

**LICENSING PANEL**  
**Regulatory Committee**  
**Agenda**

Date Tuesday 10 July 2018

Time 9.30 am

Venue Lees Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

- Notes
1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Sian Walter-Browne in advance of the meeting.
  2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email [sian.walter-browne@oldham.gov.uk](mailto:sian.walter-browne@oldham.gov.uk)
  3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Thursday, 5 July 2018.
  4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE LICENSING PANEL IS AS FOLLOWS:  
Councillors Byrne, Moores and Price

Item No

1 Election of Chair

The Panel is asked to elect a Chair for the duration of the meeting.

2 Apologies For Absence

3 Urgent Business

Urgent business, if any, introduced by the Chair

4 Declarations of Interest

To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.

5 Public Question Time

To receive Questions from the Public, in accordance with the Council's Constitution.

6 Order of Proceedings (Pages 1 - 4)

7 Application for Permission to Hold a Car Boot Sale (Pages 5 - 18)

This report outlines an application received seeking permission to hold a temporary market for a car boot sale on land at Oldham Athletic Football Club, Oldham. Oldham Council holds the market rights within 6 2/3 miles from its market on Tommyfield and therefore has the right to withhold its consent. There have also been objections received to the application.

## OLDHAM BOROUGH COUNCIL

### LICENSING PANEL - ORDER OF PROCEEDINGS

The procedure outlined below, which was enclosed with the notice of hearing sent to each party, and a copy of which is before you today, will be followed.

Documentary evidence may be relied upon and considered by the Panel if it has been served on the Licensing Authority prior to the hearing, or if all parties consent it can be produced on the day of the hearing.

Any person wishing to call a witness to speak at the hearing must have applied in writing for permission from the Licensing Authority at least 2 working days before the hearing and must also have provided the name of the witness and a brief description of the points on which that person may be able to assist the authority in relation to their application, representations or notice. Any application to call a witness where the party has not given 2 working days' notice will be considered by the Panel at the beginning of the hearing and permission will not be unreasonably withheld.

Each party will have the same amount of time in which to address the Panel, each party will have up to 60 minutes to address the authority and give any further information (which must be relevant to that party's or another party's application or representation). Where any party considers this time to be insufficient then, a request in writing may be made to the Constitutional Services Officer for an extension of time at least two working days before the hearing; however this will not automatically be granted, and will be at the discretion of the Panel.

Any person behaving in a disruptive manner will be asked to leave the hearing, however, if this occurs that person will be entitled to submit in writing any information they would have been entitled to give orally.

The Authority will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal.

Members are advised that they are making decisions in a quasi-judicial manner. As such, they have a duty to view all evidence presented before them impartially. Members must disregard any information given by a party which is not relevant to the promotion of the licensing objectives. The Panel is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.

## **ORDER OF PROCEEDINGS**

### **INTRODUCTION**

The Constitutional Services Officer (“the Clerk”) will welcome those present and outline the procedure to be followed (as set out below) and record those present. The Clerk will remind everyone that each party will have up to 60 minutes to address the Panel and give any further information.

### **APPLICATION**

The Licensing Officer will outline the nature of the application.

The applicant and/or their representative to address the Panel, present additional information in support of the application (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The Applicant and any witnesses may be questioned by Members of the Panel.

Any party, if given permission by the panel, may question the applicant and his witnesses, but this shall not take the form of cross examination.

### **REPRESENTATIONS**

The Party making the representation and/or their representative to address the members of the Panel, providing any additional information in support of their representation (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The party and any witnesses may be questioned by Members of the Panel.

In the event that a number of members of the public are present at the meeting who intend to make a representation in relation to the application as interested parties then the Chair has discretion to ask that they appoint a nominated spokesperson to present their representations.

Any party, if given permission by the panel, may question the party making representations and his witnesses, but this shall not take the form of cross examination.

These representations will be taken in the following order: -

- Police Representation (unless they are the applicant)
- Licensing Authority
- Environmental Health Representation
- Other Responsible Authorities Representation
- Public Representation (Interested Parties)

### **CLOSING STATEMENTS**

The party making the representation may summarise their representation and make a closing statement.

The holder of the premises licence may summarise their representation and make a closing statement.

The Applicant may summarise the application and make a closing statement.

**SUMMARY** The Chair to summarise who has made representations.

### **DETERMINATION**

The Panel Members will leave the hearing to consider their decision in private. The panels may request the Services of legal representative and Constitutional Services Officer.

The Chair of the Panel will announce the determination of the application and the reasons for that determination, and it will then be confirmed in writing within 5 working days of the hearing.

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## Report to Licensing Panel

# Application for Permission to Hold a Car Boot Sale

**Meeting Date: 10<sup>th</sup> July 2018**

**Portfolio Holder:**

Councillor Shah, Cabinet Member for Neighbourhoods

**Officer Contact:** Helen Lockwood

**Report Author:** John Garforth

**Ext. 5026**

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### **Reason for Decision**

This report outlines an application received seeking permission to hold a temporary market for a car boot sale on land at Oldham Athletic Football Club, Oldham. Oldham Council holds the market rights within 6 2/3 miles from its market on Tommyfield and therefore has the right to withhold its consent. There have also been objections received to the application.

### **Recommendation**

Members should consider the application and the objections and determine whether or not permission should be granted or not.

**Application for Permission to hold a Car Boot Sale**

**1 Background**

- 1.1 This report relates to an application to seek permission to hold a temporary market for the purposes of a car boot sale as follows:

Location: Land at Oldham Athletic Football Club

Date: Sunday 29<sup>th</sup> July 2018 from 10am – 4pm

Applicants: Dylan Leech and Jerome O'Malley of National Car Boot Sales

Details: Car boot sale for approximately 50 vehicles

**2 Current Position**

- 2.1 The rights of the owner of a market franchise to insist that no rival market takes place with 6 2/3 miles of his own are enshrined in Common Law. These franchises can be granted by royal charter, letters patent, or statute and once granted they exist indefinitely. The standard reasoning behind this rule is based on a market goer walking 20 miles in a day, and requires a third of the day to reach the market, a third to trade and a third to return home, 6 2/3 miles represents the longest distance he can travel to a market.

- 2.2 In the absence of any other sourced material the first reference to markets in legal text can be found in The Oldham Borough Improvement Act 1865 where section 170 gives the Corporation (now the Council) the power to establish markets and fairs.

- 2.3 Further reference to establishing markets was contained within the Food and Drugs Act 1955 and the Greater Manchester Act 1981 both subsequently repealed by the Food Act 1984.

**3 Objections**

- 3.1 Two objections have been received in relation to the permission sought. The first is from the Oldham Council Markets Manager who wishes to enforce the Councils Market Rights. The second is from a local Councillor who has issues with anti-social behaviour in the area and has concerns about the use of the land. The objections can be viewed at Appendix 1.

- 3.2 The application and Code of Practice for Car Boot Sales is attached at Appendix 2.

**4 Recommendation**

- 4.1 Members should consider the application and the objections and determine whether or not permission should be granted or not.



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5        **Consultation**

5.1      Consultation took place with the Markets Manager and local ward Councillors.

6        **Financial Implications**

6.1      Should there be resistance to any refusal to permit the market to take place the Council would have to seek an injunction in the civil courts to stop the car boot sale taking place. This would be a cost to the Council and costs would have to be claimed back if an order was made in our favour.

7        **Legal Services Comments**

7.1      As Oldham Council claims market charter rights a person proposing to hold a temporary rival market within the prescribed distance must apply to the Council for permission. In determining the application for permission the Council should consider the merits of the application, the applicant's ability to meet the terms of the Council's Code of Practice for car boot sales and the objections received.

The Council can either grant the application (with or without additional reasonable and proportionate terms) or refuse the application. Reasons for the decision must be given.  
(D. Joy)

8.       **Co-operative Agenda**

8.1      Not applicable in this instance.

9        **Human Resources Comments**

9.1      None

10       **Risk Assessments**

10.1     None

11       **IT Implications**

11.1     None

12       **Property Implications**

12.1     None

13       **Procurement Implications**

13.1     None

14       **Environmental and Health & Safety Implications**

14.1     There are no such implications under the control of the Council.

15       **Equality, community cohesion and crime implications**

15.1     Concerns have been expressed about the location of the event and the impact it will have on the community.

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16 **Equality Impact Assessment Completed?**

16.1 No

17 **Key Decision**

17.1 No

18 **Key Decision Reference**

18.1 N/A

19 **Background Papers**

19.1

The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

Records held at Licensing Office  
Officer Name : John Garforth  
Contact No : 5026

20 **Appendices**

20.1 The objections to the permission sought are outlined in Appendix 1.

Application and Code of Practice Appendix 2.

**Objections**

Hi John,

Yes, I would like to object on the grounds that we hold the rights to run the car boot on a Sunday in this area

Thanks,

Sara Hewitt  
Markets and Town Centre Manager  
Oldham Council

Tommyfield Market Hall  
Albion Street, Oldham OL1 3BG  
0161 770 4459  
[sara.hewitt@oldham.gov.uk](mailto:sara.hewitt@oldham.gov.uk)

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Hi

Until the issues with ASB on the carpark have been resolved we will oppose any such event.

3 weeks ago we finally managed to meet with Brassbank and they promised us, residents and police they would deal with the problems and outlined a course of action they would take

To date no action has taken place and residents are still subjected to the various problems on site.

Until the promises have been fulfilled and the various site problems deal with the Royton South cllrs will vigously oppose this as will local residents.

Regards

Steve Bashforth, Councillor

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# Application and Code of Practice

Neighbourhoods  
Trading Standards and Licensing



**Oldham**  
Council

**Temporary Market / Car Boot Application Form**  
(Including antique events and other sales)

Name of applicant DYLAN LEECH AND JEROME O'MALLEY  
Address [REDACTED]  
[REDACTED]  
[REDACTED]  
Post Code [REDACTED]  
Telephone No. [REDACTED]

Type of Event                      Car Boot Sale       Other Market / Event

Date of Event                      29/7/18  
Time of Event                      10 AM - 4 PM  
Organisation                      NATIONAL CAR BOOT SALES  
Venue of event                      BOUNDARY PARK  
Owner of event                      OLDHAM ATHLETIC F.C.  
Number of vehicles / stalls expected 50

Are the proceeds from the event going to:

- A voluntary group          Private gain                        
A registered charity          Charity number                      .....  
Other (Please state)    OLDHAM ATHLETIC F.C.

Please note that from the 1<sup>st</sup> July 2013 the following fee will apply to all applications:-

- £40 for the first 20 stalls / vehicles and £2 per stall / vehicle for every stall above 20

This fee will apply to each individual event, for example if you hold a temporary market / car boot sale on a Saturday and Sunday, in the same weekend, you would need to pay two separate fees.

Payment can be made by:-

**Credit/Debit Card** – In order to pay using a credit or debit card you will need to phone the Oldham Council payments line on 0161 770 4730 and selecting Please quote the paying in code – K36455061D9. Once you have paid you will be given a payment reference number. Please make a note of this number & quote it on your application form.

Applications must be made on the prescribed form at least 28 days prior to the date of the sale. Failure to give such notice may render both the organiser and the occupier of the land liable to a maximum fine of £1000 under section 37 of the Local Government (Miscellaneous Provisions) Act 1982

Please return this form to:

Oldham Council  
Licensing,  
Sir Robert Peacock House  
Vulcan Street, Oldham, OL1 4LA  
Telephone: 0161 770 4730

I apply to hold the above temporary market / car boot sale and understand the criteria for holding such an event. I enclose with this application a copy of the public liability insurance.

Signed

  
.....

Date 20-6-18.

Notes:-

- You must declare how many stalls / vehicles you expect to attend the temporary market / car-boot.
- On the day of the temporary market / car-boot, if it is found that the number of stalls / vehicles is above the number declared on the application form, an invoice will be raised for the additional amount.
- You must submit a copy of your public liability insurance, or if you are covered by the insurance of the venue where the temporary market / car-boot sale takes place, then you must provide proof of this

TRADING STANDARDS  
RECEIVED

Appendix I



18 JUN 2018  
FIRST RESPONSE SERVICES



CODE OF PRACTICE

CAR BOOT SALES

Full name of car boot sales organiser: DYLAN PATRICK LEECH  
AND JEROME O'MALLEY T/A NATIONAL CARBOOT SALES

Address of organiser: [REDACTED]

[REDACTED]

Contact telephone number: [REDACTED] Fax: N/A.

Email: [REDACTED]

Car boot sale venue(s): OLDHAM ATHLETIC AFC

Membership of the scheme requires organisers to adhere to the terms and conditions laid out in this Code of Practice.

In determining whether to give consent to a car boot consideration shall be given to ensure there is no economic detriment to Oldham Council or its traders on established markets. Although each application is considered on an application by application basis, it is unlikely that Oldham Council will grant consent to any wholly general retail car boot sale or any market type event that contains a substantial element of general retail.

Where applicable, proof must be provided that the site owner has given permission for their land to be used for the purpose of holding a car boot sale.

The organiser must take out public liability insurance to cover their liabilities to a level of cover of £5 million and a copy of your certificate should be enclosed with your application form.



Organisers need to be aware that if it is intended to operate a car boot event for more than 14 days in any calendar year on a particular piece of land, planning consent must be sought from the local Planning Authority as stipulated by The Town and Country Planning (General Permitted Development) Act 1985. Planning permission is also required if the land the car boot sale takes place on is within a building or a curtilage of a building or the use of the land for a car boot sale involves the construction or siting of any immovable structures. If you believe your car boot sale falls into one of the above categories it may be advisable to speak to the local Planning Authority on 0161 770 4105.

In order to secure a safe and legal environment the car boot sales organiser agrees to the following Code of Practice:

### **Working with Oldham Trading Standards**

1. Liaise with, and take advice from, Oldham Trading Standards on any matters relevant to this Code of Practice or other legal issues relating to the supply of goods at the venue.
2. Provide details of a single point of contact for an employee supervising at the venue on the day of the car boot sale. The organiser is required to liaise with Oldham Trading Standards in respect of any matters relevant to the car boot venue.
3. The organiser is required to participate in a six monthly review with Oldham Trading Standards in relation to the car boot sale. The purpose of the review will be to inspect the organiser's records as required under this Code of Practice, to determine if any assistance is required by the organiser, to discuss problems identified in this period and provide any relevant updates. The six month period of review may be subject to change dependant on the level of problems identified at the car boot sale venue.
4. Notify Oldham Trading Standards of any changes to the organiser's contact details provided in this Code of Practice.

### **Be Aware of Goods being Sold at the Venue**

5. Manage the venue effectively and take reasonable steps to patrol the venue throughout the duration of the car boot sale. This will involve walking around the venue at regular intervals in order to actively monitor the goods being sold.
6. Ensure only second hand goods are sold at the venue. No new goods, seconds, returns or food products are to be sold at the venue. Space must not be granted to commercial traders. No livestock / live animals are to be sold at the venue.

### **Protecting Shoppers from Illegal Goods**

7. Prohibit the supply of illegal goods, which include stolen goods, suspected stolen goods, counterfeit goods, unsafe goods, tobacco goods, alcoholic goods, fireworks, offensive weapons and items of a pornographic nature.
8. If you suspect, or are informed that stolen items may be being sold at the venue then the Police should be contacted immediately on 101.

9. Exclude suspected sellers of illegal goods of any description; and remove sellers found to be selling illegal goods or colluding with sellers of illegal goods. Where such sellers refuse to cooperate with the directions of the organiser, seek assistance from Oldham Trading Standards or other relevant authorities. Any organiser who knowingly allows the sale of counterfeit goods at a venue may also be liable for aiding and abetting the sale of those counterfeit goods and may be charged with an offence along with the seller of those illegal goods.
10. Notify Oldham Trading Standards of any suspected sellers of illegal goods together with details of their identities and vehicles. Organisers should provide a description of the items sold, a description of the seller (sex, age, height, build, hair colour, distinctive features etc) and vehicle details (registration, make, model and colour).
11. Act on information from trade mark and copyright holders and other agencies that may highlight the sale of illegal goods.

#### **Be Aware of who is Trading**

12. Obtain, whilst collecting payment from sellers for their stalls, the name of the individual in control of the stall and the relevant vehicle information (registration, make, model and colour). These details are to be recorded and a receipt issued to the stallholder. Once receipt books are complete these will be returned to Oldham Trading Standards.
13. Prohibit individuals who refuse to supply the information required in 12 from operating at the venue.
14. Ensure that the information obtained in 12 is stored securely and in compliance with the Data Protection Act 1998.

#### **Provide Adequate Facilities at the Venue and have Consideration for the Surrounding Community**

15. Provide adequate toilet facilities at the venue.
16. Ensure any food outlet in operation at the venue has been inspected and approved by the Council's Environmental Health Department.
17. Ensure litter generated at the venue does not gather on surrounding streets and properties.
18. Ensure the venue used for the car boot sale is left clean and tidy.
19. Do not cause or permit notices or posters advertising the event to be displayed on lamp posts, buildings etc, without permission of the owner, or in contravention of the Town and Country Planning Act 1990 (advertisements without permission).
20. Consider and manage traffic problems including access for emergency vehicles and notify the Police where appropriate. The organiser will be responsible for any additional policing costs that may be incurred.

**Communicate the Car Boot Sale Venue's Commitment to Fair Trading.**

21. Display consumer advice posters, supplied by Oldham Trading Standards, at entrances and exits and other agreed points on the venue site when requested.
22. Ensure all staff employed at the venue are aware of this Code of Practice and its requirements.

If the terms and conditions laid out in this Code of Practice are not adhered to by the organiser then the relevant car boot licence will be revoked.

Please note that the submission of an application to hold a car boot sale / event and the completion of this Code of Practice does not give an operator the automatic right to hold a car boot sale and a letter of consent from the market office will still need to be obtained.

Signed on behalf of the car boot sale organiser: 

Full Name: DYLAN PATRICK LEECH.

Position: DIRECTOR

Date: 15/6/18.

**Contact details for Oldham Trading Standards – request to speak to the Duty Officer  
(08:40hrs – 17:00hrs: Monday - Friday)**

Telephone number: 0161 770 3470  
Fax number: 0161 770 3481  
E-mail address: [tradingstandards@oldham.gov.uk](mailto:tradingstandards@oldham.gov.uk)

Address: Oldham Council  
Sir Robert Peacock House  
Vulcan Street  
Oldham  
OL1 4LA

**Officer contact details:**

Daniel Moore  
Trading Standards Officer  
0161 770 4498  
[daniel.moore@oldham.gov.uk](mailto:daniel.moore@oldham.gov.uk)

Kirsty Crowther  
Senior Trading Standards Officer  
0171 770 5022  
[kirsty.crowther@oldham.gov.uk](mailto:kirsty.crowther@oldham.gov.uk)

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