



LICENSING SUB-COMMITTEE

Tuesday, 17 August 2021

APPLICATION DETAILS

Type:	Review of existing Street Trading Consent
Name of Applicant(s):	Mr Mohamed Lamarti
Address of Applicant(s):	24 The Buntings, Bradwell, Great Yarmouth, NR31 8PE
Business name:	Lamartis
Area consent covers:	All consent streets within the North of the East Suffolk district (exclusions apply)
Description of trade:	Ice Cream van

EXECUTIVE SUMMARY:

- This hearing seeks to review the Street trading consent held by Mr Lamarti.

Is the report Open or Exempt?	Open
Wards Affected:	All wards within the North area of East Suffolk Council.
Cabinet Member:	Councillor Mary Rudd, Cabinet Member with responsibility for Community Health
Supporting Officer:	Leonie Hault Licensing Officer 07733 362154 Leonie.Hault@eastsoffolk.gov.uk

1. CURRENT STREET TRADING CONSENT

- 1.1 The current street trading consent WSTC0009 held by Mr Lamarti allows trading from any consent street within the north of the East Suffolk district. There are certain exceptions which are detailed within the consent conditions. A copy of the current consent and conditions are attached as **Appendix A**.

Trading is only permitted from the ice cream van with registration NH58 VWF.
Trading times are Monday to Sunday 12:00 to 19:00.

2. REASON FOR HEARING

- 2.1 Complaints were received in July 2021 concerning a Lamarti's ice cream van that was operating during April and June 2021 at Ashfield Crescent, Lowestoft. The complaints were regarding the chimes being played excessively. The complaint stated that the chimes were played for between 20 to 35+ seconds as well as while being stationary. This is contrary to the Code of Practice on Noise from Ice-Cream van Chimes etc. in England 2013 which is attached as **Appendix B**.

- 2.2 It was found that the vehicle being used, registration AU05 FEG, was not the vehicle that the current street trading consent covers. This evidence is attached as **Appendix C**.

- 2.3 On 21 July 2021 Mr Lamarti submitted an application for a new street trading consent for the vehicle with registration number X831 KCW. This was another vehicle that was reported to be playing chimes excessively in June and July and upon further investigation was not a vehicle that was covered by a current street trading consent. The previous owner of this vehicle, who did previously have a street trading consent which expired on 14 April 2020, confirmed that he had not been trading since April 2020, and had sold the vehicle to a gentleman in Great Yarmouth. This application is attached in **Appendix C**. It was decided that the Licensing Team would not accept the application due to the recent complaints and reports of unlawful trading. A letter was sent to Mr Lamarti confirming this on 22 July 2021 and is attached as **Appendix E**.

- 2.4 These are not the first instances of illegal trading by Mr Lamarti's business. In May 2020 following a complaint received concerning COVID safety, Mr Lamarti was found to be using a different vehicle to the one covered by the consent. At that time the Licensing Team wrote a warning letter, and the existing consent was amended so that the new vehicle (NH58 VWF) could be used as well. This complaint is attached as **Appendix D**.

- 2.5 In March 2020 there were complaints about the noise from chimes while the ice cream van was in Ashfield Crescent, Lowestoft. In May 2020 there were complaints regarding trading from prohibited locations which included Denes Car Park, Lowestoft and the Seawall, North Beach, Lowestoft. In July 2020 there was a further complaint about illegal trading, this time at North Parade, Southwold. These complaints are attached as **Appendix D**.

- 2.6 The Licensing Team wrote warning letters regarding each complaint and the letter sent on 10 July 2020 was regarded as a final warning concerning illegal trading. These letters are attached as **Appendix E**.

2.7 Following the most recent application from Mr Lamarti, a letter was sent on 22 July 2021 (attached in Appendix E). Mr Lamarti responded via email on 30 July 2021 and stated that the vehicle X831 KCW had only recently been brought and that the vehicle with registration AU05 FEG was trading from North Denes car park, Lowestoft as well as making deliveries to customers. The Licensing Team responded on 2 August 2021 by explaining that trading at North Denes car park would require a street trading consent and that it was also currently a prohibited area as Lowestoft Town Council had requested that no trading take place from the car park. These emails can be seen as **Appendix F**.

2.8 On Saturday 31 July 2021 a Licensing Officer witnessed the van with registration AU05 FEG trading from North Denes car park, Lowestoft, and a photo of this is attached as **Appendix G**.

2.9 Mr Lamarti telephoned Leonie Hoults, Licensing Officer, on 2 August 2021 to discuss the points raised in the email. Mr Lamarti explained that Lowestoft Town Council had given him permission to trade from the car park for over a year now. Mrs Hoults explained that a street trading consent would also be required to trade from the car park and that currently there is a condition that the Town Council requested that prohibits trading from the car park which would also have to be removed.

3. ADDITIONAL INFORMATION

3.1 Mr Lamarti renewed WSTC0009 in May 2021 however, his other street trading consent, WSTC0020 which was for vehicles S655 VOP or V39 KOB was not renewed, despite reminder letters being sent. This was due for renewal by 17 June 2021.

3.2 The Council has taken legal proceedings against Mr Lamarti for illegal street trading in 2006. Lamarti's ice cream vans were witnessed on three separate dates in 2006 trading from consent streets within the former Waveney District Council area. These legal proceedings held on the 16 November 2006 resulted in a conviction for illegal street trading. The Statement of Facts concerning this court case is attached at **Appendix H**.

4. POINTS TO BE CONSIDERED

4.1 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

4.2 The attention of the Sub-Committee is drawn to the following:

a) **Human Rights Act 1998**

The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.

It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant’s right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates’ Court.

In assessing the impact of human rights, the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a “possession” and the human right is expressed to be for the “peaceful enjoyment” of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

4.3 The relevant notices about this hearing have been served on the applicant and other persons and they have until 10 August 2021 to confirm that they intend to attend, or not, as the case may be and give notice that they wish to call witnesses.

5. CONCLUSION

5.1 The Sub-Committee will be asked to determine this matter by:

- Allowing the trader to continue to trade under his current consent WST0009 and deciding whether further applications will be accepted by the Licensing Team either immediately or after a period of time.
- Revoking the current street trading consent, WSTC0009
- Adding or amending conditions to the current, or any future, Street Trading consents held by Mr Lamarti.

5.2 Depending on the decision of the Sub-Committee, the street trader known as Mr Lamarti, trading as Lamarti’s, has rights of appeal to the Magistrates’ Court.

5.3 When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES	
Appendix A	Mr Lamarti’s existing street trading consent – WSTC0009
Appendix B	Code of practice on Noise from Ice-Cream Van Chimes etc. in England 2013
Appendix C	Evidence of illegal trading – July 2021
Appendix D	Log of complaints received in 2020
Appendix E	Letters sent to Mr Lamarti
Appendix F	Email correspondence from Mr Lamarti and Licensing’s response

Appendix G	Photo of AU05 FEG at North Denes car park, Lowestoft
Appendix H	Statement of Facts

BACKGROUND PAPERS	
None	