



Notice of a meeting of Licensing Committee

Wednesday, 5 December 2018

6.00 pm

Pittville Room - Municipal Offices, Promenade

Membership	
Councillors:	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Mike Collins, Roger Whyborn, Dennis Parsons, Jo Stafford and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

8.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION A)Application for a Street Trading Consent-Mrs Tracy Smyth (The Cheeseworks) Report of the Licensing Team Leader B)Application for a Street Trading Consent-Mr Steven Palmer (Tree Amigos) Report of the Licensing Team Leader	(Pages 3 - 22)

Contact Officer: Sophie McGough, Democracy Officer, 01242 264130

Email: democratic.services@cheltenham.gov.uk

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Licensing Committee – 5 December 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent (18/03136/STA)

Ms Tracy Smyth (The Cheeseworks)

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Ms Tracy Smyth for a street trading consent to sell artisan cheeses and cheese gifts / hampers from a branded gazebo measuring 3m (10ft) x 3m (10ft).
- 1.2 Ms Smyth has applied to trade outside John Lewis. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Ms Smyth has applied for a temporary consent to trade during December 2018 until 31 December.

Monday	09:00 - 17:00
Tuesday	09:00 - 17:00
Wednesday	09:00 - 17:00
Thursday	09:00 - 17:00
Friday	09:00 - 17:00
Saturday	09:00 - 17:00
Sunday	09:00 - 17:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.

1.5 The Committee can:

- 1.5.1 Approve the application because Members are satisfied that the location is suitable, or
- 1.5.2 Refuse the application because it does not comply with the provision of the Street Scene policy or for another reason.

1.6 Implications

Legal

The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Any application should be considered in line with the Council's policy on Street Trading.

Contact officer: One Legal
E-mail: legalservices@tewkesbury.gov.uk
Tel no: 01684 272015

- 2.1 The current street trading policy was adopted by Council on 12 February 2016. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

3.1 Permitted locations for street trading

The council's adopted policy prescribes a number of permitted trading locations and associated permitted trading goods. These locations and permitted goods are outlined in the council's adopted policy that is available on the council's website.

3.2 Assessment criteria

In considering applications for the grant or renewal of a consent the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.
- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The council will generally not permit trading units over 3 meters tall to avoid obstruction of sight.

- **Environmental Credentials** - The proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

4. Consultee Comments

- 4.1 During the consultation period, one objection and one comment in support of the application were received. These are outlined in the accompanying background papers.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the council's adopted policy and Members should not arbitrarily deviate from the council's policy.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above ("Permitted Locations") and Members should take these into account when determining this application.
- 5.3 Whilst the policy creates a presumption against the grant of an application if the application does not comply with the policy, this position should not fetter the committee's discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.4 Members are reminded that clear and thorough reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy.
- 5.5 Members are to note that the proposed trading location is not one approved by the current licensing policy. As stated above, notwithstanding the policy position, the committee must still determine the application on its merits. Members must take into account all the relevant factors when determining the application.
- 5.6 In this case, relevant factors to consider are the representations submitted, the fact that the proposed trading period is temporary in nature and the applicant has indicated that they have support from John Lewis to trade from the proposed location. Members are however advised to see evidence of John Lewis' support of the application.

Background Papers

Service Records

Case Officer

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200

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General Notes
This drawing is covered by copyright which remains with the Borough Council and must not be reproduced in any form without express permission.
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Refer to Drawings: CBC_E&RS_T_28_P_01 for Street Locations

rev.	date	description
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PROJECT
Street Trading Policy
CLIENT
Sheet 3 High Street
CBC Licensing

status
date
drawing number
CBC_E&RS_T_28_P_03

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Branded Marquees



Plan is to have a high quality structure bought which will be branded properly and weighted down using proper weights

Printed Square 3m x 3m Marquee



QUOTE ME PLEASE

Tel: [01623 398260](tel:01623398260)

Email: advice@topmarquees.co.uk

Share:



3m x 3m Marquee

9.76m
10.76m

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Cheltenham Borough Council

Licensing Committee – 5 December 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Steven Palmer (18/03132/STA)

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Mr Steven Palmer for a street trading consent to sell Christmas trees, natural decorations and wreaths from an enclosed area 49m (106ft) x 21m (69ft).
- 1.2 Mr Palmer has applied to trade from Pittville Park (Pittville Lawn). **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Palmer has applied for a time limited consent from the 30 November 2018 – 21 December 2018 on the following days and times:

Monday	08:00 - 21:00
Tuesday	08:00 - 21:00
Wednesday	08:00 - 21:00
Thursday	08:00 - 21:00
Friday	08:00 - 21:00
Saturday	08:00 - 21:00
Sunday	08:00 - 21:00

- 1.4 An image of the proposed site set up is shown in **Appendix 2**.
- 1.5 The Committee can:
- 1.5.1 Approved the application because Members are satisfied that the location is suitable; or
- 1.5.2 Refuse the application because Members are not satisfied that the location is suitable for the proposed trading.

Legal

The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Any application should be considered in line with the Council's policy on Street Trading.

Contact officer: One Legal
E-mail: legalservices@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current street trading policy was adopted by Council on 12 February 2016. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

3.1 Permitted locations for street trading

The council's adopted policy prescribes a number of permitted trading locations and associated permitted trading goods. These locations and permitted goods are outlined in the council's adopted policy that is available on the council's website.

3.2 Assessment criteria

In considering applications for the grant or renewal of a consent the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.

- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The council will generally not permit trading units over 3 meters tall to avoid obstruction of sight.
- **Environmental Credentials** - The impact of the proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

3.3 Special Events

The council recognises that there may be times when consent may be sought otherwise than in accordance with the policy for special one-off events.

These may include, for example, one-off charitable or promotional events.

Applications of this type will be determined on a case-to-case basis taking into account the assessment criteria set out above.

4. Consultee Comments

4.1 No objections were received from any of the responsible authorities.

4.2 The Senior Environmental Health Officer responsible for pollution control has submitted the following comments in relation to the application:

I have been asked to review your application for street trading consent at the above location.

I can confirm I have no objection to your application, but offer the following recommendations which you should consider, in order to ensure that your operation does not cause a statutory nuisance to residents in the area:

Noise

There is potential for noise from the site to impact neighbouring properties, if it is not suitably controlled. I would therefore suggest the following:

- *Keep any on-site music to a low level and make regular checks to ensure it is not audible at the boundaries of neighbouring property.*
- *If generators are to be used ensure they are properly silenced and positioned away from residential property, screened by other structures on site.*
- *Any power tools in use should be kept to a minimum and used well away from neighbouring property.*
- *If deliveries to site are required, ensure they only take place during the “working day”. I would suggest 9:00AM – 5:00PM.*

Lighting

There is a potential for nuisance to be caused by lighting at the site. Please ensure the following recommendations are adhered to:

- *Ensure all lighting is directed on to the minimal spill. Lights should be angled away from residential property or covered to ensure light is not directed at other premises.*
- *All lighting should be turned OFF when the site is not open to the public.*

I am optimistic that the site can operate in a suitable way, which is sympathetic to local residents. Please be aware that if the site causes a statutory nuisance to other properties, the council will be required to take further action to ensure that the nuisance is abated. This is likely to be in the form of an abatement notice, served under the Environmental Protection Act 1990. Such a notice is likely to require specific equipment to be removed or taken out of use, which may have an impact on your ability to operate the site. Failure to comply with such a notice is an offence.

- 4.4 A number of objections have been received in relation to this application. These are outlined in the accompanying background papers.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the council's adopted policy and Members should not arbitrarily deviate from the council's policy.
- 5.2 Members are to note that the proposed trading location falls outside the scope of the policy's permitted locations and as such, the application should be determined on its merits bearing in mind also the assessment criteria outlined above.
- 5.3 This application has generated a substantial amount of objections dealing with a broad range of issues. However, the committee must ensure that it limits consideration of facts to those relevant to the trading application.
- 5.4 To assist the committee with this, it may be useful for Members to understand the various processes, roles and responsibilities involved in granting permission for events to go ahead on council owned land.
- 5.5 Most events occupying council owned land will be subject to a land use agreement. This agreement is essentially the contract between the occupier and the council (as land owner) and sets out the conditions that the occupier will need to comply with when occupying the land. The conditions generally relate to, amongst others, duties to make good damage and the responsibility of the occupier to ensure they have all the necessary formal consents in place. This process is the responsibility of the council's Green Space Team.
- 5.6 Aside from land use agreement is the council's regulatory function. It may be that an occupier/event organiser needs a formal authorisation to do what they propose to do as part of their operation. Under these circumstances, and in addition to the land use agreement, they will need to apply to the council's licensing department for the formal authorisations they require, in this case a trading licence.
- 5.7 The council acting in its capacity as regulator will be required to determine these applications in the usual manner. For the purpose of dealing with licensing applications therefore, Members must ensure that they act in their capacity as a regulatory committee.
- 5.8 The consultation on this application was open from 20 November to 30 November. Due to a technical issue with the council's public access system, the consultation was extended and additional information was made publically available on the council website.
- 5.9 Members must note for the avoidance of doubt, that whilst the trading application was subject to a public consultation, the land use agreement process is delegated to officers and there is currently no consultation process on the agreement of land use agreements.
- 5.10 Members may have noticed that Mr Palmer has already begun trading. At the moment, he is charging an entry fee which takes him outside the scope of street trading legislation. Schedule 4,

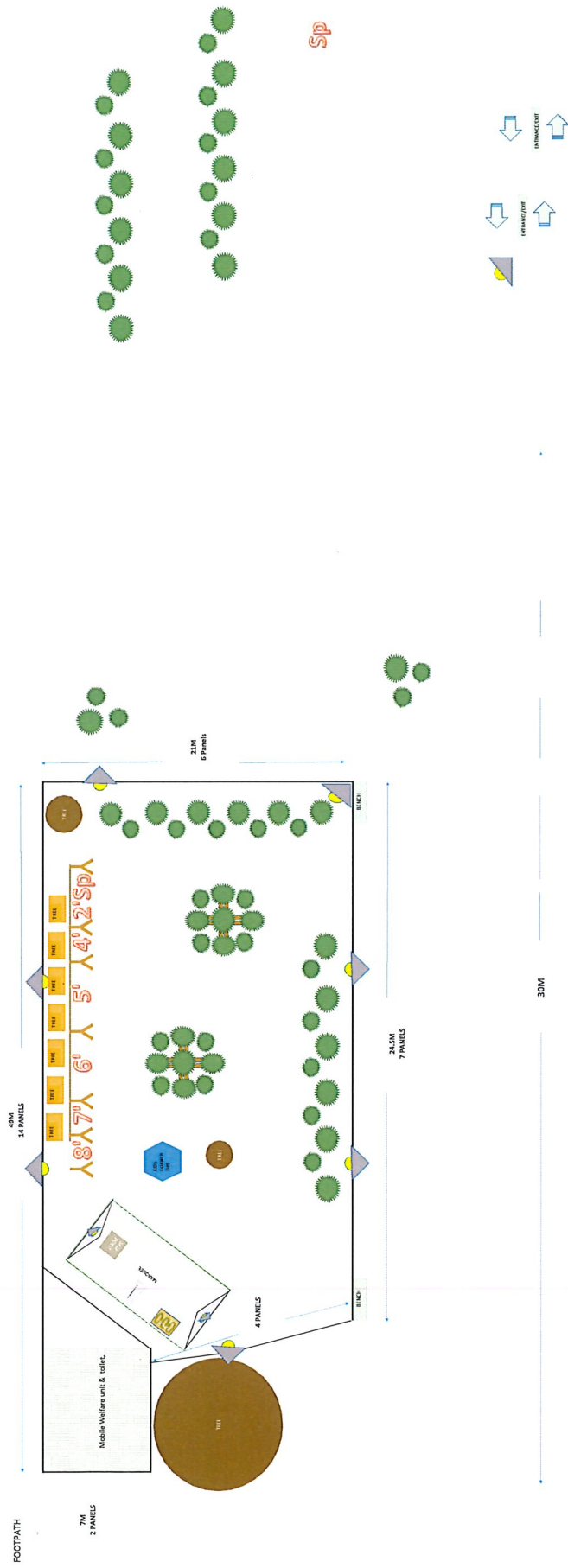
paragraph 1(a) defines a street, for the purpose of trading, as being "...any road, footway, beach or **other area to which the public have access without payment.**" As such, whilst he continues to charge an entry fee, the area is not one to which the public have access without payment as consequently he is able to trade without a trading licence.

Background Papers**Service Records****Case Officer****Contact officer: Louis Krog****E-mail: licensing@cheltenham.gov.uk****Tel no: 01242 262626**

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