

Report for: Licensing Sub Committee - 28 July 2022

Item number: 6

Title: Revocation of a street trading license for non-payment of fees.

Report authorised by: Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected Noel Park

Report for Key/ Non Key Decision: Not applicable

This report is exempt, as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985);
para 1- information relating to any individual
para 2- information which is likely to reveal the identity of an individual
para 3 - information relating to the financial or business affairs of any particular person (including the authority holding that information).

1. Describe the issue under consideration

1.1 This report relates to a matter for the revocation of a street trading licence for the following reasons under section 28 of the London Local Authorities Act 1990:

“ (e) – that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of subsection (2) of section 33 (Receptacles and containers) of this Act;

1.2 The licence holder has previously put his case before the LSC in January 2022. The LSC determined to postpone their determination of the matter for 3 months to allow the licence holder time to clear the outstanding arrears or to put satisfactory measures in place to clear the debts. The resolution is attached at Appendix F.

2 Recommendation

2.1 The street trading licence of the reported trader identified in Appendix A (as identified in the closed report) be revoked on the grounds of non-payment of licence fee.

3 Background

3.1 The Authority runs all street trading activities in the borough and is responsible for issuing licences and ensuring that rules /conditions imposed and regulations are adhered to. These conditions and regulations are governed by the London Local Authorities Act 1990 (as amended).

The Act provides that a Council may revoke a street trading licence granted by it if the licence holder has:

- failed to pay fees or charges due to the borough council in connection with the street trading licence”

3.2 The trader has operated in in the Wood Green area for over 40 years. The arrears

have accrued since 1st July 2020. Records show a payment was made in August 2020 but this was in relation to previous debt owed. A final payment was received from the trader on 6th September 2021. The street trading accounts remain in arrears as shown in Appendix B. Appendix C shows the outstanding arrears for the storage facility at the Car Park provided to the trader by the Council for the use of storing goods sold at the stall.

- 3.3 The licence holder has subsequently made further payments following the LSC decision to withhold making a decision on the question of revocation. Reminder emails were sent to the Trader about the need to address the matter in the 3 months set by the LSC. Payments were received on:
- 19/5/22 - £500
 - 24/5/22 -£500
 - 31/5/22 -£814.67
- 3.4 Council has adopted regulations/conditions by which each trader agrees to operate under, these are attached as Appendix D to the report.
- 3.5 The Act asks that the Council serve on the trader a notice stating that revocation is proposed and offering the opportunity to appear before the LSC. The notice gave the trader 21 days' notice to make any representations, the notice was sent on 26th October 2021. Further emails were sent to The Trader. A secondary notice was issued on 6th January 2022. The licence holder has been sent reminders relating to the outstanding fees as well as monthly invoices.
- 3.6 The Finance Team has referred the debts to Legal for a bad debt order to be sought through the Court.
- 3.7 The LSC should note that as the commodity sold at the stall is food (fruit and veg) it has not been affected by the Lockdowns and has been able to continue trading throughout the last two years.
- 3.8 Under the Act revocation is the only sanctions open to the committee, i.e. it cannot suspend the licence. The LSC may determine to impose conditions:
- a) Reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade;
 - b) Specifying a different licence street or position or place in any such street at which the licence holder may sell or expose or offer for sale articles or things or provide services; or
 - c) Restricting the description of articles, things or services in which the licence holder is permitted to trade.
- 3.9 None of the above options are suitable or recommended in this situation. Reducing the number of days etc will not address the outstanding debt. Haringey has no other available licence street position to offer and lastly restricting the description of articles will not address the outstanding unpaid debt.
- 3.10 If the committee do decide to revoke or vary a licence, the licence holder then has Right of appeal to the magistrates court, and thereafter to the Crown Court. The licence Holder is entitled to continue trading until such time as any such appeal has been determined.

4 Policy implications

- 4.1 To advise the committee of traders non-compliance with his/her street trading licence conditions, non-exercising of trading rights and to seek the Committee's authority to revoke his/her street trading licence.

4.2 Effect of proposed changes on those affected

The Street Trading account is operated on a break even basis. The fees are kept as low as financially possible, but this can only happen if all traders adhere to the licence conditions and pay fees before their monthly trading as specified in the London Local Authorities Act 1990 (as amended 1994).

4.3 Resource implications

Monitoring accounts, sending reminder letters, meeting with trader(s), confirming contents of meeting in writing being time consuming and costly, which is financed from Street Trading account.

- 4.4 If a street trading licence is revoked, the resultant vacancy will be advertised and the licence granted in accordance with Council policy. Therefore no adverse impact foreseen on the Street Trading account provided there is no delay in filling the vacancy.

4.5 Equalities Impact

This decision has been judged to have no or a very small impact on local people and communities. The trader has broken his/her license conditions and therefore his/her licence is being revoked, the decision has an impact solely on the trader.

4.6 Legal implications

- i) This report recommends that the street trading licence is revoked on the grounds of persistent no-payment of fees in accordance with Section 28(1)(e) of the London Local Authorities Act 1990 (as amended).
- ii) It is a requirement of the Act that before revoking any licences, the Council shall have given the licence holder not less than 21 days previous notice in writing that revocation is proposed. This notice must also specify the grounds on which such a decision would be based and give the licence holder the opportunity to appear before the committee, sub-committee or officer determining the matter. The decision cannot be taken until after the 21 day period has expired. The Council is also obliged to consider any representations made by the licence holder.
- iii) Section 28 (2)of the Act states that the Council may instead of revoking a licence vary it by attaching further specified conditions; (a) reducing the numbers of days in any week or the period in any one day during which the licence holder is permitted to trade; (b) specifying a different licenced street or position or place at which the licence holder may trade; (c) restricting the items which the licence holder is permitted to sell.
- iv) If the Council should decide to revoke or vary the licence, it must notify the licence holder in writing of this decision, and of the grounds for revocation/variation and notify him/her of his/her right of appeal. As the report states, an appeal may be brought in the first instance, to the magistrates court. This is within a period of 21 days from notification in writing of the Council's decision to revoke, a further appeal may be brought to the Crown Court. In each case, the appeal would effectively be by way of re-hearing.
- v) The council has a duty in considering this matter to take account of all relevant considerations and disregard any matters of irrelevance. In doing so, it must have regard to the rules of natural justice. This is in addition to complying with procedural requirements set out in the statute.

5 Other Considerations

5.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing
- Article 10 – Freedom of Expression

6 Use of Appendices

Appendix A-

Appendix B-

Appendix C –

Appendix D –

Appendix E - LLA 1990

Appendix F –

Appendix G