



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 29 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 1 July 2016.	(Pages 3 - 6)
5.	APPLICATION FOR A STREET TRADING CONSENT Mr Angel Andreev	(Pages 7 - 18)
6.	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 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.	
7.		REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE Report of Senior Licensing Officer	(Pages 19 - 34)
8.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
9.		DATE OF NEXT MEETING The dates and times of future meetings are still under discussion.	

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

Licensing Committee

**Friday, 1st July, 2016
2.15 - 2.55 pm**

Attendees	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Tim Harman, Adam Lillywhite, Paul McCloskey, Dennis Parsons, Diggory Seacome and Max Wilkinson
Also in attendance:	Andy Fox and Donna Marks

Minutes

1. **APOLOGIES**
Apologies were received from Councillor Baker.

2. **DECLARATIONS OF INTEREST**
None

3. **PUBLIC QUESTIONS**
None

4. **MINUTES OF LAST MEETING**
The minutes of the last meeting held on 3 June 2016 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 Mrs Stephanie Westlake of Juicilicious for permission to place four tables and eight chairs on the highway adjacent to her stall on the Promenade. The applicant already held a street trading permit which had conditions attached to it which would also apply to this application. The tables and chairs would be out from 08:00 – 18:30 hours every day of the week and a picture of the proposed items was shown at Appendix A, with a location plan at Appendix B.

The Officer reported that comments had been received from two consultees, namely the Business Partnership Manager and the Public Space Designer and he informed members that the comment from the Business Partnership Manager on behalf of Café Rouge regarding the potential for brand damage was not a relevant consideration. The Officer recommendation was to refuse the application on the grounds of unnecessary obstruction of the public highway as this was already a very congested area.

Members questioned the Officer on the various reasons for the objections and for definitions of some of the wording, in particular with reference to obstruction. The Legal Officer replied that members had to consider whether it posed a risk

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to public safety on the highway and whether it added any enhancement to the street scene.

The Chair invited the application to speak in support of her application. Mrs Westlake stated that she would like an area for tables and chairs next to the Juicilicious stall on the Promenade so that some regular customers could enjoy the food and drink that they supplied near their premises.

In reply to questions from members, Mrs Westlake informed them that there would be no increase in vehicle movement to set up the tables and chairs as there was capacity in the current vehicles used, so there would be no increased risk to public safety. She also explained that she had adjusted the location diagram submitted to an area of 2.4m², as opposed to the original 3m² that was quoted in the text, as she had been informed that there needed to be an access space of 1.5m between the seating area and the tree pit. In reply to further questions, Mrs Westlake explained the type of food and drink that she sold and how the weather affected which produce was the most popular. She confirmed that the nearby benches were used by her customers but, particularly around lunch time, they were always full.

Members considered the objections from the Public Space Designer and ruled them out on the basis that:

- There is no policy on saturation and healthy competition and members wished to support start-up businesses and promote the café culture in the town.
- When the various markets are there, Juicilicious is not there, this being a condition of her street trading licence.
- The position of this area does not interfere with pedestrian desire lines which are essentially up and down the Promenade and not across, and there is a gap between the tree pit and seating area for access.
- There is no increased vehicle delivery movement as already explained by the applicant.

Members in favour of the application felt that the position did not obstruct emergency access as the area between the bollards was still clear. They also felt that even though there were other tables and chairs from other business premises in the vicinity, that complimentary business competition was acceptable.

Other members however felt that the competition could be seen as unfair, given that permanent establishments had financial overheads.

There was some discussion about the council's street trading policy, in that tables and chairs outside business premises were mentioned, but that this application related to Promenade Pitch No 1 and not an actual premises. One member felt that the size of the pitch with the seating area was too large and in excess of twice the recommended size and felt it did not enhance the street scene.

The applicant was invited to say a final word. Mrs Westlake stated that litter bins would be provided and confirmed that the natural desire line of the Promenade was under the covered area of Cavendish House. She agreed that she could see the arguments about competition but stressed that street traders,

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because of having to set up every day, had a limited amount of produce on sale, whereas permanent premises were able to offer a wider range.

There being no further discussion, the chairman moved to vote on granting the application to place tables and chairs on the highway

Upon a vote, it was 8 for, with 1 abstention.

RESOLVED THAT, Mrs Stephanie Westlake's application for consent to place 8 chairs and 4 tables on the highway be granted.

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

None

7. DATE OF NEXT MEETING

29 July 2016

Wendy Flynn
Chairman

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Cheltenham Borough Council

Licensing Committee – 29 July 2016

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Angel Andreev

Report of the Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been made by Mr Angel Andreev for street trading consent to sell hot spiral chips and sweetcorn from a catering cart measuring 1.2m in length (4 feet), 0.6 m in width (2 feet) and 2.0 m in height (6 feet).
- 1.2 Mr Andreev has applied to trade on the Promenade adjacent to Long Gardens. The council, in its Street Trading licensing policy, has determined this location to be suitable for street trading, with the approved types of trading limited to:
- Ice-cream
 - Busking (when also selling merchandise)
 - Confectionary/cakes
 - Sign-up services
- 1.3 **Appendices 1 and 2** show the location. A photograph of the unit is at **Appendix 3**.
- 1.4 The proposed trading times are:

Monday	None
Tuesday	None
Wednesday	None
Thursday	None
Friday	10:00 – 18:00
Saturday	10:00 – 18:00
Sunday	None

- 1.5 **The Committee can:**
- 1.5.1 **Approve the application because Members are satisfied that the location is suitable; or**
- 1.5.2 **Refuse the application because it does not comply with the provision of the street trading policy.**

**1.6 Implications
Legal**

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

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

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

2. Background

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

2.2 Mr Andreev has provided a letter of support for his application. This is shown as **Appendix 4**.

3. Policy Principles, Aims & Objectives

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

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

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

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

3.1 Permitted locations for street trading

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

3.2 Assessment criteria

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

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold

by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.

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

4. Consultee Comments

4.1 An objection was received from Cheltenham Borough Council’s Planning Enforcement Officer:

Objection to this application. I fail to see how this complies with the policy principles, aims and objectives of the Policy on Measures to Control Street Scene Activities in Cheltenham. The placing of this spiral chips and sweetcorn unit here does not comply with the council’s policy to “improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape” [For context please see 5.1 below]

5. Licensing Comments

- 5.1 The policy objective referred to by the planning officer above is from the council’s 2013 street trading policy, which has since been superseded. However the new policy, like its predecessor, does contain a requirement that “Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials.”
- 5.2 Members are advised that an application from this applicant has previously been considered by the committee in respect of a different location, but this application should be determined on its own merits.
- 5.3 The Committee must determine the application with a view to promoting the council’s adopted policy and Members should not arbitrarily deviate from the council’s policy.
- 5.4 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above (“assessment criteria”) and Members should take these into account when determining this application.

- 5.5 Members are advised that the proposed trading location *is* a permitted location in the council's policy, but the goods to be sold are not approved because the policy does not sanction the sale of hot food in this location. For that reason the application is not compliant with the approved policy.
- 5.6 Whilst the policy creates a presumption against the grant of an application if the application does not comply with the policy, this position should not fetter the Committee's discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.7 Members are reminded that clear and thorough reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy.

6. Officer recommendation

- 6.1 The officer recommendation is that this application be refused.

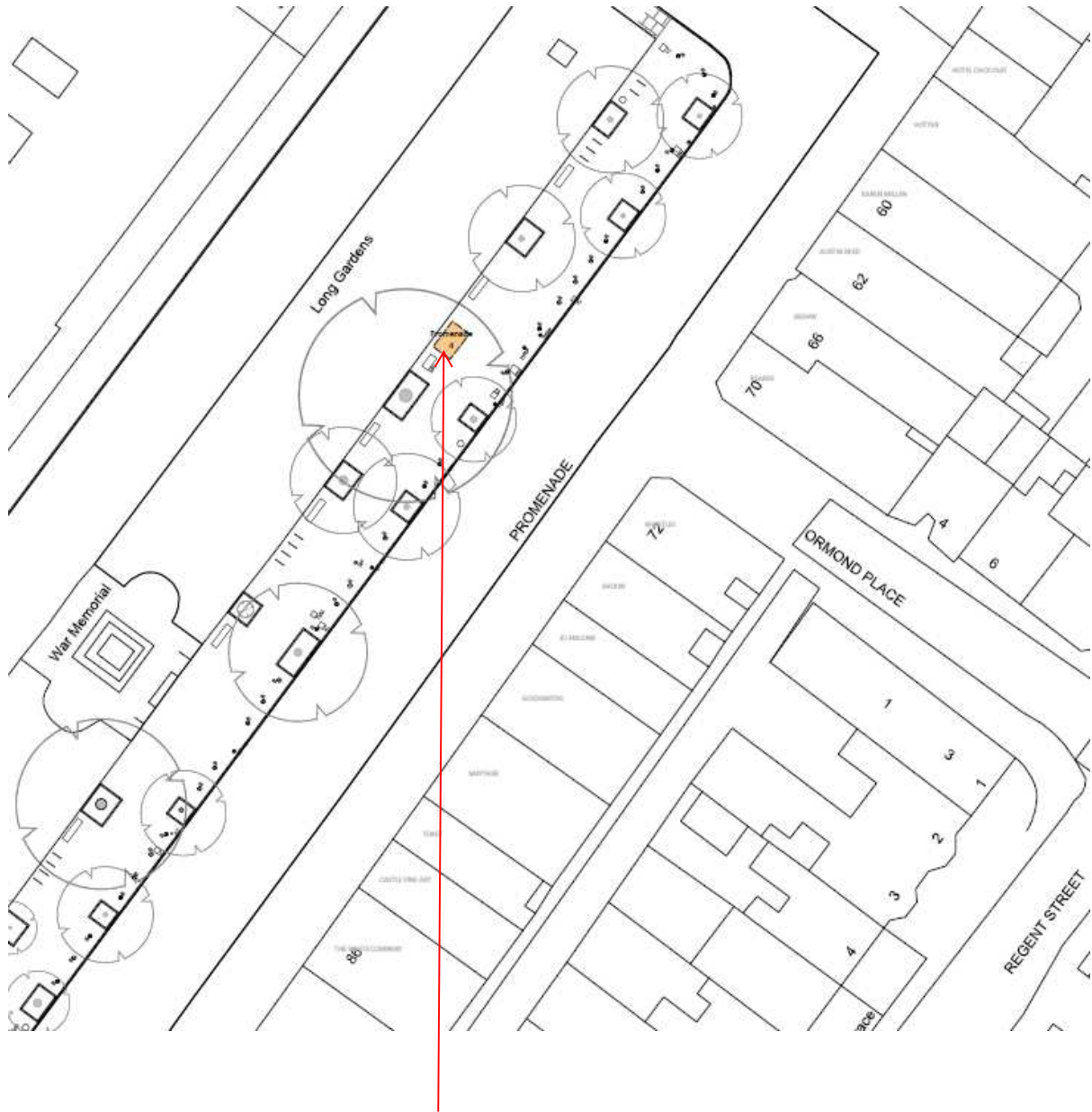
Reason(s): The application relates to a location that is not deemed suitable for the trading of hot food under the council's current adopted policy. For that reason, alongside the fact that objections have been received, officers recommend refusal of the application for street trading consent.

Background Papers

Service Records

Case Officer

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



Designated street trading location 'Promenade 4', approved for sale of ice cream, confectionary and cakes, buskers selling merchandise and sign-up services.

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SPIRAL ROLL CHIPS

SWEET CORN

GRAND ROYAL
+996 0550154077

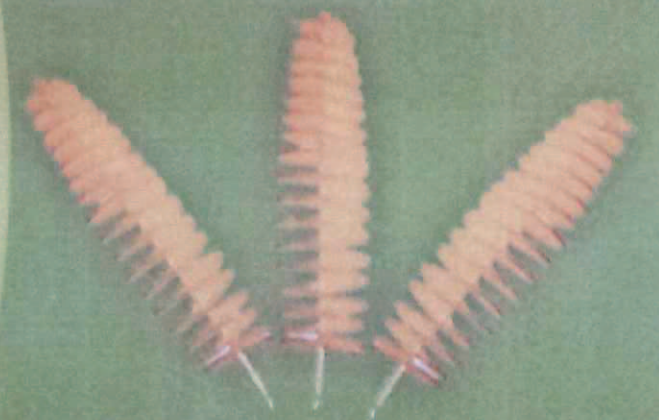
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SPIRAL ROLL CHIPS SWEET CORN

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- Healthy, Juicy & Nutritious
- High in Fiber
- High in Protein
- Preservative Free



- Hand made spiral chips



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To Cheltenham Borough Council
town of Cheltenham

COVER LETTER

From

Stoyan Velev and Angel Andreev

Re: Application for street vending of steam-cooked corn and spiral chips.

Dear Borough Councillors,

In this Cover letter we would like to introduce to your attention the business we want to develop in the town of Cheltenham SPA, to state our reasons as well as to express our willingness to cooperate and comply with all legal regulations and directives of the legislation, as well as your recommendations.

Description of business activity:

The commercial activity we would like to develop in your town is to sell sweet corn and potato spiral chips. Both products will be prepared on the spot in front of the clients, which is not only healthy, but it will be a kind of tourist attraction as well. For this purpose we will use a cart equipped with a cauldron for corn and a deep fryer where the spiral chips will be prepared. The cart is electric, it's brand new and has passed technical feasibility test. According to your requirements we concluded a Public Liability insurance. We are holders of license Food hygienerating 3. We have also thought about the wastes that clients may leave behind them – there will be bins and we will personally collect them.

The only problem for us was to find a place where to get electricity from, because there are no vacant electricity access points in Cheltenham, but we have managed this issue.

The location we have chosen is very suitable and the cart will not be an obstacle to the free passage of pedestrians and vehicles.

The town of Cheltenham is a very interesting and preferred destination of tourists and students from all over the globe, that's why we have chosen it to

present our two products. There is one thing for sure – our tourists will tell their families what interesting things they have tried during their stay in Cheltenham SPA. Our main goal is to bring diversity, freshness and a bright and positive touch in the everyday life of ordinary working and busy people and last but not least to create in all tourists who visit our town another precious, delicious and joyful memory.

Our products are offered nowhere else in the town which makes us outstanding and unique.

We will be very happy if you bring our innovative idea to life because it is far from the stereotypes of fast foods and semi-finished goods that surround us. We, in return, guarantee that we will follow all legal standards and directives of your legislation as well as your recommendations. Presently, we have met all the requirements we have read in your site or which have been recommended by your employees.

We would like to work and develop ourselves in what we do best, which is to make people happy with our food. We sincerely hope you give us a chance to show and develop it further, to work together for a more lively and smiling Cheltenham SPA.

If you have further questions or comments do not hesitate to contact us on tel.:07523816340/ 07450209150

Kind Regards,

Stoyan Velev:

Angel Andreev:

Date:22/06/2016

town of Cheltenham

Agenda Item 7

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