

Miss J Boyle  
Licensing Team Leader  
Trafford Council  
Trafford Town Hall  
Talbot Road  
Stretford  
M32 0TH

Our ref: ROW/KML1.1  
Direct Dial [REDACTED]  
[REDACTED] [keystonelaw.co.uk](mailto:enquiries@keystonelaw.co.uk)

BY EMAIL ONLY: [licensing@trafford.gov.uk](mailto:licensing@trafford.gov.uk)

1 August 2022

Dear Madam,

**Re: Street Trading Policy and Fees Consultation (2022)  
Objection on behalf of [REDACTED] Limited**

We are instructed by [REDACTED] in relation to the above consultation.

Our client operates licensed merchandise pitches at MUFC and souvenir stalls on private land abutting Sir Matt Busby Way, which is owned by [REDACTED].

This response to the Council's consultation relates to the proposed licence fee and the Council's intention to require persons trading from private land to obtain a street trading licence. These proposals are set out in the Council's draft Street Trading Policy 2022 ("Policy").

For many years, Trafford Council has not required street traders on private land (accessible to the public without payment) to obtain a licence to trade there. The Council previously indicated that, in its view, trading from private land does not require a licence. As a result, many businesses have relied on the Council's position to operate from private land in the vicinity of MUFC.

The Council has now reversed its previously held position and the proposed Policy will require those trading on private land to obtain a licence (Policy - paragraph 1.3). The Policy states that the Council will enforce the legislation against those trading on private land, in accordance with its Enforcement and Prosecution Policy (Policy - paragraph 4.1).

Whilst we accept the Council's position (as stated in its letter dated 1 July 2022) that it has no legal duty to consult on proposed street trading fees<sup>1</sup>, it does have a legal duty to consider representations made about proposed fees during the notice period. Specifically in relation to fees, LG(MP) Act 1982 Schedule 4 requires the Council to (a) give notice of proposed fees to licence

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<sup>1</sup> R (on the application of Harvey) v Leighton Linsdale Town Council [2019] EWHC 760 (Admin)

holders (b) publish notice in a local newspaper (c) provide a reasonable period for objections and (d) consider any representations made.

The Council has indicated that it does intend to consult on its proposed Policy, as this is “best practice”. In our view, due to the significant impact that the Policy would have on traders currently operating on private land, the Council is required to consult on these proposals. However, we consider that the Council has not clearly explained the impact of the proposals to those who will be affected by them.

In our client’s case, a consultation letter in our client’s possession suggests that, in order to continue to trade on private land, it would simply be necessary to apply for a licence and to pay the appropriate fee. However, the Council must be aware that nearly all trading on private land at MUFC takes place on land abutting Sir Matt Busby Way. Sir Matt Busby Way is a prohibited street and according to the Policy, the Council could not issue a consent for trading on private land in this location. The impact of this, is that those trading on private land abutting a prohibited street, would have to cease trading. Under LG(MP) Act 1982 Schedule 4, s.10 it would be an offence to engage in street trading in a prohibited street without permission and if the individual applied to the Council for permission, the Policy appears to state that the Council would not issue a licence in this location.

If it is not the intention of the Council to refuse to grant licences for pitches on private land abutting prohibited streets, the proposed Policy should make this clear. If it is the intention of the Council to prohibit such trading, which would extinguish our client’s business, the impact of the Policy should be properly explained to those who will be impacted by it. The Council has neglected therefore to inform those who would be affected by the Policy, what the impact of it will be on their business.

In relation to the proposed fees, whilst there is no fee increase proposed under the Policy, no explanation has been given as to how these fees have been calculated. For example, it is not clear why the costs for trading in the vicinity of MUFC are higher than in any other location in Trafford, or why costs for food licences are higher than for merchandise traders. Similarly, if the Council is intending to collect licence fees from traders on private land, then it is only reasonable that fees for existing traders should be reduced. We have also submitted a Freedom of Information request in relation to the calculation of the licence fees.

We consider that the Council’s consultation is flawed. We say this because:

1. The Council has not given notice of the proposed fees (and its proposed Policy) “to all licence holders”, which is a requirement of LG(MP) Act 1982, Schedule 4, s.9. Letters have been issued “To: Whoever it may concern”, not to specific licence holders and not all licence holders have been notified. This is a procedural breach which has denied licence holders the opportunity to object to the proposed fees.
2. Not all parties who would be impacted by the proposals in the Policy have been notified. For example, private landowners have not been notified, such as [REDACTED] which stands to lose significant amounts of rent if trading on its land is prohibited. Similarly, not



all traders on private land have been notified of the proposed fees or changes to be introduced by the Policy;

3. In our view, a consultation period of 5 weeks during July is not a “reasonable period” under LG(MP) Act 1982, Schedule 4, s.10 for licence holders to respond, particularly when the Council is aware that most traders at MUFC take their holidays during July when no matches take place at Old Trafford. Failure to consult adequately has denied licence holders the opportunity to object to the proposed fees and for traders and owners of private land to object to the proposed fees and the proposed Policy;
4. The adoption of the Policy appears to be a fait accompli, as the Council’s letter indicates that it will reject public objections deemed to be “insignificant” (as determined by the Council) and will only consider significant consultation responses. We do not believe that this is an adequate or genuine consultation process;
5. The Council has stated that it intends to reject any insignificant objections, which would not be in compliance with the Council’s duty to consider all representations in relation to fees, under LG(MP) Act 1982, Schedule 4, s.11.
6. The Council’s consultation notices and letters have not properly explained the impact of the Policy (in that those currently trading on private land may have their businesses extinguished, as they will not be able to obtain a licence from the Council to continue trading adjacent to prohibited streets);

We have requested a telephone call to discuss the proposed Policy with you. However, we have not been able to speak to you and we must therefore assume that the Council is aware that the proposed Policy would extinguish our clients’ business on private land.

We would ask the Council to urgently consider (a) whether it has correctly given notice of the proposed fees under LG(MP) Act 1982, Schedule 4, s.9 (b) whether it has appropriately consulted others, such as traders on private land and owners of private land, who would be impacted by the proposed Policy and (c) what its intention is in relation to trading on private land abutting prohibited streets, which has previously been permitted, but would now appear to be prohibited under the Policy.

Our client would welcome the opportunity to discuss these concerns with you or with the Chair of the Sub Committee. However, the Council is put on notice that, if the Council’s proposed Policy is adopted, it may be necessary to seek a review of the Council’s consultation process by way of a judicial review. Furthermore, we believe there may be an estoppel argument in relation to the Council’s historical position in relation to trading on private land.

We hope that formal legal action will not be necessary and that a sensible solution to these concerns can be found.

[REDACTED] can be contacted by phone on [REDACTED] or by e-mail [REDACTED] [\[REDACTED\]@keystonelaw.co.uk](mailto:[REDACTED]@keystonelaw.co.uk).



Yours faithfully,

*Keystone Law*

**Keystone Law Solicitors**

