

Report title	Street Trading Consent Application
Report author	Andrew Finch, Democratic Services Deputy Manager
Department	Law & Governance
Exempt?	No
Exemption type	N/A
Reasons for exemption	N/A

Purpose of report:

To resolve

Synopsis of report:

To consider an application for a new street trading consent at The Broadway, New Haw.

Recommendation(s):

The application be refused for the following reason:-

The noise and nuisance which it is anticipated would result from hot food trading at the location, which would be detrimental to the peace and quiet enjoyment of residents in the vicinity, along with the impact on parking.

1. Context and background of report

- 1.1 The Council has one location in the borough designated a consent street for street traders, which is The Broadway, New Haw, at the eastern service road adjacent to the street, from the northern boundary of the Black Prince Public House for a distance of 15 metres in a northerly direction.
- 1.2 A handful of enquiries about street trading are received on an annual basis, however this is the first formal application received since January 2017, which was considered by this committee and rejected.

2. Report and, where applicable, options considered and recommended

- 2.1 The application under consideration was received on 7 July 2023 from Mr Costel Enache, who wishes to set up at the designated consent street location at The Broadway selling grilled meat with Romanian specialty dishes.

- 2.2 The application is for six days per week between the trading hours of 11am – 10pm and operates under the trading name ‘The Grillzy’ and company name ‘Dracula’s Grill’.
- 2.3 The vehicles proposed to be utilised should the application be accepted are:
- 1) AL-KO Kober Trailer 375CM L x 203CM W +
 - 2) Sear Arona, 415CM L x 180CM W

Previous Street Trading Consent Applications

- 2.4 In addition to the previous application in January 2017, other applications for street trading consent were received by this committee (or the Economic Development Committee as it was previously known), in June 2007, January 2010 and September 2015. All applications related to selling street food and were refused for the following reasons:
- i) no suitable location could be found for the placement of the trading unit which did not give rise to highways difficulties; and
 - ii) the noise and nuisance which it was anticipated would result from hot food trading at this particular location would be detrimental to the peace and quiet enjoyment of residents in the vicinity.

Consultation

- 2.5 Officers have sought the views of the following when considering this application, and their views can be found at the following appendices:
- Surrey Police (Inspector James Wyatt), (Appendix B)
 - Surrey County Council (Jason Gosden, Senior Traffic Engineer), (Appendix C)
 - Runnymede Borough Council’s Parking Services Team (Appendix D)
 - Runnymede Borough Council’s Environmental Health Team (Appendix E)
 - Ward councillors. Whilst the location is in New Haw ward, The Broadway straddles both New Haw and Woodham & Rowtown wards. Therefore the six councillors across those wards have been consulted and their individual responses have been collated (Appendix F)

Conclusions

- 2.6 Of those mentioned in 2.5, all have commented on the parking facilities at the location, with demand already often exceeding availability, impacting residents, potential customers and also the applicant given that they will be unable to reserve a space to commence their street trading.
- 2.7 There was concern that the footway is also likely to become congested, impacting pedestrians’ ability to pass safely.
- 2.8 The establishment of a food stall at the location would have a knock-on effect on antisocial behaviour, particularly the prospect of noise and littering.
- 2.9 Cooking smells permeating into nearby homes has also been cited as a concern.

- 2.10 Accordingly, officers therefore consider that the application should be refused based on the information above and contained within the appendices.

3. Policy framework implications

- 3.1 Council Policy is to give due consideration to the suitability of all applications to trade in its consent street and to prohibit trading in all streets where it will be detrimental to road safety and where evidence of detriment to public amenity exists.

4 Resource implications/Value for Money

- 4.1 Street Trading consents run from 1 April to 31 March. The basic annual fee is £1,000 per year plus an additional annual charge of £230 for each day of the week the trader is licensed to operate. The maximum fee for a trader operating seven days a week for a year is therefore £2,610.

5. Legal implications

- 5.1 RBC adopted the Local Government (Miscellaneous Provisions) Act 1982 (the "Act") in September 1982 and designated streets as soon as January 1983. Schedule 4 of the Act gives Local Authorities discretion when issuing consents. Schedule 4 does not specify any particular grounds on which such decisions may, or may not, be made but while the Committee is able to refuse a consent it must do so for sound and valid reasons and has a duty to act reasonably at all times bearing in mind the consequences to the trader. While a trader has no right of appeal under Schedule 4 he is at liberty to take other legal action if the Council is seen to act unfairly or unreasonably or has reached its decision without due consideration of all material facts.
- 5.2 Under Section 17 of the Crime and Disorder Act 1998, the Council has a duty to do all that it reasonably can to prevent crime and disorder in its area. Street trading in certain areas, particularly after dark, can lead to problems of disturbance and disorder.
- 5.3 The European Convention on Human Rights secures certain fundamental human rights. The Human Rights Act 1998, which came into force on 2 October 2000, makes it unlawful for a local authority to act in a way which is incompatible with a convention right.
- 5.4 A refusal of consent to street trading at this location may constitute an interference with the right under Article 1 of the First Protocol to the peaceful enjoyment of possessions. Such interference is permissible if it is in accordance with the law and in the public interest. Such action could also interfere with the right under Article 8 of the Convention, to respect for private and family life and the home. Unjustified failure to take action could also interfere with this right. Interference is permissible provided that it is in accordance with the law and is necessary in the interests of protecting the rights and freedoms of others in the Community. The Council's response to the application and any perceived problems must be proportionate.
- 5.5 It must be remembered that local residents as well as prospective traders enjoy Convention Rights. Clearly, when considering whether or not a consent should be granted the Council should seek to balance the interests of the person seeking to trade against those of any objectors. The power to attach conditions to any consent, and to restrict hours of trading to levels which are considered to be appropriate, may enable the Council to achieve a balance between the opposing interests.

6. Equality implications

6.1 None.

7. Environmental/Sustainability/Biodiversity implications

7.1 Runnymede Borough Council's Environmental Health consider that granting the application may give rise to noise and odour nuisance and complaints from residents in close proximity to the trading location. Cooking fumes, smoke and odours are best dispersed at, or above, building eaves levels.

8. Other implications

8.1 None.

9. Timetable for Implementation

9.1 The applicant has indicated they would be ready to start trading imminently should the application be successful. They would need to be able to provide evidence of £5m public liability insurance and proof of registration with a local authority (not necessarily Runnymede) under the Food Premises (Registration) Regulations 1991.

10. Background papers

10.1 [Agenda-19-January-2017-Environment-and-Sustainability-Committee \(runnymede.gov.uk\)](http://runnymede.gov.uk) (agenda item 6)

11. Appendices

- Appendix A – Location plan
- Appendix B – Consultation response from James Wyatt, Surrey Police
- Appendix C – Consultation response from Senior Traffic Engineer, Surrey County Council
- Appendix D – Consultation response from Runnymede Borough Council Parking Services Team
- Appendix E – Consultation response from Runnymede Borough Council Environmental Health Team
- Appendix F – Collated responses from the ward councillors from New Haw and Woodham & Rowtown wards.