



Notice of a meeting of Licensing Committee

Friday, 25 April 2014

2.30 pm

Council Chamber, Municipal Offices

Membership	
Councillors:	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Jon Walklett and Roger Whyborn

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

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF MEETING HELD ON 7 March 2014	(Pages 1 - 8)
5.	MINUTES OF SUB COMMITTEE MEETINGS None	
6.	RENEWAL OF STREET TRADING CONSENT Mr Raviv Hadad	(Pages 9 - 20)
7.	APPLICATION FOR STREET TRADING CONSENT Mrs Marie Fullwood	(Pages 21 - 34)
8.	RENEWAL OF STREET TRADING CONSENT Mr Mark Morris	(Pages 35 - 48)
9.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
10.	DATE OF NEXT MEETING Friday 13 June 2014	

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Licensing Committee

Friday, 7th March, 2014

2.30 - 3.27 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Jon Walklett and Roger Whyborn
Also in attendance:	Louis Krog, Licensing and Business Support Team Leader and Fiona Samuda, Solicitor

Minutes

1. APOLOGIES

Councillor Barnes. The Vice Chair Councillor Seacome would chair the Licensing Committee in Councillor Barnes' absence.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF MEETING HELD ON 7 FEBRUARY 2014

Councillor Walklett confirmed that he had given his apologies for the meeting on 7 February 2014 and did not attend the Committee.

Councillor Regan stated that during the Licensing Committee meeting on 7 February a question had been asked about advertising for the Sexual Entertainment Venue. The applicant said advertising would be provided on the venues website. This had not been included in the minutes and would be amended.

Resolved that upon these amendments being made, the minutes of the meeting held on 7 February 2014 be agreed and signed as a true record.

5. MINUTES OF SUB COMMITTEE MEETINGS

None

6. APPLICATION FOR PRIVATE HIRE DRIVER'S LICENCE

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application had been received from Mr John Carr for a Private Hire driver's licence.

Mr Carr previously held a Private Hire driver's licence with Cheltenham Borough Council. This licence was revoked by the Licensing Committee on 26 July 2013.

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The attached background papers detailed Mr Carr's convictions.

The Officer advised Members that Appendix A of the report provided a copy of Mr Carr's initial interview notes from the 5 July 2013. Point 5.3 of the report detailed subsequent interviews and stated that Mr Carr notified the Council on 26 February 2014 that he had received further penalty points.

The Officer referred Members to point 5.5 of the report which advised Members to note from the number of penalty points Mr Carr received for his offences they should be treated as minor traffic offences. Paragraph 3.10 of the report provided further detail of this.

Members asked the following questions of the Officer and in responding;

- Confirmed that the Police are not consulted about Private Hire driver applications and each application must be determined on its own merits using the Councils policy. Mr Carr's previous three penalty points were dealt with at the Licensing Committee on 26 July 2013.
- Advised Members that this application is for a new Private Hire driver's licence and confirmed that Mr Carr has six penalty points on his DVLA driver's licence.
- Stated that the date on page 23 of the papers should read 5 July 2013.
- Referred Members to point 3.9 of the report which detailed the policy considerations for minor traffic offences. Mr Carr's penalty point offences are classed as minor offences. Point 3.10 of the report explained that an application will normally be refused if the applicant has more than one conviction for this type of offence within the last 6 months.

The Officer referred Members to the character reference from Mr Gordon Milne of A2B which had been provided as additional papers to the Committee. A copy of the character reference is attached as a supplement to this agenda item.

Mr Carr attended the meeting and made the following points in support of his application;

- Confirmed he had first been licensed as a Private Hire driver in June 2013.
- Had reflected on his previous decision to use part worn tyres on his vehicle and realised this was a bad misjudgement and would not buy them again.
- Has a reminder note in his vehicle to check his tyres regularly to make sure this never happens again. He was ashamed about the condition of his previous tyres.
- The Chairman asked Mr Carr to explain about the subsequent driving offence.
- Said he thought he had cleared the pedestrian zebra crossing when stopping to deliver a pizza to a student from Cheltenham College. It was dark and raining so it was difficult to see where the end of the crossing was.

Members asked the following question of Mr Carr and in responding:

- Confirmed that Mr Gordon Milne from A2B had offered him a job if his licence was granted today. Any conditions requested of him would be adhered too and Mr Milne had agreed to check his vehicle every week.
- Stated there was not anyone else around when he delivered the pizza.
- Said he drives 25,000 miles a year and had learned a severe lesson about using part worn tyres.
 - A Member felt Mr Carr should not be cross examined about his previous driving offence.
 - The Chairman advised the Committee that this offence had been dealt with and Members must determine this new application today.

In summing up Mr Carr said he had put the tyre offence behind him and did not want any more penalty points on his DVLA driver's licence.

Members were advised they had the following recommendations to determine;

1. Mr Carr's application for a Private Hire driver's licence be granted because the Committee are satisfied that he is a fit and proper person to hold such a licence.
2. Mr Carr's application for a Private Hire driver's licence be refused as the Committee considers him not to be a fit and proper person to hold such a licence.

Upon a vote it was (4 for, 4 against and 1 abstention)

RESOLVED using the Chairman's casting vote; that Mr Carr's application for a Private Hire driver's licence be refused as the Committee considers him not to be a fit and proper person to hold such a licence.

7. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLE AND CHAIRS

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Sam Roberts in respect of Boston Tea Party, 45-49 Clarence Street, Cheltenham.

The applicant had initially applied to place 10 tables and 34 chairs outside the premises but had subsequently reduced this to place 9 tables and 18 chairs directly outside the premises. If permission was granted today the tables and chairs would be placed outside on Monday to Sunday from 07.00 – 21.00.

The Officer referred Members to the additional papers which detailed a revised design of tables and chairs.

Appendix A of the report shows a photograph of the style of tables and chairs that would be used.

Appendix B of the report provides a location plan of the positions of the tables and chairs.

The Officer referred Members to point 3 of the report which detailed the consultation process and listed objections received against this application at point 3.2.1 of the report. Appendix C of the report provided copies of the three

objections. The Officer asked Members to note that these objections were received before the applicant reduced the number of table and chairs in his application.

The Officer referred Members to point 4 of the report which outlined the policies the Council apply when making decision on application for consents.

Members asked the following question of the Officer and in responding;

- Confirmed the bus stop next to the location of the tables and chairs was in use.
- A Member raised concern about bus fumes blowing onto the pavement where the table and chairs would be situated.
- Referred Members to point 1.1 of the report which explained that the number of tables and chairs requested had been reduced to 9 tables and 18 chairs.

Mr Roberts attended the meeting and made the following points in support of his application;

- Stated that there was a two metre clearance from the tables and chairs to the pavement edge.
- Had invested £350,000 in the venue.
- Said that having tables and chairs outside would define the café culture and attract people from the Promenade to this up and coming area.
- Confirmed he operates 14 other similar businesses around the country and stated that having tables and chairs outside is very important to the venue.

Members asked the following questions of Mr Roberts;

- A Member raised concern about the measurements taken and felt there was insufficient room between the barrier and the road for the use of the table and chairs.
- Mr Roberts advised the Committee that the area was measured with the Officer during a site visit.
- The Officer confirmed that a revised proposal of tables and chairs had been made during the site visit.
- Confirmed that he was happy to remove the banner barriers as suggested by the Urban Design Manager.
- Stated that ensuring customers did not move the tables and chairs around to suit larger groups would be an operational challenge for the premises and staff would deal with this.
- Suggested instead of single barriers being in place bookend barriers would be more suitable. This would also allow more space for pushchairs and this would also be monitored by staff.
- Stated that it would be the customer's choice to sit outside near to where buses would be in use.
- Advised the design of tables and chairs would be different inside the premises and that the external tables and chairs were an Italian design and expensive.
- The Officer reminded Members that it was not within the Committees remit to discuss the comfort of the chairs but could take a view of the colour used in keeping with the area.

- Advised that the zig zag area on the plan were by folding windows and if smokers were outside when these windows were open staff would deal with any issues.
- A Member suggested that Officers should be left to determine the style of table and chairs used.
- The Officer suggested that discussions should take place between Mr Roberts and the Urban Design Manager to decide which furniture would be suitable.
- Agreed that he would be happy if Members felt a further reduction in tables and chairs was necessary.
- The Officer advised Members they were expected to determine this application today and would not be able to bring this application back to the Licensing Committee if the table and chair layout was not suitable.
- The Chairman suggested that six tables and 12 chairs should be placed outside the premises with book end barriers.
- Mr Roberts confirmed he was happy with this alteration.
- A Member suggested 7 tables and 14 chairs being used.

Upon a vote it was (4 for 5 against)

that 7 tables and 14 chairs are placed outside the premises.

Upon a vote it was unanimously

RESOLVED that 6 tables and 12 chairs are placed outside the premises.

Members also voted to determine if the decision regarding which table and chairs should be used should be left to the applicant or discussed with the Urban Design Manager.

Upon a vote it was (6 for 3 against)

RESOLVED that the applicant will decide which tables and chairs are to be used outside of the premises.

8. STREET TRADING APPLICATION

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application from Mrs Susan Kinnear for a street trading consent for an ice cream cart had been received.

If permission was granted the ice cream cart would trade on the Promenade by the long gardens on Monday to Sunday from 12.00 – 18.00.

Appendix A of the report showed an image of the trading unit and location map.

The Officer confirmed that no objections had been received against this application. Point 2.4 of the report detailed comments from the Council's Urban Design Manager. Point 3 of the report listed the Council's current policy considerations.

Members asked the following question of the Officer and in responding;

- Confirmed that the Town Hall had not objected to this application.

- Stated that the location of the ice cream stall would be at the long gardens opposite the Municipal Offices. After various options being discussed this site had been found for the Green Coffee Machine which has now moved its location.
- Stated that there will be no clashes with the Farmers Market as the stalls are now situated outside Cavendish House.
- Said that he had not updated Mrs Kinnear with the town centre plans as had only recently been aware of the changes.

Mrs Kinnear attended the meeting and made the following points in support of the application;

- Stated that the ice cream stall has successfully been used at street parties, the Cheltenham Ladies College and at the Suffolk Square street fair. The suggest area to place the stall had good foot fall and would be an additional attraction to the Promenade.
- Confirmed she worked independently and would control rubbish using a bin and ensuring a sweep of the area is done at the end of each trading day.
- Stated that tables and chairs would not be placed outside of the ice cream stall.
- Asked if the electricity supply close by could be used.
- The Officer suggested that Mrs Kinnear contact Tom Mimmagh who had helped the previous trader with this enquiry.
- Confirmed that if the electricity supply could not be used the ice cream stall could still operate.

Members were advised they had the following recommendations to determine;

1. The application be approved because Members are satisfied that it does comply with the Council's policy in relation to street trading in conservation areas;
2. The application be refused because it does not comply with the Council's policy in relation to street trading in conservation areas.

Upon a vote it was unanimously;

RESOLVED that the application be approved because Members are satisfied that it does comply with the Council's policy in relation to street trading in conservation areas.

9. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

The Officer asked Members to contact him directly about putting their views forward about setting maximum late night levy fees for premises providing alcohol. These views would then be forwarded to the Home Office with the Officers consultation document.

A Member asked if the Pasty Shop where the Famous used to be had permission to place table and chairs outside of the premises as tables and chairs were in use there.

The Officer confirmed this area is private land but would clarify this and let Members know.

10. DATE OF NEXT MEETING
Friday 4 April 2014.

Chairman

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Licensing Committee – 25 April 2014

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Mr Raviv Hadad

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

1.1 We have received a renewal application from Mr Raviv Hadad, for a street trading consent to sell hot & cold food and drink from a mobile trike measuring on the High Street outside Thomas Cook.

1.2 The application is to trade everyday between 11:00 and 23:00. The proposed hours are the same as the current consent being renewed.

1.3 An image of the trike is attached at **Appendix A** and a location map is attached at **Appendix B**.

1.4 The Committee is recommended to resolve that:

1.4.1 The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable; or

1.4.2 The application be approved because Members are satisfied that the application does comply with the provision of the Street Scene policy and the location is deemed suitable;

1.4.3 Subject to resolution 1.4.2, the application only be granted to the end of June 2014.

1.5 Implications

1.5.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.5.2 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.

Consent can be revoked at any time. An existing trader or a trader who has previously traded from a location does not have a legal right to any consent being automatically renewed or granted.

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

Contact officer: Vikki Fennell
E-mail: vikki.fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole 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:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

4. Probity in Licensing

- 4.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 4.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 4.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
- Be made on the individual merits of a case.
 - Have regard to all relevant national and local guidance.
 - Be made impartially and in good faith.
 - Be made by the body that receives all the relevant information and evidence.
 - Relate to the issue or question placed before the committee.
 - Be based only on consideration of relevant and material matters.
 - Be rational and reasoned.
 - Be made in a way that does not give rise to public suspicion or mistrust.
- 4.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 4.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 4.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 4.7 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

5. Consultee Comments

- 5.1 Objections have been received from:

Nigel Overall (Gloucestershire Highways) – “Gloucestershire Highways would not have any highway related objections to this application. However it should be noted that road improvement

works are planned for this area, programmed start in June 2014 and hence restrictions should be written into all Street Trading Licences granted for this area.”

Detail of the work being undertaken is attached at **Appendix C** of this report. Due to the nature of the work being undertaken, Gloucestershire Highways have requested that, should this consent be granted, that it only be done so until June 2014.

Richard Nichol (Canada Life - Owners of Regent Arcade) – Mr Nicol stated in his objection:

“I am writing to formally register Canada Life’s objection to the above two street trading applications as owners of Regent Arcade Shopping Centre.

I attach a copy of the letter dated 9 October 2013 from my colleague Mike Roberts objecting to the initial street trading application in respect of the ‘Falfeleat Mobile Bike’. Plainly we were disappointed and indeed surprised that despite there being clear grounds for refusal, the application was approved. The grounds for objection outlined in Mike’s letter again apply in respect of the renewal application for this street trader (14/00404/STA) as well as the new application for a mobile coffee unit (14/00363 /STA) to be positioned close by.

To summarise, both vehicles are to be positioned directly in front of Regent Arcade’s High Street façade (which runs from Burger King to River Island), obscuring the main entrance which Canada Life recently spent £20m re-developing and which has substantially improved the appearance of the pedestrianised section the High Street. As you are likely aware this redevelopment and specifically its classical Regency design secured a royal visit to the town last November from HRH Prince of Wales. Obscuring the principal entrance to Regent Arcade will make it less visible to shoppers, reducing footfall within the centre and negatively impacting on the trade of the 55 retail operators currently in the scheme.

Of greater concern however is the detrimental impact that increased numbers of these mobile food stalls will have on established food operators within the town. Mobile food stalls plainly have an unfair advantage over established businesses as they effectively have no overheads. In particular, established food operators who trade from traditional shops/retail units remain heavily overburdened with business rates liabilities that are based off pre-recession rent levels. Mobile food stalls plainly do not have to pay any business rates, so the enhanced competition created by their growing presence will only lead to established food operators failing. Many of these food operators are family-run, long established businesses that employ comparatively large numbers of staff, and losing them would increase the number of vacant shops/retail units within the town.

The decision to continue approving increasing numbers of street trading applications is counter-intuitive and detrimental to existing traditional retail businesses and food operators. On the face of it the council does not appear to have a joined-up strategy on this issue and some councillors don’t appear to take into consideration the wider issues at stake. It was indeed noted that when the original application for the ‘Falfeleat Mobile Bike’ was being considered, one councillor remarked to the chamber that business rates were paid to landlords and this was not corrected by anyone else on the panel. This lack of understanding is deeply concerning, particularly when councillors are charged with making informed and balanced decisions on such important issues that affect the livelihood of people and businesses in their constituencies.

Another incorrect and unhelpful interpretation that has previously been implied by those associated with the committee, is that Canada Life, being a large London-based life assurance company which owns a considerable amount of property in the town is somehow ‘trying to throw its weight around’ to try and influence the panel for its own benefit. This could not be further from the truth. I would have hoped that the commitment Canada Life has shown to Cheltenham and indeed CBC (as our partners at Regent Arcade), particularly through the recent recession would have countered any such suggestion. Our objections are primarily based upon the negative impact these applications

will have on our retailers in Regent Arcade (particularly food operators) and indeed others in the town.

We trust that after thorough and informed consideration, both applications will be duly rejected.”

Mr Howard Barber (Public Realm Designer, Cheltenham Borough Council) – Whilst Mr Barber did not object to the application, he noted that a new wayfinding monolith is to be installed to the western edge of the licence area but they would want people to access both sides of it.

For Member’s information, details of the proposed monolith are attached at **Appendix D**.

6. Licensing Comments

- 6.1 The Council’s current policy in relation to street trading in the town centre states that the Council will permit a “...modest amount of street trading ... of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town’s reputation as a tourist and leisure destination, and is in keeping with the streetscape.”
- 6.2 In accordance with the above policy position, Members must be satisfied that the proposed street trading is such that it continues to “enhances the town’s reputation as a tourist and leisure destination, and is in keeping with the streetscape”.
- 6.3 Members must also have regards to the adopted Probity in Licensing guide.
- 6.4 In relation to the proposed monolith, Members are to note that agreement has been reached with Mr Hadad to move his proposed trading position 3 metres (approx 9 feet) up the High Street towards Boots Corner. This will satisfy the concerns made by Mr Barber.
- 6.5 Members will note from the recommendations that it is recommended that this consent be issued until June 2014 taking into account the road improvement works. If Mr Hadad would like to continue to trade for the duration of the works, estimated to be between June and October, he will be required to submit a new application for this location to ensure proper consultation on the alternative location is undertaken. Officers will assist Mr Hadad where possible.

Background Papers

Service Records

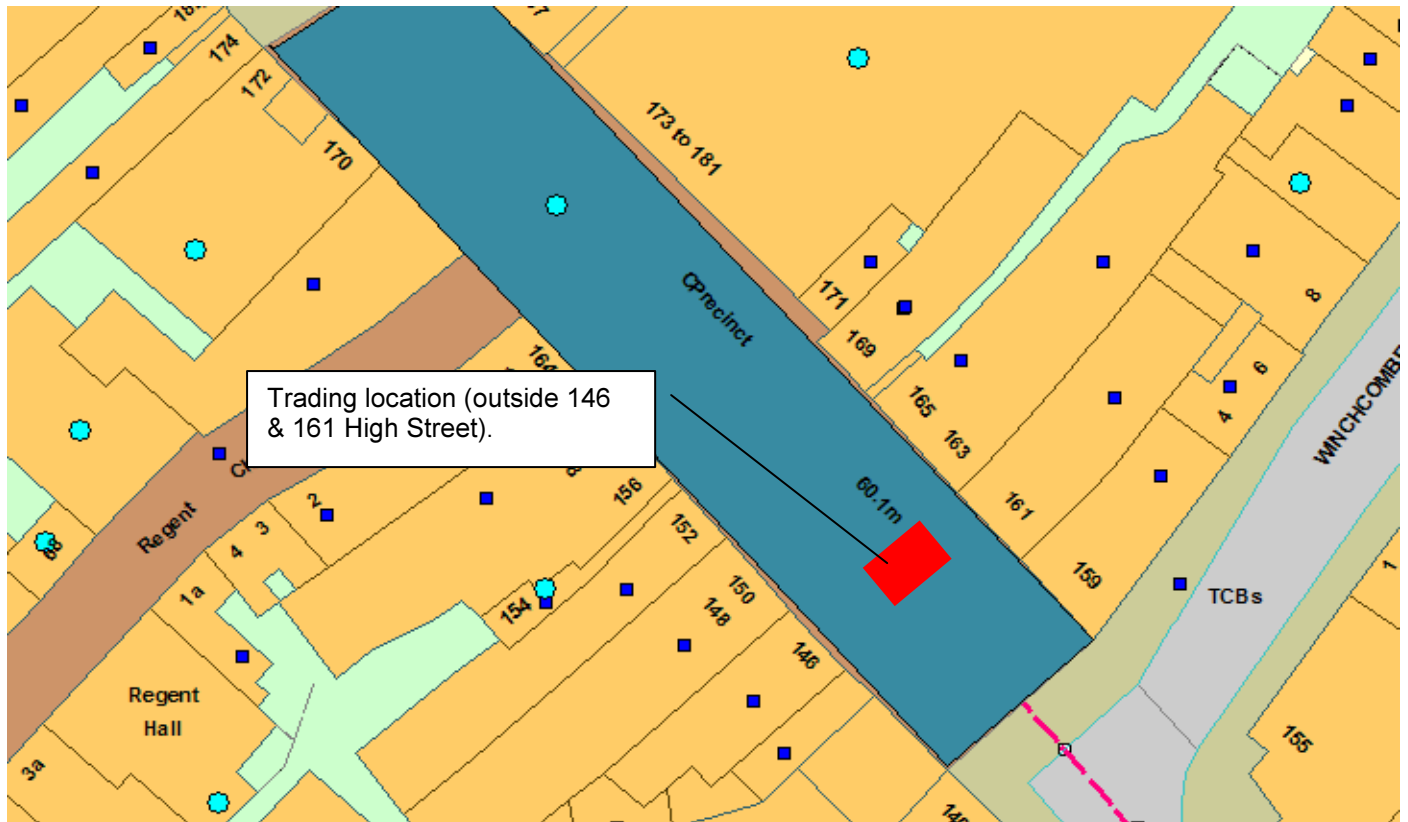
Report Author

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775004

Appendix A

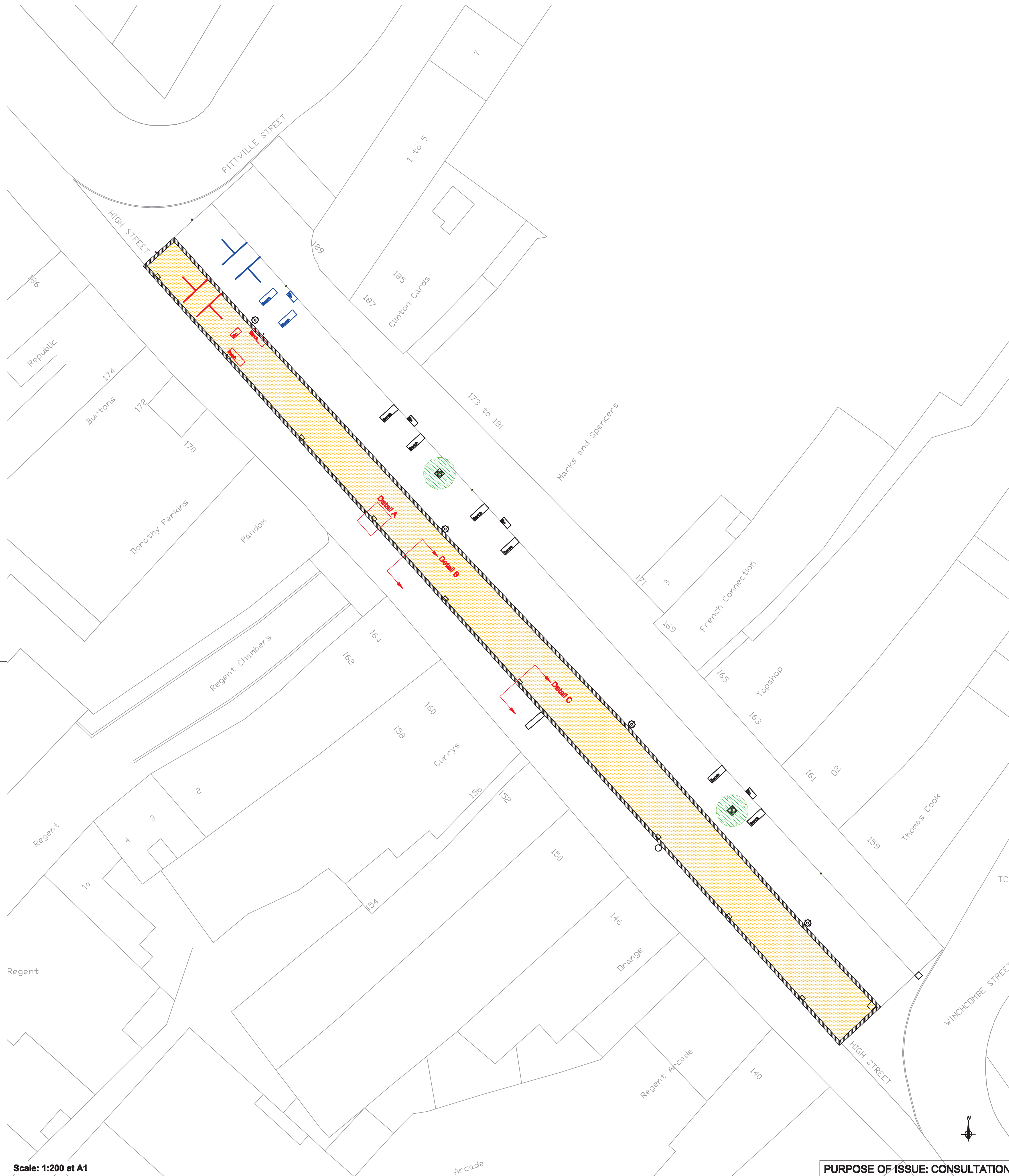
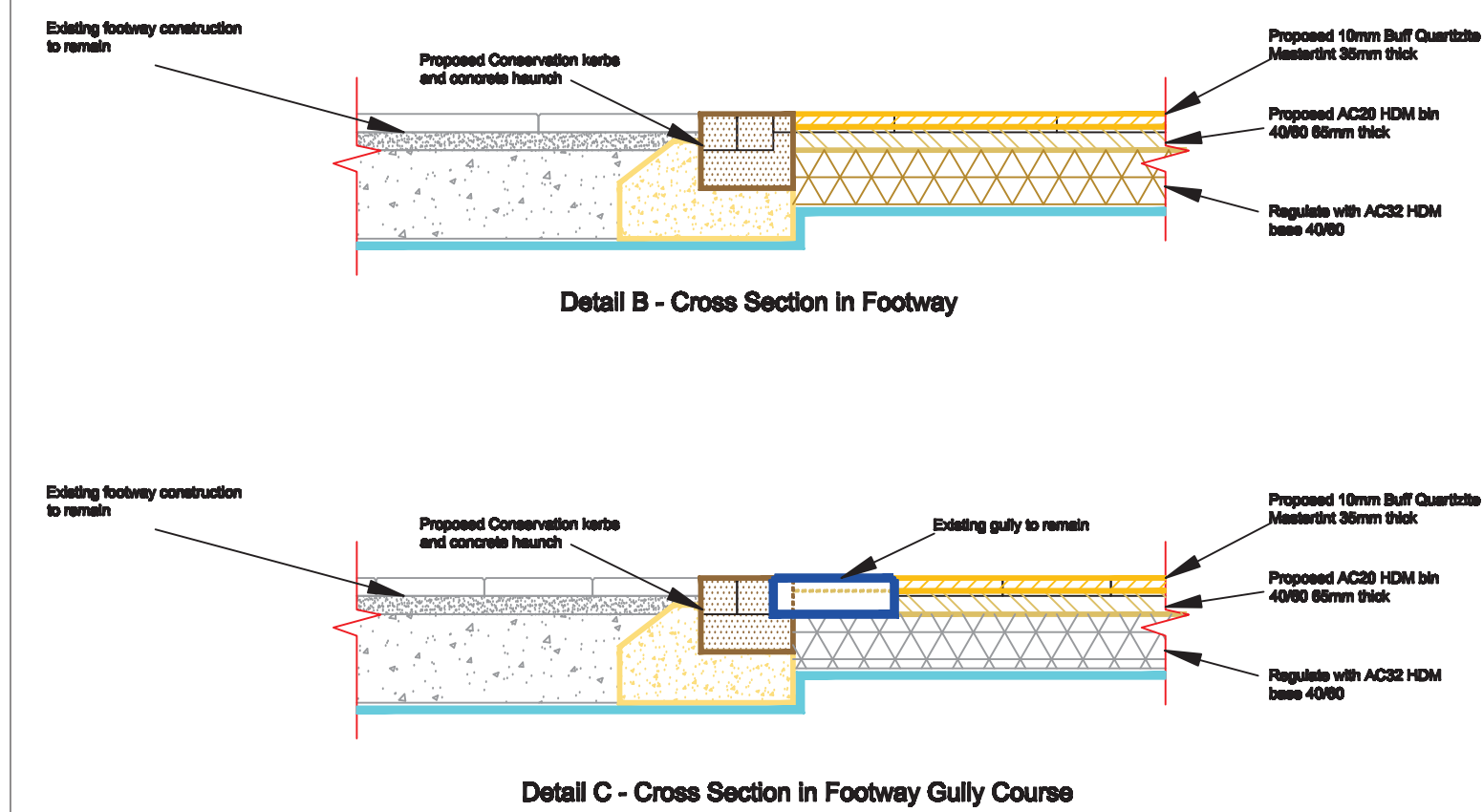


Appendix B



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A photograph of a concrete sidewalk. On the left, there is a metal grate with a grid of small holes. To its right, there is a square metal frame, possibly for a light fixture or a sensor. The sidewalk is made of large, light-colored concrete slabs. The background is a plain, light-colored wall.

Sign No.: 18 Map Monolith (Type 1)



Location:

High Street/ Outside Regent Arcade

Title:



Content:

High Street
Regent Arcade
Beechwood Shopping Centre
Tourist Information Centre
Art Gallery and Museum
Everyman Theatre
The Promenade
Sandford Park
Bath Road
Playhouse Theatre
Hospital

Maps:

Town wide, Local area, Cycle and Bus

Interpretation:



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Cheltenham Borough Council

Licensing Committee – 25 April 2014

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Mrs Marie Fullwood

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

- 1.1 An application has been received from Mrs Marie Fullwood, for a street trading consent. Mrs Fullwood is proposing to sell specialist coffees, pastries, chilled drinks and paninis from a mobile unit measuring 3m x 2.1m on the High Street (facing East) adjacent to French Connection and Burger King.
- 1.2 Mrs Fullwood has applied to trade Monday to Saturday 08:00 to 18:00.
- 1.3 An image of the mobile unit is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.3 The Committee is recommended to resolve that:**
- 1.3.1 The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable; or**
- 1.3.2 The application be approved because Members are satisfied that the application does comply with the provision of the Street Scene policy and the location is deemed suitable;**
- 1.3.3 Subject to resolution 1.3.2, the application only be granted to the end of June 2014.**

1.4 Implications

- 1.4.1 Financial **Contact officer: Sarah Didcote**
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.4.2 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.

Consent can be revoked at any time. An existing trader or a trader who has previously traded from a location does not have a legal right to any consent being automatically renewed or granted.

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

Contact officer: Vikki Fennell
E-mail: vikki.fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole 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:

- To have a clear & transparent policy governing street trading activities in the Borough.
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- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,

- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

4. Probity in Licensing

- 4.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.
- 4.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 4.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
 - Be made on the individual merits of a case.
 - Have regard to all relevant national and local guidance.
 - Be made impartially and in good faith.
 - Be made by the body that receives all the relevant information and evidence.
 - Relate to the issue or question placed before the committee.
 - Be based only on consideration of relevant and material matters.
 - Be rational and reasoned.
 - Be made in a way that does not give rise to public suspicion or mistrust.
- 4.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.

- 4.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 4.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 4.7 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

5. Consultee Comments

- 5.1 Objections have been received from:

Mr Martin Quantock (Business Partnership Manager) – Mr Quantock stated in his objection:

“I am writing to object to the street trading application ref 14/00363/STA for the following reasons:

- the site chosen by the applicant is directly adjacent to a business selling similar, if not identical, produce - the street trader would be very detrimental to the established business
- there is another long standing street trader in close proximity selling identical produce
- Glos Highways have plans to refurbish the High Street this year (apparently commencing April) - the siting of this applicant may compromise this work
- the size of the unit will act as a 'barrier' between the shops on either side of the High Street, and also obscure the windows of the retailers from passing pedestrians
- I believe we have reached the limit for the number of street traders that the High Street can accommodate (e.g. 3 x food sellers, 2 x flower sellers, 1 x ice cream seller, 1 x childrens roundabout ride)
- If this stall was allowed to trade, it would mean that at times during the year, Cheltenham will have five separate generators running to power the street traders, at the same time, on the High Street, between the Beechwood Shopping Centre and Pittville Street. I believe this would detract from the street scene, in terms of emissions, noise and attractiveness. Companies may feel that Cheltenham would no longer be an attractive town to invest in and go elsewhere.”

Mr John Forward (Regent Arcade Manager) – Mr Forward stated in his objection:

“I am registering my objection to the Licensing Application 14/00363/STA in respect of the Coffee & Donuts mobile unit to be sited on the High St This is yet another example of street traders cashing in on the increased footfall created by permanent retailers in the area.

Canada Life has made a considerable investment in the Regent Arcade over the last few years, in a bid to encourage new retailers into Cheltenham. We have a number of fast food operators already trading in the area Burger King in the High St and Millies, Auntie Annes, Soho Coffee and Druckers trading in the Regent Arcade all paying rent, employing staff and in addition paying very high business rates which are collected by the Cheltenham Borough Council on behalf of Central Government, these street traders only pay a small licence fee to the CBC. An example of business rates paid by some of the above traders per annum are:

Millies £28,966
Auntie Annes £15,662
Soho Coffee £14,954

Druckers £25,434

These costs are not negotiable they have no option but to pay, street traders do not have these costs. In addition they have rent, utility and staff costs.

In the Regent Arcade we have had 10 retailers close since Christmas all have stated that the business rates are too high with the loss of 54 jobs, if you continue to allow these operators to open on our High Streets it will result in more casualties amongst other retailers and increased unemployment. This is not a level playing field.

Not only do these street traders have an unfair advantage over more committed retailers, they do not add value to our High St, they block vision to other retailers shop fronts and window displays, they run generators which are noisy and emit fumes and generally make our High St look untidy and down market.

I trust that you will give this application full and careful consideration and look at the impact on the town centre and retailers who are committed who are committed to supporting the Town for the long term.”

Nigel Overall (Gloucestershire Highways) – Whilst Highways have not objected per se, they have advised the Council that they are doing highway improvement work due to start in June. Detail of the work being undertaken is attached at **Appendix C** of this report. Due to the nature of the work being undertaken, Gloucestershire Highways have requested that, should this consent be granted, that it only be done so until June.

Richard Nichol (Canada Life - Owners of Regent Arcade) – Mr Nicol stated in his objection: “I am writing to formally register Canada Life’s objection to the above two street trading applications as owners of Regent Arcade Shopping Centre.

I attach a copy of the letter dated 9 October 2013 from my colleague Mike Roberts objecting to the initial street trading application in respect of the “Falfleat Mobile Bike”. Plainly we were disappointed and indeed surprised that despite there being clear grounds for refusal, the application was approved. The grounds for objection outlined in Mike’s letter again apply in respect of the renewal application for this street trader (14/00404/STA) as well as the new application for a mobile coffee unit (14/00363 /STA) to be positioned close by.

To summarise, both vehicles are to be positioned directly in front of Regent Arcade’s High Street facade (which runs from Burger King to River Island), obscuring the main entrance which Canada Life recently spent £20m re-developing and which has substantially improved the appearance of the pedestrianised section the High Street. As you are likely aware this redevelopment and specifically its classical Regency design secured a royal visit to the town last November from HRH Prince of Wales. Obscuring the principal entrance to Regent Arcade will make it less visible to shoppers, reducing footfall within the centre and negatively impacting on the trade of the 55 retail operators currently in the scheme.

Of greater concern however is the detrimental impact that increased numbers of these mobile food stalls will have on established food operators within the town. Mobile food stalls plainly have an unfair advantage over established businesses as they effectively have no overheads. In particular, established food operators who trade from traditional shops/retail units remain heavily overburdened with business rates liabilities that are based off pre-recession rent levels. Mobile food stalls plainly do not have to pay any business rates, so the enhanced competition created by their growing presence will only lead to established food operators failing. Many of these food operators are family-run, long established businesses that employ comparatively large numbers of staff, and losing them would increase the number of vacant shops/retail units within the town.

The decision to continue approving increasing numbers of street trading applications is counter-intuitive and detrimental to existing traditional retail businesses and food operators. On the face of it the council does not appear to have a joined-up strategy on this issue and some councillors don’t

appear to take into consideration the wider issues at stake. It was indeed noted that when the original application for the “Falfeleat Mobile Bike” was being considered, one councillor remarked to the chamber that business rates were paid to landlords and this was not corrected by anyone else on the panel. This lack of understanding is deeply concerning, particularly when councillors are charged with making informed and balanced decisions on such important issues that affect the livelihood of people and businesses in their constituencies.

Another incorrect and unhelpful interpretation that has previously been implied by those associated with the committee, is that Canada Life, being a large London-based life assurance company which owns a considerable amount of property in the town is somehow “trying to throw its weight around” to try and influence the panel for its own benefit. This could not be further from the truth. I would have hoped that the commitment Canada Life has shown to Cheltenham and indeed CBC (as our partners at Regent Arcade), particularly through the recent recession would have countered any such suggestion. Our objections are primarily based upon the negative impact these applications will have on our retailers in Regent Arcade (particularly food operators) and indeed others in the town.

We trust that after thorough and informed consideration, both applications will be duly rejected.”

Pamela Airewele (KFG UK on behalf of Burger King) – Ms Airewele commented in her objection:

“Please note that we would like to formally object to this street trading application on the following grounds:

- Concerns regarding public sanitation – not just the sanitation of the proposed unit but for concern regarding customers ability to relieve themselves following consumption at this proposed unit.
- Access to public toilet – this does not appear to be clear. It is unreasonable for our toilets to be utilised which is the likely outcome as this unit does not provide its own facilities.
- Litter – the rubbish that will be generated by the unit and the waste that will be left behind by customers and the unit on a daily basis will be an eye sore. Moreover, will require additional litter patrol by the council in this area. Application does not appear to clarify how litter is to be managed.
- Nuisance – smell that will arise from this type of establishment (no extraction system). Smells just allowed to escape into the air making it an uncomfortable and unsanitary area to be near.
- Nuisance – pest that will be attracted to this type of establishment. No safeguards seem to be in place to deal with the eventual pests (pigeons, mice, rats and foxes) that will be attracted to this unit.
- Poor presentation of the unit – the proposed unit would not be in keeping with the general order of the high street.
- The unit will impede visibility to our unit, negatively affect trade and the value of the premises.
- Moreover, the introduction of this type of unit will impact the trade of our unit as they intend to directly compete with us on a number of our products.
- Safety of this type of unit – is the unit safe? With portable gas we are concerned as to whether the unit will not be a risk to the public.

- Public safety – the location of this unit will be an obstruction to the emergency route the pedestrian high street requires.

From reviewing the application it is unclear how the licensing objectives will be upheld let alone promoted, notably:

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

As a party that would be significantly hindered by this application we strongly object to this application and support the council refusing this application in line with its obligations to uphold the licensing objectives listed above also.”

Mr William Danter – “I am writing to object regarding the Street Trading Proposal (14/00363/STA)

My grounds for objection are as follows:

This Large Catering Van would completely block the view of my Roundabout, so having a large impact on our business.

The diagram showing the proposed position is not accurate. It shows the Catering Van taking up less room than it actually will.

As I already sell Hot Fresh Donuts & Crepes. I think it would be unfair for the Council to grant someone another license duplicating this product so near to the position I am trading from.

I do not see how this proposal would enhance the High Street. It does not offer any products that are not already catered for

I took the liberty of parking my van for a few minutes last Sunday morning before the shops opened on the position this application has applied for.

As you can see, it totally blocks the view of my Roundabout when walking down the High Street! It also encroaches into the delivery and emergency route.

I think this is completely unacceptable!



Yes the Roundabout is there, you can just see the little sign.

I have been trading with my small traditional barrow in the High Street since 2006, selling Hot Fresh Donuts and Crepes. Having only recently been granted a license to trade during school holidays. If granted, this Coffee Van. Selling everything a Cafe sells as well as Donuts, would make my position unviable!

Thank you for your time as always.”

6. Licensing Comments

- 6.1 The Council’s current policy in relation to street trading in the town centre states that the Council will permit a “...modest amount of street trading ... of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town’s reputation as a tourist and leisure destination, and is in keeping with the streetscape.”
- 6.2 In accordance with the above policy position, Members must be satisfied that the proposed street trading is such that “it enhances the town’s reputation as a tourist and leisure destination, and is in keeping with the streetscape”.
- 6.3 The policy further states that the Council will permit a “modest amount of street trading” in the town centre and other conservation areas. Members will note from the comments made by a number of objectors that there is concern over the overprovision of street traders in that area. Officers share the same concern.

- 6.4 If Members were to approve this application, there will be 6 traders on the High Street between the Boots Corner and the Beechwood Arcade. The location map at **Appendix B** also shows the other existing units for the information of Members.
- 6.5 In relation to the objection submitted by Ms Airewele, Members are to note the 4 licensing objectives are not relevant because they relate to applications made under the Licensing Act 2003, of which this is not.
- 6.6 Members must also have regards to the adopted Probity in Licensing guide.
- 6.7 Mrs Fullwood has been invited to attend the hearing.

Background Papers

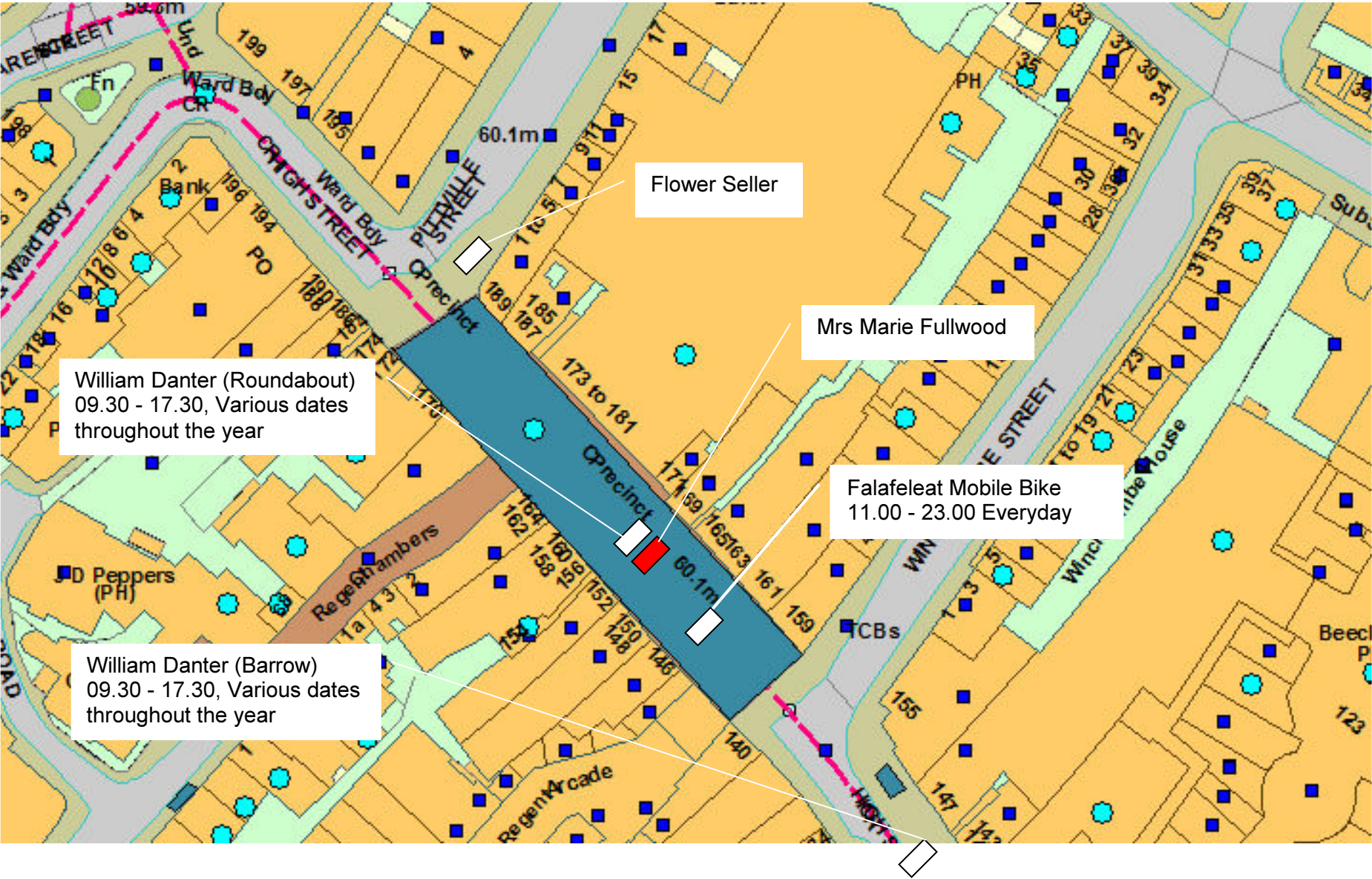
Service Records

Report Author

Contact officer: Mr Phil Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242775200

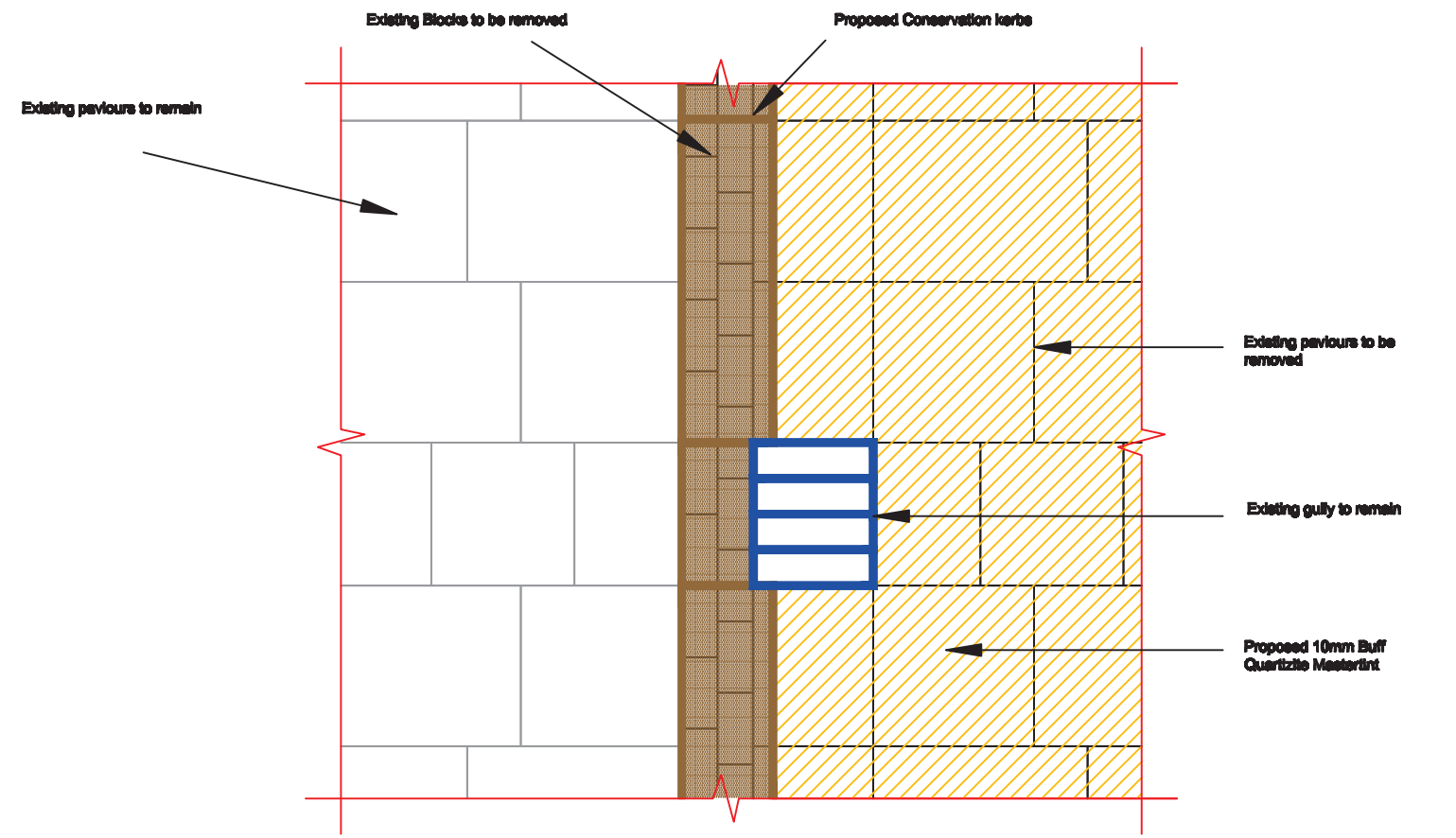


Appendix B

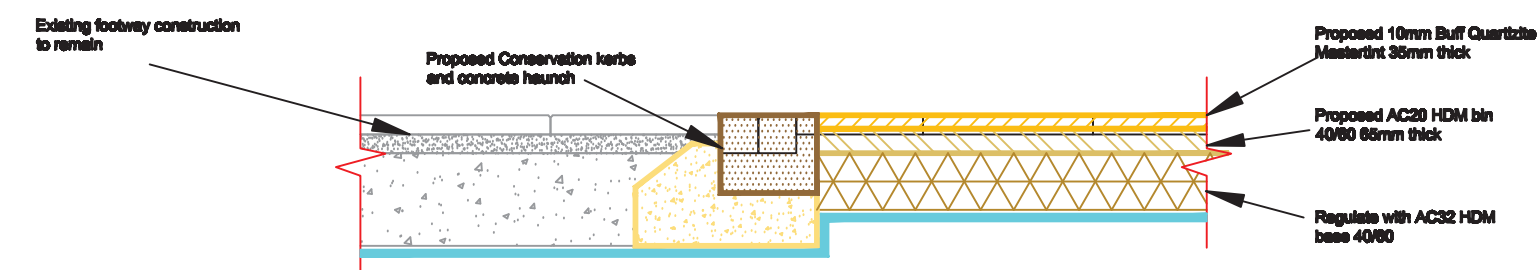


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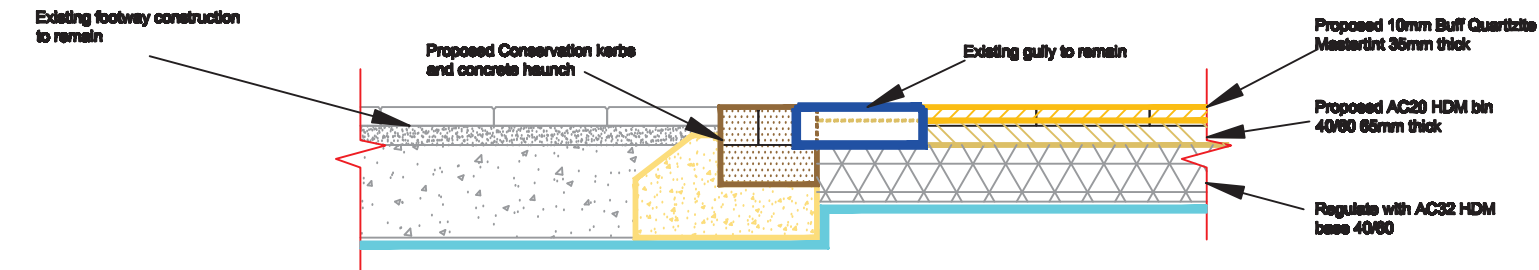
Page 32



Detail A - Kerbing and pavement layout

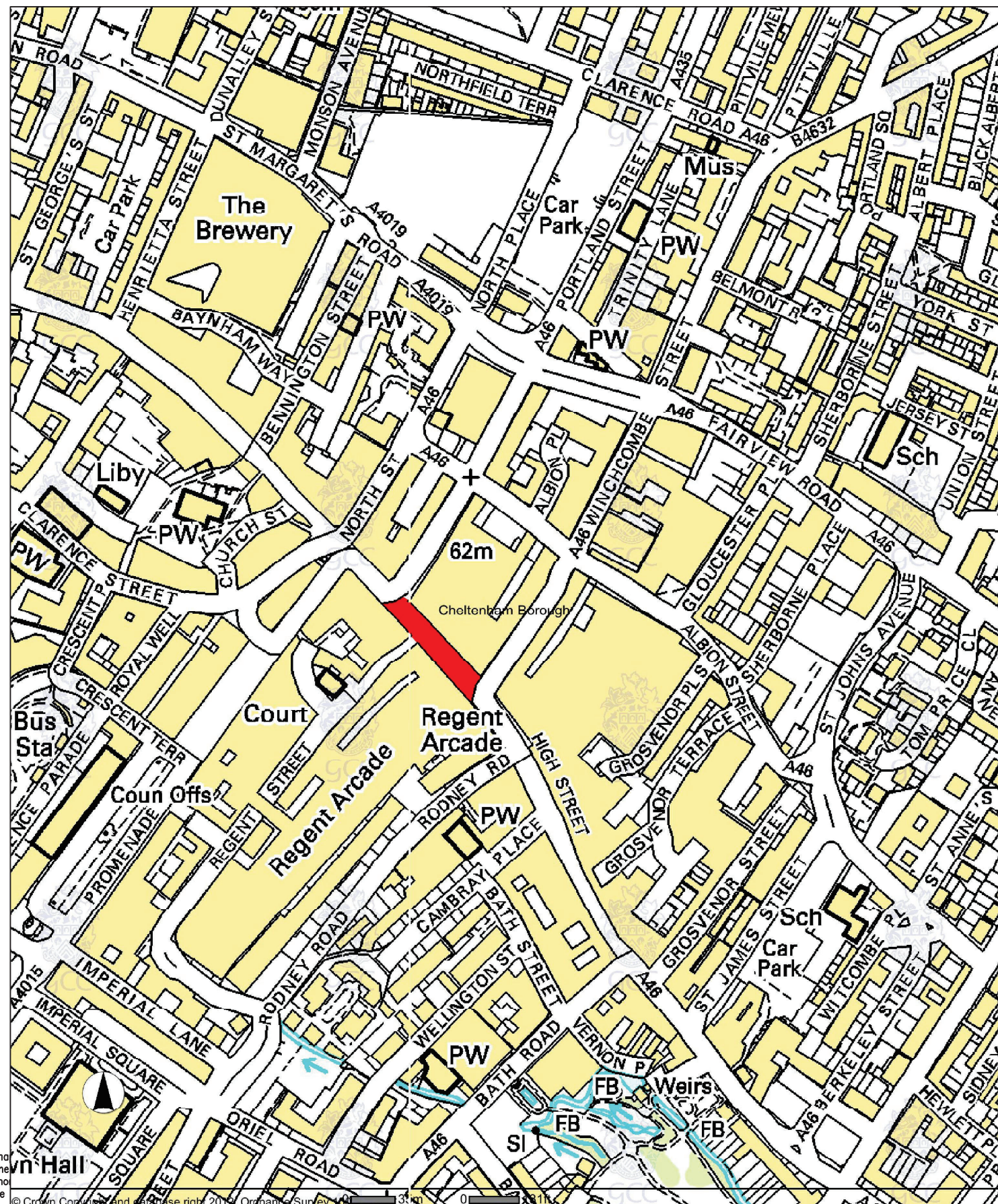


Detail B - Cross Section In Footway

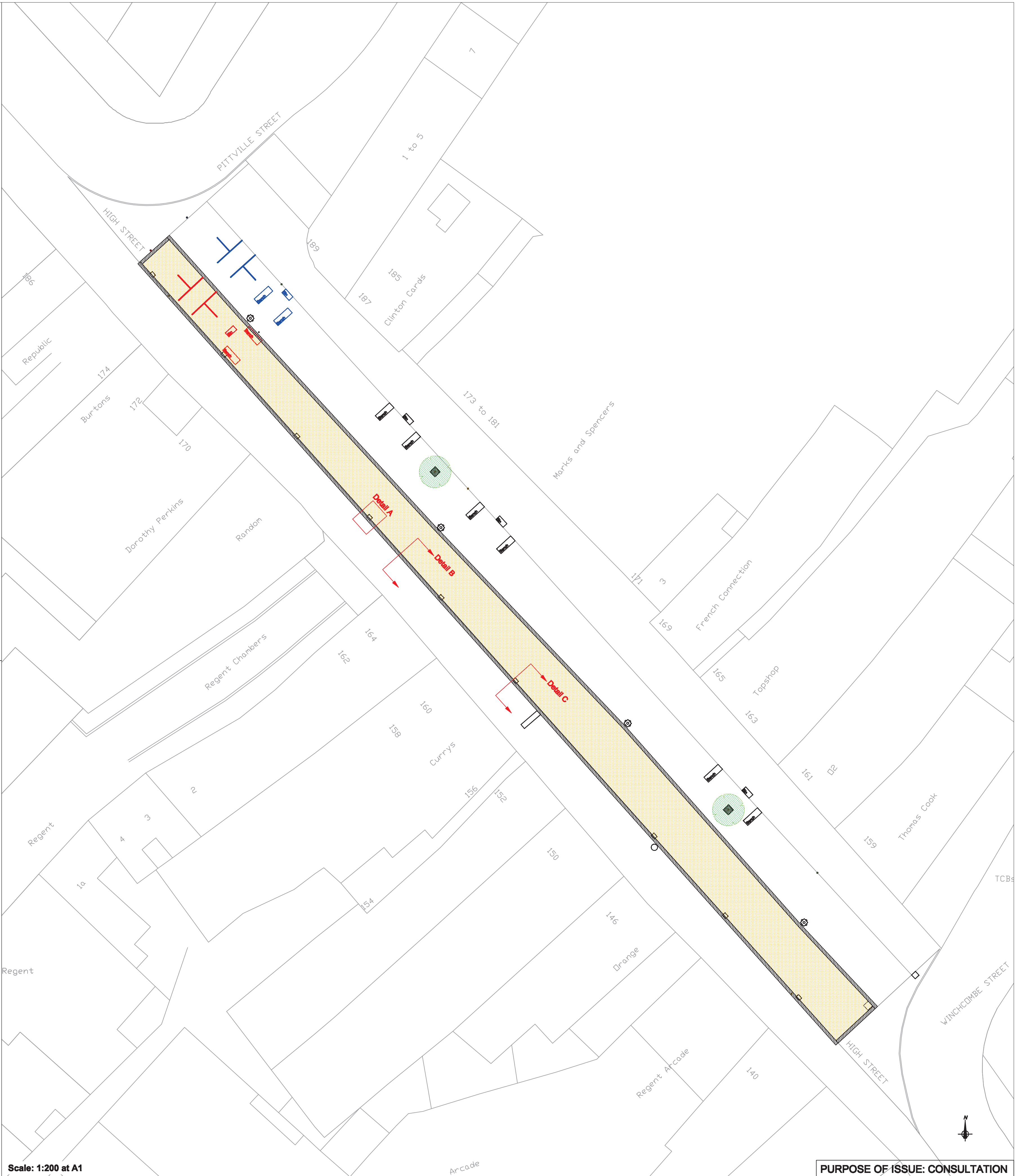


Detail C - Cross Section In Footway Gully Course

Scale: 1:20 at A1



Scale: 1:200 at A1



PURPOSE OF ISSUE: CONSULTATION

Key:

- Proposed Conservation Kerbs on concrete bed and haunch
- Excavate existing pavements and bedding to an approximate depth of 130mm, replace with 35mm thick 10mm Buff Quartzite Masterint 55psv, 65mm thick AC20 HDM bin 40/60, regulate with AC32 HDM base 40/60.
- Existing Street Furniture
- Existing Lighting Column
- Existing Gullies
- Existing Street Furniture to be moved
- Proposed location for street furniture
- Existing Tree

Notes:



Rev	By	Chkd	Apprd	Date	Description
A					First Issue

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION	
IN ADDITION TO THE HAZARDOUS RISKS NORMALLY ASSOCIATED WITH THE TYPES OF WORK DETAILED ON THIS DRAWING, NOTE THE FOLLOWING SIGNIFICANT RESIDUAL RISKS	
CONSTRUCTION	
MAINTENANCE/CLEANING	
USE	
DECOMMISSIONING/DEMOLITION	



Gloucestershire Highways
Imperial Gate Business Park
Corinium Avenue
Gloucester
Gloucestershire GL4 3BW

Tel +44 (0)800 514514 Fax +44 (0)1452 530493
Email highways@gloucestershire.gov.uk
www.gloucestershire.gov.uk

Project
**High Street
(Henrietta Street to Cambray Place)
Cheltenham**

Drawing
**GENERAL ARRANGEMENT
DRAWING**

Drawn by: RL Date: August 2013
Checked by: Date:
Approved by: Date:
Drawing No. SD.21278.40.003 Revision A

Drawing Scale: As Shown

Cheltenham Borough Council

Licensing Committee – 25 April 2014

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Mr Mark Morris

Report of the Licensing & Business Support Team Leader

1. Summary and recommendation

- 1.1 An application for the renewal of a street trading consent has been received from Mr Mark Morris in respect of his flower stall located on the Promenade at the junction with Ormond Place.
- 1.2 The application is to sell fresh cut flowers, pot plants and holly wreaths from a stall measuring 12 - 18 square metres Monday to Fridays 08:30 to 18:00 and 11:00 to 17:00 on Sundays.
- 1.3 An image of the stall is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.4 A number of objections have been received in connection with this application and for that reason it has been referred to the Licensing Committee for determination in accordance with the Council's Constitutional arrangements.
- 1.5 **The Committee is recommended to resolve that:**
 - 1.5.1 **The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location is deemed unsuitable; or**
 - 1.5.2 **The application be approved because Members are satisfied that the application does comply with the provision of the Street Scene policy and the location is deemed suitable;**
 - 1.5.3 **Subject to resolution 1.5.2, decide whether the consent should be time limited;**
 - 1.5.4 **Subject to resolution 1.5.3, to delegate authority to officers to revoke the consent at the appropriate time when the improvement works are due to begin.**

1.6 Implications

1.6.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.6.2 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.

Consent can be revoked at any time. An existing trader or a trader who has previously traded from a location does not have a legal right to any consent being automatically renewed or granted.

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

Contact officer: Vikki Fennell
E-mail: vikki.fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole 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:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,

- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

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4.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:

- Be made on the individual merits of a case.
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4.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.

- 4.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 4.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 4.7 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

5. Consultee Comments

5.1 Objections have been received from:

5.1.1 **Mr Alexander Rose (Managing Director – Beards Jewellers):**

Dear Sirs,

Application for Street Trading Licence Application Number (14/00620/STA)

In regard to the application to the above mention Street Trading Licence Application, we wish to formally object to the renewal of the licence or ANY street trading at the proposed renewal location.

We have outlined our concerns both in person, and in writing to council officials in the past and have been advised that the renewal of the licence is the best time to raise the objections and press the case for rejecting the application.

We are one of two businesses closest to the siting of the street trading and are without doubt one of the stakeholders most directly affected by any street trading at the Ormond Place location.

We are strongly opposed to street trading at this location for the following reasons:

- It has a direct impact on our businesses ability to raise receipts and revenue, due to the lack of visibility of our largest window frontage; indeed many of our new clients are not even aware we sell the products we do along the Ormond Place frontage due to the fact they cannot be seen by passing trade from The Promenade.
- Our business relies heavily on our watch brands who we can only site on the Ormond Place frontage, we receive numerous complaints from the brands about the lack of visibility to the general public and the lack of growth we achieve in comparison to other retailers who have better visibility as a result of the reduced visibility. We are unable to advertise on the building due to council advertising restrictions so are unable to use the premises to its full potential and this has been the case since the flower stand was moved into Ormond Place a few years ago. To add insult to injury, on days (which there are not many) when the flower stand is not present, we see a direct increase in enquiries, foot flow, and sales of products sited on Ormond Place.
- The siting of the stand prevents multiple pedestrians moving down Ormond Place due to the congestion. Wheelchairs, bicycles and pedestrians at peak times have to queue to get past the stand, this is made worse by the recent siting of the bus stop which now also stops outside our premises; the queue and congestion from people trying to get up Ormond Place prevents people passing up the Promenade. We have been witness to, and assisted, members of the public who have been knocked over or pushed up against our windows trying to get by.
- We have also been informed that Canada Life who own the Regent Arcade are proposing a much needed investment in Ormond Place to improve its attractiveness to shoppers. We are informed that the investment hinges on the fact that if the council renew the application, they quite simply wont invest.

BEARDS

1804

The investment Canada Life are proposing would bring a much needed re-development of the Ormond Place end of the Regent Arcade in a similar way they have to the High Street end. The investment would bring in much needed new business, create jobs and increase visitors to the town which can only be a positive for the wider community. We understand their reluctance to invest so heavily if the street trading licence is renewed as their visibility will also be significantly impacted and would be a complete waste of money

- With the presence of so many empty units (1 on the Promenade, and multiple units in the Regent Arcade) we find it staggering that street traders, who can be sited more appropriately and still prosper, are being considered in areas where they are creating barriers to investment and financial growth for businesses that have fixed locations and cannot perform at their full potential

We hope the council will take these objections into account and consider the needs of the wider business community. The siting of ANY street trading in this location is untenable and impacting not only our business but all the business along Ormond Place. It is impacting the general public and if renewed will prevent a much needed investment to the town.

We remain available to add explanation to our objections

Yours sincerely



Alexander Rose
Managing Director

5.1.2 Mr Jeremy Williamson (Managing Director – Cheltenham Development Task Force):

7th April 2014

Dear Louis

Re: 14/00620/STA Flower Stand

I am really supportive of the town centre flower seller stalls for the vibrancy that they bring to the street scene; however the location at the junction of the Promenade and Ormond Place poses both existing and future challenges.

This particular stall has become too large for its location with flower containers regularly beyond the reach of the umbrella. This results in a significant reduction in pavement width for such a busy thoroughfare. In addition, the scale of the stall and associated umbrella block the sight lines to Regent Street and the Regent Arcade.

This latter aspect is of particular significance to the Regent Arcade. Having successfully completed a major refurbishment to their High Street entrance, Canada Life as owners (in partnership with Cheltenham Borough Council), now wish to proceed with an approved planning scheme on their Regent Street frontage.

The proposal includes not only work to their structure but critically significant work to the public realm connecting the Regent Arcade entrance to the Promenade. This will materially enhance this part of town and is a cost that neither GCC (as highways authority) nor CBC could currently contemplate.

Canada Life has made it quite clear that they will not undertake the enhancements unless they can secure unimpeded views from Regent Arcade to the Promenade and vice versa. This can only be achieved if the flower stall is relocated.

On this basis I would suggest that the licence application be supported but not in this location, and equally that other applications for this area be deterred for the same reason. This compromise approach would allow the town to keep the flower stall, perhaps on the Promenade itself so in close proximity to current location but at the same time ensure that the proposed major capital investment is not lost. A win-win situation.

Yours sincerely

Jeremy Williamson

5.1.3 Richard Nichol (Canada Life - Owners of Regent Arcade):

"I am writing to formally register Canada Life's objection to the above street trading application as owners of Regent Arcade Shopping Centre. As stated in previous objections submitted by our managing agents DTZ and Centre Director John Forward, the existing flower stand (or indeed any other street trader occupying this site) substantially obscures visibility of passing shoppers on the Promenade to the shops and businesses on Ormond Place and the entrance to Regent Arcade beyond. This is obviously detrimental to the trade of those retailers on Ormond Place, Regent Street and within the Arcade, many of which are local businesses that are heavily reliant on passing pedestrian footfall.

As you may be aware, Canada Life has obtained planning consent to redevelop Regent Arcade's Ormond Place entrance as well as pedestrianising a substantial area of streetscape all the way through to the Promenade. These works would undoubtedly improve the appearance of this part of Cheltenham, albeit at significant cost to ourselves. Further details are attached for reference. Subject to funding and the ironing out a few outstanding points with Mike Redman and his team, we would hope to start work on site later this year (ideally Q3) following the discharge of conditions. It is a fundamental requirement of this investment that the sightlines from the Promenade to the Arcade are not obscured in any way. I can therefore confirm that if the committee approves this street licence renewal application for another year, these works to the Ormond Place streetscape will not go ahead."

5.1.4 Mr Martin Quantock (Business Partnership Manager):

"Regarding the application renewal for the pitch on Ormond Place.

I understand that if this trader (or any other trader) would be allowed to trade on this pitch (or any other pitch on Ormond Place that would obscure the street scene and/or the view of the entrance to the Regent Arcade) then the proposed improvement works to be carried out this year and funded by Canada Life would no longer take place.

The proposed improvements to the street scene would help the businesses in this area (the street has both independent and national retailers trading there) and would involve significant investment by Canada Life.

For this reason I would object to the renewal, particularly as an alternative site may be available on the pedestrianised area of the Promenade."

5.1.5 Mr Richard Ralph (DTZ Associate Director):

"I am writing to you in relation DTZ's position as managing agents of Regent Arcade Shopping Centre, Cheltenham. We wish to object to the street trading application regarding the Flower Seller (Street Trading Consultation (14/00620/STA) on the grounds that it obscures the vision from the Promenade along Ormond Terrace in the direction of the Regent Arcade.

The positioning of this street trader or indeed any other street trader in this location blocks the view from the recently refurbished Promenade of Ormond Terrace, the majority the businesses who trade along this area are in the main small independent retailers which helps make Cheltenham different to other towns, they all pay considerable business rates which are collected by the council in addition to all of the other costs associated with running a business including employing staff, utility bills and rent. Street Traders pay a small licence fee and very little else and are able to trade from prime locations, resulting in unfair competition.

Canada Life who own the shopping centre has secured planning consent to carry out refurbishment to the Ormond Place entrance to the centre and as part of that are also have planning consent to upgrade Ormond Terrace to a pedestrian area including new and upgraded street furniture and lighting from the junction of Regent Street to the Promenade this work will be funded by Canada Life. This is to encourage more visitors to explore Ormond Terrace, Regent Street and the Regent Arcade. This work is planned to be started this summer.

Our objection is not only for this application but for any Street Trading Application in that location which will visually impact on the new streetscape of Ormond Terrace. I can categorically state that if this or any other application is granted in this location or anywhere in Ormond Terrace that may obscure the streetscape Canada Life will not carry out any improvements to Ormond Terrace and therefore depriving those shops in Ormond Terrace and Regent Street increased footfall, sales and additional employment opportunities.

For and on behalf of DTZ, a UGL Company"

5.1.6 Mr John Forward (Regent Arcade Manager):

"We are writing to object to the street trading application regarding the Flower Seller (Street Trading Consultation (14/00620/STA) on the grounds that it obscures the vision from the Promenade along Ormond Terrace in the direction of the Regent Arcade.

The positioning of this street trader or indeed any other street trader in this location blocks the view from the recently refurbished Promenade of Ormond Terrace, the majority the businesses who trade along this area are in the main small independent retailers which helps make Cheltenham different to other towns, they all pay considerable business rates which are collected by the council in addition to all of the other costs associated with running a business including employing staff, utility bills and rent. Street Traders pay a small licence fee and very little else and are able to trade from prime locations, resulting in unfair competition.

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5.1.7 Mr Wilf Tomaney (Urban Design Manager, Cheltenham Borough Council):

"The sale of flowers generally has a positive impact on the street scene - bringing colour, beneficial activity, a strong sense of place, public use of the street and the stall-holders themselves are a strong beneficial human presence in the area - being known locally, engaging in conversation with passers-by etc. helping additionally with passive street surveillance. These stalls currently bring all these elements, particularly those in town centre locations.

I have no objection to the Pittville Street or Cemetery locations.

In principle I have no objection to the Ormond Place location which does much to enliven the Promenade. However, there are a number of concerns:

1. the canopy is large and with the display beneath it does restrict what is an important pedestrian route from the Promenade to Regent Arcade, Regent Street, the theatre etc.
2. whilst the current arrangement is striking from the front (Promenade view), from the rear (Regent Street view to the Promenade) it is very much back-of-house. Anecdotally there appears to be concerns regarding this from nearby retailers.
3. the planning permission for the redevelopment of the rear of Regent Arcade includes a landscaping scheme which if it goes ahead will bring substantial private investment in the public realm along Ormond Place and across to the Regent Arcade. This is to be welcomed. However, it seems that the investment is unlikely to be made if a flower stall is present in the street because it is considered to screen views of the Arcade from the Promenade.

In discussions with interested parties (stall-holder, neighbouring retailer, Arcade representatives) a number of suggestions have been made including

- a. a bespoke stall design is incorporated into the landscape treatment proposed for Ormond Place, possibly moving stall to one side, using a blank wall as a back-drop.
 - b. relocate stall to nearby on the Promenade - possibly the pedestrianised Promenade.
- Each is acceptable to some, but neither is acceptable to all parties.

There are significant benefits in the landscape proposals for Ormond Place in terms of street scene; the proposal is also likely to have a beneficial impact on pedestrian movement and calming traffic at its Regent Street/Ormond Place junction. The flower stall has benefits for the Promenade in terms of visual amenity, activity etc., as outlined earlier, but disbenefits visually on Ormond Place where the rear of the stall is prominent and can be restrictive for the heavy pedestrian movement in this area.

On balance the implementation of the landscape scheme is likely to have the most benefits and my conclusion is an objection to the Promenade/Ormond Place licence because of its potential to halt this scheme.

If the committee is minded to approve, conditions might include:

- A. limit the spread of the canopy to retain a 2.5m clearance either side, in order to benefit pedestrian movement (maybe permit exceptionally encroachment on special occasions - Christmas, Easter, Mother's Day)
- B. require improvement to the appearance of the rear of the stall, so that the back-of-house elements are less prominent - probably enclosed by flower displays."

6. Licensing Comments

- 6.1 Members will note from the objections received that there is no objection in principle to the type of trading but objectors stated that the siting of the particular stall is inappropriate for the location particularly given the Ormond Place improvement works due to start in the third quarter of 2014. For Members' information, a plan outlying the proposed scheme is attached at **appendix C** of this report.
- 6.2 When determining this application, Members must be guided by the current policy in relation to street trading, the adopted probity in licensing guide and the relevant statutory requirements.
- 6.3 In relation to the current policy, the relevant extracts are outlined above under paragraph 3. In particular, street trading in the town centre that states that the Council will permit a "...modest amount of street trading ... of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape."
- 6.4 The probity in licensing guide states, amongst others, that "Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance."
- 6.5 Whilst the entire probity in licensing guide is relevant and should be taken into account, the quoted paragraph above is particularly relevant given the objections received in relation to the proposed improvement scheme. Members will need to consider whether the impact of the scheme to improve Ormond Place is such that, on balance, it is in the best interest of the borough as a whole to go ahead although it be at the expense of the trading position.

- 6.6 In law, the Council has a very wide discretion to grant, or refuse, a street trading consent. Schedule 4 paragraph 7(2) of the Local Government (Miscellaneous Provisions) Act 1982 states "...the council may grant a consent if they think fit." The wide discretion allows the council to take into account any matters considered relevant which could include the suitability of the proposed trading position or type of street trading.
- 6.7 Furthermore, Members will note from the legal officer's comment that the law does not automatically grant an applicant the legal right to any consent being automatically renewed or granted.

Alternative Locations/Options

- 6.8 Officers from the Council have met with Mr Morris and representatives of the arcade and Beards to establish whether a compromise can be reached. Options included moving the stall to the Promenade outside Cavendish House or trying to incorporate a trading pitch in the proposed scheme as that is it more in keeping with what the arcade is trying to achieve for the location. Unfortunately neither party could agree on the alternatives.
- 6.9 There is the further option, if Members consider it appropriate, to grant the renewal but subject to the express condition that it will be revoked once the improvement work is due to start. This option was discussed with Canada Life. They prefer the assurance that the matter to do with the granting of this consent has been put to bed (subject to appeals) but also maintain, notwithstanding the proposed improvement works, that the trading pitch is too intrusive and obstructs too much of both the highway and the line of sight.
- 6.10 Notwithstanding this however, the option to issue a time limited consent is still an issue open to the Committee.
- 6.11 If Members do vote to refuse to renew the consent, Mr Morris can submit a new application for a different location primarily to ensure proper consultation on the new location is undertaken. Officers will assist where appropriate.
- 6.12 Members must provide full and clear reasons for whatever decision is reached with regards to this application.
- 6.13 There exists no right of appeal against the refusal of a street trading consent.

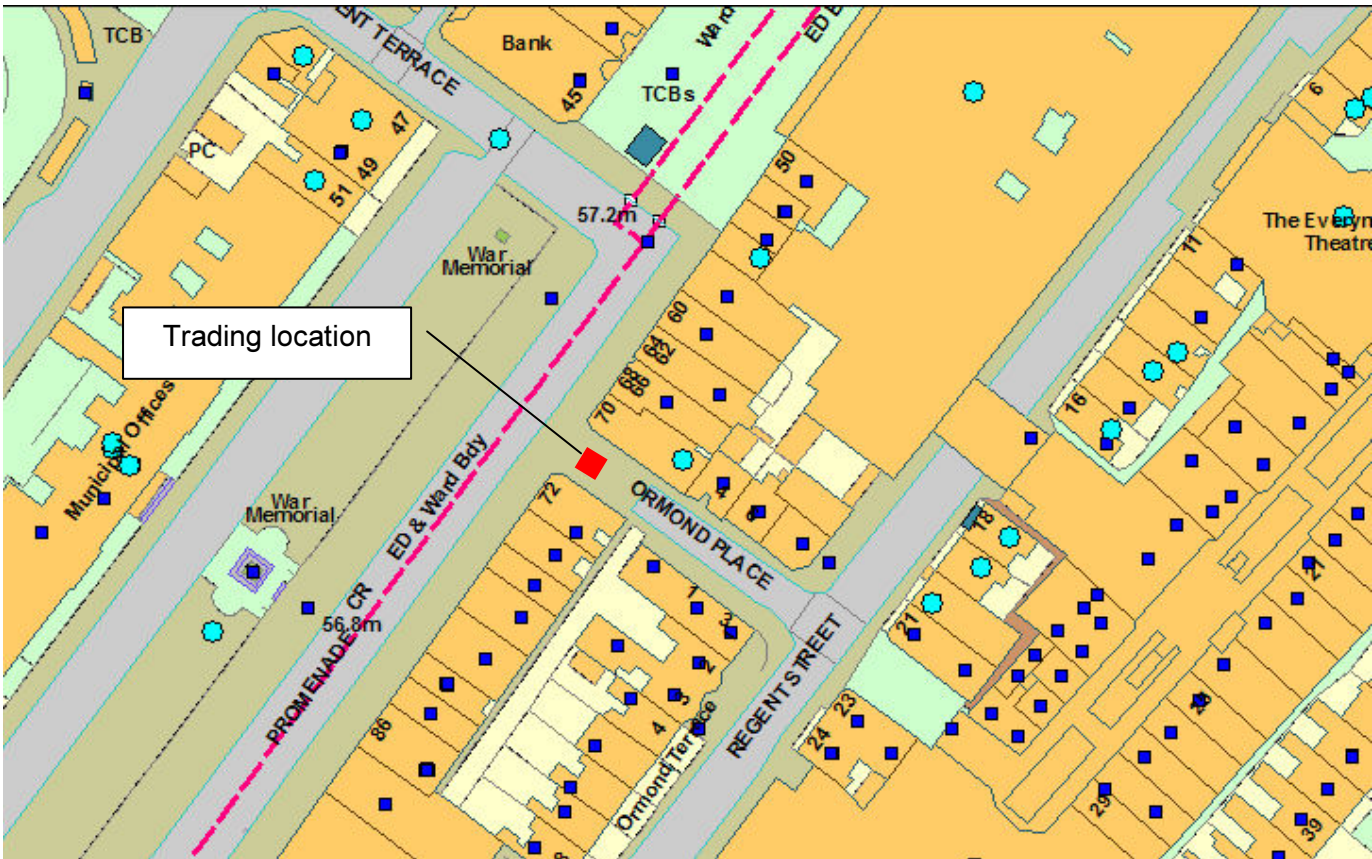
Background Papers

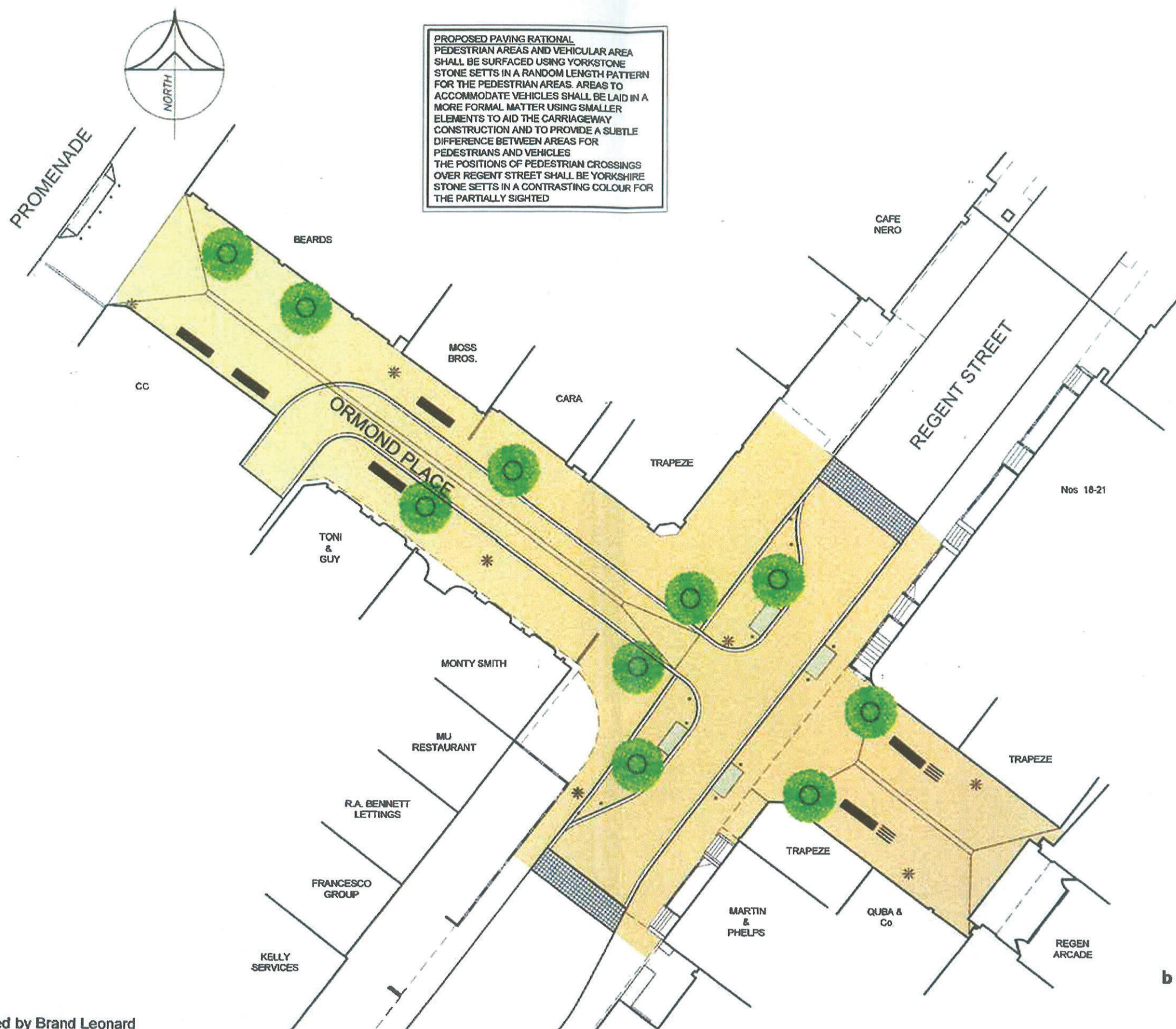
Service Records

Report Author

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NOTE: Plan provided by Brand Leonard
 Consulting Engineers

bell associates
 architects/designers

PEDESTRIAN SCHEME PLAN 1:200 SCALE
 REGENT ARCADE, CHELTENHAM



CGI ARTISTS IMPRESSION VIEW 1 , ORMOND PLACE, REGENT ARCADE, CHELTENHAM