

Slough Borough Council

Report To:	Licensing Sub-Committee
Date:	25 th July 2023
Subject:	Application for Street Trading Consent - The High Street, Slough - Objection to grant application.
Chief Officer:	Richard West
Contact Officer:	Russell Denney-Clarke
Ward(s):	Herschel Park
Exempt:	No
Appendices:	Appendix A – Copy of Application Appendix B – Copy of Site Plan Appendix C – Copy of Consultation Appendix D – Copy of Consultation Notice Appendix E – Copy of Consultation Result Appendix F – Copy of Representations Appendix G – Copy of Additional Conditions Appendix H – Copy of RBWM's Market Charter Appendix I – Copy of RBWM's Consent

1. Summary and Recommendations

- 1.1 This report details a Street Trading Consent for the High Street application which has received objections.

Recommendations:

- 1.1 Following the hearing, having had regard to the representations made by all parties, the Licensing Sub-Committee are asked to determine the application for the grant of a new Street Trading Consent.
- 1.2 The Licensing Sub-Committee may:
1. Grant the application subject to Slough Borough Council's standard conditions.
 2. Grant the application subject to Slough Borough Council's standard conditions and any additional conditions (**see appendix G**) or restrictions that the Committee consider to be reasonably necessary to;
 - maintain public safety
 - prevent public nuisance and anti-social behaviour
 - preserve the amenity of the specific locality.
 3. Refuse the application.

2. Report

Introductory paragraph

- 2.1 As quasi-judicial body the Sub-Committee is required to consider this matter on its merits and must act reasonably and rationally. The Sub Committee can only consider relevant factors and must ignore irrelevant factors. The decision must be based on evidence, which logically shows the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant. The Sub Committee must give fair consideration to the contentions of all persons entitled to make representation to them.
- 2.2 The Sub-Committee can only consider matters within the report.
- 2.3 Members should note that the Sub-Committee is meeting on this occasion solely to perform the role of Licensing Authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.
- 2.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to members when considering licensing issues. In addition, as a quasi-judicial body, Members are required to avoid both actual bias and the appearance of bias.

Options considered

- 2.5 Consideration has been given to how the decision sought will help the Council meet its vision and corporate priorities, however the nature of the decision is outside the scope of these priorities.

Background

2.6 On 22nd May 2023, an application for a Market Licence Part III Food Safety Act 1984, Section 37 Local Government (Miscellaneous Provisions) Act 1982 was received by Slough Borough Council.. This application also falls within the scope of schedule 4 of the Local Government (miscellaneous provisions) Act 1982 (Street Trading Consents).

2.7 The Application for the grant of Street Trading Consent:

Applicant:	Clarissa Parker
Trading as:	Slough Town Centre BID Limited
Proposed business:	Food Market and General Market
Site location:	Mackenzie Square, Town Square Slough and High Street, Slough

2.8 A copy of the application is attached at **Appendix A**. A copy of the site plan is attached at **Appendix B**.

2.9 The proposed days and times applied for are:

Thursday to Saturday 06:00 to 18:00
Sunday 06:00 to 18:00

2.10 The consultation for this application commenced on Thursday 25th May and ended on 23rd June 2023. Several representations to the application have been made by local residents, and other consultees however, no negative representations have been made by any responsible authority. The representations can be summarised as follows.

- Access to emergency services.
- Noise, congestion, vermin, smell and litter generated from pitches and traders.
- Provision of water, electrical supply, WC, hand washing and wastewater facilities, and any gas or electrical equipment to be operated in a safe manner and checked regularly by a qualified person.
- Possible security required for crime such as shop lifting.
- Stalls may not complement existing stalls and shops.
- Great Idea, but ensure a good variety of items are sold that will attract the diverse community.
- Good proposal which could bring shoppers back to Slough
- Good Idea to bring much needed variety and choice to the High Street.
- Requirement of conditions in relation to counterfeit goods, age restricted goods, allergen information and weights and measures.

3. Implications of the Recommendation

3.1 Financial implications

3.1.1 There are no financial implications to the Council.

3.2 Legal implications

3.2 Schedule 4 (Part 7) of the Local Government (Miscellaneous provisions) Act 1982. (Street Trading Consents)

- (1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.
- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) 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) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-*paragraph include conditions to prevent* —
 - (a) obstruction of the street or danger to persons using it; or
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street—
 - (a) from a stationary van, cart, barrow or other vehicle; or
 - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions—
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

3.3 Risk management implication

- 3.3.1 Consideration has been given to risk management implications however the nature of the decision is outside the scope of these priorities.

3.4 Environmental implications

- 3.4.1 Consideration has been given to environmental implications however the nature of the decision is outside the scope of these priorities.

3.5 Equality implications

- 3.5.1 The Sub-Committee should be aware of and consider any implications that may arise from the Human Rights Act 1998 and section 149 of the Equality Act 2010. The legislation makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention of Human Rights.
- 3.5.2 When determining the case and considering imposition of conditions the Sub-Committee must be satisfied that any decision which interferes with the rights of the

applicant or of others, only does so insofar as it is necessary to protect the rights of others and that no alternative decision would be appropriate.

3.5.3 The Sub-Committee is specifically referred to the following Convention rights:

- (i) Article 6 (the right to a fair trial),
- (ii) Article 8 (the right to respect for private and family life)
- (iii) Article 1 of the First Protocol (the protection of property)

4. Background Papers

- Schedule 4, part 7 of the Local Government (Miscellaneous Provisions Act) 1982.
- The Market Policy.
- Street Trading Policy