



Report of: Jan Hart – Service Director – Public Protection

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	17 November 2010	A4	Bunhill

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SUBJECT: APPLICATION FOR A STREET TRADING LICENCE IN WHITECROSS STREET: MR ALAIN CAVEDASCHI

1. Synopsis

- 1.1 This report details an application made by Mr Alain Cavedaschi for a street trading licence for the purpose of selling hot take away food in Whitecross Street Market, which was refused by officers acting under delegated authority.

2. Recommendation

- 2.1 To consider the application and decide whether to grant the licence or to refuse it.

3. Background

- 3.1 Under the London Local Authorities Act 1990 (as amended), the borough council is responsible for the licensing of street trading. The Street Trading Team interview all potential traders and determine their suitability for any given area. Due to the decline of street trading in markets (throughout London), it is rare that applicants are refused unless they are undesirable or the product is over subscribed.
- 3.2 Due to a major injection of funding by EC1 New Deal for a programme running from 2001 - 2011, Whitecross Market has undergone a major overhaul. The idea was to bring life back to the Street and the once thriving market and to create a Destination Food Market. A number of food festivals took place between 2006 – 2008. By the end of 2007 it was clear that food was the attraction mainly of the 'takeaway and consume at lunch time' variety. A majority of the consumers were and still are city workers. In 2006 there were 12 occupied pitches (full licences), three of which sell take away type foods. There are now 49 occupied pitches, 35 of which sell food. It is a success story for the consumer but has caused resentment amongst the nearby food businesses who claim to have lost trade to the market traders.

- 3.3 In mid 2007, the council received complaints from other businesses in the market about the number of licences granted to traders selling food. Members requested the Team to look into the criteria applied for granting licences in Whitecross Street. The Street Trading Panel decided that in future applications to sell take away type foods would be refused as there were enough traders in the market selling this commodity. The only exceptions were to be from existing food establishments on the street who wanted to extend into the market, if a pitch directly outside their premises was available.
- 3.4 This decision was challenged by EC1 New Deal in May 2008, as they were concerned that as they had invested so much money to create jobs for the community, the criteria should be reviewed in regards to local applicants who had gone through their mentoring programmes. A further two hot food sellers, who fell into this category, were approved towards the end of 2008.
- 3.5 In January 2009 the council received a petition from the solicitor acting on behalf of businesses against the food market (see appendix). As a result, businesses in and around Whitecross Street Market were informed that in future the only applications the council would consider granting were for those other than for 'hot foods' or any take away type foods that need no further preparation, excluding empty pitches outside food establishments wishing to extend their business.
- 3.6 In addition to the street traders, there are also around 20 cafes/restaurants in Whitecross Street and numerous others nearby. In the last two years a considerable number of applications have been refused under officer delegated authority for the reason stipulated in paragraph 3.5. Some of the applications received have been from local people and local businesses.
- 3.7 Mr Cavedaschi was first approached due an anonymous complaint made to the council that a restaurant was selling outside their premises without a licence. Mr Cavedaschi manages his restaurant which backs on to the Barbican end of Whitecross Street (2c Cherrytree Walk EC1). It was established that he was trading on his own forecourt. After a discussion with Mr Cavedaschi on site he then emailed the council to enquire about going into the middle part of the market. A series of emails were then exchanged between the council and Mr Cavedaschi. (see appendix 1).
- 3.8 On the 27th October the council received an application form from Mr Cavedaschi detailing exactly what he wished to sell (see appendix 2).
- 3.9 The Street Trading Panel refused the application on the basis that the commodity was not one that would bring anything different to the area. In addition, Mr Cavedaschi has a large forecourt outside his premises which he can use to serve foods and entice passers by to visit his restaurant. Mr Cavedaschi has lodged an appeal against the decision of the Panel to the Licensing Regulatory Committee (see appendix 3).
- 3.10 Mr Cavedaschi asked that this case be heard urgently. The council explained that this could only happen if he agreed to dispense with the 21 day notice. A letter of consent to waiver the 21 day notice has been appended (appendix 4).

4. Implications

4.1 Financial implications:

The Street Trading Account should break even each year and any shortfall would be met from compensating savings within this account.

The current rental for this type of pitch is a £65.00 per week for a Monday to Friday full licence and £45 per week for a Thursday to Friday full licence. If the licence is approved this would be added income for the ringfenced account.

4.2 Legal Implications:

Section 25 (6) (a) of the London Local Authorities Act 1990 (as amended) allows the council to refuse an application on the grounds that there are enough traders trading in the street or in any street adjoining the street in respect of which the application is made in the goods in which the applicant desires to trade.

Section 30 (1) (a) allows for any aggrieved person to appeal to the magistrates court against the refusal by the council to grant an application for a licence for this reason. An appeal should be lodged within 21 days beginning with the date upon which notification in writing is given of the refusal or decision. Section 29 (1) (c) states that a borough shall not revoke, refuse to renew or vary a licence under section (1) of section 27 (conditions of street trading licences of this Act; unless they shall have given to the applicant or licence holder not less than 21 days' previous notice in writing that objection has been or will be taken to such grant or renewal or that such revocation or variation is proposed, specifying the ground or grounds on which their decision would be based and giving him an opportunity to appear before the committee, sub-committee or officer determining the matter.

4.3 Environmental Implications

An environmental impact scoping exercise has been carried out and it was identified that the proposals in this report would have minimal impact on the following:

- Energy use and carbon emissions
- Use of natural resources
- Travel and transportation
- Waste and recycling
- Climate change adaptation
- Biodiversity
- Pollution

4.4 Equality Impact Assessment:

The Council must, in carrying out its functions, have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity in relation to disability, race and gender and the need to take steps to take account of disabilities, even where that involves treating the disabled more favourably than others (section 49A Disability Discrimination Act 1995; section 71 Race Relations Act 1976; section 76A Sex Discrimination Act 1975."

An equalities impact assessment (EIA) on this proposal was been carried out on 8 November 2010. The EIA identified that there would be no differential impacts on different groups in Islington and no negative consequences for community cohesion. This conclusion was drawn because this report is dealing with a particular individual who has applied for a street trading licence.

5. Conclusion and reasons for recommendations

- 5.1 Preventing anyone from earning a living is never the councils' intention when refusing an application. Indeed most London borough markets have witnessed a steady decline of traders over the years and refusing to grant a licence is never taken lightly. However the council also has a duty of care to all existing businesses and must acknowledge the need to ensure a fair balance and keep to agreements that are made.

Appendices

- Appendix 1 Email correspondence
- Appendix 2 Completed application form

NOT FOR PUBLICATION

This report is not for publication as it contains the following category of exempt information as specified in Paragraph 3 of Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"

- Appendix 3 Email correspondence
- 21 day waiver consent

Background papers:

- London Local Authorities Act 1990 (as amended)

Final report clearance:

Signed by:

Received by: Service Director – Public Protection Date

Head of Democratic Services Date

Report Author: Houriyeh Dervish
Tel: 020 7527 3046
Fax: 020 7527 3165
Email: Houriyeh.dervish@islington.gov.uk

APPENDIX 1

From: alain cavedaschi
Sent: 01 August 2010 19:52
To: Dervish, Houriyeh
Subject: Baracca Restaurant

Hi Houriyeh,

I am the owner of Baracca Restaurant on Whitecross St and we met briefly last Saturday. I wanted to move my little stall further up into the market area as my restaurant business has really suffered since the introduction of the food market and when I had a chat with Davina she said it might be possible however I needed to speak with you and since which you said it would not be possible.

As I need to do something quick to help my business I will have a meeting with the owners of my precinct with an aim to rent all the available area in Cherrytree Walk so I can put a minimum of 15 new foodstalls including my one with a small seating area which will be undercover for the use of people eating from our stalls. The landlords I am sure will be very happy with all the extra rental income.

I understand that the food stalls in Whitecross St will not be amused with the extra competition however my business and I am sure others have been affected by them and maybe it will attract more people into the area.

The reason I am contacting you first as I was wondering if the council will support us in this even if it is all done on private land well away from any pavement area.

Many thanks
Alain

Response
03/08/10

Dear Alain

Thank you for your email - it was good to finally meet you on Saturday.

At the present time I would not be able to provide you with space in amongst the other traders as we have none available that would be suitable. The only available spaces we have are at the Old Street end where the pitches are much smaller and very near to other food establishments.

The Council is working very hard to preserve our markets and assist businesses in Islington. Through funding from projects such as EC1 New Deal, we have refurbished Whitecross Street and are supporting regeneration and employment initiatives in the local area. This has provided support for local businesses in the form of increased footfall, shop front grants, resurfacing of roads and pavements and free business advice.

We are continually trying to generate more interest in the area, an example of this was the recent Whitecross Street Party, the footfall for which amazed us, and we are keen to involve existing businesses in future development.

We have approved a four year Market Strategy based on regenerating our markets which includes developing visiting markets. Our strategy for Whitecross Street now is to diversify and not see only food stalls in the market. We are not allowing any new hot food stalls and therefore we would want to see that any ideas you may have conflict with this.

Kind regards

Houriyeh Dervish
Street Trading Manager

From: alain cavedaschi [
Sent: 12 September 2010 15:49
To: Dervish, Houriyeh
Cc: Fell, Davina
Subject: Baracca Whitecross St

Dear Houriyeh,

When i received your email stating the council were no longer granting leases for food stalls on Whitecross St i felt i might have been an exception but rules are rules .I told you about my plans to put stalls in the vacant area of LCS and of course i will show you the ideas after my meeting with the landlords.

Now to be honest i am absolutely livid to find out that there is a new stall at the top end of Whitecross St and another selling Salt Beef at the near end. Therefore not only did you lie to me in an email also when we had our meeting and when i asked if it was worth me even trying to apply you said i could but there were no more food stalls for the foreseeable future.

Asking around i was told the new licence was granted due to "exceptional issues". I have already explained to you that i have had a restaurant on this street for 18 years and thus have paid rates to Islington Council for 18 years. I was here long before the market and kept trading and bringing people to the area through 3 supermarket changes.

Now due to the food market my trade has completely collapsed (you are welcome to come down and see for yourself) and if this doesn't change drastically i might not be around after January so you will have another empty unit (to go with the other 2 in my block) right at the beginning of Whitecross St (some regeneration plan). The other restaurants all survive as they have food stalls.

I have walked up and been told by traders there are empty places in the market and i would be happy to show you and my food is of the finest ingredients (i am happy to supply a letter of commendation from my food supplier Chefs Connection who are the biggest and most famous suppliers in New Covent Garden Market). Also considering your market has brought so many people out it is unbelievable there are no toilet facilities available as everyday i get people asking to use mine which is kind of ironic that i help you and receive nothing back. I want to know why these new licences were granted and how the exceptional circumstance outweighs my problems and what i have done for the area for the last 18 years.

Please give me the details of your manager and the head of the food services as i want to copy them in on this email and all further correspondence as unless my information is totally inaccurate i will take this matter much further as anyone would trying to survive.

If you prefer to have a meeting i will of course make time available.

Alain.

Response sent 13/09/10

Dear Alain

I am not sure which stall you mention as 'at the top end', if it is the one outside the Dolce Café? they have been allowed to come out outside their premises, as do other shop owners and as you do yourself (albeit on your own property).

The 'salt beef' case was brought before the committee as an appeal. The Licensing Committee agreed the application on the grounds that no other business in the area were doing this commodity so it therefore offered diversity.

The street trading team receives around 20/30 enquiries a week from traders wishing to sell hot foods in our markets. It is not possible to take them all on but occasionally traders will appeal and their case is given further consideration.

It has always been the case that existing businesses on the street would be allowed to display directly outside their premises if the pitch is vacant.

I will be going on annual leave from tomorrow and will not be returning until 28th September. I would be happy to meet with you along with my line manager in order to discuss your case further on my return. Please let me know which days would be best for you.

Regards

Houriye
020 7527 3046

Subject: RE: Baracca Barbican
Date: Mon, 11 Oct 2010 10:19:30 +0100
From: Houriyе.Dervish@islington.gov.uk
To: alain cavedaschi

Hi Houriyе,

Many thanks for your message and efforts but i am still waiting to meet you and your line manager and was wondering if you wouldnt mind giving your manager a quick reminder about it.

As you know my business is struggling and the result of the meeting will determine my plans for next year.

Many thanks
Alain

Subject: RE: Baracca Barbican
Date: Wed, 20 Oct 2010 10:19:47 +0100
From: Houriyе.Dervish@islington.gov.uk
To: [alain cavedaschi](mailto:alain.cavedaschi)

Dear Alain

I have spoken to my manager about your case, before we meet can you please complete the attached application form and return it asap - Perhaps on a separate sheet of paper you can detail exactly what you want to do. This case may need to be taken to the Licensing Committee, depending on what you wish to do. Please do not include any documents at this stage.

Regards
Houriyе

APPENDIX 3

Subject: RE: Baracca Barbican

> Date: Fri, 5 Nov 2010 10:15:05 +0000
> From: Houriyе.Dervish@islington.gov.uk
> To: alaincavedaschi@hotmail.com

>

> Dear Alain Cavedaschi

>

> Thank you for your application.

>

> Unfortunately i do not think that what you are offering is that different to what is already offered in Whitecross Street. We do want to try and help businesses in the area but as you can appreciate we cannot saturate the market with hot foods. What we have allowed businesses in the street to do, is have a pitch directly outside so that they are able to entice the public in. You are already able to do that.

>

> We do have a waiting list for traders who want to come into the market doing hot foods with very different foods. In any case i would not be able to accommodate you in the busy part of the market as there are no vacancies there.

>

> As previously explained, you do have the right to appeal to the Licensing Regulatory Committee. If you wish to exercise this right they will be meeting on the 17th November where your case can be heard. Please let me know if you wish to be included.

> Kind regards

> Houriyе Dervish

> Street Trading Manager

> From: alain cavedaschi [<mailto:alaincavedaschi@hotmail.com>]

> Sent: 07 November 2010 20:14

> To: Dervish, Houriyе

> Subject: RE: Baracca Barbican

>

> Dear Houriyе,

>

> Obviously i am very dissapointed with you decission as i can see no fish whatsoever in the market being offered so can you please explain exactly how the appeal works and how much it will cost me. Do i make an appearance at the appeal?

>

> Also i now have the full approval from the owners to use the stalls in front of Waitrose and having spoken to a lawyer i was told that if the pitches are more than 7 metres away from a highway they do not need a > stall licence or approval from the council they just have to satisfy health and safety and food hygiene. Please can you confirm if this is true as i have numerous stall owners from Camden market who like myself are ready to pitch up immediately.

>

>

> Thanks

>

> Alain

> Subject: RE: Baracca Barbican
> Date: Mon, 8 Nov 2010 17:53:48 +0000
> From: Houriyeh.Dervish@islington.gov.uk
> To: alaincavedaschi@hotmail.com
>
> Dear Alain
>
> You do not need a licence from Street trading to sell on private property but i am not sure about approval from other departments i.e. Environmental Health, Planning, Consultations with residents... This is something the landowners need to investigate.
>
> Regarding your Street Trading application. The appeal does not cost you anything. A report is submitted to the Licensing Regulatory Committee. The next meeting is on the 17th November however :
>
> Street Trading is governed under the London Local Authorities Act
> 1990(as amended). Section 29 states that :
> A borough council shall not-
> (a) refuse to grant or renew a licence on any of the grounds mentioned
> in subsection (6) of section 25 (Application for street trading
> licences)
> unless they shall have given to the applicant or licence holder not
> less than 21 days' previous notice in writing that objection has been
> or will be taken to such grant or renewal or that such revocation or
> variation is proposed, specifying the ground or grounds on which their
> decision would be based and giving him an opportunity to appear before
> the committee, sub-committee or officer determining the matter.
>
> What this means is that as the meeting is on the 17th November this does not give me time to apply the 21 days notice. If you do wish your case to be presented on the 17th November you will need to agree to dispense with the 21 day notice. This must be confirmed to me in writing before i proceed. Alternatively your case will be referred to the next meeting which is scheduled to take place on 13th December.
>
> I hope this makes sense but please do telephone if you need further clarification.

Kind regards
Houriyeh
020 7527 3046

Appendix 4

-----Original Message-----

From: alain cavedaschi

Sent: 09 November 2010 16:26

To: Dervish, Hourie

Subject: RE: Baracca Barbican

Dear Hourie,

I wish to dispense with the 21 days notice so please proceed with my appeal for the 17 Nov where i will appear in person.

I have also been told by the landlords that the private area in question has already planning for market area so will look into this after my appeal.

Many thanks
alain

