



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 4 December 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	
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 6 November 2015.	(Pages 3 - 8)
5.	MINUTES OF SUB COMMITTEE MEETINGS To approve the minutes of the Licensing Sub Committees held on 23 July 2015 and 23 October 2015.	(Pages 9 - 20)
6.	APPLICATION FOR A STREET TRADING CONSENT - NATHAN WORDEN	(Pages 21 - 42)
7.	APPLICATION FOR A STREET TRADING CONSENT - NICKEY JAMES BRYAN	(Pages 43 - 50)
8.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
9.	DATE OF NEXT MEETING 8 January 2016	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130
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Licensing Committee

Friday, 6th November, 2015

2.00 - 3.20 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Wendy Flynn, Adam Lillywhite and Pat Thornton
Also in attendance:	Andy Fox and Peter Lewis

Minutes

1. APOLOGIES

Apologies were received from Councillors Regan, Reid and Walklett.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF LAST MEETING

The minutes of the last meeting held on 2 October 2015 were approved and signed as a true record.

5. APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY

The Senior Licensing Officer, Andy Fox, introduced the report regarding an application from Mr Robert Gibson of Caffè Dolcetti, 4 Regent Street, Cheltenham to place 2 tables and 4 chairs on the highway outside the premises from 10.00 to 18.00 hours every day. Appendix A showed photographs of the location and Appendix B showed how the tables and chairs would be positioned, together with photos of the furniture.

The Officer advised that only one representation had been received and that was from the Gloucestershire Constabulary who stated that the width of the pavement in this location was insufficient for furniture.

In reply to a question, the Officer confirmed that the pavement width in question was 2.25m, reduced to 1.55m with the tables and chairs in place and that the Council's policy required a minimum clearance of 1.8m. He also confirmed that the applicant's measurements had been verified by Licensing Officers.

The Chair invited the applicant to speak in support of his application. Mr Gibson stated that he had been surprised that his application had come to this committee as prior to submitting his application he had spoken with Licensing Officers and he was aware that other similar establishments in the vicinity had had been granted permission with a clearance of 1.5m or less. He said he had

Page 4

double checked his measurements with the tables and chairs in place to ensure he was the same as the others. He told members that he only wanted 2 tables and 4 chairs to enhance the café culture scene in Regent Street.

One member raised his concern about people moving the tables and chairs to form a group of four. Mr Gibson replied that if that happened he would address the situation and added that he had large front windows so would be able to see if there was any inappropriate behaviour and deal with it immediately. He also informed members that he valued customer service very highly, that he always had two members of staff on duty and they also had a panic button to the Police Station.

The question of kerb height outside his premises was raised and the applicant replied that the height of the kerb was the same as that outside Café Nero, Jamie Oliver's and others in the area.

In reply to a question from the Chair, the Officer informed members that the applications for the other premises mentioned had been granted prior to the current street scene policy. The Chair remarked that he was aware of the circumstances of the application in relation to Jamie Oliver's and mentioned that the committee had recently passed an application where tables and chairs were proposed, with end barriers, on a pavement of similar width but that the clearance in that case was only reduced in one local spot. He pointed out to members the need for consistency and the potential for other cafes in the vicinity to make similar applications.

One member commented that the Regent Street footpath was busier than Grosvenor Street where the other similar application had been granted, but another member pointed out that the carriageway of Regent Street was only used as a turning space and that the speed of traffic along Grosvenor Street was faster. A further member felt this area wasn't that busy, that the furniture could fit and that the situation was better than he initially thought.

In summing up, Mr Gibson stressed that he had submitted his application based on the information supplied by the other establishments in the area on their successful applications and after consultation with the Licensing team.

The Chair moved to vote informing members that if they agreed the application, it would have to be on the assumption that there were sufficient mitigating factors to deviate from the policy. It was then confirmed by officers that there was an expectation on the width based on experience to date, rather than a specific minimum width in the policy.

Upon a vote that the application be approved because Members felt the application was compatible with the current street scene policy:

It was 3 for, 3 against and 1 abstention. The Chair therefore had the casting vote and voted against.

It was therefore RESOLVED THAT:

The application to place tables and chairs on the Highway at the premises of Caffè Dolcetti, 4 Regent Street, be refused as the application fell outside the provisions of the current Street Scene Policy.

6. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report regarding a review of the Hackney Carriage Driver's Licence HCD757 for Mr Neil Spencer which was due for renewal on 4 February 2018. He reminded members that this report had come to Committee in October, when it was decided to defer the item so Mr Spencer could familiarise himself with the background papers that he said he had not received.

The report explained that the council had received a number of complaints from the public about Mr Spencer's behaviour, the details of which were outlined in the background papers. In light of this, officers had taken the view that his Hackney Carriage Driver's licence should be brought before the committee for a review.

The Officer drew members' attention to two of the witness statements and advised that neither were community protection officers as stated in the paperwork. The officer also referred members to the emails he had received from Inspector Tim Waterhouse and PS Andy White who had written in support of Mr Spencer.

In response to questions from members, the Officer replied that the number of complaints was only those before the committee today and that the complaints from 2011 and 2012 had been acted upon at the time.

The Officer further explained that Mr Spencer had received a verbal warning after the first occurrence, a written warning after the second occurrence, although there was no evidence to support that, and the third occurrence was before the committee today. He confirmed that no action had been taken after the first two incidents as there was an enforcement protocol of steps to be taken before coming to committee.

The chair advised members that they needed to determine what weight to give to the first two incidents and to consider all three incidents before reaching a view. The chair then invited the applicant to speak in support of his review.

Mr Spencer commented that after the first complaint in 2011, he made a statement and then heard nothing else until the October. Following the second incident, he said that he rang the Licensing department concerning the CEO and was informed that as he had spoken to a Police Officer at the scene not to worry and then 2 or 3 weeks later he was asked to come in. Mr Spencer said he had asked for a copy of the written warning but had never received one and the Licensing Officer confirmed this was the case as it did not exist.

With regard to the third incident, Mr Spencer admitted that he did make a comment, but not what was written down in the complainant's statement. He regretted his stupid remark but stated that he had been under personal pressure and stress with the illness of his father, who had since passed away. The chair read out what was said as per Mr Spencer's statement and asked Mr Spencer to confirm if that was correct and Mr Spencer agreed that it was.

One member had concerns about Mr Spencer's alleged homophobic comments. Mr Spencer denied being homophobic stating that he was going to a civil ceremony in April.

In summing up Mr Spencer reiterated that he regretted his off the cuff remark but commented that the last six months had been the worse of his life. He had been a taxi driver for over 10 years and many of his fares were females who felt safe with him. He referred to his two character references from the Police and said he was not a bad man.

One member questioned whether Mr Spencer had asked the Police Officers for their letters, to which Mr Spencer replied that he had asked the Inspector as he knew him and PS White wrote when he heard the Inspector had, because Mr Spencer helps the Police out.

The chair invited the members to adjourn to discuss the matter and stated that they would take into account the comments of the Police Officers. At this point, Mr Spencer handed over some more character references for the committee to consider.

Members left the Chamber at 14.40 and returned at 15.05.

The chair reported that the committee had considered this case carefully and that the matters alleged in the paperwork were serious and normally the committee would be considering revocation of the licence. On this occasion, however, a serious written warning letter would be sent to Mr Spencer stating that if there were any further complaints about him then he would have to come back before the committee.

Upon a vote, it was 7 for, 0 against.

RESOLVED THAT, Mr Spencer's Hackney Carriage driver's licence be continued because the committee was satisfied that he was a fit and proper person to hold such a licence and that a written warning be issued that upon receipt of any further complaints Mr Spencer return before the committee.

The chair hoped that he wouldn't see Mr Spencer before the committee again and that he would drive carefully.

7. BRIEFING NOTE

The Briefing Note on Taxi and Private Hire Licensing Deregulation and Late Night Refreshment Licensing Exemptions was noted.

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

None

9. DATE OF NEXT MEETING

4 December 2015

Roger Whyborn
Chairman

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Licensing Sub-Committee

**Thursday, 23rd July, 2015
2.00 - 3.15 pm**

Attendees	
Councillors:	Andrew Chard (Chair), Helena McCloskey and John Payne (Reserve)
Officers:	Louis Krog and Vikki Fennell

Minutes

1. ELECTION OF CHAIRMAN

Councillor Chard was duly elected as Chair.

2. APOLOGIES

Councillor Lillywhite had given his apologies and Councillor Payne was attending as his substitute.

3. DECLARATIONS OF INTEREST

None.

4. DETERMINATION OF TWO OBJECTION NOTICES IN RELATION TO A TEMPORARY EVENT NOTICE

The Licensing and Business Support Team Leader, Louis Krog, introduced the report as circulated with the agenda. A Temporary Event Notice (TEN) had been served on the authority on 13 July 2015 for a proposed outdoor event at the junction of St Pauls Road and Hanover Street. A copy of the TEN was attached at Appendix A.

The TEN was served by Miss Nicola Morrison for the following proposed events on Saturday, 15 August 2015 and for the hours of 14:00 to 22:00.

- The sale by retail of alcohol; and
- The performance of regulated entertainment.

Section 104 of the 2003 Act (as amended by section 112 of the Police Reform and Social Responsibility Act 2011) permits both the Chief Officer of Police and the council's Environmental Protection team to serve an objection notice to a TEN on the basis of an adverse effect on any of the licensing objectives.

Objection notices were submitted by Gloucestershire Constabulary and the council's Environmental Health Department responsible for noise nuisance. Copies of the objection notices were attached at Appendix B.

The committee was asked to consider the objection notices in relation to the TEN and decide whether to serve a counter notice to the TEN.

In response to a question, the licensing officer confirmed that there had been complaints after similar events in previous years at this location and the environmental health officer would be able to give details later in the meeting.

The applicant, Miss Nicola Morrison, was invited to speak in support of her application. She explained that she had been running the pub for seven and a half years and during that time had turned it round to be a safe haven for the local community and crime in the local area had dropped. She had started this event in 2010 and to her knowledge there had been no issues with any of the events to date. She had always had very good relationships with the previous Police Licensing Officer and environmental health officers at the council and had always been very willing to adopt their advice on staging, safety and sound. For example environmental health officers had recommended that earplugs should be made available and she had adopted this three years ago and now offered free earplugs. In her view the complaints this time were from people she had barred from the pub in the past. Her aim was to run this event safely for charity and she had a complement of sound engineers, fire wardens and security staff to ensure this. She was open to advice on how it could be made a safer event. She concluded that the event was important to herself and the local community and there was very strong support for it from local people.

In response to questions from members, the applicant gave the following responses:

- there were no significant differences to the arrangements for this event compared with previous years apart from being for a different charity and a general move to acoustic bands. There had previously been two to three events a year but this had been reduced to one event a year following advice from environmental health about noise disturbance.
- the lorry supporting the stage had formerly been adjacent to the alleyway so it could be easily reversed out of the way if there was any incident. However it had been moved forward at the request of the Gloucestershire roadwork team to its current proposed position. She would be happy to take advice from officers on the most suitable location and position it accordingly.
- there was no planned activity in the church on the day of the event. There had been one previously and they had made an agreement with the church to blend the timescales for both events.
- she was asked what lessons she had learned from previous events, she stressed the importance of seeking expert advice and setting up good communication links with the council and Gloucestershire highways.
- she confirmed that children under 18 were asked to leave the site by 8 p.m. The only children allowed after that time were with the band members or staff and had identifiable wrist bands. She acknowledged that the risk assessment wording regarding children could be rewritten to make this point clearer.
- She confirmed that the security fencing at the front and rear of the location was on the road and the paths were always kept completely open. The main purpose of the fencing was to stop cars and there would be one door supervisor to ensure this happens.
- The expected attendance was in the order of 200 to 250 people. They had had a record attendance of 350 to 375 people in 2011. She managed the attendance with 10 members of staff including two first aiders, one fire warden, one qualified sound engineer and two qualified security supervisors from a local security firm.

- She was asked what would be the procedure if there was an incident, she advised that there had only been one occasion when an elderly gentleman fell over and banged his head and she had called an ambulance. She considered she ran the safest venue in Cheltenham.
- She acknowledged that there was a mistake in the risk assessment and the decibel level would be restricted to a maximum of 90 dba and not 70 as listed. She advised that the sound would be measured at the front of the stage.
- If there was a complaint on the day she would be diplomatic and professional when dealing with this and make apologies as necessary. She was aware that there were a small handful of people who did not support the pub or its events and there had been a previous occasion where a man had complained and assaulted some of the musicians.

The chair indicated that he would now invite the Senior Environmental Health Officer (SEHO), Gareth Jones, to set out the objections from the Environmental Protection team at the council. He asked the officer to explain why there had been a large number of events at this venue in previous years and it was only this year that officers had raised objections.

The SEHO said he had been alarmed when he had read the risk assessment as this did not adequately set out how public nuisance was being controlled. The noise level restrictions set out in 4. Existing Controls did not make sense. The information provided did not explain where public nuisance was going to be assessed and any sound monitoring needed to be located in areas that were likely to be affected. He confirmed that there had been complaints after the events in previous years. Some people had indicated that they intended to make themselves scarce for the day but this in itself was a demonstration of public nuisance. He had not personally been involved in any assessment of the event in 2014, though he was aware that there had been an intention to send officers out to measure the sound at the event but this had not taken place. In his assessment this year he had looked at the history of previous complaints and acknowledged that his assessment was subjective.

Members asked the SEHO whether the loud music was likely to cause a significant nuisance for a significant number of residents in the area and what would he consider was a reasonable sound level 4 streets away where the applicant indicated that sound levels would be measured?

In response, the SEHO said that this was difficult to assess and would always be subjective. Certainly people on the street itself would be adversely affected by sound and the fact that sound was being measured four streets away indicated some potential impact there. It would be difficult to put an exact figure on the sound level there that could cause a disturbance as generally it was measured as the difference between the background noise and the noise from the event. He added that under the legislation something could be classified as public nuisance even if it only impacted one person and the important question was did it stop that person doing their normal activity.

A member asked how other events in the town measured up, as based on this assessment events such as the Jazz Festival and Montpellier Street party would not be allowed to go ahead.

The SEHO responded that the council supported lots of events some of which would have an impact but officers were satisfied that they were properly run. The concern with this event was that there were a large number of people and a large area that could be affected and officers could not see how noise levels were going to be controlled. As well as noise, officers were concerned about public safety particularly in terms of the ingress and exits if there was an emergency incident. The licensing officer referred members to paragraph 4.12 in the report where a definition of public nuisance was given.

After clarification from the applicant, the SEHO accepted that there had been a misunderstanding about the fire exit in the plan and this did not go into a neighbouring property. The applicant confirmed that the fire exit door in the pub would be open at all times during the event as well as the front door. The SEHO confirmed that there would be scope to move the lorry as set out in the plan to a safer location which could be agreed with the applicant. At this point the applicant acknowledged that the plan supplied was out of date.

The head of the Licensing Department at the police, David McFarlane, spoke in support of the objection by Gloucestershire Constabulary as set out in Appendix B. He explained that they revisited events afresh every year and object if they were not happy. Their objections were based on the plan which did not demonstrate sufficient room for emergency services to get in out of should there be an incident.

The chair invited the applicant to speak again in support of the TEN. She repeated that she was not aware of any instances of trouble in the past and emphasised the excellent record for the event in the past. She concluded that she wanted to do it right and she wanted to run the event safely. There were general issues with emergency access in the St Paul's area arising from parked cars on the street and Gloucestershire Highways were looking at this. She had been confused by conflicting advice but she would be happy to follow any advice being offered in order for this event to go ahead.

Councillor Jon Walklett, the local ward councillor, had been in attendance at the meeting and was invited to speak by the chair in support of the applicant. He could not understand why the fire services and the police were raising objections now. He was fully supportive of the applicant and stated that she had raised several thousand pounds for local charities through similar events over the past 10 years which was a superb effort. He was not aware of any issues apart from a single neighbour who did not like living next door to a pub.

The committee withdrew at 3 p.m. and reconvened at 3:15 p.m. when the chair read out the following statement.

“The licensing sub-committee has considered the statutory guidance, has listened to the representations of the applicant of the TEN, the police representative, the senior environmental health officer and the local ward councillor.

In determining the objection notices received in relation to this notice, the committee has seriously considered the four licensing objectives in particular public safety and the prevention of public nuisance. It has decided that it will be

serving a counter notice as it does believe that the licensing objectives of public safety would be adversely affected by the TEN.

There are serious concerns in relation to the siting of the stage in relation to the fire exit and emergency access for fire vehicles and/or ambulances.

The sub-committee advises that you resubmit your notice after serious consultation with the police and environmental health and that the correct plans accompany the notice. If this is done the committee believes the event would go ahead without further objections.”

Andrew Chard
Chairman

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Licensing Sub-Committee

**Friday, 23rd October, 2015
10.30 - 11.27 am**

Attendees	
Councillors:	Diggory Seacome (Chairman), Andrew Chard and Rob Reid
Officers:	Phil Cooper and Vikki Fennell
Also in attendance:	

Minutes

1. ELECTION OF CHAIRMAN

Councillor Diggory Seacome was elected as Chairman.

2. APOLOGIES

None

3. DECLARATIONS OF INTEREST

None

4. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE

Phil Cooper, Licensing Officer, introduced the report as circulated with the agenda. An application had been received for a new premises licence at The Old Fire Station, St James Square, Cheltenham. A copy of the application was attached as Appendix A. The location of the premises and its internal layout were attached at Appendices B and C, and representations were shown at Appendix D.

The application sought authorisation for the following licensable activities:

- The sale and supply of alcohol from 10am to 11pm Sunday to Thursday and 10am to midnight on Fridays and Saturdays
- And the provision of late night refreshment from 11pm to 11.30pm Sunday to Thursday and 11pm to 12.30am on Fridays and Saturdays.

The Officer referred members to 2.3 of the report which listed the applicants' steps to promote the licensing objectives and which would form conditions of the licence if granted.

In addition to these, the applicants had agreed several other conditions following discussion with the council's senior environmental health officer, relating to the provision of public nuisance and these were listed in 3.2 of the report. As a result of these conditions the senior environmental health officer had withdrawn his initial representation.

The Officer confirmed that representations had been received from seven residents and these were summarised in 4.2 of the report.

The Officer advised the members that regard should be given to all of the representations made and evidence heard and to decide whether to grant the application as requested, to grant the application subject to conditions, or to reject all or part of the application, taking such steps as it considered necessary for the promotion of the licensing objectives.

In attendance were Mr Peter McDonald representing the applicant, The Pioneer (City) Pub Company Ltd and Mr Niall McCann Solicitor for the applicant.

As there were no questions to the Officer, the Chair invited the representative of the applicant or the Solicitor to speak in support of the application. Mr Niall McCann addressed the committee. He referred to a copy of the statement of case which had previously been circulated to members. He also showed pictures on a mood board to give the committee and residents an idea of the design and style of the proposed interior.

Mr McCann stated that they were pleased that there had not been representations from the statutory authorities and that the concerns raised by the senior environmental health officer had been addressed and that the statement of case would show that many of the concerns had now been alleviated. He stated that they wanted to convert this eyesore into a bistro and bar and felt it would be a great addition to the area. He hoped the customer base would be local residents, so they would listen to their views. He was aware that this was a mixed use area and knew there could be problems with outside drinking and smoking but stressed these were not appropriate to this application. Mr McCann was aware of the binding conditions on the licence and that if breached there would be legal implications, so assured residents they would abide.

In response to questions from members, the applicant gave the following responses:

- The establishment was essentially for eating and although the sale of alcohol could be separate, it was primarily a food led and not a drink led establishment.
- A planning application had been submitted for consideration and the premises would not be opened until all had been agreed. A meeting had already taken place with a Planning Officer who had advised on an issue with the glassed area that linked the two buildings together and they were seeking advice on this.
- Smokers would go down by the side of the building, which in discussion with the senior environmental health officer had seemed the best place. He pointed out that smoking was usually a problem when drinks were also allowed outside but it had been agreed with the senior environmental health Officer that no drinks would be allowed outside, so there should not be a problem.
- No one would be allowed to use the balcony.
- The party wall was a solid brick wall with a high level of insulation. Speakers would not be put on this wall and the applicant confirmed that only background music would be played, so it would not be loud music.

One member asked that as the kitchen was situated on the left hand side as you faced the building and in consideration to the neighbours, whether the extraction unit could be vented over to the right hand side to eliminate smells. The applicant replied that although the façade of the building was unfinished the extraction system inside had been completed and was the most up-to-date system with carbon filters so smells should be practically zero. He added that at present the system was hidden and that if it were to vent to the right it would have to go through the glassed area and thus would be visible and it would be unlikely that the planning department would be in agreement with this.

Several members were concerned about the location of refuse bins and them being left out overnight for collection. The applicant informed members that after consultation with the senior environmental health officer, there would be a rubbish store inside the building where refuse bins would be kept and thus noise alleviated when disposing of glass bottles etc at the end of trading. He also offered to have an amendment to the condition of no deliveries between 11pm and 7.30am, stating that refuse should not be put out until 30 minutes before collection. Members were happy to agree this.

In consideration to the neighbours, a member questioned the 8am opening on a Sunday and suggested this be later. The applicant was happy to agree to a 9.30am opening on Sundays.

The chair invited Rev Robin Littlewood of 3 St James Square and representing himself and Dr Liam Stanbury and Dr Rebecca Nicholson, who had made representations against the application, to address the committee.

Mr Littlewood raised concerns on the issues of the glass in the centre unit, the sound proofing, smoking outside, the thickness of the party wall, the storage of dustbins, the use of the roof terrace, the fire door and the air conditioning unit. Mr Littlewood requested confirmation that the conditions of the licence as set out in 2.3 of the report would be definite and the Officer confirmed in the affirmative that these would form part of the licence conditions.

The applicant responded to Mr Littlewood's concerns as follows:

- The glass in the centre unit would be technically very good strong glass and sound proofed.
- Smoking outside could not be banned, but he hoped it would be at a minimum as drinks were not allowed outside.
- The onus was on the applicant to ensure that the thickness of the party wall was sufficient so as not to breach a condition of the licence.
- As previously discussed there would be an internal refuse area and there would be a minor variation to the plan to include this. The applicant reiterated that he would be happy with the additional condition of not putting out bins until 30 minutes before collection.
- That the roof terrace was not in fact a terrace but just a roof and would remain as such. Mr Littlewood stated his concern was the height which was on a level with bedroom windows, but again the applicant stated that they didn't want anyone on the roof.

- On the plan it stated that the fire door should be kept open, but it was suggested that this should read 'unlocked' rather than 'open' and this would be amended.
- A large air conditioning unit was not planned, rather small comfort cooling, but if there was a unit it would go on the roof and be top of the range.

The Chair commented that as there were other similar establishments in the town where there had not been any problems, he could see no reason why there should be trouble there. The Chair asked if the Applicant wished to comment further, which he declined, however Mr Littlewood still had some points he wished to raise which were as follows:-

- Although he was pleased with the agreement not to open until 9.30am on a Sunday, he had concerns about extensions during Gold Cup Race week and other similar events.
- He had concerns about the enforcement of some of the conditions, especially condition no. 9 in 2.3 of the report about dispersal and he still had concerns about smokers.
- Refuse collection and deliveries was a major concern, as he pointed out that the pavements were not tarmacked and that Synagogue Lane was very narrow.
- He considered parking could also be a problem, as it was mainly double yellow lines and patrons may not wish to park in the nearby car park and pay parking charges.
- He felt that even though the applicant would endeavour not to cause any disturbance or unnecessary noise, that noise would be generated nonetheless from the general buzz of the premises.
- He said that although he welcomed the improvement to the area, he was concerned that if the licence was granted and if it was not a success, a precedent may have been set for a pub or club, and suggested a different use of the premises would be more acceptable.

On responding to these points the applicant reassured Mr Littlewood that they had their core hours and there would not be an extension for Gold Cup week and he agreed to draw up a dispersal policy prior to opening.

The Chair picked up the point about the narrow entrance to Synagogue Lane and suggested they didn't leave their wheelie bins there causing a problem to cars using the car park. The applicant agreed to consider where the bins could be left.

In summing up the applicant said he was grateful for the letters of support, said he could understand the concerns of neighbours, but would ensure all conditions of the licence agreement were adhered to.

The committee adjourned from the Chamber at 11.10am and reconvened at 11.21am when the chair read out the following statement.

“In respect of the application by Pioneer (City) Pub Company Limited in respect of the Old Fire Station & Engine House, St James Square, Cheltenham, the Sub-Committee has had regard to the statutory guidance issued by the Secretary of State, the Council’s adopted policy statement, the representations made and the evidence it has heard. In particular the Sub-Committee has sought to promote the four licensing objectives when determining the application, those being the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

The decision of the Sub-Committee is as follows:

To grant the licence as applied for subject to the following conditions being added to the licence:

- (1) No waste to be left on the pavement or in Synagogue Lane overnight;
- (2) The premises will not open before 09:30 on a Sunday

The Sub-Committee has placed these conditions on the licence for the purpose of promoting the licensing objectives.

The Sub-Committee has found that the licensing objectives are satisfied and that the conditions imposed on the licence will ensure the licence meets these objectives.

The interested parties are reminded that should the applicant fail to meet the licensing objectives, they can report matters to the Licensing Authority, and that the licence can be subject to a review.”

The Chair thanked those present and expressed his appreciation to the applicant for the efforts made to reach agreement on various issues relating to the application.

Diggory Seacome
Chairman

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Cheltenham Borough Council

Licensing Committee – 4 December 2015

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

Nathan Worden

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Mr Nathan Worden for a street trading consent to sell hot & cold drinks, cakes and pastries from a Piaggio Ape 50 measuring 2.66m (8.7ft) long, 1.25m (4ft) wide and 1.53m (5ft) high.
- 1.2 Mr Worden has applied to trade on the High Street near the junction of Pittville Street. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Worden has applied for an annual consent on the following days and times:

Monday	07:00 - 15:00
Tuesday	07:00 - 15:00
Wednesday	07:00 - 15:00
Thursday	07:00 - 15:00
Friday	07:00 - 15:00
Saturday	10:00 - 15:00
Sunday	10:00 - 15:00

- 1.4 An image of the Piaggio Ape 50 and supporting documentation is shown in **Appendix 2**.

1.5 The Committee can:

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

1.6 Implications

1.6.1 Legal

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

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

Contact officer: 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. Consultee Comments

4.1 No comments or objections were received in respect of this application.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.3 Members must determine this application in respect of the location plan. A full consultation has taken place based on this location plan and layout only.
- 5.4 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

6. Officer recommendation

6.1 The officer recommendation is that this application be granted.

Reason(s): The type of trading and proposed unit has been deemed appropriate for the location.

The trading unit will not substantially obstruct the public highway or existing retail units and is of such a design that it will not be detrimental to the street scene. [Policy paragraph 3.4.1]

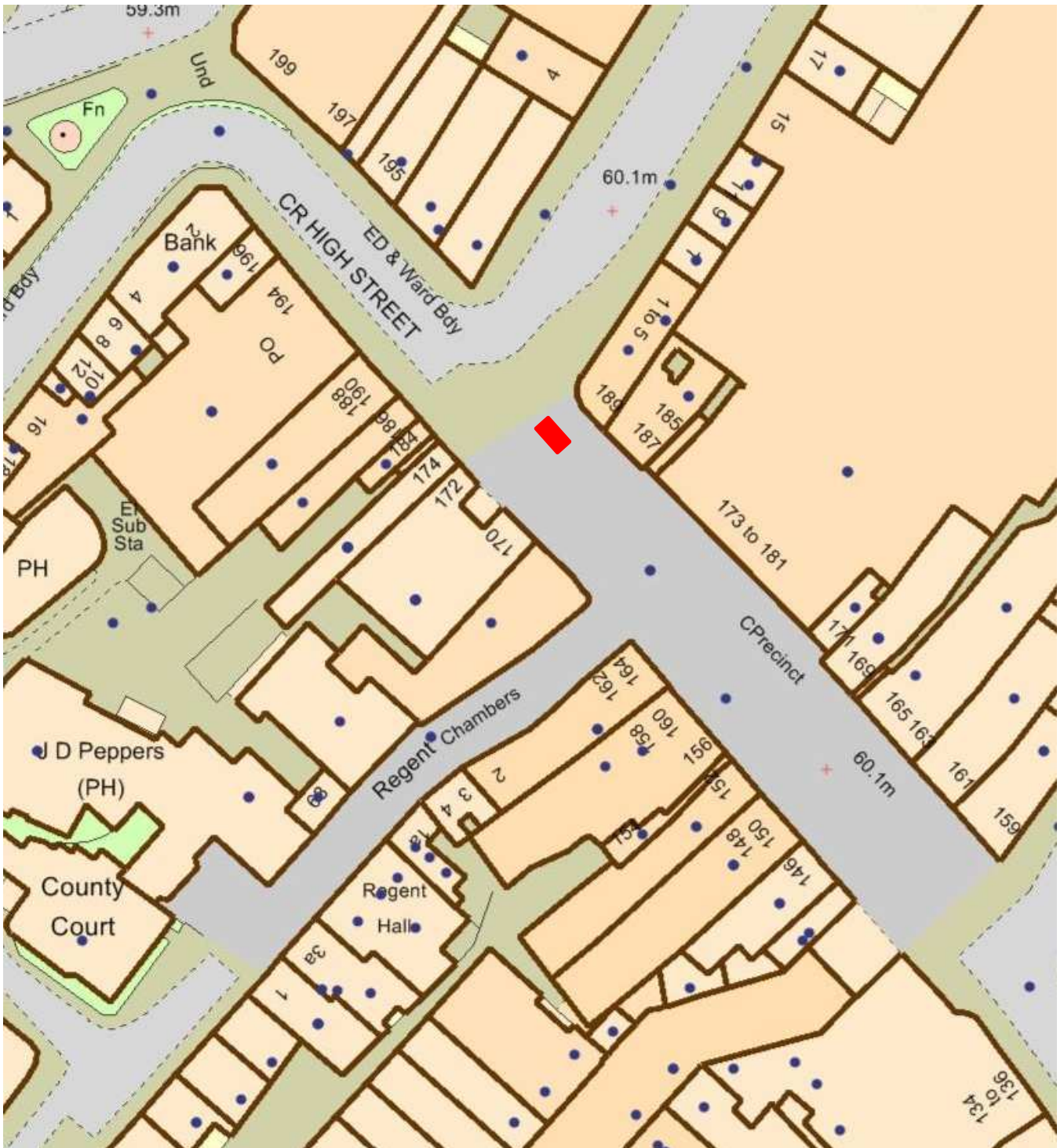
Background Papers


Service Records

Report Author

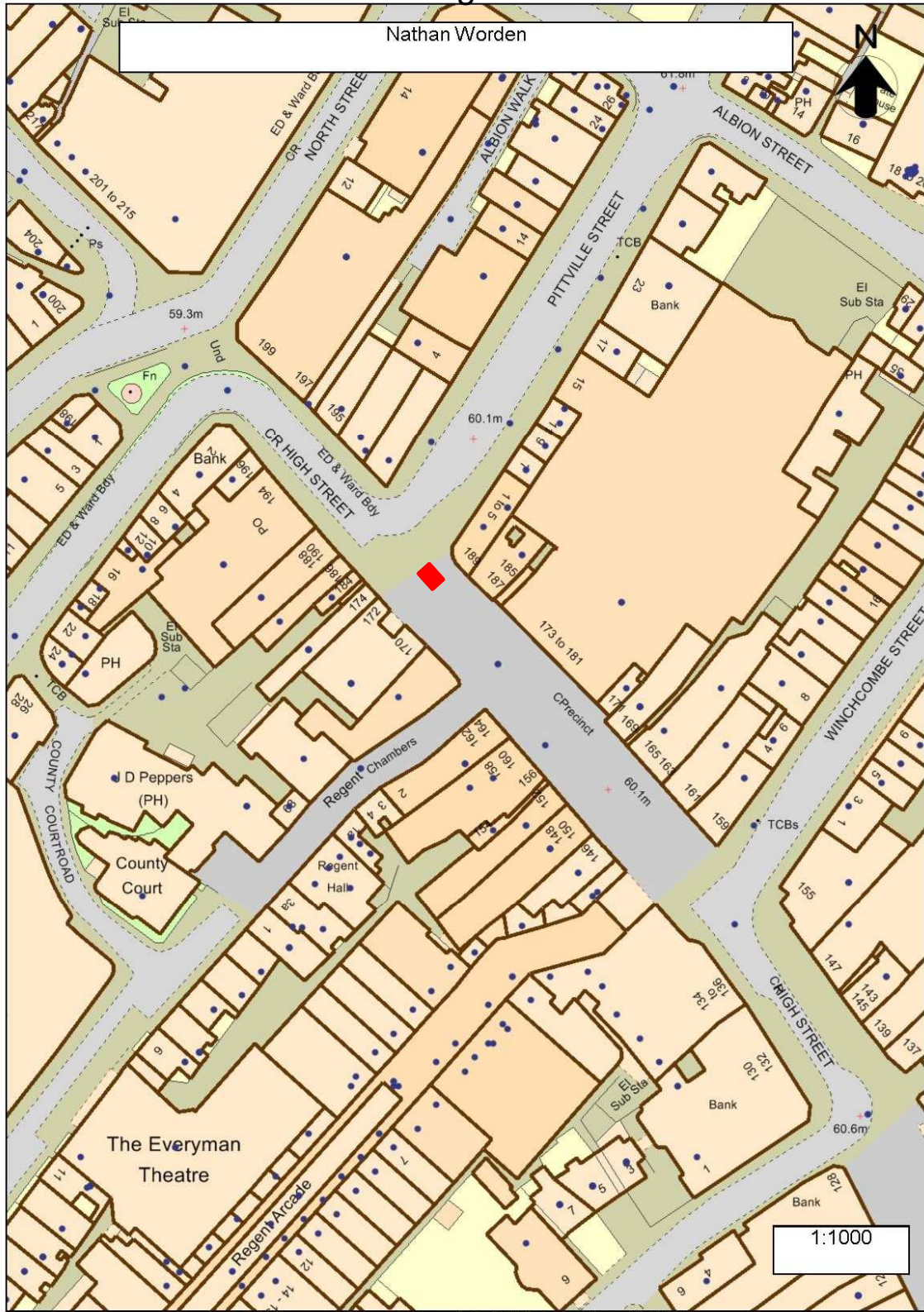
Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775004

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 Proposed trading location

Nathan Worden





@TheCoffeeshed

*Hands On Coffee
Just for you*



@TheCoffeeShed

- ▶ Iconic and Unique Italian Style Coffee, Hot Drinks, Cold Drinks, Pastries and Cake Proprietary
- ▶ High Quality Drinks, traditionally made by a highly experienced Barista
- ▶ Affordable Prices


@TheCoffeeShed is a mobile hot and cold drinks and cakes facility that provides a professional service for shoppers, local personnel and visitors on the go.

We intend to supply a wide range of professionally barista made hot and cold drinks with a variety of speciality cakes at competitive prices.

@TheCoffeeShed uses traditional Italian lever coffee production; this time proven method of espresso extraction produces great tasting coffee and is guaranteed to be an attraction within the town centre.

Our goal, beyond becoming a profitable business, is becoming a local Cotswold's favourite.

Just for you



Design

@TheCoffeeShed is a fully converted, traditionally styled, Piaggio Ape 50. The Piaggio has been imported from the continent and retains it's traditional style with only minor adjustments.

The Piaggio has been preserved in it's traditional white colour to fit in with the architectural style of Cheltenham Town Centre.

The back of the Piaggio opens up on all three sides. The back has been transformed to hold a traditional lever espresso machine to create hands on coffee, with the sides providing access to cakes and condiments that may be required.

The only addition to the Piaggio is a square brown umbrella to protect our barista and our customers from the elements.

Just for you



Design

SIZES - APE 50 EUROPA

Size (mm)	Deck	short deck	Van	Cross
(1) Length	2660	2520	2560	2560
(2) Height	1530	1530	1560	1560
(3) Wheelbase	2400	2400	2400	2400
(4) Turning spokes				



Just for you

*Image for illustration purposes only – Design has not yet been finalised and can be influenced by Cheltenham Town Council if required.

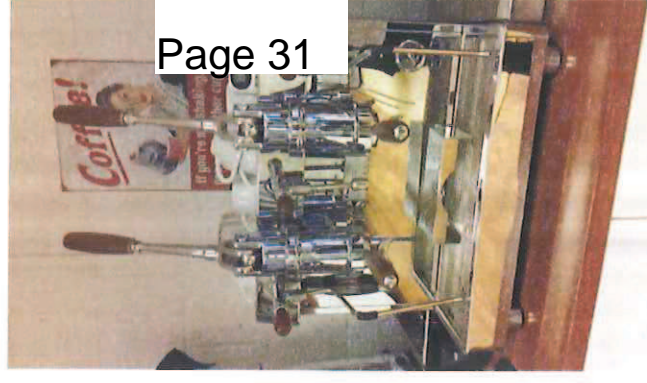
Hands on Coffee

@TheCoffeeShed is unique in its production of coffee, using a lever espresso machine.

The most hands on form of creating espresso is, without a doubt, a lever espresso machine. This is where the classic phrase of 'pulling a shot' comes from. There is a lot more knowledge and input required from the barista to create the perfect shot, but when used correctly, these machines are capable of producing the most beautiful shots you have ever tasted. The use of this machine is a lot more to do with the 'feel' of the coffee, it is almost romantic in its production as the barista has so much more affect on the resulting drink.

The most amazing and probably the most surprising thing that makes a lever machine so special is the fact that it is silent. As there is no motor forcing the water through the coffee it is completely quiet. Until you experience this for yourself, we can not begin to describe to you who truly beautiful this is. Observing an extracting shot without any noise... its enough to make you smile every time a drink is made.

Another important point to think about is the impact the lever machine will have visually on the visitors to the town centre. A traditional lever machine will definitely create a wow factor. They are strikingly beautiful and will always lead to lots of questions from visitors as to how it works. We will explain, demonstrate and share; watching their eye's widen as their coffee knowledge grows.



Just for you

Menu

Decaffeinated
Coffee and Tea
available



Soya Milk
available

Just for you

Description	Medium (8oz)	Large (12oz)
Americano	1.70	1.80
Latte	2.00	2.10
Espresso	1.30	1.60
Cappuccino	2.00	2.10
Flat White	1.50	
Mocha	2.20	2.30
Chai Latte	2.00	2.10
Hot Chocolate	1.90	2.00
Hot Chocolate with Cream and Marshmallows		2.30
Caramel Cappuccino	2.30	2.40
Specialty Latte	2.30	2.40
Macchiato	1.50	
Tea	1.30	1.30
Fruit Tea (Variety of Flavours)	1.40	1.40
Syrup (Variety of Flavours)		0.30
Marshmallows		0.30
Whipped Cream		0.30
Morning Pastries / Granola		1.00
Cakes		1.00
Cake of the Day		1.50
Choice of Cake and Any Hot Drink		2.30
Shmoo Milkshake (Chocolate, Strawberry, Banana and Vanilla)		2.00
Variety of Cold Drinks (Individually Priced)		

Treats and Teasers

@TheCoffeeShed also sells a wide range of Treats and Teasers to keep customers on the go.

- ▶ A wide variety of cakes, muffins and cupcakes make a tasty snack.
- ▶ We also do a cake of the day to bring a bit of pizzazz back into your life.



Just for you

Breakfast

@TheCoffeeShed will cater for the local workforce as well as shoppers and visitors. We know the best way to start the day is with a hearty breakfast to keep you going.

- ▶ A part of the European culture is the continental style breakfast pastries. Fresh and filling for breakfast, brunch or lunch
- ▶ The slightly healthier breakfast option is Granola. Served with hot or cold milk, this will keep hunger at bay and set you up for a productive day.



Just for you

What can we bring to Cheltenham?

- ▶ @TheCoffeeShed aims to attract shoppers and visitors to remain within the town centre with their hot drinks and snacks, allowing them to continue enjoying the town centre and it's shops without the need to stop or leave.
- ▶ @TheCoffeeShed is not your typical Café; we are not keen to attract customers to sit and stay, we want to provide them a high quality service that will keep them on the go.
- ▶ Our winter menu is superior than most of our local contenders and at more affordable prices. We use only the highest quality 100% Arabica coffee beans (Lavazza) and the fullest flavoured tea bags.
- ▶ With the iconic style of the Piaggio Ape and the traditional lever espresso machine, @TheCoffeeShed will become an attraction in itself, drawing people to the town centre and adding to Cheltenham's charm.

Just for you

Location

Our preferred trading location is outside H Samuel's High Street entrance, High Street, Cheltenham, GL50 1DF (Pedestrianised Area).

The ideal space would be between the Bicycle storage racks (without restricting space for access) and the seating benches.

This would not impede the pedestrian flow down the high street (the benches and bicycle storage already restricts this) or emergency and any other authorised vehicular access.

This space is occasionally used by adhoc traders, demonstrating how it would not affect High Street thoroughfare.

@TheCoffeeShed would be able to cater for pedestrians already within the busy town centre area, and entice those travelling by bus who alight at the bus stops on Pitville Street.

Just for you

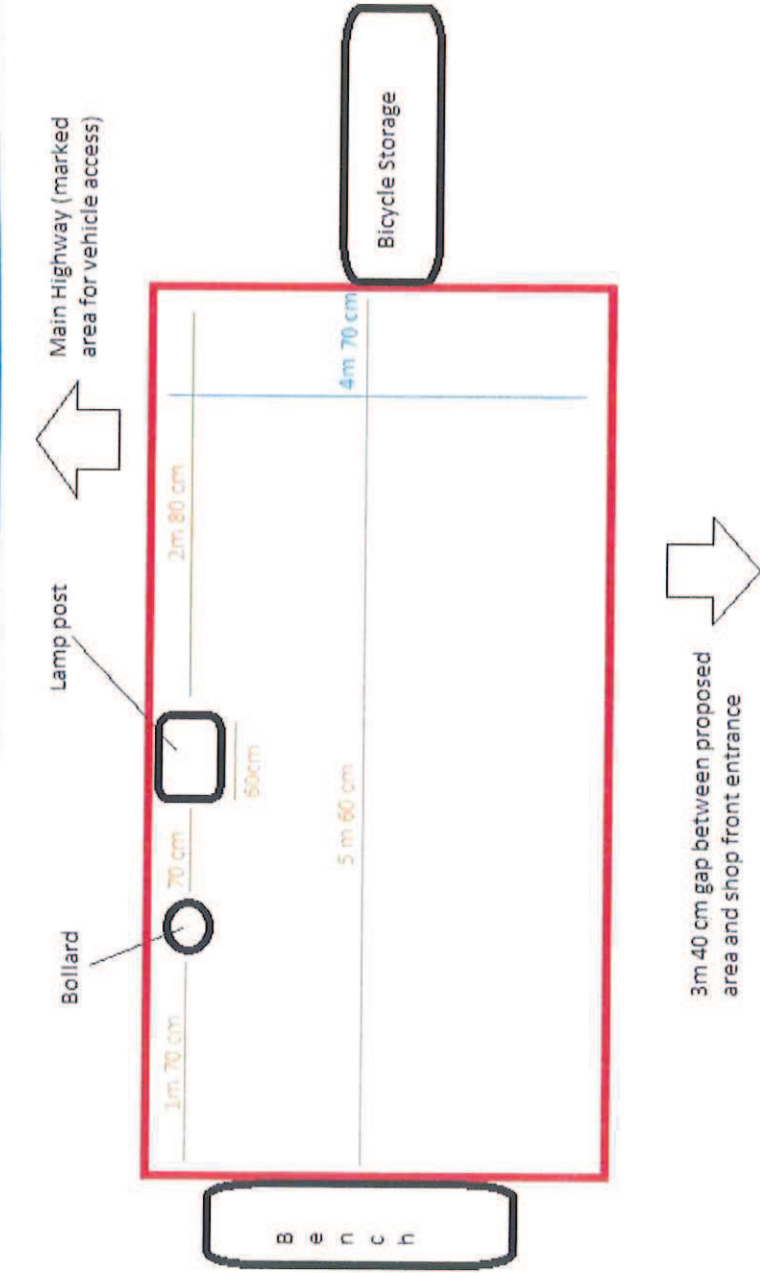


Location



Just for you

Location



The Piaggio Ape will fit within the proposed Red area without impeding on any pedestrian access whilst leaving space to enter and exit H Samuels.

There will still be plenty of room to access the bicycle storage facilities as well

Just for you

*Plan not to scale.



Location

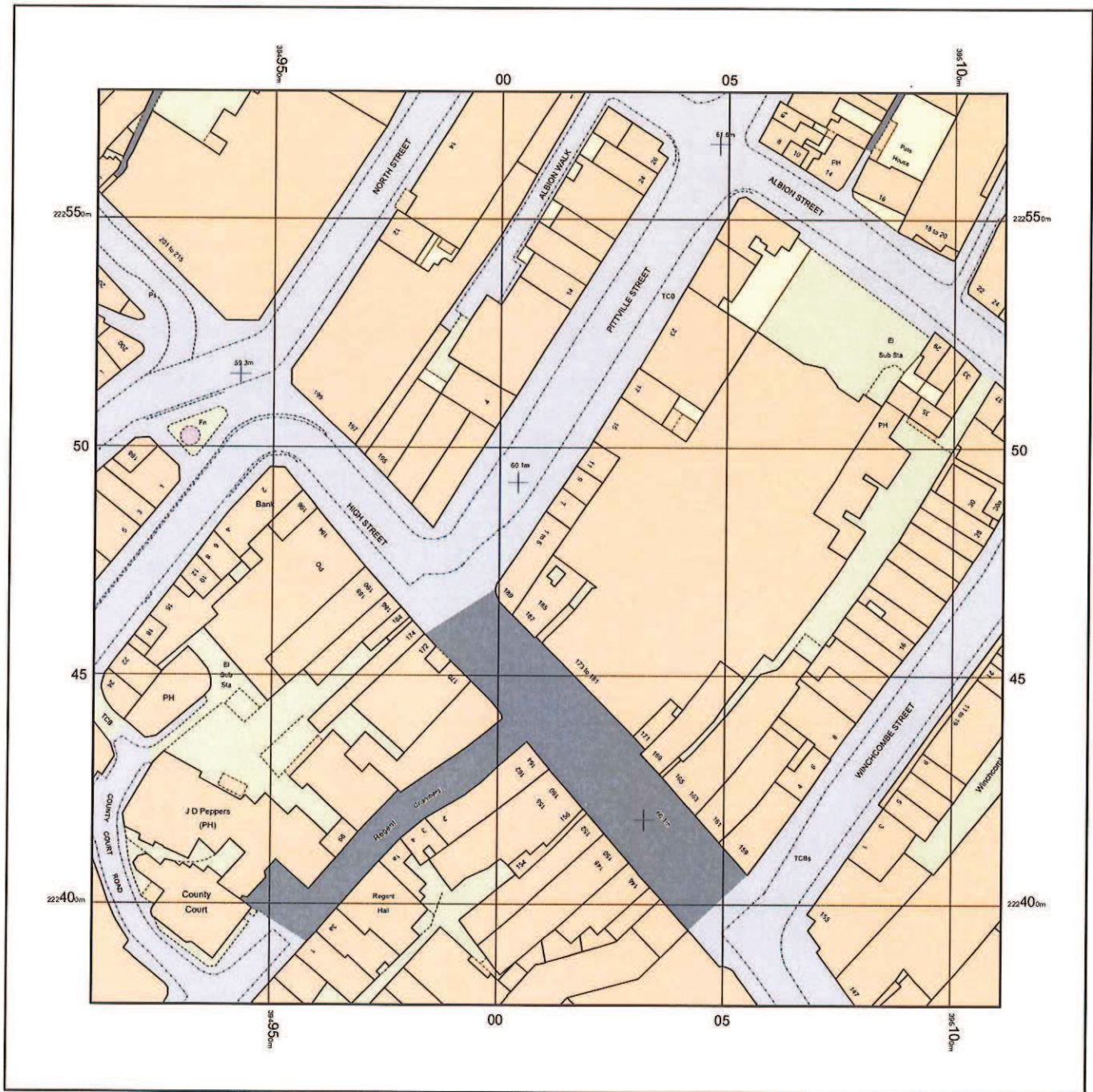


Just for you



North
25m

Scale 1:1250



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Impact Assessment

- ▶ @TheCoffeeShed is self contained; requiring no access to running water, a waste removal service or an electricity supply. @TheCoffeeShed is battery and gas powered with no emissions produced.
- ▶ The Piaggio will be towed to and from the town centre. The vehicle will be registered within the UK, and have a valid MOT, Tax and Insurance prior to trading. If required, a drip tray could be provided to avoid potential oil damage to the public highway.
- ▶ @TheCoffeeShed will supply a waste receptacle, with the ability to empty this during trading hours should it become full, which will be removed with Piaggio at the end of every trading day.
- ▶ @TheCoffeeShed wouldn't impact on other shops or cafés near by as it has a unique style that would compliment other services that are already within the town centre.
- ▶ @TheCoffeeShed will be registered with Environmental Health prior to trading. The barista is qualified and highly experienced with a level 2 Health and Hygiene Certificate.
@TheCoffeeShed also has Public Liability Insurance as required.
- ▶ @TheCoffeeShed, through its design, can be easily adaptable and able to flexibly support Cheltenham with any events, developments or attractions.

Just for you



Any Questions?

Please feel free to contact us for any more information that you may require:

▶ Email: Nathan-w@hotmail.co.uk

▶ Phone: 07710 592 409

▶ Post: 5 Harvesters View
Bishops Cleeve
Cheltenham
GL52 7WD

Just for you

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.

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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.

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

4. Consultee Comments

4.1 A number of objections and comments have been received in respect of this application:

- **Cheltenham Business Partnership:** *"I would like to raise concerns regarding this application for a catering van on High Street by the junction with Regent Street.*

A number of restaurants on Regent Street have said they oppose another food outlet being given permission to open from 10am-4pm six days a week in competition with them. Shops on High Street are also concerned that it will detract from their businesses and from the appearance of the street.

The overall view is that it would be inappropriate to allow such a permission ahead of the launch of the new Street Trading Policy, which would allow all applications to be judged more fairly."

- **Marks & Spencer (173 - 181 High Street):** *"I believe that this Burger Van is to be situated directly in front of Marks and Spencer. It will completely obscure the front of the store including both main windows and entrances especially the view of the store from Regent Street .*

This is not something that we would want in front of our store. I would expect customers to take offence to it and also the smell into the store would be extremely unpleasant for both our staff and customers. To also add we have both a cafe and strong food on the move business to which I believe this would provide a conflict of interests."

5. Licensing Comments

5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.

5.2 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.

5.3 Members must determine this application in respect of the location plan as shown at **Appendix B**. A full consultation has taken place based on this location plan and layout only.

5.4 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

Page 46

Reason(s): The type of trading and unit is not compatible with the proposed location that is situated in the town's conservation area. The council's policy is to adopt a more restrictive approach to applications for street trading in conservation areas. The more restrictive approach is to only permit the type of street trading which *could positively enhance the enjoyment of the town as a tourist and leisure destination* and is in *keeping with the streetscape*. [Policy paragraph 3.4, Emphasis added]

The type of trading proposed, in officer's view, does not meet the policy criteria in that there is no evidence to suggest the trading offer could in any way positively enhance the enjoyment of the town as a tourist and leisure destination.

Officers are also of the view that due to the size of the proposed trading unit (catering van), it will cause a substantial obstruction on the public highway and to existing retail units in an area that is already cluttered by street furniture, other exiting traders, charity collectors and delivery vans.

Background Papers

Service Records

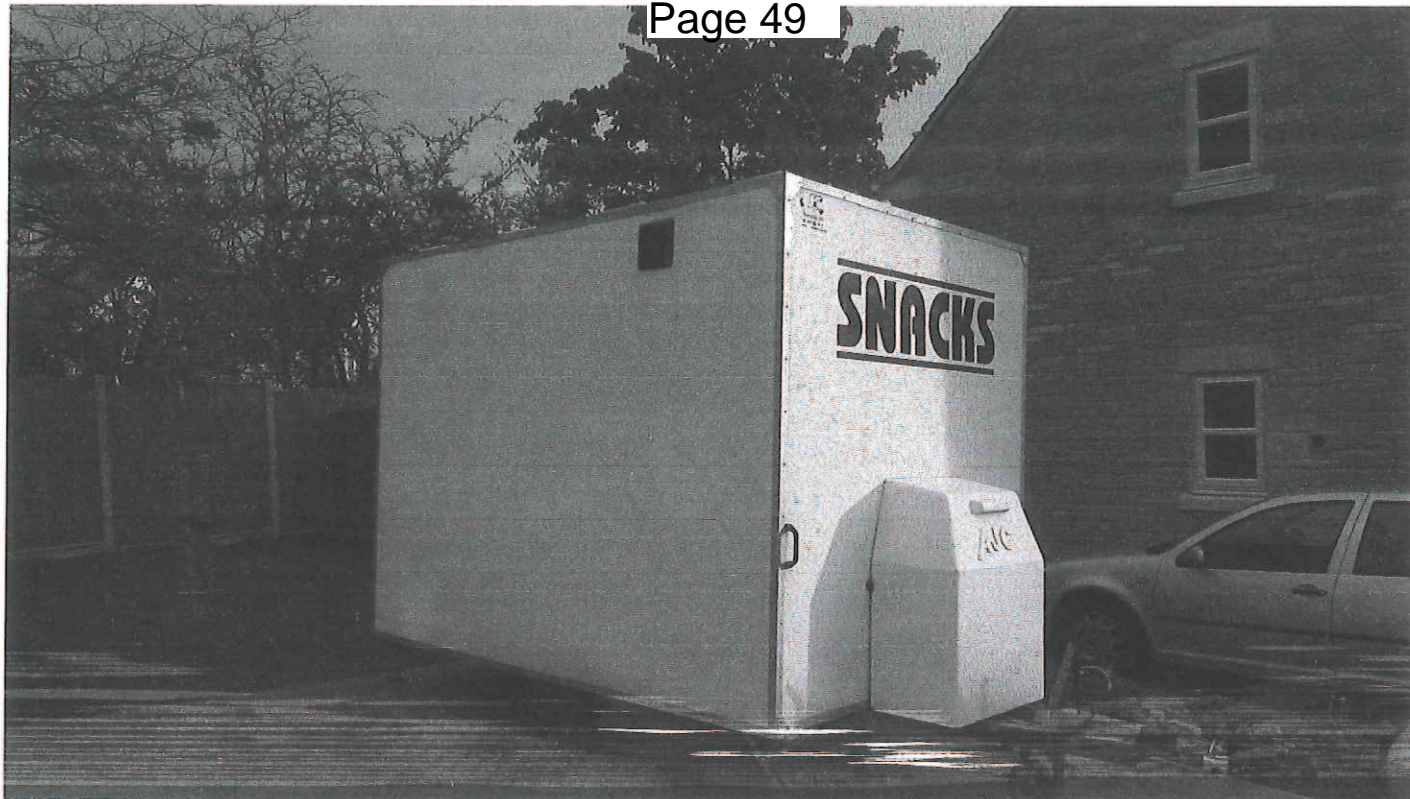
Report Author

Contact officer: Mr Louis Krog

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