Appendix 1</b> - Application form <b>Appendix 2</b> - Site map and premises photographs <b>Appendix 3</b> - Street trading policy <b>Appendix 4</b> - Representations from Cllr Susan O'Brien <b>Appendix 5</b> - Representations from SSET <b>Appendix 6</b> - Photographs of commodities to be sold
<b>Ward name</b>	<b>Ruislip Manor</b>

## 1.0 SUMMARY

To consider an application for the grant of a new Temporary Street Trading Pitch Licence in respect of Europa Furniture, 77 Victoria Road, Ruislip HA4 9BH. The application form is attached at **Appendix 1** and is requesting permission to display goods normally sold inside the shop within two metres of the front of the premises. A site map and photographs of the premises frontage are attached at **Appendix 2**. The application has attracted representations from Councillor Susan O'Brien, Ward Councillor for Ruislip Manor, and the Council's Street Scene Enforcement Team.

## 2.0 RECOMMENDATION

- 2.1 That the Licensing Sub-Committee consider this 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 up to 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 have regards to the factors in paragraph 10.7 of the policy.
- 2.2 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 as detailed in paragraphs 10.7 and 10.8 of the Council's Street Trading Policy.
- 2.3 The current Street Trading Policy is attached at **Appendix 3**.

## 3.0 APPLICATION

### 3.1 Type of Application

A new Temporary Street Trading Shop Front Licence, which can be granted for a maximum period of 6 months.

### 3.2 Name of Applicant

Mohammad Mudasir Naseri

### 3.3 Name of Assistant

Naser Mohammed

### 3.4 Details of Application

The application is for permission to place a shop front display on the highway outside of the premises. The display will extend for two metres from the shop front. The area will be used to display mattresses, single divan boxes, runners (floor coverings), chests of drawers and coat stands.

## 4.0 **CONSULTATION**

### 4.1 Closing date for representations

24<sup>th</sup> October 2024

4.2 The relevant consultees were notified of the application on 3<sup>rd</sup> October 2024. The consultees were:

- Highways
- Street Scene Enforcement Team
- Ward Councillors

4.3 The application was also posted on the Council's website and the applicant was required to display a notice of their application on the premises as per the Street Trading Policy. Evidence of the public notice on display at the premises was received on 3<sup>rd</sup> October 2024.

## 5.0 **REPRESENTATIONS**

5.1 Representations have been received from Councillor Susan O'Brien, Ward Councillor for the Ruislip Manor Ward, and the Council's Street Scene Enforcement Team.

5.2 The representations from Councillor O'Brien are attached at **Appendix 4**.

5.3 The representations from the Council's Street Scene Enforcement Team are attached at **Appendix 5**.

5.4 No other comments or representations have been received in respect of this application.

## 6.0 **FURTHER INFORMATION**

6.1 Councillor O'Brien raises concerns that displaying bulky household items will contribute to existing nuisance from fly-tipping in the area. The Street Scene Enforcement Team state that

there are existing issues with the accumulation of rubbish, and the display of bulky items on the pavement may lead to further complaints in the future.

- 6.2 Officers did ask the applicant if they would be willing to reconsider the commodities to be displayed outside the shop, specifically referring to the mattresses as they were highlighted as a point of concern. The applicant replied that they would display the goods, including the mattresses, in an orderly manner. In addition, the mattresses would be new and contained in plastic covers, and it would be unlikely that they could be confused with a mattress which had been fly-tipped.
- 6.3 Councillor O'Brien was advised of this reply, but added that there were other traders in the wider shopping district who did not display goods outside of their premises, that the street trading display would be detrimental to the appearance of Victoria Road due to the goods on display being bulky household items, and that they still had concerns over the display of household goods when they had already witnessed nuisance from fly-tipping and dumping in the area.
- 6.4 Due to concerns raised over the display of the proposed goods, officers visited the premises unannounced to inspect the goods. During the visit, the premises advised that the mattresses, single box divan beds, and coat stands were delivered pre-wrapped and that there was no intention to unwrap these goods before putting them out on display. During this visit, it was witnessed that these goods were wrapped and packaged in some form. While the chests of drawers were not pre-wrapped, the premises advise that they have the ability to wrap goods on-site, and they proposed to wrap the chests of drawers before putting them out on display to protect the goods from dirt and chipping while handling. The premises advised that this would distinguish these goods from dumped goods. Again, it was witnessed that there were chests of drawers on the premises which were wrapped in clear film.
- 6.5 In addition to the steps proposed above, the premises also advised that goods which would put out on the street would be marked with price tags. Price tags were in use on goods inside the premises. Again, the premises advised that this would highlight these goods as for sale, and not dumped or left for collection.
- 6.6 The photographs of the goods, representative of the goods to be sold from the premises, are attached at **Appendix 6**.
- 6.7 This information, including the photographs, was circulated to Councillor O'Brien and the Street Scene Enforcement Team. They were asked if the condition of the furniture and the description of how the furniture would be displayed would satisfy their concerns. Councillor O'Brien and the Street Scene Enforcement Team were also asked if conditions regarding the wrapping and pricing of goods would be acceptable. Councillor O'Brien did respond with details of a recent fly tip included as a representation of the issues occurring in the area and that they still had concerns. The full details of the correspondence between the Councillor and officers are included within the representations attached at **Appendix 5**.
- 6.8 Unfortunately, since no agreement has been reached between all parties on acceptable conditions or to address the concerns raised in the objections, the application is now required to be determined by a Sub-Committee.
- 6.9 The Council has powers to consider a wide range of matters on which to refuse street trading licences. The Council's decision-making powers are split between mandatory and discretionary grounds for refusal. The grounds for refusal are detailed later in this report.

- 6.10 Officers can confirm that no mandatory grounds for refusal have been identified through processing the application or the consultation process. The applicant has provided proof of their identity as part of the application process which confirms their date of birth. The street trading policy does list Victoria Road as a designated licence street for shop front displays, and it is a fact that other premises in the vicinity are licensed for shop front displays. The commodities listed in the application are not explicitly prohibited through the policy or standard licence conditions but would need to be specified on any licence which may be granted. The pavement at this location is more than six metres wide, and with the proposed licence area extending two metres from the premises, this would meet the Council's policy of leaving a minimum of two metres of pavement clear for pedestrian use.
- 6.11 The Sub-Committee is called upon to establish if there are any discretionary grounds for refusal, or to exercise their powers in determining whether the additional factors listed in the policy are relevant in considering the impact of the proposed trading activity on the local area. If the Sub-Committee does consider that these additional factors are relevant, they have the power to attach additional conditions to any licence which is granted to mitigate these factors.
- 6.12 Should this application be granted, it would not allow the premises to leave goods on display on the pavement overnight. The application is requesting permission to display the goods on the pavement between the hours of 09:00 and 20:00, Monday to Sunday. Outside of these hours, the pavement must be kept clear and empty.
- 6.13 At the time of writing this report, the following premises hold shop front street trading licences on Victoria Road and within the vicinity of the applicant's premises:

<b>Business</b>	<b>Address</b>	<b>Size of Area</b>	<b>Commodities</b>
Langley Fresh	97 Victoria Road	1m	Fruit and vegetables
Pricewise	99 Victoria Road	1m	Brooms, plasticware, bins, doormats, charcoal, compost and trolleys
Budgens	47-49 Victoria Road	1m	Flowers and other seasonal items
Vic's Off-Licence / Pound & More	111 Victoria Road	2m	Household goods
HGB Goldwing Centre	77-79 Park Way	2m	Motorcycles
HGB Motorcycles	69-73 Park Way	2m	Motorcycles

## 7.0 RELEVANT SECTIONS OF HILLINGDON'S STREET TRADING POLICY

### 7.1 Introduction and Intention

**Paragraph 1.3** 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** states "The Council will not deviate from this policy unless there is an unavoidable reason to do so".

## 7.2 Eligibility and Suitability Criteria for Applicants

**Paragraph 3.2** 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”.

## 7.3 Types of Authorisation

**Paragraph 4.1** 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** states “Temporary licences will be issued to applicants for pitch licences where the 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 chairs 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”.

## 7.4 Application Requirements

**Paragraph 6.6** states “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”.

## 7.5 Assessing Consultation Feedback and Objections

**Paragraph 9.1** 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”.

## 7.6 Decision Making

**Paragraph 10.1** 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 10.2** states “Certain grounds for refusal may also present themselves through the application process. Where these grounds are identified, the applicant will be offered the opportunity to amend the application before it is determined”.

**Paragraph 10.3** 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 purposes of the legislation".

**Paragraph 10.5** 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 10.6** states "Where relevant adverse feedback has been received within the consultation period and discretionary grounds for refusal have been identified, the Council's Licensing Sub-Committee will be tasked with making determinations. Where applications are heard by the Licensing Sub-Committee, the Sub-Committee may exercise its discretion on accepting late objections if they are relevant and where there are demonstrable mitigating circumstances for being submitted outside the consultation period".

**Paragraph 10.7** 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** 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”.

## 7.7 **Hearings**

**Paragraph 11.4** states “Applicants will normally be notified of the decision on the day of the hearing and can expect a written decision within five working days of the decision”.

**Paragraph 11.5** states “In certain circumstances, the Licensing Sub-Committee may defer their decision or they may adjourn a hearing. This will be dependent upon the severity and complexity of the case before them and it may be appropriate to gather additional information to aid the decision making process”.

## 7.8 **Conditions and Standards for Licence Holders**

**Paragraph 13.3** states “In addition to the above information, the Council will also impose standard conditions on all street trading licences. Standard conditions will be reviewed from time to time. The standard conditions can be found at Appendix 3 [of the policy]”.

**Paragraph 13.4** states “The Council expects all licence holders to maintain their trading area in a proper manner and to ensure that any trading/display equipment is of a good quality and tidy appearance. The Council will provide traders and applicants with examples of the standards expected and will offer assistance and advice to traders and applicants on how to improve the look and quality of their trading/display equipment”.

## 7.9 **Commodities**

**Paragraph 25.1** states “Applications for street trading licences must be made in accordance with the Council’s approved list of commodities and banned commodities (Included as Appendix 2 [of the policy]). The Council will consider commodities that are not on the approved list at its own discretion”.

## 8.0 **LEGAL CONSIDERATIONS**

8.1 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.

8.2 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.

8.3 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

- 8.4 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
- 8.5 If a mandatory ground is established, the application must be refused.
- 8.6 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.
- 8.7 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.
- 8.8 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.
- 8.9 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
- 8.10 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.
- 8.11 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.
- 8.12 There is no right of appeal against a decision to refuse a temporary street trading licence notwithstanding statutory rights to seek Judicial Review proceedings.



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