

BROMSGROVE DISTRICT COUNCIL

**LICENSING
SUB-COMMITTEE**

15th October 2010

STREET TRADING CONSENT - APPLICATION

| | |
|---------------------------------|---|
| Relevant Portfolio Holder | Cllr. P. Whittaker |
| Relevant Head of Service | Head of Planning and Environment Services |
| Key Decision / Non-Key Decision | |

1. SUMMARY OF PROPOSALS

- 1.1 To consider an application to permit street trading in respect of Biagio Calleia who is a trader providing ice cream from a mobile ice cream van. The trading will consist of a mobile unit stopping outside the school in Brake Lane for two and a half hours each day to coincide with the end of the school day.
- 1.2 To trade in a mobile ice cream unit stopping for short periods on a set route incorporating streets in Hagley which are listed below:-
- Meadowcroft
 - Cavendish Drive
 - Milestone Drive
 - Willow Close
 - The Greenway

2. RECOMMENDATIONS

- 2.1 That Members determine the application. The application may be:
- 2.1.1 granted in whole or in part (with additional conditions, if appropriate) and subject to Mr. Calleia producing a trade waste agreement as set out at 12.1 of the Street Trading Policy;
- or,
- 2.1.2 refused,
- provided that the Sub-Committee's decision is consistent with the Council's Street Trading Consent Policy.

3. BACKGROUND

- 3.1 In accordance with the Street Trading Policy, a responsible authority is entitled to make representations. Responsible authorities include:-

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- the Highways Authority – Worcestershire County Council;
- the Chief Officer of Police;
- the Council's Environmental Health team;
- the Council's Street Scene and Community Services team;
- the Council's Economic Development team;
- Trading Standards;
- the Parish Council (if any) in which the Trading Unit is to be located;
- the Ward Councillors

- 3.2 In accordance with the Street Trading Policy, the owners/occupiers of any properties near to the proposed location of the trading site for which an application has been made are entitled to make representations. "Near to" is not defined in the Street Trading Consent Policy.

4. KEY ISSUES

- 4.1 The Licensing Authority has received an application to conduct Street Trading, in accordance with the Street Trading Policy at the above 1.2 mentioned sites. Please see Appendix A

- 4.2 The application is seeking the following permissions:

Street Trading

- 01.30 p.m. – 04:30pm Monday to Friday;

Actual opening hours

- 01.30 p.m. – 04:30pm Monday to Friday;

- 4.3 Representations have been received from four of the responsible authorities namely Hagley Parish Council, Ward Councillors, Worcestershire County Council Highways and Planning and Environment Services. Please see Appendix B.
- 4.4 Properties near to the proposed round as specified in 3.2 and 1.2 above have been notified and letters of objection have been received. Please see Appendix C.
- 4.5 A plan indicating the location of the proposed street trading site is attached at Appendix D.
- 4.6 A photograph of the Ice Cream Van can be found at Appendix E.

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- 4.7 A site visit was held on Wednesday 15th September 2010.
- 4.8 Mr. Biagio Calleia has been invited to the meeting to put forward his case.
- 4.9 All those making objections to this application have been invited to the meeting so they can put forward their case.

5. FINANCIAL IMPLICATIONS

- 5.1 Paragraph 6.4 of the Street Trading Consent Policy states if an application for a Street Trading Consent is refused the Council will refund the fee in full.

6. LEGAL IMPLICATIONS

- 6.1 The Local Government Miscellaneous Provisions Act 1982 section 3 empowers local authorities to designate all or part of their areas for the purposes of street trading. Schedule 4 of that Act specifies the procedure for resolving to designate streets, and for issuing Street Trading Consents.
- 6.2 Paragraph 7 of Schedule 4 of the Act permits the Council to grant a Street Trading Consent if they think fit and to attach conditions to it as they consider reasonable necessary to prevent obstruction of the street or danger to persons using it; or nuisance or annoyance (whether to persons using the street or otherwise). Model Conditions are included within the Bromsgrove District Council, Street Trading Policy.
- 6.3 Paragraph 8 of Schedule 4 of the Act, further permits the Council to include in a Street Trading Consent permission for its holder to trade in a Consent Street from a stationary van, cart, barrow or other vehicle or from a portable stall.
- 6.4 Paragraph 10 of Schedule 4 of the Act states that a Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 6.5 There is no right of appeal against the refusal to grant a Street Trading Consent.
- 6.6 The Sub-Committee must have regard to the Street Trading Consent Policy adopted by Bromsgrove District Council on 24th May 2010.

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- 6.7 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

7. POLICY IMPLICATIONS

- 7.1 The Sub-Committee must have regard to the Street Trading Consent Policy adopted by Bromsgrove District Council on 24th May 2010.

8. COUNCIL OBJECTIVES

- 8.1 CO1 – Regeneration, Priority Economic Development

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 9.1 The main risk associated with the details included in this report are:

- Decision made without having regard to Council Policy.

- 9.2 This risk is being managed as follows:

- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
- Risk Register: Planning and Environment Services
- Key Objective Ref No. 8

10. CUSTOMER IMPLICATIONS

- 10.1 All parties will be notified of the Council's decision in writing.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

- 11.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

- 12.1 None.

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13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 None.

14. HUMAN RESOURCES IMPLICATIONS

14.1 None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 None

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF
CRIME AND DISORDER ACT 1998**

16.1 None

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None

18. LESSONS LEARNT

18.1 None

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

19.1 None

20. OTHERS CONSULTED ON THE REPORT

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| Portfolio Holder | Yes |
| Chief Executive | No |
| Executive Director (S151 Officer) | No |
| Executive Director – Leisure, Cultural, Environmental and Community Services | No |
| Executive Director – Planning & Regeneration, Regulatory and Housing Services | No |

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| Director of Policy, Performance and Partnerships | No |
| Head of Service | Yes |
| Head of Resources | No |
| Head of Legal, Equalities & Democratic Services | No |
| Corporate Procurement Team | No |

21. WARDS AFFECTED

This report affects the Wards of Hagley & Furlongs

22. APPENDICES

Appendix A – Application
Appendix B – Letters of Representation from responsible authorities
Appendix C – Letters of representation from local residents
Appendix D - Location plan of the proposed site
Appendix E - Photograph of the Ice Cream Van.

23. BACKGROUND PAPERS

Street Trading Policy

AUTHOR OF REPORT

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