

Licensing Sub Committee (Non Licensing Act 2003 functions)	Agenda Item 53 Brighton & Hove City Council
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Subject:	Appeal against Street Trading Consent Revocation		
Zone:	Street Trading – Zone B		
Applicant:	Jamie Patrick English		
Date of Meeting:	4 August 2011		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
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Wards Affected:	Queen’s Park		

1. Purpose of the report:

- 1.1 To ask members to hear an appeal against the officer decision to revoke Jamie Patrick English's Street Trading Consent.
- 1.2 To inform members of the regulations governing street trading consent and of the particulars of this case.

2. RECOMMENDATIONS:

- 2.1 To determine the appeal.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Under the Local Government (Miscellaneous Provisions) Act 1982 the Council has designated consent streets and prohibited streets for the purpose of selling, offering or exposing for sale any article in the streets. Street trading consents are granted for a period of 12 months from 1st April each year but may be revoked at any time. It is an offence for a person to engage in street trading as defined in the 1982 Act without a valid consent. Street Trading Policy – Appendix A
- 3.2 There is no duty to grant a street trading consent or specify grounds for refusal. There is no limitation on a council's power to revoke or refuse to renew a street trading consent. There is no requirement to give notice of such decisions.
- 3.3 The Council's 'Constitution and delegation of functions for Licensing Panel' gives applicants the opportunity to be heard by the Panel where there are no other avenues of appeal (Licensing Panel Paragraph 4

determination of appeals). This is to satisfy Human Rights requirements.

- 3.4 The Director, Environmental Health and Licensing Manager and Divisional Environmental Health Officers have delegated authority to determine new, renewal and variation applications for street trading consents and to revoke consents.
- 3.5 The law allows the council to require that applications for the grant or renewal of consents shall be accompanied by way of deposit, to be repaid to the applicant if the application is refused. Where consent is surrendered or revoked the council shall remit or refund, as they consider appropriate, the whole or part of any fee paid for the grant or renewal of the consent.
- 3.6 In October 2010 Mr English applied for Consent to sell, expose or offer for sale, articles in a consent street. After PNC checks, East Sussex Fire and Rescue Service were consulted, the Consent was issued. Mr English continued to renew his consent and pay the relevant fees and therefore held a valid Street Trading Consent until the consent was revoked.
- 3.7 Complaints were received regarding street trading in John Street, Brighton. The licensing officer sent a letter (23rd February 2011) reminding Mr English of the relevant permit conditions. (Appendix C)
- 3.8 Following this, licensing officers witnessed three breaches of street trading consent conditions and a formal warning letter was sent (29th March 2011) (Appendix C)
- 3.9 Licensing officers then witnessed three further breaches of street trading consent Condition B and a warning of revocation letter was sent (12th May 2011) requesting confirmation that Mr English was going to comply with the condition. (Appendix C)
- 3.10 On the 14th July 2011 after further breaches had been witnessed a letter confirming the revocation of Mr English's Street Trading Consent was posted. (Appendix C)

4 Consultation

- 4.2 On the 18th July 2011 the Licensing Authority received a letter appealing the Licensing Officer's decision to revoke the Street Trading consent (Appendix D).

The following extracts from Local Government (Miscellaneous Provisions) Act 1982, are considered relevant to this application and numbered as they appear in the Act:

Street Trading Consents

Section 3, Sch.4. 7(4) When granting or renewing a street trading consent the council may attach 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).

II) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.

- 5.0 Attached at Appendix E is a Map of Zone B and Map of area where the Street Trader is.

CONSULTATION

Sussex Police for PNC Check

East Sussex Fire Service

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Street Trading Policy and Conditions for Street Trading

2. Appendix B – Original Application
3. Appendix C – Letters sent to applicant
4. Appendix D - Letter of appeal from applicant
5. Appendix E - Map of Zone B and Map of area where Street Trader is.