

Leicester
City Council

WARD: Braunstone Park & Rowley Fields

LICENSING COMMITTEE

1st October 2019

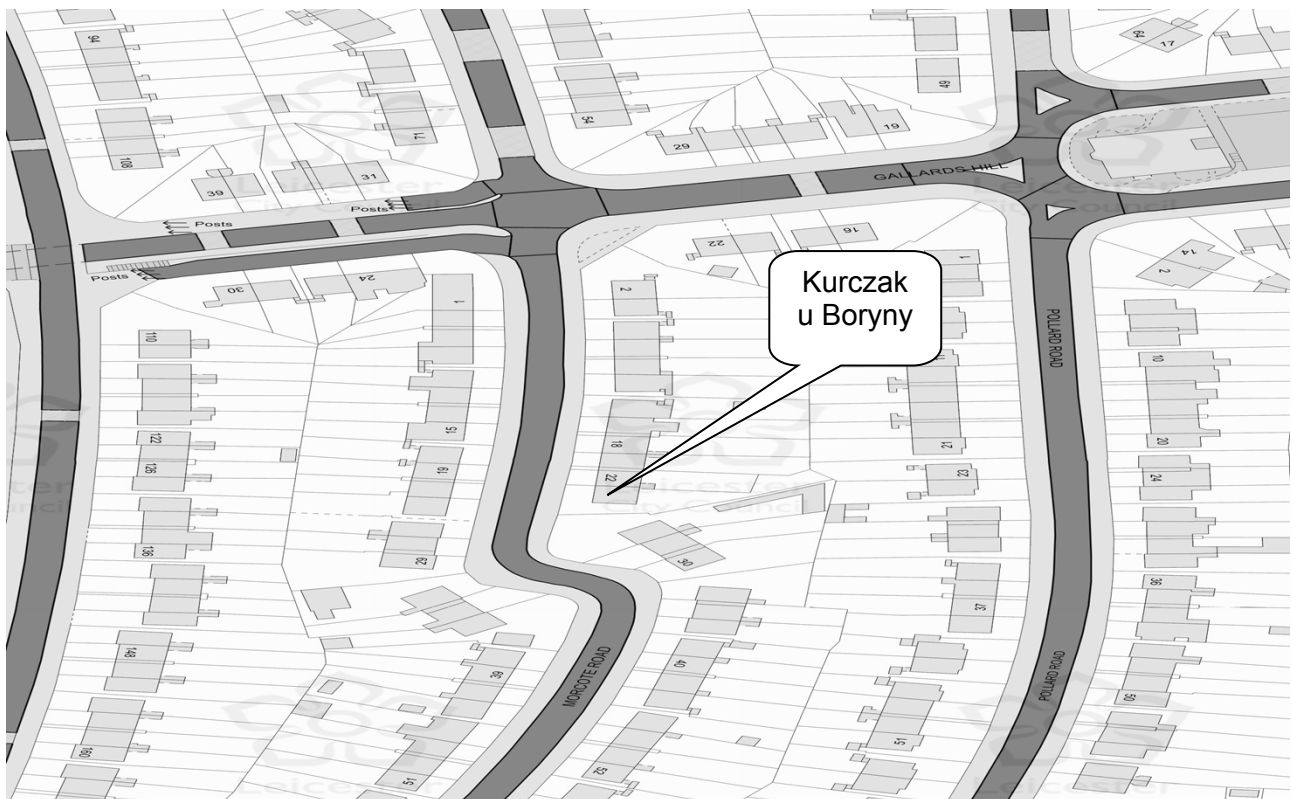
APPLICATION FOR STREET TRADING CONSENT

Mr Miroslaw Weclawik

Kurczak u Boryny, 24 Morcote Road, Leicester, LE3 1QX

Report of the Director of Neighbourhood and Environmental Services

1. Location



2. Purpose of the Report

To determine an application for the grant of a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, for Kurczak u Boryny. The applicant is Mr Miroslaw Weclawik.

3. Options for the Sub-Committee

The Sub-Committee may determine the application in one of the following ways:-

- (a) Grant the application, or
- (b) Refuse the application.

A licensing authority may attach such conditions as they consider reasonably necessary when granting or renewing a street trading consent. This may include 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). The authority may at any time vary the conditions of a street trading consent.

The authority 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.

If the authority includes such a permission, it 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.

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

There is no right of appeal against a determination of the Licensing Authority in this instance, but as a matter of good practice Members should give reasons for their decision at the time it is announced.

4. Recommendation

It is recommended that the application be refused in accordance with the City Council's street trading policy.

5. Report

Mr Weclawik has applied for the grant of a street trading consent from the front garden of 24 Morcote Road, Leicester, under schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. A copy of the application is attached at Appendix A.

Street trading policy

The policy says that there will be a general presumption in favour of granting consents for street trading by ice cream vans and by mobile operators who remain stationary at a particular location only long enough to serve customers at that location, provided that they conform to any code of practice issued by the City Council.

The policy provides for certain exceptions, including:

- a) The immediate vicinity of Leicester City Football Club and Leicester Tigers, for the purpose of the sale of favours and materials associated with the football clubs that are organised and controlled by those clubs.
- b) Operators selling food who wish to trade on industrial estates, where no other adequate provision is provided.
- c) Limited period consents in respect of particular types of operations in conjunction with specific events in the City.

None of these exceptions are relevant to this application.

Other applications for consents will be considered and each case will be decided on its own merits. The following matters will be taken into account:

- Public nuisance
- Crime and disorder
- Road safety
- Health and safety at schools and for their pupils
- Likely demand for goods being sold
- Availability of goods being sold in other fixed premises in the vicinity
- Objections received from nearby residents, businesses and statutory agencies

Representations

Details of the application have been passed to the Police, Highways, Noise Control, and the Food Team. A notice has been placed at the location concerned for two weeks inviting anyone affected by the proposal to submit representations to the Licensing section.

No representations have been received from Highways and Noise Control in relation to this application. However representations have been received from the Police, Food Team and local residents. They are all concerned that if the application is granted there will be an increase in noise, litter, unacceptable odours, parking and anti-social behaviour in the area. Copies of the representations are attached at Appendix B

6. Legal Implications (Including Human Rights Act)

A licensing decision is a determination of civil rights to which Article 6 Right to a fair trial principles apply. Article 1 of the First Protocol gives the right of peaceful enjoyment of possessions, which would include a street trading consent.

Schedule 4 paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 details the procedure to be followed for the grant and renewal of street trading consents. The council and the holder of a street trading consent must comply with the requirements of this paragraph.

Schedule 4 paragraph 8 of the Local Government (Miscellaneous Provisions) Act 1982 enables the holder of a street trading consent to employ any other person to assist in their trading without a further consent being required.

Where a consent is surrendered or revoked, the council shall remit or refund as they consider appropriate the whole or a part of any fee paid for grant or renewal of the consent as per Schedule 4 paragraph 9(5) of the Local Government (Miscellaneous Provisions) Act 1982.

A person who engages in street trading without a street trading consent, or who makes a false statement in connection with an application for a consent may be subject to prosecution, and upon conviction may be liable for a fine of up to £1,000, pursuant to Schedule 4 paragraph 10 of the Local Government (Miscellaneous Provisions) Act 1982

John Moss, Solicitor

7. Crime and Disorder

One matter for consideration as part of the application process is the impact a successful application may have on crime and disorder.

8. Consultation

Leicestershire Police
Highways department
Pollution Control
Food Team
Members of the public

9. Reason for Treating the Report as “Not for Publication”

None

10. Officer to Contact

Amy Day
Licensing Officer
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