

**Subject:** Application for a Street Trading  
Consent – Mr Richard FORD

**Status:** For Publication

**Report to:** Licensing Committee

**Date:** 27<sup>th</sup> January 2010

**Report of:** Director of Business

**Portfolio**

**Holder:** Environmental Services.

**Key Decision:** No

Forward Plan  General Exception  Special Urgency

**1. PURPOSE OF REPORT**

1.1 To outline the application for a Street Trading Consent in respect of 'The Meal Machine', to be situated on Market Street, Whitworth and to request that the Committee determine the application.

**2. CORPORATE PRIORITIES**

2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objectives.

- Delivering Quality Services to Customers (Customers, Improvement)
- Keeping Our Borough Clean and Green (Environment)

**3. RISK ASSESSMENT IMPLICATIONS**

3.1 There are no specific risk issues for members to consider arising from this report.

3.2 The applicant may seek Judicial Review if not satisfied with a Council decision.

**BACKGROUND**

4.1 On the 7<sup>th</sup> October 2009, Rossendale Borough Council adopted Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982. A copy of the report presented to Council on 7<sup>th</sup> October 2009 is appended at Appendix E for convenience.

4.2 Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982 makes provisions for the regulation of street trading. This allows a Local Authority to designate particular streets as prohibited, consent or licensed streets. These are defined as follows:

- A Prohibited Street means a street where trading is prohibited;
- A Consent Street is where street trading is prohibited without the consent of the Council
- A Licensed Street is where street trading is prohibited without a licence granted by the Council.

4.2 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as “the selling or offering for sale any article (including a living thing) in a street”. The only parties not affected by the street trading regime will be those contained in Section (1) (2) of the schedule, as reproduced below.

- A pedlar holding a current Pedlar’s Certificate and acting as a pedlar, under the authority of the Pedlars Act 1871.
- A trader as part of an authorised market or fair.
- A trader at a petrol station.
- A trader in association with an adjoining shop premises.
- A roundsman.
- Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
- Trading as a news vendor where, the only articles sold or offered for sale are newspapers and periodicals.

4.3 Schedule 4, Paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 outlines the following with respect to 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.

4.4 Schedule 4, Paragraph 7 of the Act further outlines the following with respect to street trading consents:

- (1) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.

- (2) Without prejudice to the generality of sub-paragraph (1) 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).
- (3) The council may at any time vary the conditions of a street trading consent.
- (4) Subject to sub-paragraph (5) 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.
- (5) 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.
- (6) 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.
- (7) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (8) 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.

## **5. THE APPLICATION**

- 5.1 On 23<sup>rd</sup> November 2009, the applicant, Mr Richard Ford, submitted an application to grant a street trading consent for him to sell hot food and drink from a catering van named 'The Meal Machine'.
- 5.2 The application proposes that the van will be located on Market Street, Whitworth, near Stud Brow, trading between the hours of 07:30am and 2:30pm Monday to Saturday and from 9am to 2pm on a Sunday. The application form is appended at Appendix A.
- 5.3 Market Street is a 'Consent Street'.
- 5.4 Members should note that Council resolved on 7<sup>th</sup> October 2009 to authorise street trading during the hours of 9am to 10pm Monday to Sunday. This application falls outside of these times by seeking to commence trading at 7:30am.

- 5.5 As a result of this application, the following organisations were consulted upon:
- a) Lancashire Constabulary
  - b) Whitworth Town Council
  - c) Lancashire County Council – Highways Section
  - d) Lancashire County Council – Trading Standards Section
- 5.6 Trading Standards did not respond to the application. The written responses from the other organisations are appended at Appendix B.
- 5.7 In addition, one letter of support has been received and this is appended at Appendix C.
- 5.8 To assist the Committee, a number of photographs of the catering van and its location are appended at Appendix D.
- 5.9 Members should note that the catering van has been at this location for a number of months prior to the adoption of street trading legislation by the Council. A decision has been made not to instigate enforcement action until this application is determined.

#### **COMMENTS FROM STATUTORY OFFICERS:**

#### **6. SECTION 151 OFFICER**

- 5.1 There are no specific financial implications

#### **6. MONITORING OFFICER**

- 6.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies.

#### **7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)**

- 7.1 There are no specific human resources implications

#### **8. CONCLUSION**

- 8.1 The Council has the right to grant or refuse the Consent in accordance with the criteria detailed in the 'Background' areas of this report. The Council may seek to obtain advice from its legal advisor.
- 8.2 There is a right to seek Judicial Review.

## 9. RECOMMENDATION(S)

9.1 That the Committee determines the application.

## 10. CONSULTATION CARRIED OUT

- 10.1
1. Lancashire Constabulary
  2. Lancashire County Council Highways Department.
  3. Lancashire County Council Trading Standards
  4. Whitworth Town Council

## 11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required No

Is a Community Impact Assessment attached No

## 12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

<b>Contact Officer</b>	
Name	T Brzozowski
Position	Licensing Manager
Service / Team	Licensing Unit
Telephone	01706 23802
Email address	tracybrzozowski@rossendalebc.gov.uk

Background Papers	
Document	Place of Inspection
Rossendale Borough Council Street Trading Conditions	Licensing Unit

Appendices	
Document	Appendix Number
Application for Street Trading Consent	Appendix A
Responses from Lancashire Constabulary, Whitworth Town Council, Lancashire County Council Highways Department and Trading Standards	Appendix B
Letter from D. Bradbury	Appendix C
Photographs of location of 'The Meal Machine'	Appendix D

