



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Sub-Committee - Miscellaneous

Wednesday, 3 October 2018
6.00 pm
Pittville Room - Municipal Offices

Membership	
Councillors:	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Simon Wheeler
Officers:	Louis Krog, Vikki Fennell and Phil Cooper

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING	(Pages 3 - 6)
4.	APPLICATION FOR RENEWAL OF A STREET TRADING CONSENT Mr Mark Morris (18/01656/STA)	(Pages 7 - 14)
5.	APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY AquaVitae 10 Ormond Place Cheltenham (18/01920/TCAX)	(Pages 15 - 26)
6.	APPLICATION FOR A STREET TRADING CONSENT Mr Paul Stephens (18/02006/STA)	(Pages 27 - 34)
7.	ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	

Contact Officer: Sophie McGough, Democracy Officer,
Email: democratic.services@cheltenham.gov.uk

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Licensing Sub-Committee - Miscellaneous

**Wednesday, 25th April, 2018
6.00 - 6.40 pm**

Attendees	
Councillors:	David Willingham (Chair), Dennis Parsons (Vice-Chair), Adam Lillywhite, Diggory Seacome and Pat Thornton
Also in attendance:	Vikki Fennel and Phil Cooper

Minutes

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

The Chair, Councillor Willingham declared that some of his financial services were provided by John Lewis but did not deem this a pecuniary interest but wanted it recorded nonetheless.

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting held on 4th April 2018 were signed as a correct record.

4. APPLICATION FOR A STREET TRADING CONSENT

The Chair welcomed the group and Mr Howard Barber, the Council's lead Townscape Officer who the Chair had invited to discuss the proposed changes to the Public Realm and Street Scene on the High Street.

The Licensing Officer introduced the report regarding an application for a street trading consent from Mr Edward Danter to sell hot food and drink from a unit on the High Street. He explained that Mr Danter had applied for consent to trade from 09th November to 31st December 2018 and the timings were outlined at paragraph 1.3 of the report.

He advised that whilst the proposed trading location is one that is approved for street trading in the council's adopted policy, the type of goods being sold is not compliant with the policy as the area is permitted only for those functions outlined at paragraph 5.3 of the report. He further noted that the size of the trading unit exceeds the permitted size for trading units in that location.

He informed the sub-committee that during the consultation period an objection had been received from the Operations Manager at Cheltenham Business Improvement District (BID) who were acting on behalf of local businesses and this was included at paragraph 4.1 of the report.

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The Licensing Officer advised the sub-committee that they could:

- Approve the application because Members are satisfied that the location is suitable; or
- Refuse the application because it does not comply with the provision of the Street Scene policy.

Mr Barber, the Townscape Officer was then invited to speak. He firstly began by handing around a High Street East Masterplan to the sub-committee. He noted the following:

- That the scheme was due to start in May and that the programme for completion was the end of September/early October.
- They planned significant improvements to the quality of the High Street and explained that they would be replacing the tarmac infills with natural Forest of Dean stone.
- He explained that the new public realm would include infrastructure improvements including drainage.
- He reiterated that it was not just about changing the physical space but changing how it is used and what activities take place there. They had a vision for it to be used for events, activities and performances.
- He claimed that such changes were not being made because John Lewis would be opening but improvements were being planned across the whole Town.
- Significant investment was being put into the project from both Cheltenham Borough Council and Gloucestershire County Council.
- He felt that if Mr Danter was granted an application it could compromise what they would be able to deliver in that area in terms of activities this coming Christmas and that the BID already had a number of ideas for the space.

Following questioning from Members, Mr Barber confirmed that:

- Given the proposed changes to the area Mr Danter's unit would still technically fit in to the space.
- That the infrastructure would be adequate to support the unit as they were looking to promote more activities in this space so it would need to be sufficient to support those needs.
- When questioned on whether there were other spaces that could be used for such activities, Mr Barber claimed he was unsure as this was something that the BID would manage. However, he noted that there were limited spaces that could be occupied on the High Street.
- He raised concerns over whether the food unit was the right first use of this space given the High Street project would have not long been completed.
- He reiterated that he was unsure what had been planned with regards to Christmas processions as this was dealt with by the BID, however, he felt as a result of the opening of John Lewis a lot more people would be attracted to this area, particularly over the Christmas period.

The Members proceeded to ask the Licensing Officer a series of questions. He confirmed that:

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- There were no suitable areas that he was aware of that would accommodate this sized unit.
- He confirmed that on the High Street there were 2 locations which were deemed suitable for hot food units, which were near the junction with Pittville Street and near the Regent Arcade. He confirmed that at the time that the policy was approved these locations met the policy's requirement and so there were no other competing food and drink businesses in the immediate vicinity.
- He confirmed that the maximum permitted size for trading units in the Council's policy was 6 m sq, but that the maximum size is different in different locations.

Mr Danter was then invited to speak. He firstly questioned the Licensing Officer as to whether any complaints had been received last year to which he confirmed there hadn't been.

- He explained that his family had been trading in the High Street for over 30 years over the Christmas period.
- He informed the sub-committee that they used local suppliers for their produce and employed local staff.
- He claimed that his other business ended in November and so the food unit provided income for him and his family through the winter.
- He had been using the same trading unit for the past 14 years and he had refurbished it in 2016 to give it a new look.
- He felt that the opening of John Lewis was irrelevant as he was situated outside of New Look.

The Members proceeded to debate the application. The Chair felt that if the BID had any concerns regarding the use of the space for events then this should have been reflected in their objection letter. Members agreed that Mr Danter ran a popular service and was well liked in the community, although some agreed that the unit would be more suitable in a different location. One Member raised the point that the majority of shops between where the unit would be situated and John Lewis were vacant and so businesses should be encouraged. Others also agreed that it was a positive contribution to the street scene over Christmas and that it was their vision to have a prosperous Town Centre so by attracting more businesses this was surely a good thing. However, Mr Barber noted that the opening of John Lewis was attracting businesses to the area already and that the old HMV store was being refurbished and expected to open shortly ahead of the completion of the public realm. Other Members felt that it was irrelevant what was being planned on the High Street but that the issue was with the competition for local businesses. The Chair felt that the unit wouldn't impact upon the street scene and that it did not cause obstruction to pedestrians. He also reasoned that several of the food businesses in close proximity were multi national corporations who would not suffer as a result of the competition. He reminded the sub-committee that the Officer's recommendation was to refuse because the application did not comply with the policy, however, that the sub-committee had deviated from the policy on previous occasions by granting the application.

In his final right of reply, Mr Danter added that:

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- He would appreciate if the sub-committee would grant the application this year and then he would look at a new location for 2019 and have a new unit designed which was much smaller.
- He claimed that many towns across the country had similar units over the Christmas period, including one on Gloucester High Street which was the same size and operated for 12 months of the year.

The Members then proceeded to vote on section 1.6.1 to *approve the application because Members are satisfied that the location is suitable*.

Councillors Willingham, Thornton and Lillywhite all voted in favour of section 1.6.1.

Councillor Seacome and Councillor Parsons voted against section 1.6.1.

Resolved That

The application be granted because the sub-committee are satisfied that the location is suitable.

The Chair strongly advised Mr Danter to reconsider the size of his unit and liaise with the Licensing team regarding the relocation of the unit for future applications. He also advised that the street trading policy was up for review by the end of the year and that input to the consultation would be strongly welcomed by Mr Danter and other residents.

David Willingham
Chairman

Cheltenham Borough Council

Licensing Committee – 3 October 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for renewal of a Street Trading Consent

Mr Mark Morris (18/01656/STA)

Report of the Licensing Team Leader

1. Summary and recommendation

1.1 We have received an application for the renewal of a street trading consent from Mr Mark Morris to sell fresh cut flowers from a stall on the corner of Ormond Terrace and Promenade. **Appendix 1** shows the location of the trading pitch.

1.2 Mr Morris has applied for an annual consent on the following days and times:

Monday	08.30 - 18.00
Tuesday	08.30 - 18.00
Wednesday	08.30 - 18.00
Thursday	08.30 - 18.00
Friday	08.30 - 18.00
Saturday	08.30 - 18.00
Sunday	11:00 - 17:00

1.4 An image of the trading unit 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 for the proposed trading, or

1.5.2 Refuse the application because it does not comply with the provision of the adopted Street Trading Licensing Policy or for any other reason.

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.

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 meters 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 A number of objections have been received in relation to this application. These are outlined in the accompanying background papers.

5. Licensing Comments

- 5.1 This application is for the renewal of an existing street trading consent. The application complies with the provisions of the council's adopted Street Trading Licensing Policy.
- 5.2 This application has generated a number of objections as outlined in the accompanying background papers including a number of signatories on a petition calling for the "removal" of the licensed stall.
- 5.3 Members must also be aware of a petition that has been published under the council's petition scheme in support of this application. The petition in support has attracted 125 electronic signatories calling on the council to "support the current position of our flower stand when considering the renewal of our street trading licence."
- 5.4 The objection raised by Beards Jewellers makes reference to matters under the section 115E(2) Highways Act 1980 and the council's ability to issue this consent. The council's legal view in relation to the aforementioned is that objects (and therefore obstructions of the highway) associated with street trading consents are not subject to the requirements and restrictions associated with section 115E(2) of the Highways Act 1980. As such, it is within the committee's ability to determine this application on its merits.
- 5.5 Members will be aware that the trading location relating to this application has been the cause of the majority of the objections received. A meeting was held in August, facilitated by the BID and council, to get the parties on both sides of the argument around the table in order to attempt a practical compromise. A number of alternative locations were discussed but Mr Morris did not consider any of these to be a suitable alternative. For information, the alternative locations were:
- Outside Cavendish House on the pedestrianised Promenade;
 - Further down Ormond Place to where the pedestrianised section meets the road; and
 - On the pedestrianised Promenade adjacent to the Minotaur statue.

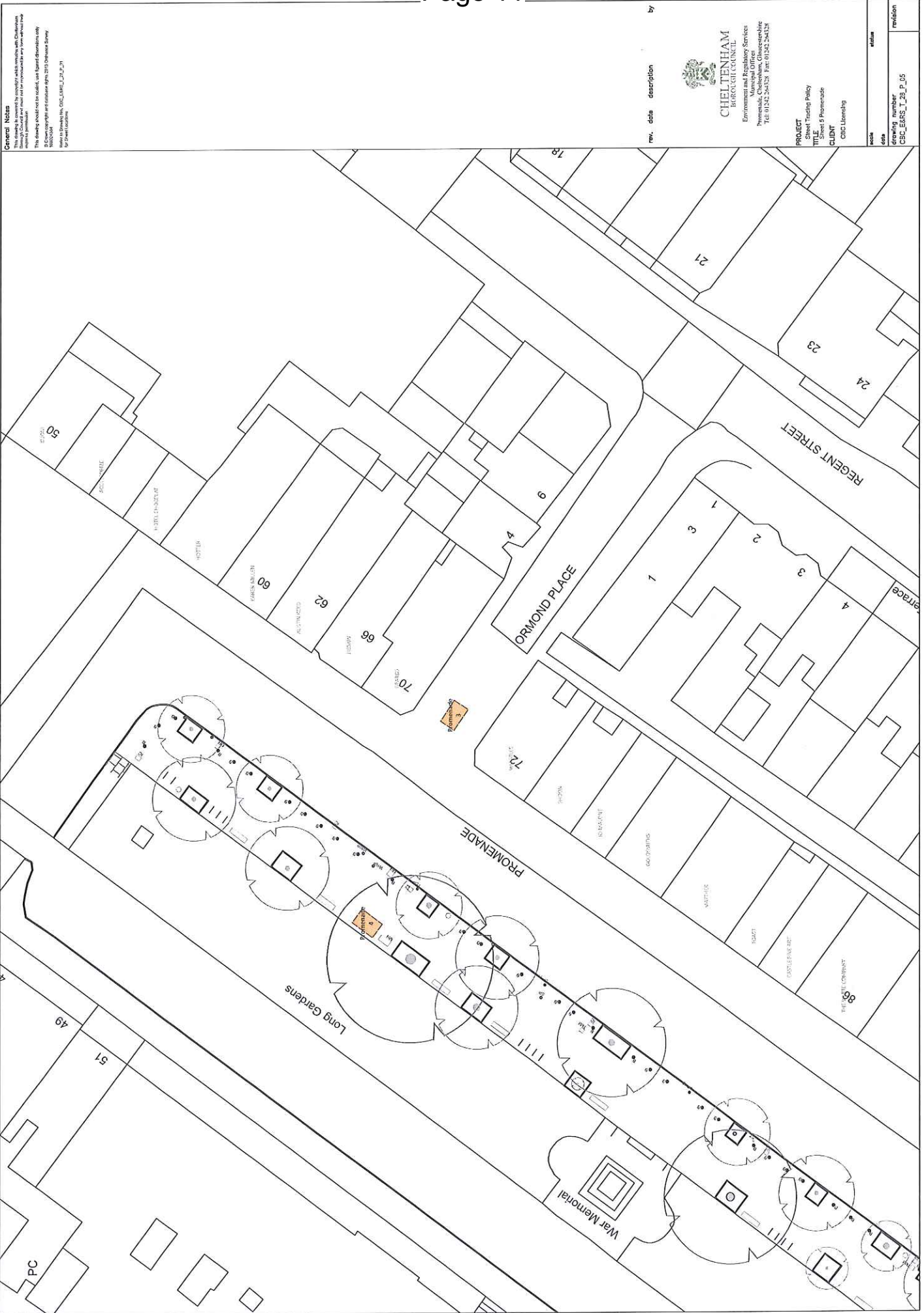
- 5.6 Although this is an application for the renewal of an existing consent, Members are not strictly bound by previous decisions to grant this consent. The legislation gives the committee a wide discretion stating that a “council may grant a consent if they think fit” and as such the Committee can take into consideration a number of factors when determining whether this consent should be issued for a further 12 months.
- 5.7 The issues to be taken into consideration must include the evidence the Committee is presented with on the day but equally wider considerations can be taken into account, for example, the changing nature of the public realm, wider future plans that may affect, or be affected, by the grant of this consent, or the changing nature of the needs of the local area.
- 5.8 If the committee are minded to refuse the application, it must give clear and comprehensive reasons for doing so.
- 5.9 Members are reminded that the application must be determined on its merits. It is not within the committee’s ability to grant this consent but for an alternative location. If the committee considers an alternative location to be more suitable, it must refuse this application and ask the applicant to submit a new application.

Background Papers

Service Records

Case Officer

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 262626



General Notes
 1. This drawing is a site plan showing the layout of the site and the proposed development.
 2. The drawing is not to be used for construction purposes without the approval of the relevant authorities.
 3. The drawing is not to be used for any other purpose without the approval of the relevant authorities.
 4. The drawing is not to be used for any other purpose without the approval of the relevant authorities.
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rev.	date	description	by

CHELTENHAM
Borough Council
 Environment and Regulatory Services
 Promenade, Cheltenham, Gloucestershire
 TEL: 01242 244124 Fax: 01242 244128

PROJECT
 Street Trading Policy
 11/12/13
 11/12/13
 11/12/13

CLIENT
 CBC Licensing

scale	status

date	revision

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Cheltenham Borough Council

Licensing Committee – 3 October 2018

**Highways Act 1980
Local Government (Miscellaneous Provisions) Act 1982**

Application for permission to place tables and chairs on the highway

AquaVitae 10 Ormond Place Cheltenham (18/01920/TCAX)

Report of Licensing Team Leader

1. Summary and Recommendation

1.1 An application to place tables and chairs on the highway has been received from Mr Paul Stephens in respect of AquaVitae, 10 Ormond Place, Cheltenham. The applicant wishes to place 16 chairs and 8 tables on the highway during the day and 32 chairs and 10 tables during the evening/night.

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

Monday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Tuesday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Wednesday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Thursday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Friday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Saturday	08:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)
Sunday	10:30 – 18:30 (day time) 18:30 - 03:00 (evening/night)

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 and the provisions of the Highways Act 1980, 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.

3.3 Tables & Chairs

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.

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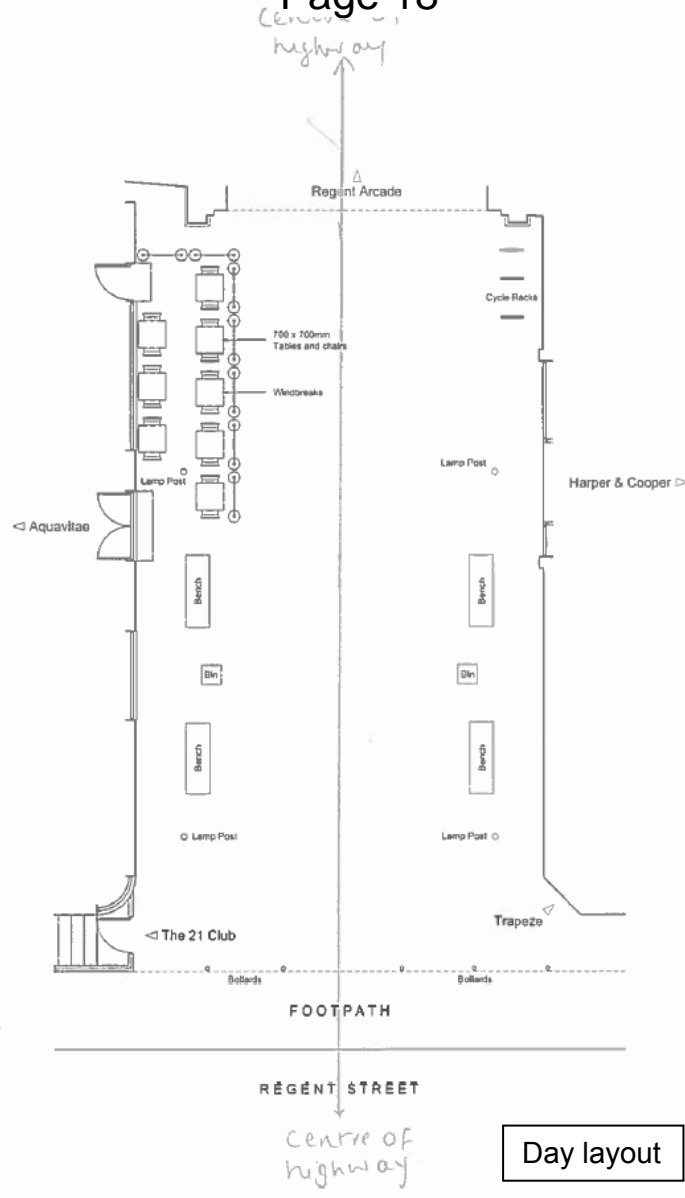
Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

4. Consultee Comments:

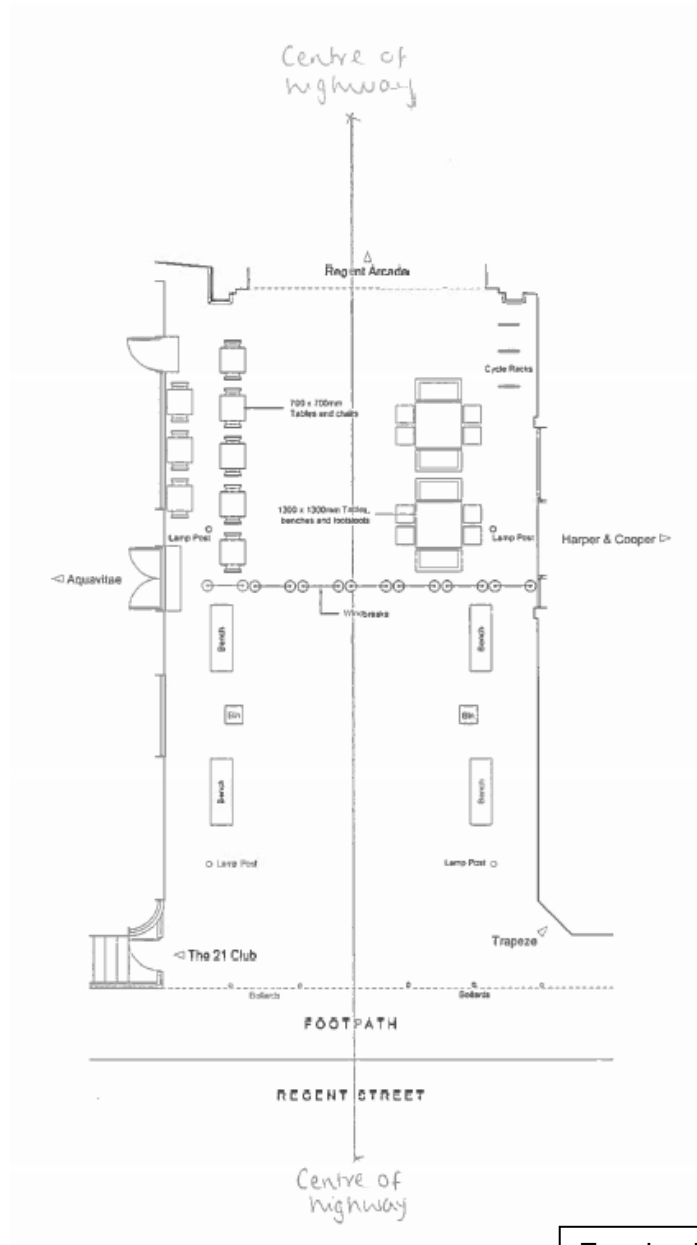
- 4.1 An objection has been received in relation to this application which is outlined in the accompanying background papers.

5. Licensing Comments

- 5.1 The objection makes reference to matters under the section 115E(3) Highways Act 1980 and the council's ability to issue this consent. Under the aforementioned section, the council is not able to issue a consent for the obstruction of the highway unless it has "obtained the consent of the frontagers" affected.
- 5.2 The council's legal position is that due to the nature of where the centre of the highways falls (see below) in respect of the area of highway in question, the objector's client cannot be viewed as frontagers with an interest to the daytime layout of the tables and chairs since none of the objects lay between any part of Regent Arcade and the centre of the highway.



5.3 In relation to the evening/night-time layout, the objection would be relevant to the windbreaks between the Arcade and the highway centre and to this extent the committee will be unable to give consent for these without the consent from the objector's clients. However, in relation to the other objects shown on the plan below, the council is able to make a determination.



Evening layout

5.4 Gloucester County Council’s Local Highways Manager for Cheltenham, stated in relation to where the centre of the highway falls outside 10 Ormond Place: “I have had a look at some old mapping showing the street before Regent Arcade was built when Ormond Place led to a car park. No 21 and 23 Regent Arcade do not seem to have changed so if I was looking to identify the centre of the highway I would simply measure the distance between these two building at a couple of points and divide the measurement by two to find the middle.” The plans accompanying the response above are shown below for reference:



- 5.5 Since the council’s view is that the arcade cannot be classed as a frontager, the committee will need to determine the application on its individual merits taking into account the evidence it hears on the day (both verbal and written) and with a view of promoting the council’s policies.
- 5.6 In relation to the relevant policies, relevant extracts are outlined above (paragraph 3). Members must also be mindful of the Probity in licensing guidance in general but particularly, “Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 5.7 The committee must consider the wider implications of the granting this consent, if it is mindful of doing so. The objector has, for example, raised the issue of the future development of the area and the arcade and the committee must take this into account when determining the application.
- 5.8 Finally, the objector has made reference to the fact that the area of highway in question has been designated as an emergency exit for staff working in the arcade outside of normal operating hours. Whilst this may not be the only designated emergency exit, Members need to be mindful of this particularly in relation to the evening/night-time layout.

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Case Officer

Page 21
Officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 262626

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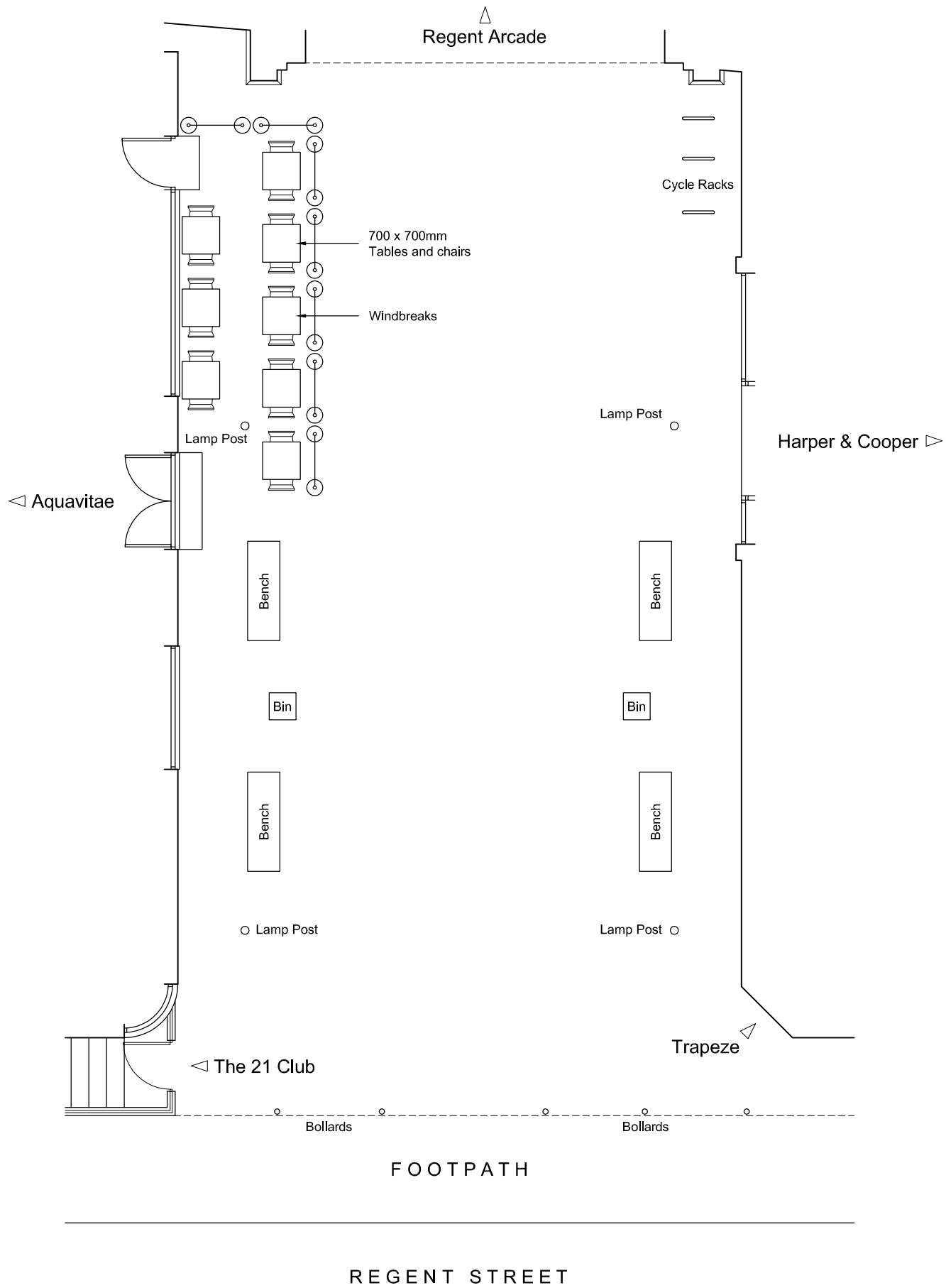
Evening




Day time



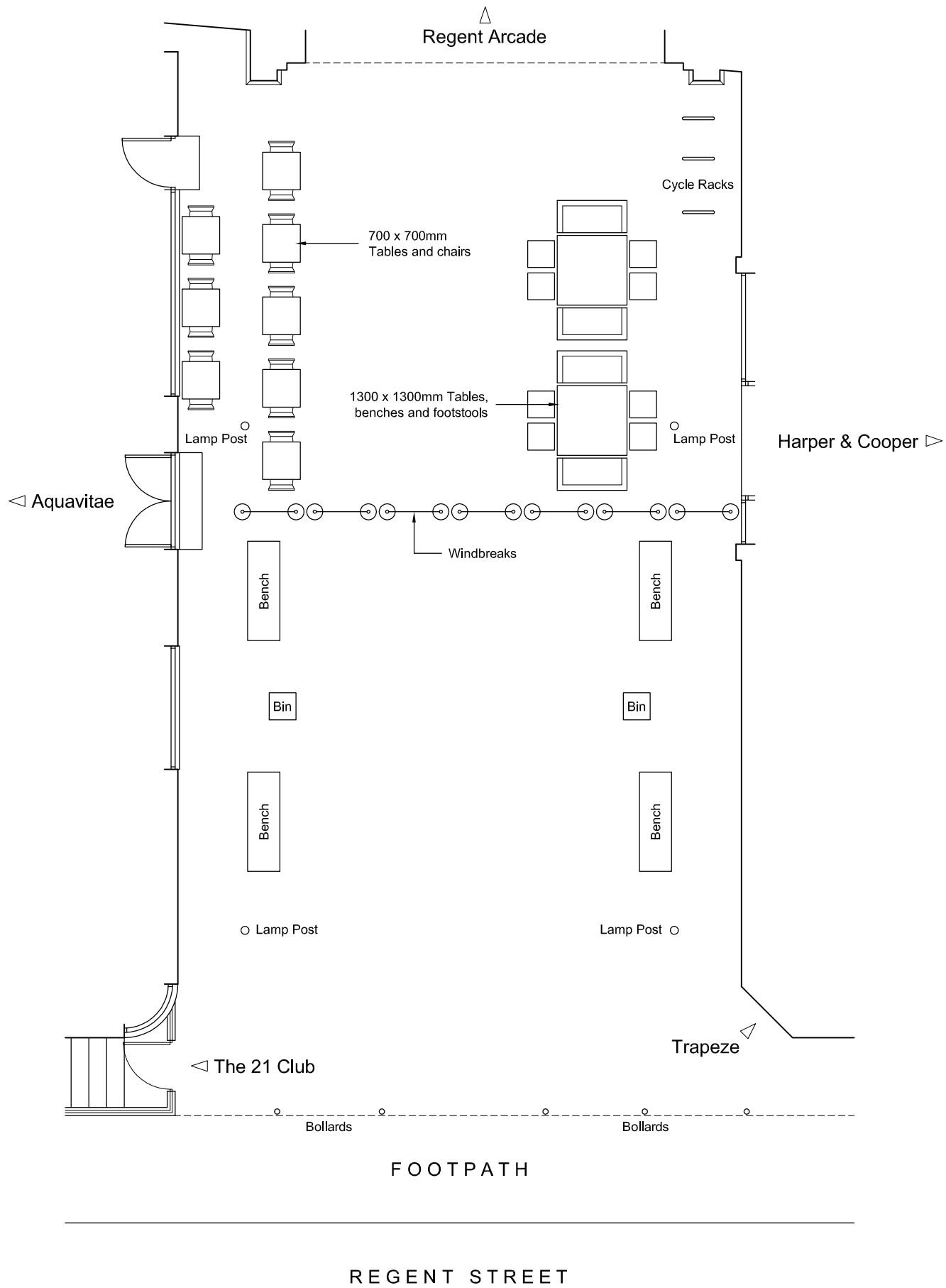
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Client The 21 Club Limited						
Project Aquavitae, 10 Ormond Street, Cheltenham						
Drawing Title Daytime Layout						
Date Aug 2018	Scale 1:100 @ A3	Drawn GMP	Status PA	Job No. AQV18.01	Drg No. 01	Rev. -

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Client The 21 Club Limited						
Project Aquavitae, 10 Ormond Street, Cheltenham						
Drawing Title Evening Layout						
Date Aug 2018	Scale 1:100 @ A3	Drawn GMP	Status PA	Job No. AQV18.01	Drg No. 02	Rev. -

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Cheltenham Borough Council

Licensing Committee – 3 October 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Paul Stephens (18/02006/STA)

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Mr Paul Stephens for a street trading consent to sell hot dogs, burgers, chicken wraps and chips from a Gazebo measuring 2m (6ft) x 3m (10ft).
- 1.2 Mr Stephens has applied to trade on the paved area outside Aqua Vitae located at 10 Ormond Place. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Stephens has applied for a temporary consent for the following dates and times:
 - 20th October 2018, 19:00 - 03:00
 - 16-17th November 2018, 19:00 - 03:00
- 1.4 An image of the trading unit 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 for the proposed trading, or**
 - 1.5.2 **Refuse the application because it does not comply with the provision of the adopted Street Trading Licensing Policy or for any other reason.**

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.

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 meters 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 has been received in relation to this application outlined in the accompanying background papers.

5. Licensing Comments

- 5.1 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.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above ("Permitted Locations") and Members should take these into account when determining this application.
- 5.3 The proposed trading location in respect of this application is not one permitted by the licensing policy. Consequently, officers have recommended that the application be refused.
- 5.4 However, Members should be mindful that this application is for a temporary trading consent and as such the policy provisions must be interpreted in light of this.
- 5.5 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 however to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.4 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.
- 5.5 The objection makes reference to matters under the section 115E(3) Highways Act 1980 and the council's ability to issue this consent. The council's legal view in relation to the aforementioned is that objects (and therefore obstructions of the highway) associated with street trading consents are

not subject to the requirements and restrictions associated with section 115E(3) of the Highways Act 1980. As such, it is within the committee's ability to determine this application on its merits.

5.6 The objector has also raised issues regarding the needs of the area stating that there is sufficient existing provision in the vicinity to negate the need for the trading consent to sell hot dogs, burgers, chicken wraps and chips. In this regard, Members must be mindful of the policy position in relation to the needs of the area as outlined under 3.2 above.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

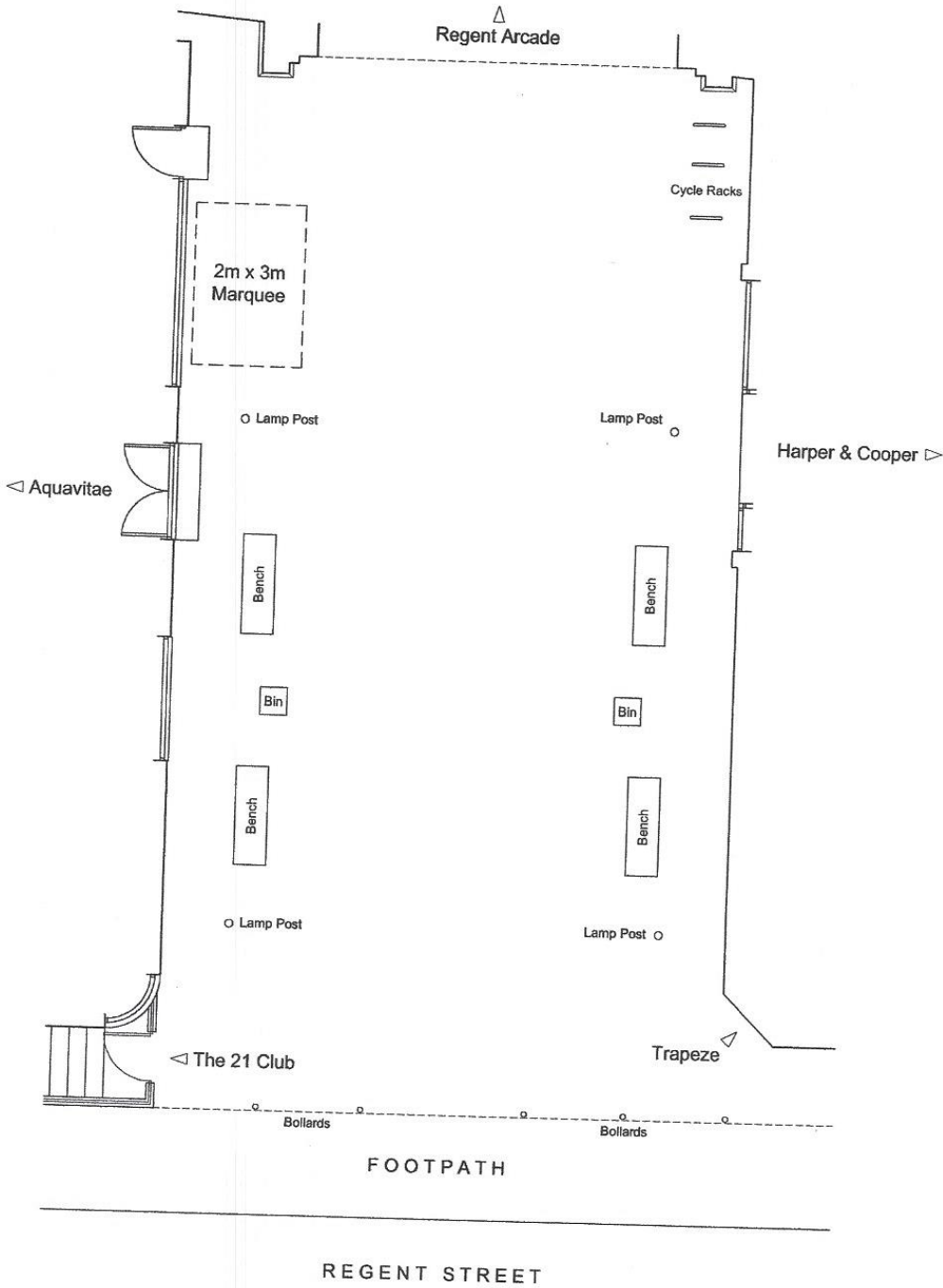
6.2 **Reason(s):** The application does not comply with the provisions of paragraph 4.1 of the adopted Street Trading Licensing Policy in that the proposed trading location is not one allocated as a "Permitted Location".

Background Papers


Service Records

Case Officer

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Project		Aquavitae, 10 Ormond Street, Cheltenham					
Drawing Title		Retro & Vintage Layout					
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