

DECISION-MAKER:	LICENSING (GENERAL) SUB-COMMITTEE		
SUBJECT:	APPLICATION FOR VARIATION OF STREET TRADING CONSENT – ABOVE BAR PEDESTRIAN PRECINCT – MR. M. AND MRS. P. TRAVERS		
DATE OF DECISION:	17 DECEMBER 2009		
REPORT OF:	SOLICITOR TO THE COUNCIL		
AUTHOR:	Name:	JOHN WHITE	Tel: 023 8083 2749
	E-mail:	john.white@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Not applicable.

SUMMARY

The Sub-Committee is requested to consider and determine an application from Mr. M. and Mrs. P. Travers for the variation of a street trading consent.

RECOMMENDATIONS:

- (i) The Sub-Committee is recommended to consider and determine the application for variation of the terms of the existing street trading consent.

REASONS FOR REPORT RECOMMENDATIONS

1. The determination of applications for street trading consents is not delegated to officers, with the exception of renewals of existing consents. It is therefore for the Sub-Committee to consider the application and any objections to it before deciding whether or not to vary the conditions of the existing consent.

CONSULTATION

2. Copies of the application for variation of street trading consent have been sent to the Police, City Centre Manager, Highways, Environmental Health and Planning.
3. No objections to this application have been received.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. None.

DETAIL

BACKGROUND & APPLICATION DETAILS

5. A total of two street trading consents have been granted in respect of the Above Bar Pedestrian Precinct.
6. The Planning and Transportation (Roads and Transport) Sub-Committee first granted Mrs. P. Travers a street trading consent on 13th July 1984 (Minute 1799 of 1984). This consent was first granted in both these applicants' names on renewal in 2000 and has been renewed annually since.

7. The current consent is subject to various conditions, including a condition that only flowers and foliage are sold. A full list of conditions can be seen on the previous consent issued on 3rd December 2008, which is attached to this report as Appendix 1.
8. On 12th November 2009, Mr. M. Travers and his mother Mrs. P. Travers, made application for the renewal of a street trading consent on the same terms and conditions that it had previously been issued. This application was granted by the Licensing Manager under the current scheme of delegation.
9. At the same time as applying to renew the street trading consent, the applicants made an application to vary the street trading consent issued. The applicants wish to extend the size of the site so that it will not exceed 21 ft in length and 8 ft 6 inches in depth.
10. At present, the size of the site is 10ft 6 inches in length and 8ft 6 inches in depth. This is permitted to be extended so that it does not exceed 21ft in length and 8ft 6 inches in depth, but only on Fridays and Saturdays, on the seven days preceding and following Christmas Day, and on the seven days preceding the 14th February (St. Valentine's Day), Mothering Sunday and Easter day.
11. The applicants have also indicated that they wish to trade between the hours of from 9 am and 8 pm, seven days a week.
12. At present, the applicants are only permitted to trade between 9 am and 6 pm, Monday to Wednesday and on Friday and Saturday; between 9 am and 8 pm on Thursday; and between 11 am and 5 pm on Sunday.
13. The applicants have been invited to attend the Sub-Committee's meeting.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

14. There are no financial implications.

Revenue

15. Not applicable.

Property

16. Not applicable.

Other

17. The work involved for the licensing team in bringing this variation to the committee is contained within existing budgets.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

18. Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982 sets out the City Council's power to consider and determine an application for variation of a street trading consent.

19. The Local Government (Miscellaneous Provisions) Act 1982 provides that the City Council may impose such conditions as it considers reasonably necessary on the grant of a street trading consent, but in particular may impose conditions to prevent:
 - obstruction of the street or danger to persons using it; or
 - nuisance or annoyance (whether to persons using the street or otherwise).
20. In a street trading consent the City Council may include permission for its holder to trade from a stationary van, cart, barrow, or other vehicle, or from a portable stall, and if such consent is given, the consent may be subject to conditions as to where and at what times the holder of the consent may trade.
21. The City Council may grant consent for a period not exceeding twelve months, but may revoke it at any time. There is no formal right of appeal against the Sub-Committee's decision to refuse to grant consent or impose conditions, except by means of an application to the High Court for judicial review of the decision.
22. In considering this application, the Sub-Committee is obliged to consider it in accordance with the rules of natural justice. The practical effect of this is that the Sub-Committee make its decision based on the evidence presented to it at the meeting and give an opportunity to both the applicants and any objectors to give their points of view.

Other Legal Implications:

THE LEGISLATION - CRIME AND DISORDER ACT 1998

23. Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

THE LEGISLATION - HUMAN RIGHTS ACT 1998

24. The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

POLICY FRAMEWORK IMPLICATIONS

25. The decision to determine the application in the manner set out in this report is not contrary to the Council's policy framework.

SUPPORTING DOCUMENTATION

Appendices

1.	Copy of previous street trading consent issued to applicants.
2.	Application for variation of a street trading consent.

Documents In Members' Rooms

1.	None.
----	-------

Background Documents

Title of Background Paper(s)

Relevant Paragraph of the
Access to Information
Procedure Rules / Schedule
12A allowing document to be
Exempt/Confidential (if
applicable)

1.	Application for variation of a street trading consent.	
2.	Responses from Officers, Police.	

Background documents available for inspection at: Licensing Office, Southbrook Rise

FORWARD PLAN No: N/A **KEY DECISION?** NO

WARDS/COMMUNITIES AFFECTED:	N/A
------------------------------------	-----



COPY

STREET TRADING CONSENT

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982,

HEREBY GRANTS to **MARK TRAVERS**
AND to: **PHOEBE TRAVERS**

CONSENT to trade in the **Above Bar Pedestrian Precinct**, in the City of Southampton, being a consent street for the purposes of the above Act, until the **22nd day of November 2009**

SUBJECT to the following conditions: -

- (a) Only flowers and foliage shall be sold in the consent street;
- (b) Trading shall only take place in that part of the Precinct to the east of 49 Above Bar outlined in red on the plan annexed hereto;
- (c) The site used for trading shall be left in a clean and tidy condition and all receptacles used for trading shall be removed each evening when trading ceases;
- (d) No nuisance, annoyance, obstruction of free passage for pedestrians or danger shall be caused to any person using the street;
- (e) Neither the consent holders, their employees or agents shall cause nuisance or interfere with any other person trading in the Precinct with the Council's consent;
- (f) No van or other vehicle, stall, barrow or cart shall be used for trading;
- (g) The size of the site used in pursuance of this consent shall not exceed 10 feet 6 inches in length, 8 feet 6 inches in depth, and all goods and receptacles shall be contained within the site. The site shall not be covered by anything whatsoever except by a canvas canopy, of a style and colour approved by the Licensing Officer, which shall not exceed 10 feet 6 inches in length and 8 feet 6 inches in depth, shall not be less than 7 feet high (or such other height as the law demands) at its lowest point, nor more than 9 feet high at its highest point. The site shall be arranged so that its longest edge, and that of any canopy, runs north/south.
- (h) On Fridays and Saturdays, on the seven days preceding and following Christmas Day, and on the seven days preceding the 14th February (St. Valentine's Day), Mothering Sunday and Easter Day, the size of the site used in pursuance of this consent shall not exceed 21 feet in length and 8 feet 6 inches in depth, and all goods and receptacles shall be contained within the site. The site shall not be covered by anything whatsoever except two canvas canopies, or a style and colour approved by the Licensing Officer, which shall each not exceed 10 feet 6 inches in length and 8 feet 6 inches in depth, shall not be less than 7 feet high (or such other height as the law demands) at their lower points, nor more than 9 feet high at their highest points. The site shall be arranged so that its longest edge, and that of any canopy, runs north/south.
- (i) Details of the full name and addresses of every person employed by the consent holders in connection with the trading permit by this consent shall be submitted in writing to the Council's Licensing Officer before any such person is so employed in the consent street.
- (j) The provisions of Schedule 4 to the above Act shall be complied with so far as they relate to street trading consents.

Failure to comply with these conditions is an offence for which you may be prosecuted. The street trading consent is granted for a period of twelve months but may be revoked at any time.

Receipt is acknowledged of the fee of £156.00 for this consent.

Dated this 3rd December 2008

Mr. M. Travers,
42 The Crescent,
Netley,
Southampton.
SO31 5BH

Solicitor to the Council
for and on behalf of
Southampton City
Council

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1982



APPLICATION FOR STREET TRADING CONSENT

Title: Mr. First Names: MARK + PHEBE Surname: TRAVERS
Home Address:

Post Code:

Home 'phone n

Trading style or title (if any): 2 CANVAS CANOPY'S STALL (FLORISTRY)

Preferred trading location: (please attach a plan showing the exact location):

SOUTHAMPTON ABOVE BAR PRECINT JUST NORTH OF WEST QUAY ENTRANCE

Types of articles to be sold: FLOWERS AND FOLIAGE (FRESH + ARTIFICIAL)

Do you intend to trade from a: Stall YES

Please describe your intended trading

method: TO SET UP A TWO CANVAS CANOPY'S OVER A STALL AND MAKE BUNCHES OF FLOWERS + FOLIAGE TO SELL (FRESH + ARTIFICIAL)

Dimensions of Stall / Barrow / Cart / Van / Other Vehicle (include everything which forms part of the proposed trading activity)

Length: 21 FT AND 10 FT 6 inch metres PLEASE SEE ATTACHED NOTE.
Height: 7 - 9 FT metres
Width: 8'6 inch metres

If it is proposed to trade from a vehicle, please give:

- the registration number: N/A
 - the make:
 - the model:
- of the vehicle

Continued overleaf

ON FRIDAYS AND SATURDAYS, ON THE SEVEN DAYS PRECEDING AND FOLLOWING CHRISTMAS DAY, AND ON THE SEVEN DAYS PRECEDING THE 14TH FEBRUARY (ST. VALENTINE'S DAY) MOTHERING SUNDAY AND EASTER DAY. THE SIZE OF THE SITE USED IN PURSUANCE OF THIS CONSENT SHALL NOT EXCEED 21 FEET IN LENGTH AND 8 FEET 6 INCHES IN DEPTH, AND ALL GOODS AND RECEPTACLES. SHALL BE CONTAINED WITHIN THE SITE.

Days, dates and time when trading is proposed:

Mondays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Tuesdays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Wednesdays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Thursdays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Fridays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Saturdays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM
Sundays:	<input checked="" type="checkbox"/>	Times:	from	9 AM	to	8 PM

If trading is proposed to be at additional times on particular days or the application is irregular or for a particular period, please give details:

I hereby make application to Southampton City Council for grant of a consent to trade in the street(s) and other places as mentioned above and enclose the appropriate fee and agree to comply with any conditions imposed by the Council.

Signed:

Dated: 10-11-2009

NOTES: STREET TRADING CONSENT APPLICATIONS

Fees: Street Trading Consents (all grant or renewal - except Guildhall Square) per annum

<i>Hot food traders (vehicles)</i>	£1,245.00
<i>Hot food traders (stand or stall)</i>	£934.00
<i>Fruit and Vegetable traders (stand or stall)</i>	£686.00
<i>Flower traders (stand or stall)</i>	£156.00

Guildhall Square Street Trading Consents (maximum of seven days per consent)

<i>All traders (subject to meeting criteria set by the Council)</i>	£30.00
---	--------

All cheques and Postal orders should be made payable to Southampton City Council.

When completed this form should be sent (together with the fee) to:-

By post:

Licensing Team
Southampton City Council
PO Box 1344
Southampton
SO15 1WQ

Personal callers:

Licensing Team
Southampton City Council
Southbrook Rise
4-8 Millbrook Road East
Southampton
SO15 1YG

In certain circumstances it may be necessary for your application to be considered by the Council's Licensing Sub-Committee. If this is the case in relation to your application you will be notified and invited to attend the meeting.

If you have any difficulty in completing this form, please telephone 023 8083 3245 or e-mail licensing@southampton.gov.uk.

Please note that no guarantee can be given that any consent will be granted. The making of an application does not imply any right to trade in any place.

1411-1001-007-2003-10/11/2009
KAREN