



Notice of a meeting of Licensing Committee

**Friday, 1 July 2016
2.15 pm
Pittville Room - Municipal Offices**

Membership	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Paul Baker, Mike Collins, Tim Harman, Adam Lillywhite, Paul McCloskey, Dennis Parsons, Diggory Seacome and Max Wilkinson

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 3 June 2016.	(Pages 3 - 10)
5.		APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY Jucilicious Promenade	(Pages 11 - 20)
6.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
7.		DATE OF NEXT MEETING 29 July 2016	

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

Friday, 3rd June, 2016
2.15 - 3.45 pm

Attendees	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Adam Lillywhite, Paul McCloskey, Dennis Parsons, Diggory Seacome and Bernard Fisher (Reserve)
Also in attendance:	Vikki Fennell and Phil Cooper

Minutes

1. APOLOGIES

Apologies were received from Councillors Baker and Wilkinson and Councillor Fisher attended as a substitute for Councillor Wilkinson.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF LAST MEETING

The minutes of the last meeting held on 4 March 2016 were approved and signed as a true record.

5. APPLICATION FOR A STREET TRADING CONSENT - MR ANDREEV ANGEL

The Licensing Officer, Phil Cooper, introduced the report regarding an application from Mr Angel Andreev for street trading consent to sell hot spiral chips and sweet corn from a catering unit on the highway outside 202 High Street, Cheltenham. The proposed location was not one that was approved for street trading in the Council's adopted policy, but chosen by the applicant as electricity would be supplied by the shop adjacent to the trading cart. The applicant had applied for a three month consent to trade on Fridays and Saturdays from 10:00 to 18:00 hours. Appendices 1 and 2 showed the location of the proposed trading pitch, but as these were not conclusive the Officer circulated 2 extra pictures to clarify the location. Appendices 3 and 4 showed pictures of the trading unit, with a letter in support of the application at Appendix 5.

The Officer reported that one objection had been received from the planning enforcement officer, with details of the objection set out in 4.1 of the report. The Officer reminded members that whilst the proposed location was not one of those approved in the policy, members may grant the application if they were

satisfied that there were reasonable and defensible grounds for departing from the policy in this instance. Otherwise members may refuse the application.

The Chair invited Mr Andreev to speak in support of his application. Mr Andreev told members that he wished to set up a small catering unit selling spiral chips and sweet corn, for an initial 3 month trial period on Fridays and Saturdays only, to see how it went. He said these products were not sold elsewhere in Cheltenham, that he had a good health and safety record and would comply with regulations.

In response to questions from members, Mr Andreev explained that his unit would be outside an existing premises with electricity supply coming from this establishment and with the wiring coming from above so it would not cause a trip hazard. He confirmed that it would be just him working at the cart, that he was health and safety compliant, had food hygiene rating 3 and if he did employ others he would train them. He explained that the location was suitable due to the high footfall in this area, but mainly because of the agreement to access electricity from the nearby locksmiths which would eliminate noise from a generator. Mr Andreev confirmed that stringent arrangements were in place regarding the use and disposal of the hot oil used. Mr Andreev expressed that if this trial was successful, the next stage in his business development would be to look at a permanent shop.

Members raised various questions with the Officer as follows:

- With regard to the rationale of designated trading areas and whether this location was not an approved site because the area was narrow and the high level of foot traffic in the road, the Officer replied this was a factor, but that specific locations had been chosen and set out in the policy and this was not one of the locations deemed suitable for street trading. He reminded members that they could approve the consent if they felt there were sufficient reasons and it enhanced Cheltenham as a tourist destination.
- In reply to a question of whether this trading unit would be accepted if it were to go to a designated area, the Officer replied that even in an approved location, an application would come before committee if there were objections. He confirmed that no objections had been received from hot food retailers in the area for this application, but it was not in an approved area.
- The Officer confirmed that after 3 months the applicant would have to re-apply. He explained that if there were any problems during that initial time the Licensing team would work with the applicant to sort them out prior to it coming before the committee again.
- The Officer said the matter of inadequate location maps had been noted and that a meeting on this issue had already been held and the Licensing team may be able to assist applicants in future.

The Chair invited the applicant to have a final say and Mr Andreev thanked the committee for listening and hoped they would approve his consent so he could take his business forward.

In support of the application some members wanted to encourage sustainable economic development in the town and would consider approval as the

application was for a trial period only and time and day limited. They also felt there was a lack of approved locations in the town for hot food stalls and that the provision of power supplies in the town centre was lacking and suggested this could be a reason to deviate from policy.

Other members expressed concern about the location of the unit, being near a bus lane and an area of high footfall and felt it could be an obstruction. Others had concern about the council's policy on this and the allocation of suitable locations, although this was not a matter for debate at this meeting.

In summing up, the Chair reminded members of the objection raised in the report that the trading unit did not fit in with the street scene in this central location and that they should only deviate from policy in exceptional circumstances.

Upon a vote, it was 4 for and 5 against.

RESOLVED THAT, Mr Angel Andreev's application for a street trading consent be refused, as it did not comply with the provision of the street trading policy.

6. APPLICATION FOR A STREET TRADING CONSENT - MRS ELLEN DANTER

The Licensing Officer, Phil Cooper, introduced the report regarding an application from Mrs Ellen Danter for a seasonal consent to trade on the High Street, at its junction with Cambray Place, from 11 November to 31 December 2016. Mrs Danter proposed selling hot and cold food and drinks as listed in 1.1 of the report from a hot food unit measuring 4.8m x 2.4m, on the days and times as set out in 1.3 of the report.

Appendix 1 showed the location of the proposed trading pitch and Appendix 2 an image of the trading unit.

The Officer informed members that the proposed trading location was one approved for street trading in the council's adopted policy, however the policy restricted the type of goods to be traded from that location to sign-up services and buskers selling merchandise, not food and drink. Also the proposed trading unit was larger than the permitted size. He continued that one objection had been received from the Cheltenham Business Partnership Manager as outlined in 4.1 of the report.

He advised members that whilst the proposed trading unit did not comply with the council's policy, they may grant the application if they were satisfied that there were reasonable and defensible grounds to depart from the policy in this instance. Otherwise members may refuse the application.

In response to questions from members, the Officer confirmed that the trading unit was 11.52sq m, with the council's policy being no larger than 6sq m, and that Mrs Danter had traded in this location for the past 3 years and prior to that had traded nearer to M&S and WH Smith. The Officer advised that the Licensing Team had worked with and advised Mrs Danter when she applied for the new location and that there had been no adverse complaints since being in this location with the exception of one or two local food businesses who felt they lost some trade. He advised that Cheltenham Business Partnership (CBP) was

consulted on all new applications and they choose which local businesses to consult with and the CBP do not normally tell the licensing team which businesses they have contacted. He agreed that the unit was almost twice the recommended size for the approved location and that it was positioned across the highway with the serving hatch facing down towards the town centre.

The Chair invited Mrs Danter to speak in support of her application. Mrs Danter informed members that her family had been street trading since 1984 (32 years) in Cheltenham and for 13 years had had a Christmas stall selling Christmas fayre in the centre of Cheltenham. She clarified that originally she was opposite M&S, but when there was highway work in the town centre she was offered another position and had been at this location for 3 years. She remarked that it was not as viable, but that they worked hard and gave a good service to the people of Cheltenham. Mrs Danter commented that she did not believe that her unit was very different in size in square feet to that of the fruit juice stall opposite Cavendish House and that she had not had any problems with the size in the past. She referred to the construction work in relation to the arrival of the John Lewis store which may affect her stall, but said she was willing to try and see what happened and hoped the committee would consider her application favourably.

In reply to questions from members, Mrs Danter confirmed that she and her family worked primarily on the stall with help from a boy who worked with them and they shared the hours. All were well aware of food safety and health and hygiene regulations and knew what they were doing. She said that obstruction of the highway from queues was not a problem and that if there were a number of people at the stall they stood in front of it. She also confirmed they had a built in generator.

Some members expressed concern about the size of the unit in this location and asked the Officer if there were any other spaces in the policy that would accommodate something over 6m. The Officer confirmed that there were no approved locations in the town centre but larger units were allowed on industrial estates.

There was general concern about the extensive works in the High Street and inevitable future works in connection with the John Lewis development and the effect this might have on this trading location. The Officer reported that John Lewis will not be open this year but that if highways works are needed then street trading consents can be moved to different locations temporarily subject to consultation, as happened with the falafel seller on the High Street when highways works were carried out in that location. One member questioned whether precedence was a legitimate reason for deviating from policy, bearing in mind the size of the stall and that it had been in this location for 3 years. The Officer advised that each application had to be considered on its own merit and that this application didn't come to committee last year, but due to the implementation of the new policy and the fact that this application deviated from the new policy on the grounds of its size and that the location is not an approved location for the sale of hot food and drink, it had to be referred to committee this year.

A couple of members added that it was a well-run business that was good on waste collection and keeping the location tidy and felt that it was a valuable addition to the street scene at Christmas.

There being no further questions or comments, the Chair moved to vote.

Upon a vote, it was 7 for, 1 against and 1 abstention.

RESOLVED THAT, Mrs Ellen Danter's application for a street trading consent to sell hot and cold food and drinks on approved site High Street 6 from 11 November to 31 December 2016 be approved, as members were satisfied that the location was suitable and that it would enhance the seasonal street scene at Christmas.

Mrs Danter thanked the committee saying common sense prevailed and that if they needed to move because of the John Lewis development that this would not be a problem.

7. APPLICATION FOR A STREET TRADING CONSENT - MR NATHAN WORDEN

The Licensing Officer, Phil Cooper, introduced the report regarding an application from Mr Nathan Worden for street trading consent to sell food and drink products, as listed in 1.1 of the report, from a Piaggio vehicle outside 113 The Promenade. The proposed trading days and times were set out in 1.3 of the report and the Officer pointed out that the proposed location was not one that was approved for street trading in the council's adopted policy. Appendices 1 and 2 showed the proposed trading pitch and Appendix 3 showed an image of the trading unit.

The Officer reported that objections had been received from the council's public realm and planning enforcement officers, as outlined in 4.1 of the report. Mr Worden was unable to attend the meeting but had asked for the application to be determined in his absence.

The Officer reminded members that whilst the proposed trading location was not one of the approved sites in the council's policy, members may grant the application if they were satisfied that there were reasonable and defensible grounds to depart from the policy in this instance. Otherwise members may refuse the application.

Members posed questions to the Officer about the location of the trading unit, and the Officer replied that the pitch was on the pavement just beyond the Prezzo restaurant and confirmed this was outside the zone of the street trading control policy, which meant anyone could apply and all applications would come before committee. He further added that the applicant had favoured this location in the Promenade with its high footfall, businesses and shops and that he was aware it was not an approved location.

Members questioned the grounds for the objections. The Officer replied that one of the objector's suggestions that a stall would be better than a vehicle was a matter of opinion and members should consider whether it enhanced the street scene. He confirmed that the Piaggio van at the other end of the Promenade was licensed some 5/6 years ago as the committee agreed it did

enhance the street scene, but that the notion of precedence should not be considered as each application should be considered on its own merit. In reply to the objection regarding the A boards in this location, the Officer agreed that in the past there had been issues with A boards here from other businesses which could be considered to be obstructing the highway, but that this was an enforcement issue which had been dealt with.

Members had divided opinions on the suitability of the location, some liking the position, thinking it far enough away from the other Piaggio van and that it added to the street scene. Others felt its location near a busy traffic junction, under trees and near to already established competitors, was a matter of concern. There were also concerns about waste disposal and hygiene conditions. The Officer informed members that there were two standard conditions about rubbish disposal in the policy that related to all street traders; that any hygiene issues would be raised with environmental health and that no objections had been received from local nearby businesses, although one had wanted to object but his objection had been received too late.

There being no other questions, the Chair moved to vote.

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

RESOLVED THAT, the application from Mr Nathan Worden for a street trading consent be refused as it did not comply with the provision of the street trading policy.

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

None

9. DATE OF NEXT MEETING

The next meeting would be held on Friday 1 July at 2.15pm.

Discussion followed on the timings of Licensing meetings and the proposal to consider evening meetings. It was pointed out that meetings were held at this time to accommodate taxi drivers and premises license holders whose trade was busiest in the evenings. The timing of 2.15pm also allowed those of Muslim faith to attend after prayers. It was also mentioned that the Council diary for 2016-17 had already been agreed and that members had been consulted before it was approved at Council.

Upon a show of hands, the majority preferred it to remain as it was or were impartial. Two present, plus one absentee, wanted it moved to an evening meeting.

The Chair agreed to leave it as it was for the time being.

Wendy Flynn
Chairman

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Cheltenham Borough Council

Licensing Committee – 1 July 2016

Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place tables and chairs on the
highway

Juicilicious Promenade

Report of Licensing Team Leader

1. Summary and Recommendation

1.1 An application has been received from Mrs Stephanie Westlake in respect of Juicilicious situated on the Promenade. The applicant wishes to place 8 chairs and 4 tables on the pedestrianised Promenade.

1.2 It is intended that the tables and chairs be put out:

Monday	08:00 - 18:30
Tuesday	08:00 - 18:30
Wednesday	08:00 - 18:30
Thursday	08:00 - 18:30
Friday	08:00 - 18:30
Saturday	08:00 - 18:30
Sunday	08:00 - 18:30

1.3 A picture of the proposed structure(s) is attached at **Appendix A** and a location plan at **Appendix B**.

1.4 The Committee can:

1.4.1 Grant the consent because the application is compatible with the current Street Scene Policy, or

1.4.2 Refuse the consent because the application falls outside the provisions of the current Street Scene Policy.

1.5 Summary of implications

Legal

No right of appeal.

Contact officer: One Legal

E-mail: legalservices@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 and Objectives

- 3.1 This section outlines the policies the council will apply when making decisions on applications for consents.
- 3.2 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.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

4. Consultee Comments:

4.1 Comments have been received from two consultees in relation to this application:

4.1.1 Business Partnership Manager (on behalf of Cafe Rouge):

"After speaking with my Area manager and operations director we feel this could be brand damaging and would like to protest this."

4.1.2 Public Space Designer:

"I object to this application for several reasons:

- 1. it is replicating too closely what is available in the immediate vicinity from adjacent businesses*
- 2. this space is already intensively used by markets this intensity is already at capacity as far as I am concerned*
- 3. notwithstanding the previous point, this is in the wrong place on the Prom, other cafes operate on the western side & the application area takes up more of the space for pedestrian desire lines*
- 4. I do not believe an increase in scale of the operation can be managed without a negative effect on the space through increased vehicle deliveries & set up requirements."*

5. Licensing Comments

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

5.2 Through the policy the council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

5.3 Members are to note that whilst the policy seeks to promote the 'cafe culture' in Cheltenham, this must be compatible with other highway uses.

5.4 Members must also bear in mind the overall policy objectives 3.2.

5.5 In relation to the comments submitted by the Business Partnership Manager on behalf of Cafe Rouge, the potential for brand damage is not a relevant consideration for members because:

5.5.1 There is no evidence of this; and

5.5.2 This is not relevant to either the policy considerations or the primary legislation which deals with obstruction of the highway as its main concern.

5.6 If Members are minded to grant this consent, it should be subject to a condition that the use of the relevant space must be restricted to non-market days.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

16/00937/TCA		
	Page 3 of 4	Last updated 22 June 2016

Reason(s): The primary legislation underpinning this consent – Highways Act 1980 – is primarily concerned with avoiding unnecessary obstruction of the public highway. This is reflected in the council's policy.

The relevant section of the Promenade (between Imperial Circus and Crescent Terrace) whilst entirely pedestrianised, is also very congested with existing consents for tables & chairs and street trading, tree pits, street furniture, phone boxes, vehicular thoroughfare and markets.

Officers are of the view that granting this consent will add further unnecessary obstruction to the area that is already very congested.

The officer recommendation is therefore based on:

- Promoting the purpose of the primary legislation;
- Promoting the policy's overarching aims i.e. "...to ensure that these objects do not obstruct the highway."
- Promoting the specific policy on tables and chairs i.e. the use of the space is not compatible with other highway uses in this area.

Background Papers**Service Records****Case Officer**

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

Licence Application
Juicilicious Ltd.
The Promenade, Cheltenham.

Application for Table & Chairs adjacent to the Juicilicious Hut

We would like to add to the existing European style 'café culture' along the promenade and offer our customers a place to sit down and enjoy a healthy drink/food. Many of our existing customers have enquired/suggested this as an idea.

We would like to ask permission to site 4 small tables and 8 chairs directly adjacent to the existing hut on the left hand side (stand facing the hut with Cavendish House behind you) between the hut and the tree. We envisage the area coverage to be approx. 3m x 3m square.

The design of the proposed furniture is shown below. The colour of the tables is Bronze (similar to the Hare & Minotaur statue nearby). We will also place dark brown cushions on the seats.

We are open to other suggestions regarding furniture if this does not meet with your approval.

If permission for the tables and chairs is granted we will place brown canvas barriers (similar in colour and material to the roof of the existing hut) around the area to cordon this off from the rest of the Promenade. The barriers will have the 'Juicilicious' name printed on them in plain white.

Dimensions: Table W60 x D60 x H71cm & Chair W40.5 x D45 x H80cm.



Sheshaire 1.6.16.



Lion Signs & Blinds

SCALE 1:100



EMERGENCY VEHICLE ROUTE PROMENADE →

- bollards

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CHEL TENHAM
BOROUGH COUNCIL
Environment and Regulatory Services
Municipal Offices
Promenade, Cheltenham, Gloucestershire
Tel: 01242 264328 Fax: 01242 264328

PROJECT Street Trading Licenses	
TITLE Sheet 4 Promenade	
CLIENT CBC Licensing	
scale	status
date	
drawing number CBC_E&RS_T_28_P_04	revision

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