

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	Thursday 16th. June 2022	Agenda Item Number	
TITLE:	Application for Variation of a Street Trading Consent Pitch 24, Jimmy's Kebab, Terrace Walk, Bath.		
WARD:	Kingsmead		
AN OPEN PUBLIC ITEM			
List of attachments to this report: Annex A - Application Annex B - Copy of current Street Trading Consent (includes Street Trading Conditions) Annex C - Plan of Pitch 24 location Annex D - Objections received Annex E - B&NES Street Trading Conditions (as published on the Council website) Annex F - B&NES Street Trading Policy			

1 THE ISSUE

- 1.1 On 20 March 2022 an application was received to vary the Street Trading Consent times for Jimmy's Kebab, Pitch 24, Terrace Walk, Bath, from finishing at 03:00hrs to finishing at 04:00hrs every day (to trade an hour later).

Objections to the application have been received from occupants of nearby properties and a Local Councillor.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 THE REPORT

- 3.1 An application has been received from Mehmet Yilmaz, Operator of Jimmy's Kebab mobile food van and Street Trading Consent Holder for Pitch 24, Terrace Walk, Bath. **(Annex A)**.

- 3.2 The times applied for are: 20:30hrs to 04:00hrs every day (the start time is unaltered). Notification of the application was posted at the proposed location giving persons until midnight on 19 April 2022 to submit any objections. The application was published on the Council's website. Notification of the application was also sent to the standard list of consultees including the Police, Environmental Protection Team, Local Councillors and the Highways Department.
- 3.3 Copies of the application notices were hand delivered to nearby residential and retail premises that would be affected.
- 3.4 A copy of the current Street Trading Consent is included (**Annex B**).
- 3.5 A copy of Pitch 24 location plan is included (**Annex C**).
- 3.6 Objections were received. (**Annex D**). All redactions in the objections received are solely to remove personal data in compliance with data protection legislation. The grounds for the objections are:
- Potential increase in Anti – Social behaviour, noise and litter which affects nearby residential and commercial premises.

4 STATUTORY CONSIDERATIONS

- 4.1 In accordance with Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), Bath and North East Somerset Council have adopted Schedule 4 of that Act. In accordance with that Schedule, the Council has designated all Streets/Highways within the Authority as "consent streets". This means that street trading is prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.
- 4.2 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the Council may grant consent if they think fit.
- Sub-paragraph (3) provides that a street trading consent shall not be granted:
- (a) To a person under the age of 17 years; or
- (b) For any trading in a highway to which a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- 4.3 Paragraph 7(4) of Schedule 4 to the 1982 Act provides that when granting or renewing a street trading Consent the Council may attach such conditions to it as they consider reasonably necessary.
- 4.4 Bath and North East Somerset Council has standard Street Trading Conditions which are applicable to all Street Trading Consents issued by the Council. (These are produced at **Annex E**).
- 4.5 Bath and North East Somerset has a Street Trading Policy that was ratified by

the Council (produced at **Annex F**).

4.6 When making a decision consideration needs to be given to the Human Rights Act 1998.

4.7 An Equalities Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 There are no resource implications arising from this report. The costs of processing licences are covered by the fees charged.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

7 CLIMATE CHANGE

7.1 The Local Government (Miscellaneous Provisions) Act 1982 Act is prescriptive and does not take account of the climate change agenda at this time. We look forward to changes in legislation which will allow the Council to take this into consideration in the future. In the meantime, individual applicants are encouraged to consider climate change issues in the operation of their businesses.

8 OTHER OPTIONS CONSIDERED

8.1 None.

9 CONSULTATION

9.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with Avon and Somerset Police, the Council's Highways team, Property Services, Environmental Protection Team, Development Control, Ward Councillors and adjacent premises.

9.2 The Council's Monitoring Officer (Head of Legal and Democratic Services) and Section 151 Officer (Director of Finance) and Information Governance Officer have all had the opportunity to input to this report and have cleared it for publication.

Contact person	Geoff Cannon. Public Protection Officer (Licensing) Tel: 07977 228120
Background papers	Licensing File
Please contact the report author if you need to access this report in an alternative format	

ANNEX A

Request for Change - Street Trading Pitch 024

Request received as follows:

Name: MEHMET YILMAZ

Email:

Phone:

Pitch: 024

Change requested:

Trading hours

Extending closing time 1 more hours

I understand that no changes can take effect until agreed by B&NES Licensing Services in writing.

Submitted on 20/03/2022 - 06:05

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING CONSENT

Jimmy's Kebab

BATH & NORTH EAST SOMERSET COUNCIL being the Licensing Authority under Schedule 4, Paragraph 7 of the above Act hereby grant a Street Trading Consent to:

Mr Mehmet Yilmaz

of:

to trade at:

**Pitch 24
Terrace Walk
Street Trading**

on the following days/hours:

Every Day from 20:30 to 03:00

in the articles of the following description:

Kebabs, burgers, bacon rolls, chips, hot and cold soft drinks

Pitch Details:

Mobile catering van

Vehicle Registration:

WX15 FBV

This Consent is granted subject to the general conditions relating to Street Trading Consents and to any special condition(s) set out overleaf. The approved stallholders are also listed overleaf.

This Consent shall continue in force from **1 April 2022** until **31 March 2023** unless revoked or surrendered.

NON-PAYMENT OF FEE WILL INVALIDATE THIS CONSENT

Granted on **24 February 2022**

Signed for and on behalf of
Bath & North East Somerset Council:



ANNEX B

Operatives permitted to work on the stall (if any):

UNIT COPLU
Memet Kayaalp

Special Conditions (if any):

Street Trading Standard Conditions

1. The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed to assist on the Pitch shall produce the Consent on demand when so required by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
2. The holder shall return this Consent to the Council immediately on revocation or surrender of the Consent.
3. The holder shall not trade otherwise than strictly in accordance with this Consent.
4. The holder shall notify the Council's Licensing Team at Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG immediately of any convictions or cautions obtained by the holder of this Consent.
5. The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
6. The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent or in relation to Consents relating to buskers.
7. The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the consent, in writing, of the Council's Licensing Manager.
8. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
10. The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and they must maintain the same in a clean and tidy condition and not place them so as to cause any obstruction.
11. The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, statutory or common-law nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
12. The holder shall not assign underlet or part with his interest or possession under this Consent or any part thereof but they may surrender it at any time.
13. The holder shall observe and comply with any directions in relation to the use of the street given by any duly authorised officer of the Council.

ANNEX B

14. The holder shall keep the trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.

15. The holder shall provide at their own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use under this Consent.

16. The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.

17. The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) which may be sustained by the Council or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this Consent.

18. The Consent Holder shall arrange their own Public Liability Insurance for a minimum value of £5M.

19. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

20. The Consent holder or any person employed by them to assist them on the Pitch shall at all times wear the identification badge issued by the Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.

21. The holder shall return the identification badge(s) to the Council immediately on revocation or surrender of the Consent.

22. Street Trading Fees

All street trading fees are due in advance:

- i Where fees are paid by cash or cheque then they need to be paid before 1 January, 1 April, 1 July and 1 October each year unless;
- ii The Consent Holder has in place arrangements to pay the street trading fee by monthly Direct Debit instalment whereas the Consent will be renewed on an annual basis commencing on 1 April.
- iii Failure to maintain Direct Debit payment as above may result in the consent being revoked or not renewed.
- iv Where the payment fails to be made by the due date the Council may charge an administration fee as determined by the Licensing Manager.

Notes

ANNEX B

1. Street trading in a consent street without a Street Trading Consent, or from a van, cart etc., not specifically permitted by Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.

2. A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order unless an exemption has been specifically approved. In case of doubt about the effect of any such Order, enquire at Licensing Services, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG. Any abuse of a specifically approved exemption may lead to the privilege being withdrawn for all traders.

3. The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

1 A person who:

b) engages in street trading in a consent street without being authorised to do so under this Schedule: or

d) being authorised by a street trading consent to trade in a consent street, trades in that street:

i from a stationary van, cart, barrow or other vehicle; or

ii from a portable stall, without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or

e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.

2. It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

3. Any person who, in connection with an application for a street trading consent, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence.

4. A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine.

Pitch 24

ANNEX C

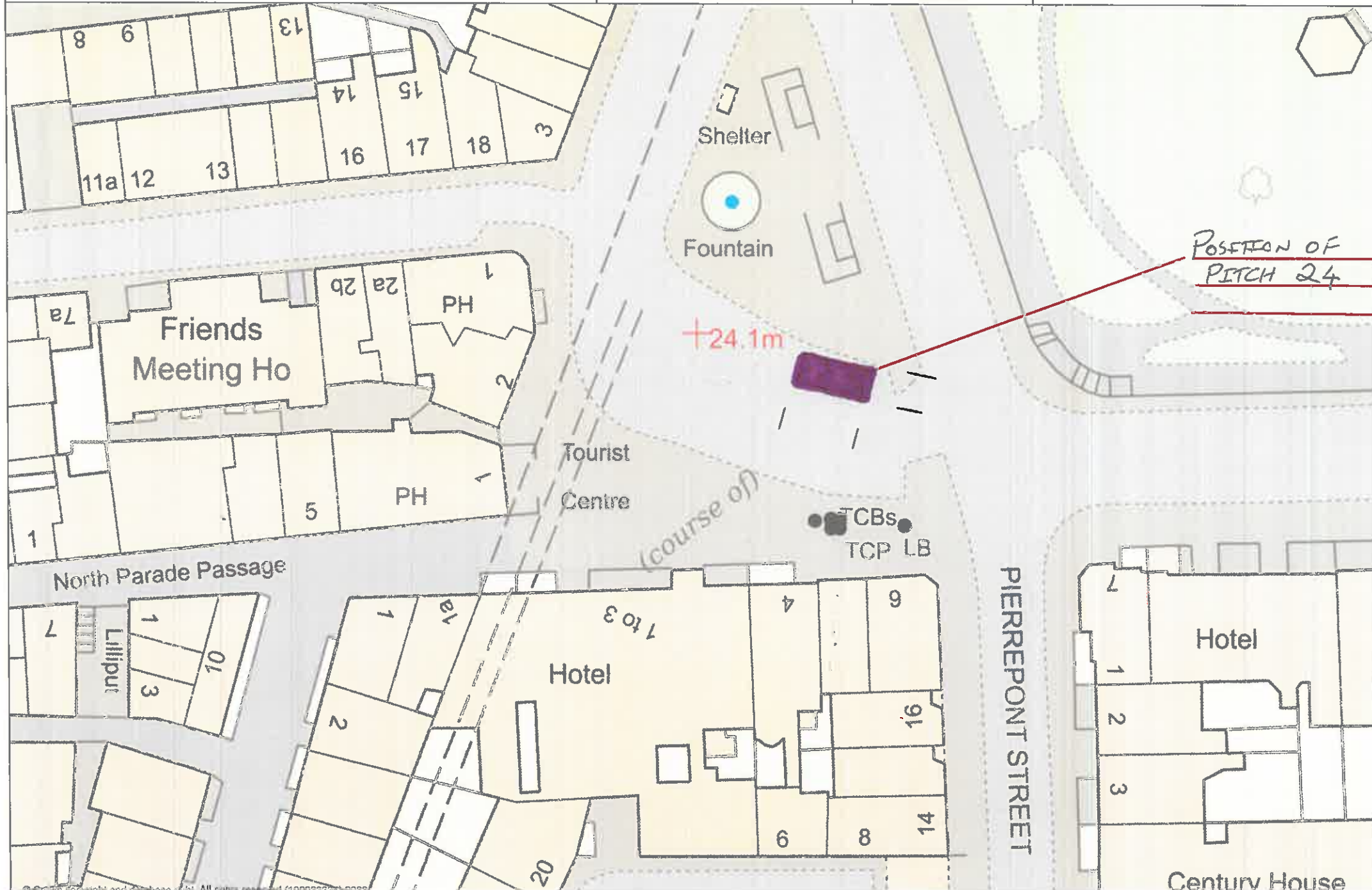
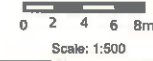
Bath and North East Somerset

**Bath & North East
Somerset Council**

Kebab Van

Author: M. Dando

Date: 09/05/2022



POSITION OF
PITCH 24

+24.1m

PIERREPONT STREET

Century House

Annex D

From: Sue Craig (CLLR) <Sue_Craig@BATHNES.GOV.UK>
Sent: 05 April 2022 20:32
To: Licensing <Licensing@BATHNES.GOV.UK>
Cc: Andrew Furse (Cllr) <Andrew_Furse@BATHNES.GOV.UK>
Subject: Re: Street Trading Consent Ref. 22/00812/STTRAD

Licensing,

I would like to register an objection to this application for extended hours.

There have been reports of noise and anti-social behaviour associated with this food outlet which is directly opposite a large hotel which causes disruption to the guests into the early hours.

Sue

Sue Craig

Liberal Democrat Councillor for Kingsmead

Member of the Green Liberal Democrats

Annex D

From: Josh Watts [REDACTED]
Sent: 30 March 2022 10:39
To: Licensing <Licensing@BATHNES.GOV.UK>
Cc: FURSE Andrew <Geoff_Cannon@BATHNES.GOV.UK>
Subject: FW: Jimmy's kebab - some more evidence

Hello,

Due to the ongoing major anti social behaviours occurring at 'Jimmy's kebab van' parked up outside our business disturbing our guests on a daily basis resulting in us giving refunds and ruining our business reputation I vigorously object to longer opening hours.

Can I just confirm we now own/represent 1,2,3,4,5 North Parade – ie the whole street in front of this kebab van – so it'll only be me you hear from, which shouldn't mean I should be treated as one resident, rather the whole street.

I am still shocked that any licence whatsoever is granted to this trader, never mind an extension to trading hours.

Kind Regards

Josh

Annex D

From: The Green Rocket [REDACTED]
Sent: 15 April 2022 15:33
To: Licensing <Licensing@BATHNES.GOV.UK>
Subject: Jimmys Kebab Pitch Terrace Walk Licence

Dear Cathryn Brown,

I would like you to deny the licence extension for this pitch, I would like to have there licence revoked entirely. As a resident and business owner of this area, the kebab van is nothing but a terrible nuisance. It is a magnet for drunk people screaming, shouting, fighting and being sick in the street. It is an eyesore and will often keep me awake until beyond 3am from all of the patrons from Labyrinth nightclub, OPA nightclub, Second Bridge and The Earl Night clubs. There is a kebab shop just down the road near the weir which is not in a residential area which can service the party goers and not disturb residents long with helping people disperse. The streets outside this area are nothing short of disgusting, it is like being outside an alehouse in the middle ages, people lying around, vomit, polystyrene food packaging and broken glass strewn everywhere. I know all of the local hotels in the area are pulling their hair out on the matter.

What has the world heritage city of Bath become?

So I reiterate my stance that I would like to see the licence for the pitch revoked entirely or moved to a different non resident location.

There should be a push of support from the council to help the traders who have premises and long leases (who have been through a nightmare 2 years of a pandemic). These people have to trade in the quiet months when you are losing a lot of money, many of these street traders turn up and trade in the good times and then can disappear when things get quiet.

I look forward to hearing from you.

Best wishes

Philip Pearce

Resident of [REDACTED] and owner of Green Rocket Cafe Bath

ANNEX D

From: Geoff Cannon <Geoff_Cannon@BATHNES.GOV.UK>

Sent: 19 April 2022 15:44:46

To: The Green Rocket

Subject: RE: Jimmys Kebab Pitch Terrace Walk Licence

Good afternoon Mr Pearce.

Thank you for submitting your objection to this application.

Please confirm that you are objecting to the Street Trading Consent Application 22/00812/STTRAD as this has not been referenced in your email below.

Thank you.

Regards,

Geoff Cannon
Public Protection Officer - Licensing
Public Protection and Health Improvement Service
Bath & North East Somerset Council
Mob: 07977228120
Email: geoff_cannon@bathnes.gov.uk
www.bathnes.gov.uk
www.twitter.com/bathnes

From: The Green Rocket [REDACTED]

Sent: 20 April 2022 10:12

To: Geoff Cannon <Geoff_Cannon@BATHNES.GOV.UK>

Subject: Re: Jimmys Kebab Pitch Terrace Walk Licence

Hi Geoff,

I can confirm that I am objecting to Street Trading Consent Application 22/00812/STTRAD.

Best wishes

Philip Pearce

ANNEX D

From: Geoff Cannon
Sent: 20 April 2022 13:14
To: The Green Rocket [REDACTED]
Subject: RE: Jimmys Kebab Pitch Terrace Walk Licence

Thank you for the confirmation Philip.

Please note that your objection can only be confined to the proposed variation i.e. to extend trading by an hour to 04:00.

The application will go before the Licensing Sub – Committee on a date to be decided. The LSC will only consider objections in relation to the application and not concern themselves with whether the trader should be operating at all.

Licensing will make contact with you again in the near future regarding the LSC proceedings.

Regards,

Geoff Cannon
Public Protection Officer - Licensing
Public Protection and Health Improvement Service
Bath & North East Somerset Council
Mob: 07977228120
Email: geoff_cannon@bathnes.gov.uk
www.bathnes.gov.uk
www.twitter.com/bathnes

Street Trading Policy Conditions

Standard Conditions (attached to each Street Trading Consent)

1. The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed to assist on the Pitch shall produce the Consent on demand when so required by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
2. The holder shall return this Consent to the Council immediately on revocation or surrender of the Consent.
3. The holder shall not trade otherwise than strictly in accordance with this Consent.
4. The holder shall notify the Council's Licensing Team at Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG immediately of any convictions or cautions obtained by the holder of this Consent.
5. The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
6. The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent or in relation to Consents relating to buskers.
7. The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the consent, in writing, of the Council's Licensing Manager.
8. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
10. The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and they must maintain the same in a clean and tidy condition and not place them so as to cause any obstruction.
11. The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, statutory or common-law nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.

ANNEX E

12. The holder shall not assign underlet or part with his interest or possession under this Consent or any part thereof but they may surrender it at any time.
13. The holder shall observe and comply with any directions in relation to the use of the street given by any duly authorised officer of the Council.
14. The holder shall keep the trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
15. The holder shall provide at their own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use under this Consent.
16. The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.
17. The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) which may be sustained by the Council or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this Consent.
18. The Consent Holder shall arrange their own Public Liability Insurance for a minimum value of £5M.
19. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
20. The Consent holder or any person employed by them to assist them on the Pitch shall at all times wear the identification badge issued by the Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
21. The holder shall return the identification badge(s) to the Council immediately on revocation or surrender of the Consent.

22. Street Trading Fees

All street trading fees are due in advance:

- i. Where fees are paid by cash or cheque then they need to be paid before the 1 January, 1 April, 1 July and 1 October each year unless;
- ii. The Consent Holder has in place arrangements to pay the street trading fee by monthly Direct Debit installment whereas the Consent will be renewed on an annual basis commencing on 1 April.
- iii. Failure to maintain Direct Debit payment as above may result in the consent being revoked or not renewed.

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- iv. Where the payment fails to be made by the due date the Council may charge an administration fee as determined by the Licensing Manager.

ANNEX E

Notes:

1. Street trading in a consent street without a Street Trading Consent, or from a van, cart etc., not specifically permitted by Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.
2. A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order unless an exemption has been specifically approved. In case of doubt about the effect of any such Order, enquire at Licensing Services, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG. Any abuse of a specifically approved exemption may lead to the privilege being withdrawn for all traders.
3. The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

1. A person who:
 - b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
 - d) being authorised by a street trading consent to trade in a consent street, trades in that street:
 - i) from a stationary van, cart, barrow or other vehicle; or
 - ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
 - e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.
2. It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
3. Any person who, in connection with an application for a street trading consent, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence.
4. A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine.

Street Trading Policy

1 Purpose

- 1.1 Bath and North East Somerset Council understands that street trading is important to both the local environment and local economy. Street trading can provide vibrancy and interest to the local environment and an opportunity for small businesses to establish themselves and grow.
- 1.2 The Council's vision for Bath and North East Somerset is to create a street trading environment which:
 - complements premises-based trading
 - is sensitive to the needs of residents
 - ensures that public spaces become active spaces
 - provides diversity and consumer choice;
 - seeks to enhance the character, ambience and safety of local environments
 - promotes healthy eating
 - provides local food

2 What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public has access without payment.
- 2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'Consent Streets' for street trading purposes.
- 2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.
- 2.4 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.
- 2.5 Street trading consents for buskers wishing to sell items associated with their performance (e.g. CD's) will be established
- 2.6 Consents may be issued to mobile vendors such as Ice Cream Traders to operate in specific locations outside of the central area of Bath.

3 Exemptions from the need to obtain a Consent

3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the following are exempt from the need to obtain Street Trading Consent:

- trading by a person acting as a pedlar under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order
- trading in a trunk road picnic area
- trading as a news vendor
- conducting a public charitable collection
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station, and
- trade carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop

4 Pitch assessment

4.1 The Council will maintain a map showing the location of street trading pitches. This map is available on the Council's web site at www.bathnes.gov.uk/services/business/street-trading

4.2 The Council may from time to time identify new pitches for street trading and will consider applications for new pitches. In determining whether to create a street trading pitch the Council will have regard to:

- an overriding public interest
- any effect on road safety, either arising from the siting of the pitch, or any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians; and
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- any land owners permission which may be required from a private land owner or a relevant Council service e.g. Environmental Services (Open Spaces), Commercial Estates or Economic Regeneration

5 Application Process for a New Pitch

5.1 Before new pitches are created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- existing holders of street trading consents in the immediate area
- relevant ward councillors
- relevant parish or town councils
- Avon & Somerset Constabulary

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- relevant Council Services including Development Control, Highways, Property Services, Environmental Services (Open Spaces), Commercial Estates, Trading Standards and Food Safety
- a relevant land owner
- any other stakeholder considered by the Council's Licensing Team to be relevant to the application

5.2 In addition to the above, public notices will be placed in a clearly visible location at the site of the proposed new pitch.

5.3 The Council will consider any responses received in relation to public notices and any objection from consultees will be assessed against the criteria in paras 1.2, 4.2 and Section 12 and may be referred to the appropriate Licensing Sub-Committee for determination.

5.4 Any proposed change to conditions attached to a consent will be in consultation with consent holders and others, as specified in 5.1 above, if relevant.

6 Application Process for an Existing Pitch

6.1 When an existing or new pitch becomes available, the Council will publish details of the vacancy, inviting applications for the pitch. The details will be published on the Council's website.

6.2 Applications will be determined by the Licensing Manager. If no suitable application is received then the pitch will be re-advertised.

6.3 In situations where there are competing applications then the Licensing Manager will decide the most appropriate applicant in consultation with the Service Manager. The pitch will be offered to the applicant whose proposal is considered the most suitable for the particular location.

7 Mobile Street Artists

7.1 Mobile street artist consents may be issued to persons who sketch or paint and sell their own work and move from location to location.

7.2 Applicants for mobile street artist consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their application.

8 Mobile Traders

8.1 Any mobile trader e.g. ice cream vans, will require a street trading consent.

8.2 Before issuing a consent the Council will consult with relevant bodies, as specified in section 5.1, and will require details of the daily routes and times of the rounds.

9 Street Markets

9.1 The Council actively supports the provision of temporary street markets within the district and special consideration will be given to markets which are considered beneficial to the local area.

- 9.2 Applications for temporary street markets will be considered using the same criteria set out in Para 1.2 and in sections 4 and 5 of this policy.

10 Pitches for Buskers

- 10.1 The Council will issue Street Trading consents for use by buskers who wish to sell items associated with their performance (e.g. CD's).
- 10.2 Applications for pitches for buskers will be considered using the same criteria set out in Para 1.2 and sections 4 and 5 of this policy.

11 Pitches for Charitable Street Trading

- 11.1 The Council issues permits to enable charitable street trading. Charitable street trading must not be undertaken in any street or public place unless the Promoter has obtained a consent from the Council. The only exception to this is where the collection is exempt under schedule 4 of the 1982 Act (see section 3)
- 11.2 In relation to charitable street trading, the Council has a designated street trading pitch for this purpose at Kingston Parade, Bath. This pitch will be available to registered charities, or organisations demonstrating that they are a 'not-for-profit' organisation. Use of this pitch will be subject to the Council's standard street trading conditions.
- 11.3 The charity or organisation must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade whose details can be obtained from the Licensing Department.

12 Nature of Goods and Trading Hours

- 12.1 The nature of goods which may be sold from any pitch and the trading hours will be specified in the consultation process. Any subsequent application for a change in the nature or type of goods sold or the trading hours will require a further application and will be subject to the level of consultation as set out in section 5.1 above.
- 12.2 Until 1st April 2015, the Council will not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops or nearby street trading pitches. (After this date, changes to Schedule 4, Local Government [Miscellaneous Provisions] Act 1982 come into effect which promote open competition).
- 12.3 Goods will normally consist of craftwork, fresh flowers, fresh fruit and vegetables, ice cream or soft drinks. Other types of goods, including services, will be considered on a pitch by pitch basis and have particular regard to local needs, product diversity and balanced with other retailers in the immediate vicinity.
- 12.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis.
- 12.5 In the case of stalls selling hot food trading hours will be determined on a pitch by pitch basis.

12.6 Late night food traders operating after 11:00 pm will be subject to the requirements of the Licensing Act 2003 regarding the need for a Premises Licence. Greater consideration will be given to the impact on the night time environment and the possibility of crime and disorder on the streets as a result of the granting of a street trading consent.

13 Design and Appearance of Stall, Barrow, Van, Cart etc.

13.1 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

13.2 The Council has a preferred set of standards of design and appearance that they wish to achieve for all street trading pitches based in the central area of Bath.

- All new applicants will be required to use an approved design unless a suitable alternative is agreed
- All existing Consent Holders will be required to change to an approved design by 1st January 2017, or upgrade the whole or parts of their units, as appropriate

13.3 The condition of all pitches will be monitored regularly to ensure that the required standards are maintained.

13.4 All consent Holders trading in food products are required to be registered and inspected by the Council's Food Safety Team. Contact details of the Food Safety team can be found on the Council's website.

13.5 All consent Holders are required to comply with relevant health and safety regulations including those relating to electrical and gas safety.

14 Issue of Street Trading Consents

14.1 An application for a street trading consent or the renewal of such a consent shall be made, in writing, to the Council. Applications can be e-mailed to the Council at: licensing@bathnes.gov.uk .

14.2 Consents will not normally be issued for a period of less than six days per week, unless the applicant can provide an alternative scheme acceptable to the Council.

14.3 Where a consent has expired the pitch will become subject to paragraphs 14.4 and 14.5 below.

14.4 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch on its website.

14.5 Applications for an existing pitch will be determined by the Licensing Manager or other authority delegated by the Council. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received then the pitch will be re-advertised.

14.6 Any application received by a person less than 17 years of age will be considered by taking into account the provisions contained in the Children and Young Persons Act 1933 and the Children and Young Persons Protection at Work Regulations 1998.

ANNEX F

14.7 An application for an existing pitch may be refused or revoked if the applicant is found to be unsuitable to hold the consent by reason of having been convicted of a relevant offence, or for any other reason.

14.8 The issue of a street trading consent will not normally be delayed where other approvals, permits, licences are required by other departments or statutes except in the case where advice is required from the Council's Food Safety and Health and Safety teams.

15 Fee Structure

15.1 The Council may charge such fees as it considers reasonable having regard to pitch location, the size of the Pitch, trading days, hours and the description of goods offered for sale.

15.2 The fees will be reviewed and set on an annual basis and any variation advertised by notice in a local newspaper.

15.3 Fees for consents must be paid in full in advance:

- in the case of Direct Debits, on a monthly basis
- all other methods, three months in advance

15.4 Failure to maintain payments as above may result in the consent not being renewed. Where a payment is not made by the due date the Council may charge an administration fee as determined by the Licensing Manager. This will include cheques or Direct Debit requests that are not honoured.

15.5 The Council cannot guarantee that pitches will be available every day and accepts no liability for the loss of earnings in relation to street trading consent holders or their employees.

15.6 In the event of roadworks, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager will consider appropriate refunds on a case by case basis, provided a written request has been made by the consent holder.

16 Street Trading Consents for which fees are not payable

16.1 The Council will not require the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events
- non-commercial or charitable events
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people); and
- sale of articles by householders on land contiguous with their homes

17 Conditions and Enforcement

- 17.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 17.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.
- 17.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.
- 17.4 Persons trading without a consent and who are not exempt (see 3 above for examples) will be the subject of enforcement action in accordance with the Council's Enforcement Policy. Copies of the Enforcement Policy can be obtained from the Council's Licensing team or website.
- 17.5 The consent Holder is required to obtain and maintain their own Public Liability Insurance to a minimum of £5m. This will be required to be produced for inspection before any consent is issued and on demand when requested by an officer of the Council.

18 Equality

- 18.1 The Council is committed to equality of opportunity and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area.
- 18.2 The Council commits to ensure that no resident of, or visitor to, the area or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.
- 18.3 The Council will take positive steps to stop any unfair/unlawful discrimination, and will carry out positive action where discrimination is found.

19 General

- 19.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.
- 19.2 This policy will complement and inform other Council initiatives including those on street markets and the public realm.
- 19.3 This policy will be the subject of periodic monitoring and review.
- 19.4 This policy will inform the detailed conditions attached to every street trading consent.
- 19.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.