



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 31 July 2015

2.00 pm

Council Chamber - Municipal Offices

Membership	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton, Jon Walklett and Helena McCloskey

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

Agenda

1.	APOLOGIES Councillor Diggory Seacome	
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 LAST MEETING To approve the minutes of the last meeting held on 3 July 2015	(Pages 3 - 8)
5.	APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY - ON THE PROMENADE BY THE LONG GARDENS Report of Licensing Officer	(Pages 9 - 16)
6.	APPLICATION FOR STREET TRADING CONSENT - MR ADRIAN PAUL WOOD Report of Licensing Officer	(Pages 17 - 26)
7.	LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will	

	<p>be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:</p> <p>Information relating to any individual,</p> <p>Information which is likely to reveal the identity of an individual,</p> <p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	
8.	<p>EXEMPT MINUTES To approve exempt minutes of the meeting held on 3 July 2015</p>	(Pages 27 - 30)
9.	<p>ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION</p>	
10.	<p>DATE OF NEXT MEETING 4 September 2015</p>	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130
Email: democratic.services@cheltenham.gov.uk

Licensing Committee

Friday, 3rd July, 2015
2.00 - 3.25 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett
Also in attendance:	Vikki Fennell and Andy Fox

Minutes**1. APOLOGIES**

Apologies were received from Councillor McCloskey. The Chairman informed the committee that Councillor McCloskey was now a member of the committee in place of Councillor Barnes who was now a substitute.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF LAST MEETING

The minutes of the Licensing Committee held on 5 June 2015 were approved and signed as a true record.

5. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY - BENTLEYS BAR, 76 HIGH STREET, CHELTENHAM

The Senior Licensing Officer, Andy Fox, introduced the report regarding an application from Mr Alexander Heslop in respect of Bentley's Bar, 76 High Street, Cheltenham. The applicant had existing permission to place 4 small tables and 8 chairs on the highway during the operating hours of the premises and was now applying to extend this permission. The street furniture had existing permission to be in place from 10:00 to 23:00 hours Monday to Sunday. The applicant was applying to extend this permission from 10:00 to 03:00 Sunday to Wednesday and 10:00 to 04:00 Thursday to Saturday with 2 larger tables and 8 chairs.

Appendix A showed the plan of how the tables and chairs would be positioned during the premises opening hours and Appendix B contained a letter supporting the applicant's request.

The Officer informed members that an objection to the extension of hours had been received from Gloucestershire Police on the grounds of Public Safety, Crime and Disorder and Public Nuisance.

The Officer advised members that the application related solely to extending the times of the furniture being in situ, not the style of the furniture, and on this basis members should consider whether this application was compatible with the current Street Scene Policy.

At this point the Chair referred to item 6 on the agenda, relating to a similar application by the same applicant for the premises next door and agreed to discuss the two together. The Officer therefore read out details of the application as regards Lounge 72, the adjoining premises, as set out in the report relating to agenda item 6.

The following debate thus related to both applications.

In questions to the Officer, members expressed concerns about the reasons for the police objections, the presence of door staff and disturbance to local residents. The Officer informed members that with the presence of another licensed premises opposite, this was a busy street and was highlighted as a pinch point by the police, however there were no statistics or details of any trouble to justify this. He confirmed that there were door staff on duty at varying times and that he was not aware of any complaints from nearby residents. In answer to a further question, the Officer did not know the terms of the licence for the tables and chairs at the premises opposite and whether this extended past midnight. A member offered the information that there were only 2 flats in the vicinity of the establishment.

The applicant, Mr Heslop, was invited to address the committee. He told members that he had been at Bentleys for 8 years, trading as a late night bar. He had an extended licence and traded until 3am Sunday to Wednesday and until 4am Thursday to Saturday at Bentleys and until 2am every day at Lounge 72 and that he complied with the permissions of his present licence with regards to the placement of tables and chairs on the highway. He wanted to make improvements to the outside area with planters and heaters and had submitted drawings to show this. He asked members to consider his application to extend the hours the tables and chairs could stay outside to match his current licensing hours, as he felt it would give patrons an area to gather where it would be easier and safer to manage by security and management.

In reply to questions from members, Mr Heslop confirmed that he had door staff on duty at Bentleys every night 11 till close and at Lounge 72 at weekends only. He also always had door staff on Bank holiday Sundays and race days. His door staff moved around the outside area to the edge of the barriers and worked together with other door staff at other premises and had radio link contact. He confirmed he was a member of Night Safe and that there were 14 cameras at his premises. He stated that alcohol consumption was not permitted outside after 11pm, just smoking.

Mr Heslop stated that if keeping the tables and chairs outside later was an issue that he would be happy to stack them, but wanted to keep the barrier as an area to contain people smoking. A member questioned if 2 larger tables would encourage more revelry and hence more noise, than 4 smaller tables. Mr Heslop replied that the new tables were only 10cm larger in diameter and that the number of chairs would still remain at 8, so he did not envisage this creating a problem.

Two members expressed their support for this application, stating smokers would be outside anyway and thus it would seem sensible to keep them within an enclosed area where more control could be maintained and that they didn't see this as creating any more noise or disruption. It was also felt that the atmosphere outside could be more relaxed if people were able to sit down.

Another member again questioned the position of the police and whether they had enough man power to patrol the streets and deal with people if they were on the streets for longer. Neither the Chair nor Officer had knowledge of this and could not comment on police resources. The Chair pointed out that from the objection of the police, they clearly felt that there would be an increase in noise, confrontation and crime and disorder. However people would be on the street anyway so the question was how best to manage the situation.

The Chair moved that if a vote on the substantive to allow tables and chairs on the highway for the extended period of time failed that an alternative motion could be to give permission to retain the barriers but not the tables and chairs outside.

Upon a vote on the substantive, it was 7 for, 2 against.

RESOLVED THAT, the application in respect of Bentleys Bar, 76 High Street, Cheltenham, for two tables and eight chairs to be on the highway from 10.00 to 03.00 Sunday to Wednesday and 10.00 to 04.00 Thursday to Saturday be approved, as members felt the application was compatible with the current Street Scene Policy.

6. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY - LOUNGE 72, 72 HIGH STREET, CHELTENHAM

The Senior Licensing Officer, Andy Fox, introduced the report regarding an application from Mr Alexander Heslop in respect of 72 High Street, Cheltenham, trading as Lounge 72. The applicant had existing permission to place 3 tables and 8 chairs on the highway during the operating hours of the premises and was now applying to extend this permission. The street furniture had existing permission to be in place from 09:00 to 23:00 hours Monday to Sunday. The applicant was applying to extend this permission to 10:00 to 02:00 every day.

Appendix A showed the plan of how the tables and chairs would be positioned during the premises opening hours.

The Officer informed members that an objection to the extension of hours had been received from Gloucestershire Police on the grounds of Public Safety, Crime and Disorder and Public Nuisance.

The Officer advised members that the application was not seeking to alter the style, quantity or location of the furniture and related solely to extending the times of the furniture being in situ and on this basis members should consider whether this application was compatible with the current Street Scene Policy.

The chairman had agreed to take this item in conjunction with item 5 as the two premises were next door to each other and run by the same applicant. Thus members had already had the opportunity to ask questions on this matter in the

previous item. The Chair therefore moved to vote on the extension of hours from 10.00 to 02.00 every day at Lounge 72.

Upon a vote it was 7 for, 2 against.

RESOLVED THAT, the application in respect of Lounge 72, at 72 High Street, Cheltenham, for tables and chairs to be on the highway from 10.00 to 02.00 every day be approved, as members felt the application was compatible with the current Street Scene Policy.

7. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

RESOLVED THAT in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:

Information relating to any individual,

Information which is likely to reveal the identity of an individual,

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

8. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

Members were advised that they had the following recommendations to vote on:

Whether Mr Ghaffar was a fit and proper person to hold a private hire driver's licence as he had passed all of the assessments required under the council's current adopted policy.

Upon a vote, it was 1 for, 6 against, 2 abstentions

Or

Whether Mr Ghaffar's application for a Private Hire driver's licence be refused as the committee considered him not to be a fit and proper person due to the information contained within his DBS certificate and concerns about his use of English.

Upon a vote, it was 6 for, 3 against.

The Chairman informed the applicant that the committee had particular concerns over his use of English and also the report was looked at on the balance of probabilities as to what had happened, one person against another, and thus the committee was not convinced he was a fit and proper person to hold a private hire driver's licence.

RESOLVED THAT, Mr Ghaffar's application for a Private Hire driver's licence be refused as the Committee considered him not to be a fit and

proper person to hold such a licence due to the information contained within the DBS certificate and his English language ability.

9. COMMITTEE RESPONSE TO LICENSING ACT 2003 LICENSING POLICY STATEMENT CONSULTATION

A report by the Licensing and Business Support Team Leader had been submitted to the committee setting out the committee's response as a consultee on the adoption and review of the Licensing Policy statement and national licensing policy, as discussed at the Licensing Committee meeting held on 5 June 2015.

The Chair acknowledged that there had been some discussion on the paragraph relating to the Late Night Levy and the Solicitor, Vikki Fennell, confirmed that this was being looked at but that it was a separate issue from this recommendation today.

The Chair informed the members that the committee's responses expressed their views on this and that the report would then go to Cabinet to decide whether to accept or not and to decide on what policy to take to Council.

With the amendment of the word chapter to paragraph in 2.1.1 of the report, the Chair stated that as consultee to the lead member, the committee was recommended to note the comments in paragraph 4 of the report and to approve these as the committee's response to the consultation.

Upon a vote it was 7 for, 1 abstention.

RESOLVED THAT, the committee noted the comments in paragraph 4 and approved these as their response to the consultation on the Licensing Act 2003 Licensing Policy Statement Consultation.

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

None

11. DATE OF NEXT MEETING

31 July 2015

Roger Whyborn
Chairman

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Page 8

Cheltenham Borough Council**Licensing Committee – 31 July 2015****Highways Act 1980 Part VIIa
Local Government (Miscellaneous Provisions) Act 1982****Application for permission to place an object on the highway****Report of the Licensing Officer****1. Executive Summary and Recommendation**

1.1 Mr Roger Champness has applied on behalf of Rotary Club Cheltenham North for permission to place an object on the highway in the form of a 'tree of light'. The area of highway in question is the Promenade by Long Gardens, adjacent to the Promenade taxi rank. Pictures of the location are attached at **appendix A**.

1.2 The object is a real Christmas tree measuring 20ft in height. The proposed 'footprint' on the highway will measure 2.5m x 2.5m as shown on the hand-drawn plan at **appendix B**. The proposal is for the tree to be fixed in a heavy metal drum which will be weighted and secured with wires to a wooden base and the adjacent lamppost.

1.3 It is intended that the tree will be in position 24 hours a day from 3rd December to 29th December 2015 inclusive.

1.4 The Committee is recommended to resolve that:

1.4.1 The application be approved because Members are satisfied that the proposed object is within the scope of the Council's adopted policy in respect of objects placed on the highway; or

1.4.2 The application be refused because Members are not satisfied that the application complies with the Council's adopted policy.

1.5 Summary of 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

**No right of appeal.
Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015**

2. Background

2.1 The current Policy on Measures to Control Street Scene Activities in Cheltenham covering Street Trading, Objects on the Highway and Charitable Collections 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 and Objectives

- 3.1 The policy outlines the principles the Council will apply when making decisions on applications for objects on the highway consents.

In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
 - To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
 - 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.
- 3.2 [The policy's aim] is to ensure the safety of all users of the public highway by the management of temporary obstructions, which can be placed on the pavement or carriageway. This policy will allow the pavement to be used for such purposes, support businesses and allow the safe and free movement of all users of the highway.

4. Consultation

- 4.1 A consultation was carried out with between 9th July and 16th July 2015, attracting comments from several consultees.

- 4.2 **Gloucestershire County Council's Area Highways Representative:** "As this is a new venture it would be suitable to place the tree on the highway however there are issues surrounding the location being close to the taxi rank which may infringe on keeping revellers from behaving badly and looking to climb the tree."

- 4.3 **Cheltenham Borough Council's Built Environment Team:** "The proposal for a 'tree of light' to celebrate Christmas is welcome. However, following discussion with colleagues, I am writing to object to the application for the following reasons:

- The location is unsuitable due to the spreading branches of the London Plane trees on either side. There are also overhead cables to be considered. Please find attached comments from CBC's Tree Officer.
- The proposal to attach the tree by a wire to the lamppost is unlikely to be acceptable because the lamppost is a curtilage listed structure. The Heritage & Conservation team should be consulted.
- Insufficient information has been provided regarding the height and appearance of the proposed metal railings. Please could these details be submitted.

It may be possible to locate the tree within the Long Gardens where it would be more visible. Mark Wiltshire (Ubico) and Adam Reynolds (CBC Green Space Development Manager) would be able to advise about this."

- 4.4 **Cheltenham Borough Council's Trees Officer:** "I suggest the Long Gardens may be acceptable or else the top of Cambray Place-on the High Street-subject to agreement from Highways! Where is suggested will interfere with branches of the plane as well as Christmas lights in this tree at this location. Similarly the tree may look a bit "hemmed in" by other branches and take up quite a lot of pavement for pedestrians."

5 Licensing Comments

- 5.1 The Council's policy relating to objects on the highway is concerned mainly with advertising boards, tables and chairs and promotional activities. This application is unique in that it relates to a charitable organisation applying for an isolated period, and therefore there are limited policy requirements for Members to consider. Members are therefore recommended to determine the application on its merits with a view towards the generic policy intentions of protecting the safety of

residents and other users of the highway, whilst at the same time recognising the legitimate aspirations of business (in this case a charity) wishing to make use of the highway. Members should also take full account of the consultees' responses detailed above.

- 5.2 Members will note that consultees have suggested, as an alternative, that the tree could be located within the Long Gardens rather than on the pavement. Members are advised that following those comments, licensing officers contacted the council's parks department to ask their opinion and received the response that they "would rather it didn't go on the gardens, there is limited space and at that time of year it is likely to get muddy. Better on a hard surface, which is probably why they chose the original site."
- 5.3 If Members are minded to recommend that the object be located in the Long Gardens – and if the applicant is willing to change the proposals – a new application will be required because all of the consultation carried out relates to the location on the hard surface of the Promenade. Changing the location would require a new consultation to be carried out to give consultees the opportunity to comment on the revised location.
- 5.4 Members will note that the built environment officer has stated that there is insufficient information about the size and appearance of the railings. The applicant has been invited to the meeting so Members may choose to pose those questions to him.
- 5.5 This application must be determined on individual merits taking into account the information received and in accordance with the council's current adopted policy in respect of objects placed on the highway.

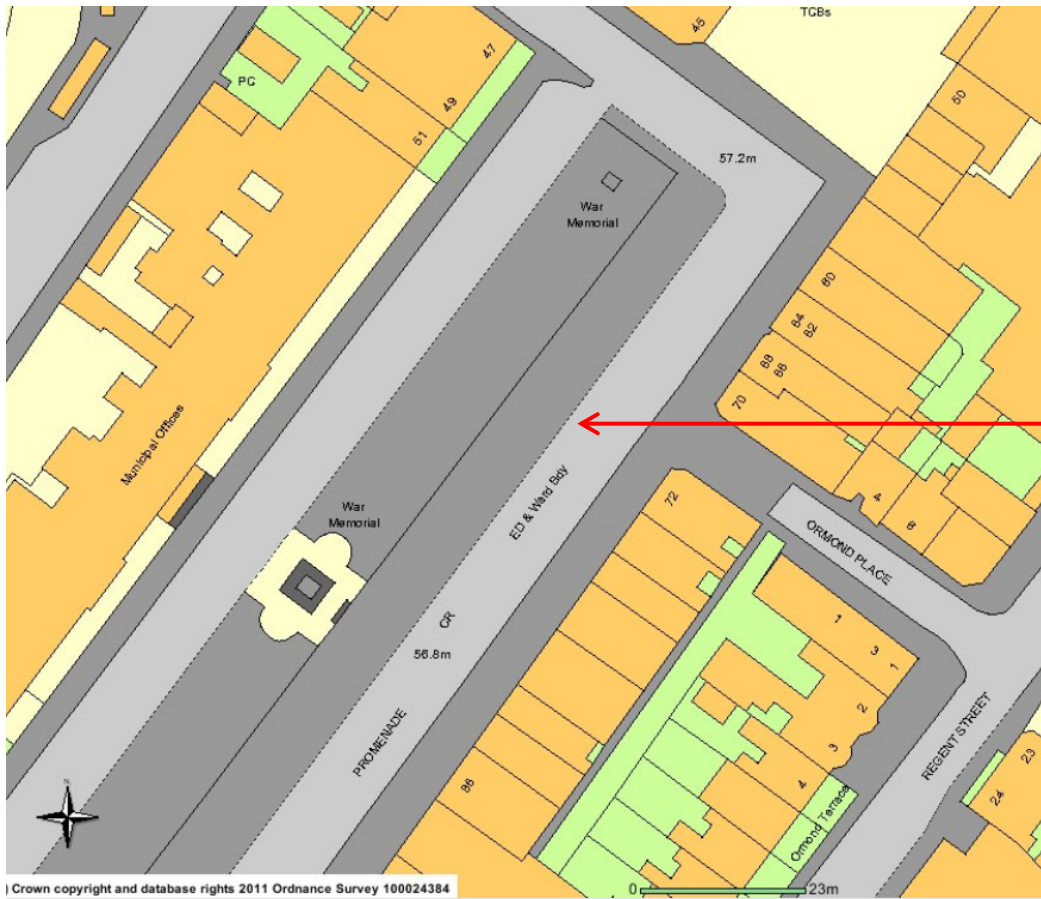
Background Papers

Policy on Measures to Control Street Scene Activities in Cheltenham: Street Trading, Objects on the Highway and Charitable Collections.

Report Author

Contact officer: Philip Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200

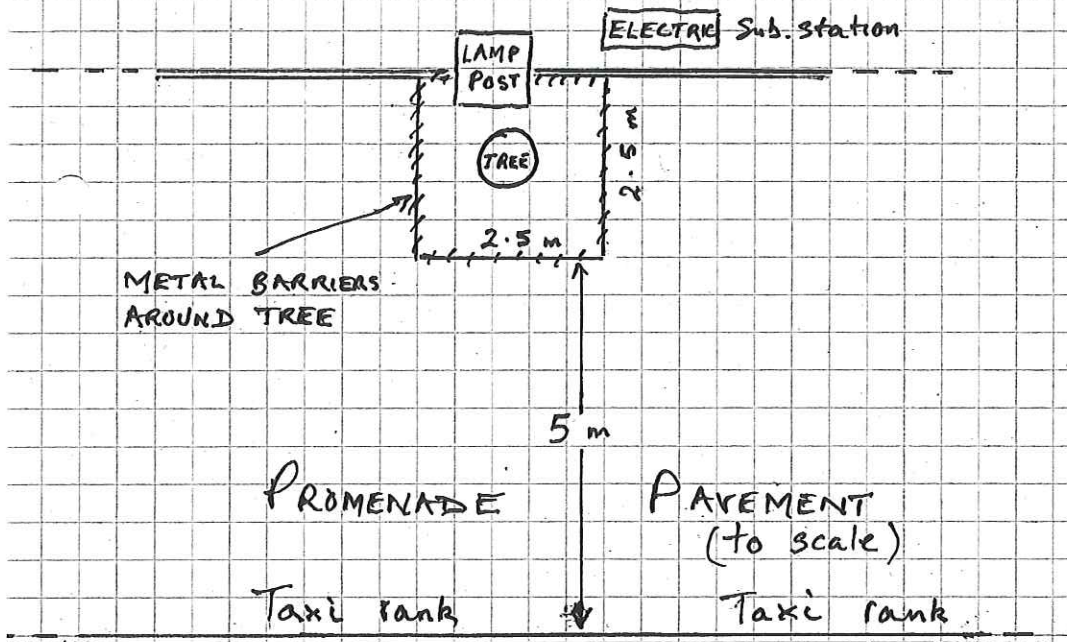
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PROPOSED SITE

LONG GARDENS



ROADWAY

SHOPS / Whistles

Little Promenade

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Cheltenham Borough Council**Licensing Committee – 31st July 2015****Local Government (Miscellaneous Provisions) Act 1982
Application for Street Trading Consent****Mr Adrian Paul Wood****Report of the Licensing Officer****1. Summary and recommendation**

- 1.1 Mr Adrian Paul Wood has made 2 applications for street trading consent in respect of static units to sell seasonal fruit, vegetables and salad.
- 1.2 Application (1) relates to a location at the corner of Church Street and High Street as shown at **appendix A**.
- 1.3 Application (2) relates to a location on the pedestrianised High Street by Beechwood Arcade as shown at **appendix B**.
- 1.4 A photo of the proposed style of the trading units is at **appendix C**.
- 1.5.1 The Committee is recommended to resolve that:**
- 1.5.2 The application(s) be approved because Members are satisfied that the application(s) comply with the provisions of the Street Scene policy and the location(s) are deemed suitable in that they enhance the town's reputation as a tourist and leisure destination, and are in keeping with the streetscape;**
- 1.5.3 The application(s) be refused because they do not comply with the provision of the Street Scene policy as the proposed trading units and / or location(s) are deemed unsuitable.**

1.6 Implications

- 1.6.1 Financial **Contact officer: Sarah Didcote**
Email: 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.

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.

5. Objections and Comments from Consultees

5.1 Gloucestershire County Council Highways

With regards to Street trading consultation [Church Street site] the Area Highways Representative has stated that this area would not be suitable for an outdoor greengrocers to trade. Church Street is used by traffic turning into the High Street and this could well make a pinch point for pedestrians standing in the road looking to pay for items and becoming unaware of traffic.

The same condition will also apply on the [High Street near Beechwood site] which at this present stage in time has a road closure in place until the end of July.

Pedestrians on looking to buy will not be concentrating on the traffic and could end up wandering around the stall causing others to be forced out into the road.

Other issues to be considered would be the maintenance of the building, if scaffolding is required then the greengrocers would be required to move elsewhere. Skips can also be placed in this area for shop refurbishing, which again will restrict pedestrian movement.

5.2 Cheltenham Borough Council's Licensing Team Leader

I would like to raise a number of concerns with regards to this application.

Principally, there is insufficient space for this proposed trading location.

The council's current policy states:

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.

3.3 Public Safety

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

Church Street, although not very busy, is a vehicular access road and used by a variety of vehicles serving the various businesses located on the street. From this currently trading location, it is clear that people crowd around the stall being served and waiting to be served. If this location were to be approved, people will certainly be crowding on Church Street which will not only cause a risk to public safety from vehicles coming around the corner (turning left off the High Street) but also cause an obstruction to those vehicles.

Furthermore, there are also potential access issues with the utility box and access chamber that will be obstructed by the trading stall.

5.3 Cheltenham Borough Council's Public Realm Designer (Built Environment)

Having discussed this within the team and the consultation group concerned with the public realm work proposed for this street, we would support this application for a maximum 6 month licence period.

Beyond December 2015 we are expecting to carry out improvements to the street, during the works trading at this location or anywhere on the street would be impossible.

Furthermore we do not consider the location suitable for street trading on completion of the works, such an activity would be counter to the intentions of the scheme to enhance the character and quality of this space and cause undue congestion on a narrow alleyway.

5.4 Cheltenham Borough Council's Landscape Architect (Built Environment)

I think positive activity like this would be great for the alleyways but I'm not sure there is enough space considering the size of their stall at present. The area stated in the application is okay (1.2m wide would be better to ensure the carriageway remains clear) but the area they have shown includes the utility box which would take up some of the space

6 **Licensing Comments**

6.1 The Committee must determine the application with a view to promoting the Council's adopted policy and should only depart from the policy where there are clear and defensible reasons for doing so.

6.2 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."

6.3 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".

6.4 Furthermore, the relevant legislation given the Council 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. [Emphasis added].

6.5 Referring to the Church Street location, Members should be mindful that the Council's adopted policy says that trading 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" or where "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" (paragraph 3.1). The policy also says the following in terms of trading near kerbs: "In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb" (paragraph 3.2). Members may depart from the policy if there are clear and defensible reasons to do so.

6.6 Members may be aware that the Church Street location has previously been used for street trading by another trader, but Members should consider each application on its own merits based on the information provided and the objections received.

- 6.7 Members should be aware that Mr Wood has expressed a willingness to adjust the size and layout of the trading unit(s) if the Committee deems it appropriate.
- 6.8 Members must also have regards to the adopted Probity in Licensing guide.
- 6.9 Mr Wood and his representative Richard Knightley have been invited to attend the hearing.

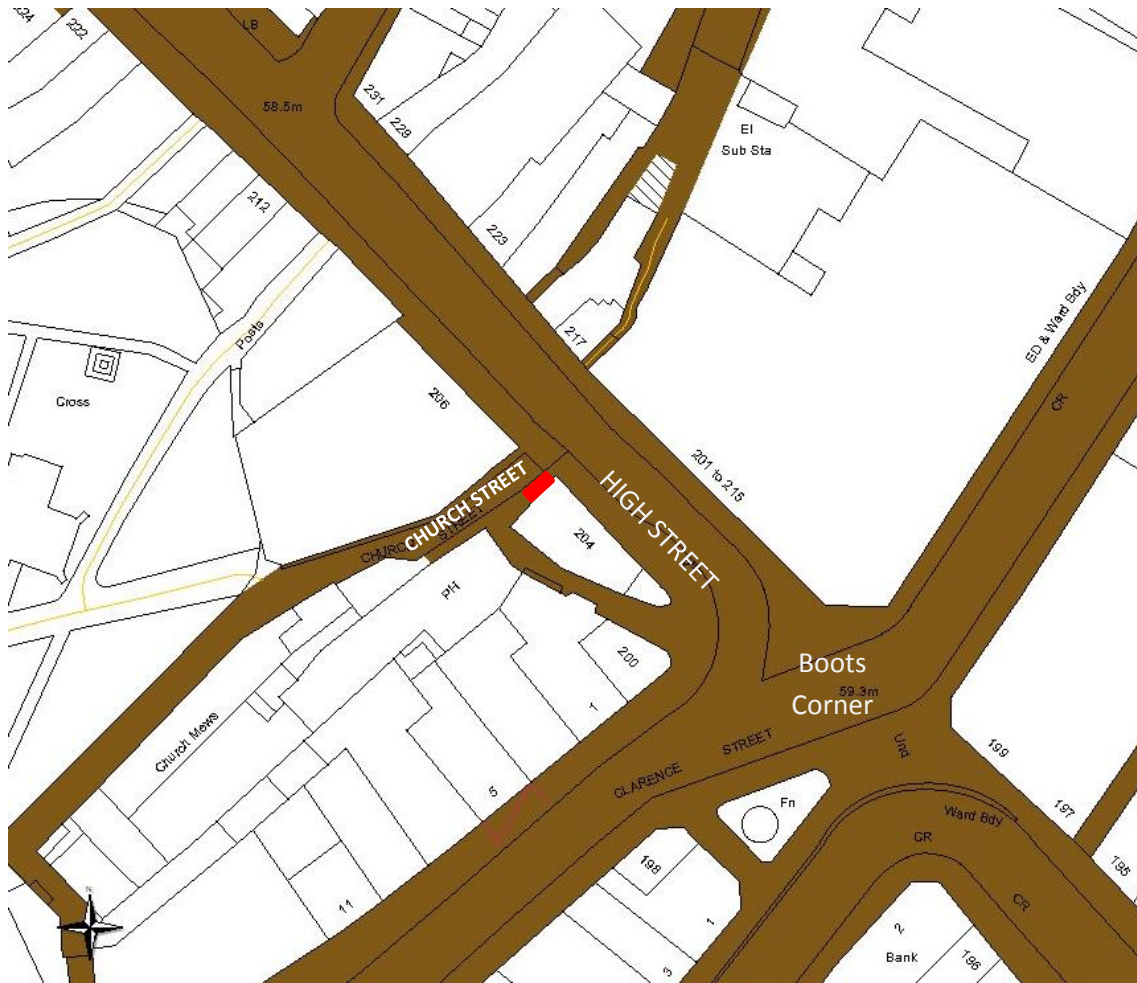
Background Papers

Service Records

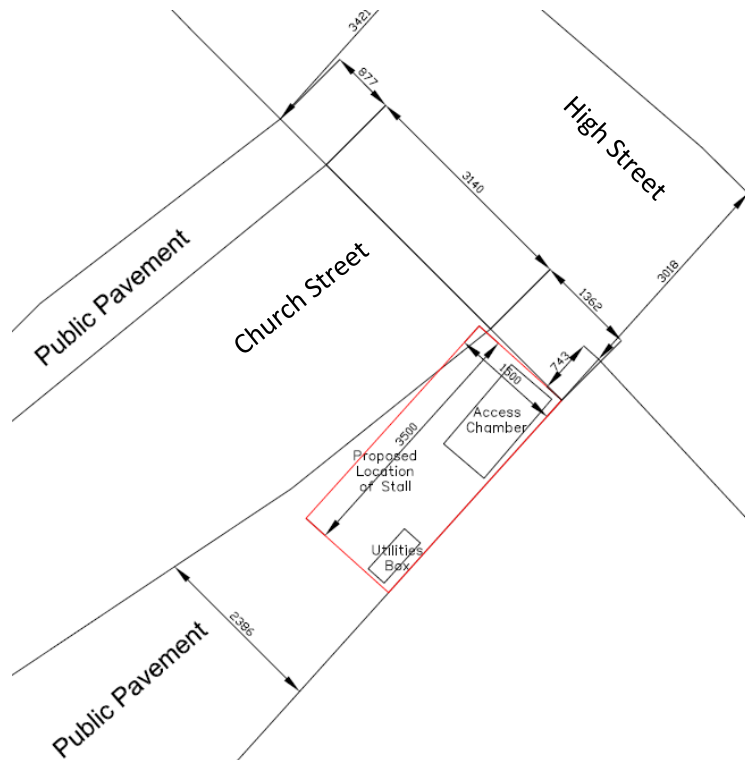
Report Author

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

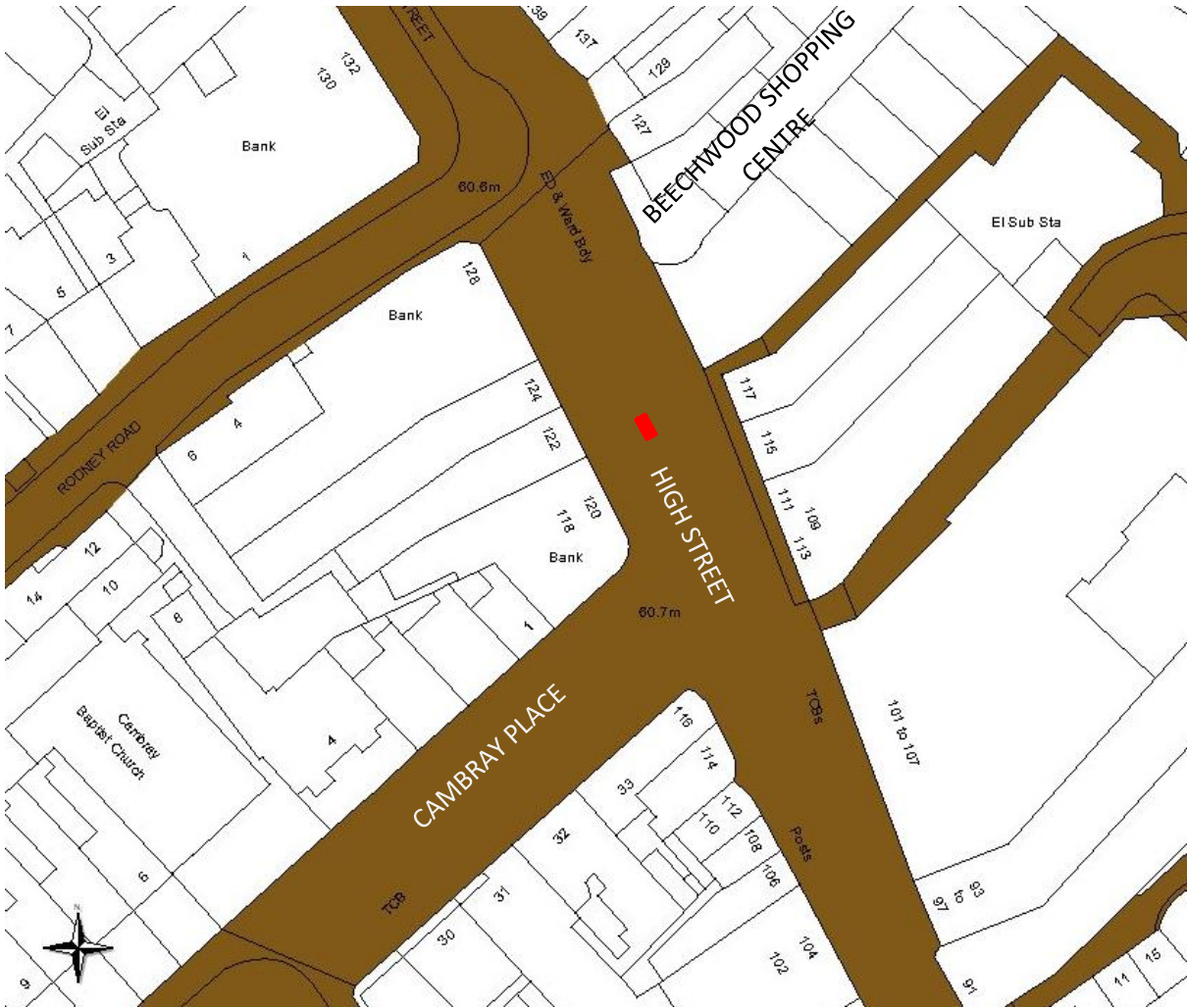
Location 1: Church Street / High Street – unit marked with



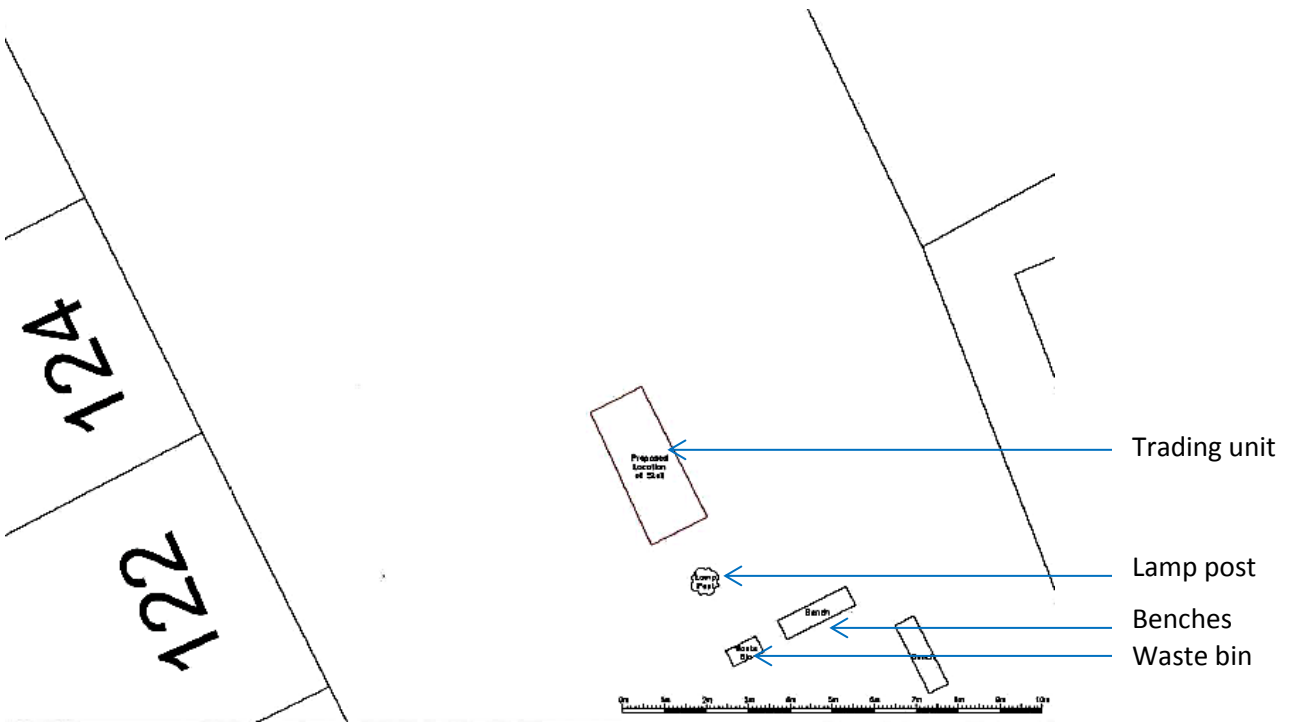
Detail



Location 2: High Street near Beechwood Arcade – unit marked with



Detail





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