



TAXI AND GENERAL SUB COMMITTEE – 27TH NOVEMBER 2020

SUBJECT: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – APPLICATION FOR STREET TRADING CONSENT

REPORT BY: INTERIM CORPORATE DIRECTOR, COMMUNITIES

1. PURPOSE OF REPORT

1.1 Caerphilly County Borough Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading for the whole of its area by way of designating all streets as consent streets for street trading purposes.

1.2 A Street Trading policy was adopted and introduced in January 2011. The policy sets out the determination process and fitness criteria for both new and renewal applications and existing consent holders, where relevant representations have been received, the application will be referred to the Taxi and General Sub Committee for determination.

2. SUMMARY

2.1 To consider the application from Gemma Evans, for the renewal of a Street Trading consent for a catering trailer located at The Bungalow Club, Llywnon Street, Oakdale, NP12 ONF.

3. RECOMMENDATIONS

3.1 That the application for the Street Trading consent be granted, subject to the following hours namely 8.30am-2.30pm Monday to Friday, 10am – 2pm on Saturday and 11.00am – 3pm on Sunday, following the concerns raised in respect of prevention of public nuisance and public safety.

4. REASONS FOR THE RECOMMENDATIONS

4.1 The council has set out in its Street Trading Policy that it will carry out its functions in respect of controlling street trading activities in its area, to protect the public, by promoting the following objectives namely prevention of crime, prevention of public disorder and anti-social behaviour, prevention of public nuisance, promotion of public safety and protection of local amenity. In view of the comments received from local residents, in relation to the renewal application and existing issues that they have reported, the significant increase in hours that has been requested has the potential in particular to undermine the prevention of public nuisance objective.

5. THE REPORT

- 5.1 All applications for Street Trading Consents in the borough are subject to a 14 day consultation process with appropriate bodies as detailed in the councils Street Trading Policy which include Gwent Police, Highways, Property Services, Environmental Health, Social Services, Waste management. As part of the application process the applicant is also required to display a notice advertising their intention to apply for a street trading consent in order that local residents have an opportunity to comment upon the same.
- 5.2 An application for a renewal street trading consent was submitted by Gemma Evans on the 26th October 2020, for the location at The Bungalow Club, Llywnon Street, Oakdale, NP12 ONF. The applicant has indicated that the consent is sought for the purpose of providing hot and cold food and drink, between the hours of 8.30am to 10pm Monday to Friday and 9am to 10pm Saturday and 10am to 10pm Sunday via a catering trailer. The renewal application seeks to increase previous operating hours which permitted the sale of food and drink from 8.30am-2.30pm Monday to Friday, 10am – 2pm on Saturday and 11.00am – 3.00pm on Sunday.
- 5.3 Following the application to renew the Street Trading consent, representations have been received from two local residents as to the renewal application in relation to the proposed site at The Bungalow Club, Llywnon Street, Oakdale, NP12 ONF. Representations were received detailing inappropriate parking of vehicles causing obstructions, noise pollution, unpleasant smell, littering, foul language and also the extension to the trading hours. The comments received from local residents are reproduced for Members information as **Appendix 1**.

During the 14 day consultation period, there were no other adverse comments from other appropriate bodies e.g Environmental Health and Highways in relation to the application for renewal.

- 5.4 Having reviewed the renewal application submitted, the applicant seeks to increase the hours of trading by up to 8 hours and provide food and drink until 10pm, 7days a week, which is a significant increase upon previous trading times authorised under the consent.
- 5.5 Licensing Officers have been in contact with one out of the two resident objectors to discuss the renewal application. The resident confirmed that they had not previously contacted the council to complain about issues reported in relation to the Burger Van. This resident indicated that they would be content, if the outlet retained its previous hours of operation. Officers have attempted to contact the second resident via e-mail but at the time of preparing this report have received no response and an update will be provided at the meeting.
- 5.6 Members are asked to consider its Street Trading Policy, in particular Paragraph 15.2 which states.

A. Public disorder and anti-social behaviour: The street trading activity should not present a risk to good public order or encourage anti-social behaviour in the locality in which it is situated. Particular consideration will be given to any observations received from Heddlu Gwent Police and Community Safety.

B. Prevention of nuisance: The street trading activity shall not present any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Environmental Health officers will be taken into particular consideration.

C. Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term "public" refers to both customers frequenting the street trading activity, local residents and

other members of the public using the street. In respect of food traders, particular consideration will be given to any observations received from Environmental Health officers regarding food hygiene and the potential for harm.

5.7 Members will note Paragraph 18.5 of the Street Trading Policy which details that the Committee will always determine applications by:

- a. *Considering each case on its merits.*
- b. *Using this policy to assess applications.*
- c. *Dealing with the hearing in a balanced and impartial manner.*
- d. *Ensuring that the rules of natural justice are applied.*
- e. *Giving all parties sufficient opportunity to present their case, ask questions and provide information for consideration in support of their application or objection.*

5.8 In view of the comments received from local residents, in relation to the renewal application and existing issues that they have reported. It is noted that there is a significant increase in hours that have been requested, i.e up to 8hours, 7 days a week up to 10pm, which has the potential to undermine the prevention of public nuisance objective.

5.9 Paragraph 20.1 of the Council's Street Trading Policy states that '*Where the licensing officer considers that there are sufficient grounds to refuse to renew the street trading consent the matter will be referred to the relevant committee which will consider the officers recommendation and any information, objections, complaints etc that have been received. The committee may add conditions, suspend or refuse to renew the consent. The committee process will replicate the process as set out above in respect of initial grant of consent.*'

5.10 Members will note that determination of this issue rests with the Taxi and General Licensing Sub-Committee and that there are no further rights of appeal and that the Committee's decision is final.

6. ASSUMPTIONS

6.1 No assumptions have been made in the preparation of this report.

7. LINKS TO RELEVANT COUNCIL POLICIES

7.1 The council has its own street trading policy which is available via its website via the following link: [Link to Street Trading Policy](#).

7.2 Corporate Plan 2018-2023.

The Street Trading policy adopted by the council aims to safeguard members of the public.

8. WELL-BEING OF FUTURE GENERATIONS

8.1 The Authority has a duty to improve the social, economic, environmental and cultural well-being of Wales. The areas covered in this report contribute to the following Well-being Goals

- A prosperous Wales
- A resilient Wales

- A more equal Wales
- A globally responsible Wales

They are consistent with the five ways of working as defined within the sustainable development principle in the Act and support the objectives of other stakeholders. There is an emphasis on prevention as the process ensures that a number of checks and safeguards are in place before a consent is granted.

- 8.2 The Council has a duty to issue consents to those persons who seek to carry out street trading activities and ensure that consent holders are suitable persons to do so and that they comply with street trading consent conditions, which may have an effect on them and the public.
- 8.3 The Council also has an obligation in accordance with its street trading policy to protect the public by promoting the following objectives:
- Prevention of crime
 - Prevention of public disorder and anti-social behaviour
 - Prevention of public nuisance
 - Promotion of public safety
 - Promotion of local amenity

The prime focus for the council is to ensure public safety and to provide an efficient and effective licensing service.

9. EQUALITIES IMPLICATIONS

- 9.1 The Council ensures that it treats all individuals and organisations, those currently licensed, those who are renewing or making new applications for licenses, with equal respect both when corresponding with those individuals and organisations, and during the licensing approval process.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications.

11. PERSONNEL IMPLICATIONS

- 11.1 There are no personnel implications

12. CONSULTATIONS

- 12.1 This report has been sent to the Consultees listed below

13. STATUTORY POWER

- 13.1 Local Government (Miscellaneous Provisions) Act 1982

Author: Lee Morgan Licensing Manager

Consultees: Legal Department, Caerphilly County Borough Council

Appendix 1 Resident representations.

Background Papers
CCBC Street Trading Policy