



## Notice of a meeting of Full Licensing Committee

**Wednesday, 2 December 2020**

**4.00 pm**

**Pittville Room - Municipal Offices, Promenade**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Angie Boyes, Mike Collins, Wendy Flynn, Tim Harman, Diggory Seacome, Jo Stafford, Roger Whyborn and Simon Wheeler

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

## Agenda

<b>1.</b>		<b>APOLOGIES</b>	
<b>2.</b>		<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>		<b>MINUTES OF THE PREVIOUS MEETING</b> Minutes of the meeting held on 24 September 2020.	(Pages 3 - 6)
<b>4.</b>		<b>MINUTES OF SUB-COMMITTEE MEETINGS</b> Minutes of the meetings of: <ul style="list-style-type: none"> <li>Licensing Sub Committee (Miscellaneous) held on 4 November 2020</li> <li>Licensing Sub Committee (Alcohol and Gambling) held on: 11 August 2020 24 September 2020 4 November 2020</li> </ul>	(Pages 7 - 26)
<b>5.</b>		<b>APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY – ‘A’ BOARD</b> The Urban Meadow Café	(Pages 27 - 34)
<b>6.</b>		<b>RESPONSE TO CONSULTATION TO REVISED STREET SCENE POLICY</b> Report of the Licensing Team Leader	(Pages 35 - 68)
<b>7.</b>		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES</b>	

		<b>URGENT AND REQUIRES A DECISION</b>	
<b>8.</b>		<b>DATE OF NEXT MEETING</b> 3 March 2021	

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## Full Licensing Committee

**Wednesday, 2nd September, 2020**

**4.00 - 5.00 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Wendy Flynn, Diggory Seacome, Roger Whyborn and Simon Wheeler
<b>Also in attendance:</b>	Louis Krog (Licensing Team Leader) and Vikki Fennell (OneLegal)

## Minutes

### 1. APOLOGIES

Councillor Harman sent apologies. Cllrs. Boyes, Collins and Stafford were absent.

### 2. DECLARATIONS OF INTEREST

There were none.

### 3. PUBLIC QUESTIONS

There were none.

### 4. MINUTES OF THE PREVIOUS MEETING

Members noted that a duplicate set of minutes had been included in the pack, and one set of minutes were missing. It was agreed that the missing set would be considered at the next meeting instead.

The Legal Officer moved to a vote on the 21st July minutes. Cllrs. Seacome and McCloskey, who were present at that meeting, were in favour. The Legal Officer noted that the 'also in attendance' section ought to include the Legal Officer and Licensing Officer. PM suggested that the names of the police officers involved should be included, as they had been very helpful. The Legal Officer clarified that the officers were Rich Smith and Steve Kiernan.

The Legal Officer moved to a vote on the 5th August minutes. Cllrs. Wheeler, Whyborn and Willingham, who were present at that meeting, were in favour.

The Legal Officer moved to a vote on the 24th June minutes. Cllrs. McCloskey, Seacome, Whyborn and Willingham, who were present at that meeting, were in favour.

The Legal Officer moved to a vote on the 2nd July minutes those who were present at that meeting, were in favour.

### 5. MINUTES OF SUB-COMMITTEE MEETINGS

**6. APPOINTMENT OF VICE-CHAIR OF "MISCELLANEOUS" SUB-COMMITTEE**

The Licensing Officer introduced the item, noting that the previous vice-chair of the committee (Councillor Parsons) had stood down in July 2020. Cllr. Flynn had been nominated to replace him on the full Licensing Committee, and the report sought to appoint her to the Miscellaneous Sub-Committee as well and appoint her as vice-chair.

Members unanimously agreed with the recommendations.

For: 5

Against: 0

Abstain: 0

**7. CONSULTATION ON REVISED LICENSING ACT 2003 STATEMENT OF LICENSING POLICY**

The Licensing Officer introduced the report, noting that under the provisions of the Licensing Act 2003, the council had to produce a policy statement every 5 years. With the last one having been published in December 2015, it was time to consult with a view to producing a new statement. Licensing Committee members were the lead consultee to the Cabinet Member Development and Safety, and were recommended to note the proposed changes shown in the appendix as tracked changes.

He explained the general outline of the policy, which followed case law and national guidance as it set out various matters and provided guidance to licence holders covering premises licenses, temporary event notices and much more.

He cited alcohol as a crucial area of licensing policy, weighing up the potential adverse community impact with the economic and leisure benefits. The policy sought to shape the licensing landscape in the town by promoting greater diversity in the night-time economy and proactively approaching the regulation of licensable activities.

He emphasised that the current policy statement was of a good standard, as it drew on CBC's significant licensing experience since the passing of the 2003 Act. He clarified that most changes were very minor, though part 4.3.1. onwards detailed the more significant changes, including the addition of equalities statements and the removal of references to the late night levy, which was no longer in effect.

The Chair added that the report was to go out for consultation, so any wider issues could be brought to the committee's attention at a later date. The Licensing Officer added that the consultation was open until 5th October.

Members made the following points:

- praised particular elements of the town's licensing policy, such as takeaway restaurants being open later than establishments selling alcohol, and asked the Licensing Officer how effective he felt the policy statement was as a strategy. The Licensing Officer emphasised that he felt it was a very helpful tool that informed potential applicants exactly what was expected of them.
- There were further questions about the night-time economy, particularly the section of the policy relating to 'designated areas of concern' and

'cumulative impact areas' (paras. 6.8-6.11). The Licensing Officer responded that the council had been careful in its wording, referring to parts of the town with a particularly large number of establishments serving alcohol as 'areas of concern'. He suggested that significant evidence would be required for the council to go down the route of deploying this tool. It was a robust mechanism that had not been required so far. The Licensing Act 2003 gave authorities plenty of scope. He added that it would ultimately come down to the quality of representations or objections received on an application.

- One Member raised that on page 68, alcohol sales priced by volume/avoiding promotions which encourage excessive alcohol consumptions. Lots of conditional language like 'should' and 'can' – less concrete policy than he would like. The Chair agreed with RW's suggestion that the policy should say 'must' rather than 'should' in the examples cited, in order to increase clarity. The Legal Officer warned that this might be seen as a more specific condition
- Is the council was legally allowed to put a minimum price on alcohol, like in Scotland? Licensing Officer responded that he believed this was not the case, and it was not within the council's legal scope – English authorities have not gone down this route. He added that there was a minimum price per unit in England, set at the level of alcohol duty plus VAT. However, in March 2020, the UK govt. stated that there were no plans to implement minimum alcohol pricing, although it was monitoring the situation in Scotland. The Chair added that the policy would monitor areas where proxy sales might be common

– vendor required to display clear notices stating that it was an offence to purchase alcohol under the age of 18.

- The Chair made a number of further suggestions, which the Licensing Officer responded to. He suggested monitoring the disposal of glass recycling, and enhancing the wording in part 6.9, which referred to shops selling alcohol. The Licensing Officer agreed that these would be useful additions. DW also suggested monitoring the use of 'creamer' cartridges (NO2), although the Licensing Officer suggested that this could not be restricted through licensing protocols except in the context of an event.

The Legal Officer moved to a vote, which was carried unanimously.

For: 6

Against: 0

Abstain: 0

### **8. AMENDMENT TO POLICY ALLOWING PARTITION SCREENS IN LICENSED VEHICLES**

The Licensing Officer introduced the item, which related to the partition screen policy recently approved by Cabinet, which sought to reduce the potential for transmission of Covid-19 between drivers and passengers. He noted that the quality of screens had improved since the policy was implemented, and that the policy was thus being amended to broaden its scope to take this into account.

The proposed amendment essential boiled down to removing two words from the sentence: 'constructed with PVC or polycarbonate and be of firm or solid design'. He explained that 'or solid' ought to be removed, since the authority had viewed vehicles whose screens would not be considered 'solid', but were entirely appropriate anyway. The minor amendment to the policy would allow these vehicles to operate in a safe way and aid public health.

One Member welcomed what she saw as a sensible amendment, and stressed that the council needed to continue being flexible and adapting to a fast-changing environment

The Legal Officer moved to a vote, which was carried unanimously.

For: 6

Against: 0

Abstain: 0

**9. REVIEW OF PREVIOUS DECISIONS**

There were none. The Chair asked members who had chaired the previous meetings, as referred to in item 4, to give their comments with regards to the script provided to Democratic Services prior to the next Licensing meeting.

**10. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

There were none.

**11. DATE OF NEXT MEETING**

The next meeting is scheduled for 2<sup>nd</sup> December 2020.

David Willingham  
**Chairman**

## Licensing Sub-Committee - Miscellaneous Application for a Street Trading Consent

**Wednesday, 4th November, 2020**  
**5.45 - 6.45 pm**

Attendees	
<b>Councillors:</b>	David Willingham (Chair), Mike Collins, Wendy Flynn (Vice-Chair), Diggory Seacome and Simon Wheeler
<b>Also in attendance:</b>	Claire Morris, Vikki Fennell and Jason Kirkwood (Senior Licensing Officer)

### Minutes

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

Councillors Willingham and Seacome declared they had visited the site.

**3. BELLA MIA PIZZA**

The Licensing Officer introduced the report. An application had been received from Mr Jamie Fisher trading as Bella Mia Pizza for a street trading consent to sell pizza, desserts and cold drinks from a trailer outside Space NK Apothecary on the Promenade. Mr Fisher had applied for an annual consent to trade on Fridays, Saturdays and Sundays from 11.00 to 21.00 hours. An image of the trading unit was attached to the report. The Officer advised that the application did not comply with the provisions of the street trading policy as it was not in an approved location. The applicant had also been made aware of special conditions that might be applied if trading could be permitted, if the application were successful. The Officer reported that no comments had been made during the consultation period. The Officer shared his screen to show the proposed location of the trading unit as it was not totally clear from the map with the report.

The Officer reminded members of the aims and objectives of the council's policy and that the policy prescribed three permitted trading sites. He outlined the options available to members in determining the application and stated that the onus was on the applicant to give reasons for the committee to depart from the policy. The Officer's recommendation was that it be refused as it was not in an approved location.

In reply to a question from a member, the Officer stated that the other markets allowed in this area most likely did sell hot food.

The Chair invited the applicant to address members. Mr Fisher stated that this was a family run business, which started trading in 2016 and normally catered for weddings and other outside functions. He said it was very successful as people loved to see the authentic way of making the pizzas. He said everything was homemade and good quality and they always had good feedback from their customers. However due to Covid-19 the wedding side of the business had dried up and he saw an opportunity to operate in Cheltenham. He felt with his unit being a horse trailer that this fitted well with the townscape of Cheltenham and would bring added benefit to the town, as many restaurants were currently closing. They were very active on social media and this too would bring people into the town. He stated they also have a branch in Gloucester that is doing very well and would like to replicate this in Cheltenham.

In reply to member's questions, Mr Fisher clarified that:-

- This would be his second unit.
- Everything was fresh and homemade and made in front of the customer.
- With regard to odours, the location was a smoke controlled zone, so he would be using charcoal and the smell of pizzas was not offensive.
- If trading was successful and the committee happy then he hoped to continue post Covid.
- He was an independent business with no link to Space NK Apothecary
- The unit did not require electricity; the light was battery powered and refrigeration was in cool boxes so the unit was self sufficient.
- Their waste management was very low; pizzas were served on a cardboard tray.
- He chose that location as it is a beautiful part of the town and a prime location
- He would just be selling pizzas, not pasta.
- Desserts would be sweet calzones

The matter was then debated by members with the following comments:-

- Concern about how it would fit in without causing some sort of obstruction in a rather crowded area.
- The unit itself looked very good and attractive and would like to see it in Cheltenham, but didn't feel it was the right spot for it.
- The unit would be in competition with the retailer Huffkins which was an established business, although they do sell different products.
- It did not add any value to the town and nothing in the application merited deviation from the policy. Difficult to see it regenerating the town centre even though similar food outlets nearby had closed.
- The unit was not in an approved location but a member queried whether other vacant spots in an approved area were available at the moment.
- One member was not worried about obstruction from this unit as there were markets in this area at other times who sold food and drink.
- If the applicant was going back to weddings when possible and in response to the Covid 19 situation, a member suggested considering the granting of a temporary licence for a certain period of time and if the applicant was successful he could move to a more appropriate location within the town centre, however this member also felt the proposed location was unsustainable in the long term.
- There were no issues with the appearance of the unit or any environmental issues.



- No objections had been raised from surrounding businesses or the BID, so how much weight do the committee put on the competition with Huffkins.
- There was merit in the application, it was a good proposition but in the wrong place.
- There were reasons to justify a temporary licence but the officer recommendation was to refuse.

In reply to a member question on other locations, the Licensing Officer stated the council had appropriate zones but that there was no limit within those zones and that he was happy to speak with the applicant to see if there was a more suitable location. The applicant would have to make another application, but if it was in an approved location with no objections it could be more suitable.

In his final right of reply the applicant stated that he would be happy with a temporary licence and that he would be happy to move to a different location if one were available. He felt he was not in competition with Huffkins as they sold different food.

The Chair moved to vote on:

1.5.1 – to approve the application – 5 against, 0 for.

1.5.2 – to approve the application subject to the additional terms and conditions as set out in the report, plus the added condition of a short term licence for 6 months – 3 against, 2 for.

1.5.3 – to refuse the application – 0 against, 5 for.

The Chair confirmed that the application had been refused as it was not in an approved location as per the council's policy and there were insufficient grounds provided by the applicant to justify departing from the policy. However he stated that the committee were not against the principle of the business and viewed the proposed operation positively and advised the applicant to speak with the Licensing Officer with regard to finding a suitable location.

#### **4. BRIEFING NOTES**

There were no briefing notes to discuss.

#### **5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

The Chair referred to 2 responses to the letters about the sexual entertainment venue licence where at the bottom of the letters the government had indicated that they have no intention to change the law. He felt this disappointing that there was no desire to set up a National Register of Refusals and Revocations but hoped that it was something that the Council could push forward.

David Willingham  
**Chairman**

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**Licensing Sub Committee-Alcohol and Gambling**

**Tuesday, 11th August, 2020  
10.00 - 11.50 am**

<b>Attendees</b>	
<b>Councillors:</b>	(Chair), Angie Boyes, David Willingham (Reserve) and Simon Wheeler (Reserve)
<b>Also in attendance:</b>	

**Minutes**

**1. ELECTION OF CHAIR**

The Legal Officer introduced the item and explained that prior to the meeting Councillor Dr David Willingham had been nominated as Chair.

Due to the size of the committee there was no requirement for a Vice Chair.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE FOR 'NO. 3.' AT 12 ROYAL CRESCENT, CHELTENHAM. GL50 3DA**

The applicant and the objectors for the item were moved into the meeting.

The Chair explained the procedure to the applicant and the objectors.

The Senior Licensing Officer introduced the report as per the published agenda.

Members were asked if they had any questions, they were as follows:

- In terms of noise were there any representations from Environmental Health – there were no objections received from Environmental Health.
- Did the previous occupier receive any complaints – Senior Licensing Officer confirmed that he could find no record of any complaints.

Applicant was then asked if he had any questions, he confirmed that he didn't.

Objectors were then asked if they had any questions based on Officer report:

- Regarding the previous occupier to the property they closed at 3 and didn't open on a Sunday.
- Environmental health said there were no complaints – Is it in scope to look at other properties similar to this one – Senior Licensing Officer said cant supply that information on the day. Chair explained that we cant look at other properties in the area.

Objectors were then asked to speak, points were raised as follows:

- Query raised that the music live and piped licence is until 11.30. The point was raised that there are children living in the area and the music would disturb them.
- External areas are limited outside the property and in an unsuitable area.
- What sort of speciality evening will there be.
- Concern over cars coming and going from the property.

Member then asked the objector what special events would give her cause for concern

- Parties, races, will it be predominantly rugby players, also what sort of entertainment is planned.

Member tried to ascertain what entertainment the objector was concerned about, he explained that sexual entertainment has to be a separate application.

How many houses away is the objector from the premises due to where you are located do you already have noise issues?

- Objector confirmed that when you live in a town centre there is a level of noise but nothing significant.

The next objector then spoke, their points were as follows:

- Lives 6 doors down and just recently had someone urinate in front of their house. Their concern is outside space and the noise that it will create as they can not have double glazing in their properties.
- As a café it worked well but this is not for a café, most of the other businesses close at 5 so doesn't effect residents.
- Acoustics in the Crescent are not good due to the shape.

Member asked the following question:

- Is it a private road, who controls the parking – an agent provides signs within the crescent and people are fined. Every house has 5 parking spaces and they are used accordingly – spaces are used in the day but in the evening are not.
- Are there restriction on people walking through the Crescent? No there are not.

The final objector then spoke:

- All in favour of a Michelin star classy restaurant.
- Lives in a property that was formally a night club and bar and the Council gave full permission to convert.
- There has been more residential coming into the area, they have had to complain about other bars in the area, there are already 5 in the block.
- They have to deal with damage to vehicles and anti social behaviour.
- Main concern is safety and anti social behaviour within the Crescent.

The Chair then asked the applicant to speak and address the issues that the objectors have raised:

- Very proud to call Gloucestershire his home and wants to reassure the objectors that he has no intention to cause havoc in the area.
- He was approached to take the property. Daytime offering will be a café and in the evening will be a restaurant (Fridays and Saturdays)

## Page 13

- This is a food led business not a drink led business. Chefs were previously at the Daffodil so used to having a premises in a built up area.
- Doesn't want to be associated with a premises that will have a bad reputation.
- Applicant stated that wont all be rugby players at the events – small events that will creat a story around food to make people feel special.
- Want the restaurant to be about great food using great produce.
- Wants to do something different and make it special.

Member questions as follows:

- Understand what is underlying issue with the objectors is the definition of a pub – is it full of drunks or the hub of the community where you go for a nice meal and a chat. What do you see the venue as? The applicant confirmed that doesn't want to be associated with a nightclub – he wants Number3 to be somewhere that will attract all ages and a multi purpose site. Food brings people together. No intention to be anything else other than a restaurant. He does not want to be associated with any negativity.
- Where will people be going to smoke, is it the rear or the front? Ideally doesn't want anyone to smoke on the property – there is space at the back of the restaurant to be a smoking area.
- With regards to the music – is it music as an ancillary background? Would use local act if there is someone who approaches – there will be someone in the background when people are eating.
- Question over recycling of glass bottles and storage of waste – waste is collected at the back of the building and is collected from the road on Tuesday mornings.

The matter then went to debate:

- There is sympathy with the objectors – however there are objections that are understandable and the ones that we fear might happen. Committee needs to decide what we can accept. Was very comfortable with what the applicant said – appears to be a restaurant that serves alcohol. Is very happy with the fact that this will work quite nicely. Maybe need to look at the time of disposal of bottles in particular as is a noisy practice.
- Applicants description of the property – very happy that it is going to be a food led business, assumptions should not be made based on applicants previous occupation. We should not assume that people will be anti social when leaving the property.
- With regard to concerns about noise – minded that add a condition that rubbish disposal and glass disposal should not be between 10pm – 7am. Police have withdrawn objection. Strictly within the terms that the committee is allowed to follow there is no statutory laws that can be used to object to this. Again sympathy with the objectors – if the venue does cause a problem they can call a review of the licence as long as they present evidence. Are we able to condition that a premises is food led. Senior Licensing Officer confirmed that this can be a recommendation and not a condition.

The Chair then went to the Applicant for his final right to reply:

- The applicant confirmed that he is happy with the recommendation and condition. He iterated wanted to create a space we can all be proud of. He encouraged the objectors to go and see him and have a conversation.

The matter then went to the vote:

The condition being that the disposal of glass not between 10pm – 7am.

For: 3

Against:

Abstain:

Unanimous subject to condition.

Licensing officers will be in touch – residents please take up his offer to talk to him at anytime.

#### **4. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE FOR FESTIVAL HOUSE, JESSOP AVENUE, CHELTENHAM. GL50 3SH**

The Chair explained the process to the Applicant and the Objector.

The Senior Licensing Officer then presented the report as published.

The matter then went to Member questions:

- Has there been any representation from responsible authorities – there has been no representation.

The Applicant and objector both confirmed that they had no questions for the Senior Licensing Officer.

The Applicant was then asked to explain their application:

- Explained that in the building businesses can hire a floor, a desk or a meeting room.
- Referred to the plan and the licensed area. There is a kitchen and a small servery – the amount of alcohol that is served is minimal usually for a celebration of function. They have asked for off sales but restricted to in the building. Nothing to be taken outside.
- Will always be an office space and never a bar.
- You can only come into the building if you have a pass or tenancy – you can not walk into the property and buy a drink at the bar.
- There will be full CCTV installed and onsite management.
- The concern appears to be in regards to smoking near the property. Most tenants or members will be walking or cycling.
- There will be a smoking area – they will do their best to ensure that this is used.
- Sale of alcohol is ancillary to the fact that it is an office building.
- Hopes that this will be good for the area and provide employment.

The matter then went to Member questions:

- Asked for clarification for the description of Club Members and pass holders – applicant confirmed that Club Members (for a fee) are allowed in the communal lounge area, wifi and networking.

- Is there a limit on the number of guests that a member can bring in? Guests have to be pre booked in advance – if there is a private conference then they will have to be booked in advance.

The objector then spoke:

- Made the point that the area is busy in the day and very quiet at night.
- There is a problem with smokers in the area, concerned that people will bring their drinks outside.
- Concerned that there will be more people wanting to put businesses in such as this.

The matter then went to the debate

- Police, environmental health have not objected to the matter, there is already a Challenge 21 policy.
- Understand the objectors concern, however this is quite common and will be very unlikely to cause problems.
- Applicant will do all that they can to ensure there is no trouble with smokers and bottles leaving the building.
- Appreciates the objectors concerns however if people chose to behave in an anti social way it is outside the remit of the management of the building and the committee.
- If someone is causing a problem inside the premises then they are likely to have their membership revoked.

Applicants final right to reply:

- Nothing further to add.

Vote to grant:

For: 3

Against

Abstain

Granted with mandatory conditions offered in the application.

Licensing Officer will contact applicant to confirm.

### **5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

No further items.

Meeting finished at 11.50.

**Chairman**



**Licensing Sub Committee-Alcohol and Gambling**

**Thursday, 24th September, 2020**

**3.30 - 4.35 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Paul McCloskey (Chair), Roger Whyborn and Diggory Seacome
<b>Also in attendance:</b>	Vikki Fennell and Louis Krog

**Minutes**

**1. ELECTION OF CHAIR**

Councillor McCloskey was elected as chair of the meeting.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. 131 THE PROMENADE**

The Licensing Team Leader, Louis Krog, introduced the report.

131 Promenade Ltd had applied to vary their licence in relation to the hours permitted for the provision of recorded music, late night refreshment and alcohol in the outdoor front, outdoor rear and indoor areas of their premises situated at 129-131 Promenade.

Ten objections had been received which were attached as Appendix C to the report, however no representations were received from any responsible authority.

The Licensing Team Leader clarified to members the variations in the licensing hours requested, reminded them of the licensing objectives and outlined the options available to members in determining the application.

Two objectors were present and invited to speak.

Jon McGugan, speaking in objection as a local resident, stated that he was often unable to sleep because of the noise of the bar late at night. This was especially bad in the summer when his windows were open, as they directly faced the building.

Leo Charalambides, Barrister speaking in objection on behalf of the Queens Hotel, stressed that the idea that the application needed to be determined on its own merits was not true. Competing considerations had to be taken into account, along with the context of the wider location. He suggested that the applicant had failed to carry out a full risk assessment of the local area, despite the report making it clear that it was their responsibility, while the council's main statement of licensing policy referred to the need to take wider considerations

into account. The Legal Officer agreed that although each case should be taken on its own merit, it needed to take into account the surrounding locality of the premises.

Mr Charalambides emphasised several areas of non-compliance. Firstly the notice was white rather than the required blue. The main issue of non-compliance pertained to the content of the public notice. He stressed it was a requirement to describe and clearly display the varying hours and he contended that this had not been the case and it was not clear for the general public. The poorly filled out application form was further heightened as the Licensing Officer had had to verify what exactly the new hours would be. In effect, the application intended to create two outdoor late-night bars with varying conditions sat adjacent to the Queens Hotel and other residences, so the hours in question were crucial to the local area.

He stressed that the applicant's failure to follow the Section 182 guidance on this and the council's failure to impose conditions on the application meant it was unlawful, and he asked Members to refuse the application on the basis of substantial non-compliance with procedural requirements.

The Chair remarked that any decision today was not necessarily urgent, as from this evening all hospitality venues had to shut at 10pm due to Covid-19 restrictions possibly for 6 months.

Mr David Mason, Solicitor representing the applicant, was invited to address the committee. He stressed that there were already conditions in place relating to restrictions on the outside area and contended that the notice was blue and therefore compliant in terms of colour. He emphasised that the wording used in the report was given to the applicant following consultation with the council's licensing officers. He totally rejected substantial non-compliance, as well as some of Mr Charalambides' contentions, suggesting that nobody could accurately say that the Queens Hotel had been misled on the variation in times, although some local residents may have misunderstood. He suggested that it would be unfair and unlawful for the committee not to proceed with the application because of the forthcoming new restrictions, as legal costs had already been incurred.

The Legal Officer clarified that the applicant's procedural defects were acknowledged in the report, and it was for Members to determine whether they were so significant as to make the application unacceptable. The colour of the application could not be clarified as members only had black and white photocopies to hand.

Members discussed the varying hours notice, which the Chair conceded was not clearly set out. Mr Mason agreed the application did not set out the variation in times, but stressed this was following licensing officers' advice and that nobody was misled, since the hours were clarified well in advance of the meeting.

The Chair adjourned the meeting for several minutes, so that the Legal Officer and Licensing Team Leader could discuss the matters at hand.

The Legal Officer suggested that while one error might have been acceptable, the series of errors in the content and nature of both the notice and application meant that it would not be in the public interest to overlook them. She advised that the application be dismissed, and advised the applicant to submit a full new application with the correct wording, clear information on timings and ensure the correct colour notice was displayed, saying that it would not prejudice them and that Mr Mason would be able to assist with a compliant application.

Mr Mason responded that the applicant was disappointed, as they had sought the advice of council officers throughout. He understood that the committee would not make a decision that contravened the legal advice they were receiving, and that he had to accept the decision with good grace. A new application would be necessary, and would be made. It was a matter of regret for the client, who made errors but had corrected them in a way that was endorsed by the council's officers.

The Chair agreed that it was a matter of regret, and an unfortunate situation for all involved.

Members agreed that it was the right decision, considering the uncertainty of the situation. They also suggested that whether, in view of the information received, it would be appropriate to employ the same three councillors for any future Licensing meeting on the same topic. The Chair and Legal Officer agreed that it would be prudent to retain the same membership for any future Licensing Sub-Committee meeting on the topic.

A member asked for clarity on whether the application was being formally dismissed or deferred to a later date. The Legal Officer responded that the application was being refused, but with the clear suggestion that it would be resubmitted with the procedural errors corrected. The Chair stressed that the refusal was no reflection on the applicant themselves.

Mr Charalambides responded that he was happy with the outcome and stressed the importance of following procedural protocols. He noted that ahead of any future application, his client (Queens Hotel) would welcome the applicant approaching them to sort out any issues. His presence would not be required at any future meeting if that were the case.

The Chair thanked attendees and brought the meeting to a close at 4.35pm.

#### **4. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

There were no urgent items to be discussed.

Paul McCloskey  
**Chairman**

## **Licensing Sub Committee-Alcohol and Gambling**

**Wednesday, 4th November, 2020**  
**Times Not Specified**

<b>Attendees</b>	
<b>Councillors:</b>	Tim Harman, Paul McCloskey and Jo Stafford
<b>Also in attendance:</b>	Vikki Fennel (OneLegal) Jason Kirkwood (Snr Licensing Officer) Gareth Jones (Environmental Health)

### **Minutes**

**1. APOLOGIES**

There were none.

**2. DECLARATIONS OF INTEREST**

There were none although it was confirmed that the Senior Licensing Officer and 2 Members of the committee did visit the property.

**3. ELECTION OF CHAIR**

The Legal Officer announced that Councillor Paul McCloskey had been elected as the chair of the committee.

**4. NO 2 CRESCENT TERRACE, CHELTENHAM**

The process of the Committee was explained by the Chair.

The Senior Licensing Officer presented his report as published, he also explained that he and several Members did a site visit to the premises on the day of the meeting.

The matter then went to the Members for Member questions

- Is the venue a wine bar or a café – the Senior Licensing Officer explained that it was a table service venue.

The Objectors were then asked if they had any questions for the Senior Licensing Officer:

- Attention was brought to the fact that although there were only a few objectors there will be 100 people moving into John Dower House.
- Also concerned that there will be people wandering around the Crescent.
- The courtyard that the applicant proposes to use is overlooked by children's bedrooms and that will cause a problem for them being able to sleep or disturbing their sleep.
- There was concern raised that property value will be decreased by approximately 35% if the neighbouring property becomes a wine bar.
- Is there a strategy to keep the heritage houses – as the bus station will go and understood that there will be more residential properties.

The Chair then went to the applicant, he clarified points as follows:

- Although the property is known as a wine bar it is a restaurant and is a sit down restaurant.
- Although the application states closing at 2am – Environmental Health suggested 11pm and the applicant refused that and he accepted a compromise may be needed but there wasn't one in place. Alcohol is only served from 12 and they would look at closing earlier on some days of the week.
- They have 8 properties in the UK where they are based in residential areas and have had no issues with neighbours and are proud of that.
- It is hoped that it will have a reputation as a high end casual restaurant.
- Alcohol sale is generally in bottles.
- There is CCTV both inside and outside the property.
- Floor seating will not change from how it is, there will be signs showing exit and managed by staff.
- They will also implement "Challenge 25"
- They hope that they will be able to operate with neighbours and are willing to compromise with opening hours, however detrimental to business if shuts at 10.

Chair asked Environmental Officer if he had any more points to make. He confirmed that the problem with the application is that there will be some noise from garden, entering and exiting the building and noise of ventilation for the kitchen. He views that the hours are the problem as the noise is inevitable – he stated that they have tried to pursue more reasonable hours but that the applicant has refused to compromise on this.

Members then had the opportunity to question the applicant and the objectors:

The following points were raised:

- To the applicant – will there be events on the premises run by other organisers or will they be 100% in charge of the facility? No that will not be the case they will always control anything that is in place ie an office Christmas Party.
- To the applicant – with the small courtyard where will your bins and bottle bins be? They will be in the front at the bottom of the stairs.
- To the applicant – Do you envisage having to employ door staff? Due to the size of the venue this doesn't seem necessary. Also smoking would not be allowed in the courtyard
- To the applicant – 20 cover inside and possibly 12/14 outside. Confirmed that this was correct.
- To the applicant – response to the police talks about CCTV and the property being well ventilated – can you confirm what you are proposing for ventilation? There will be air conditioning units in the property. The will be no outdoor extraction fan for the kitchen. The food they concentrate on is meats and cheeses and pizzas.
- What external fan does the air conditioning use? There may be planning issues for that.
- To objector – with the comment about looking into childrens bedrooms? Please can you clarify where the bedrooms are? Can see from son's bedroom into the courtyard and also from daughter's room. Will also be able to see the people in the courtyard from their own balcony. The

objector also raised that planning and licensing should have joined up thinking.

Legal officer clarified that if the Licensing committee approve something this does not necessarily mean that the Planning Committee will do the same.

The Chair asked the objectors if they had any questions for the applicant – they confirmed that they didn't.

Senior Licensing Officer shared his photos from the earlier site visit.

The matter then went to Member debate:

- There were concerns that when the Members had visited the premises just how close it was to the residential property and the size of the courtyard. Wondered how he would feel if it was next to his house. He note that there were 2 successful businesses there already with different hours. Given the Environmental Officer does not approve of the new opening hours he will not support the application for fear of not being able to promote the licensing objectives.
- Senior licensing officer confirmed that they could vote to approve the application with restrictions.
- Support was offered for the fact that it would be a no smoking courtyard however concerned as to how this was going to be enforced? As smoke would go straight into the residential property next door. Also concerned that the long opening hours are an issue in a residential mixed use area.
- There are concerns regarding the bin storage and no door security.
- Would be happier to look at different reduced hours.

Legal Officer explained that the Committee can change the hours from those hours applied for by the application.

- The Members agreed that there are more concerns other than the opening hours.

The Senior Licensing Officer then re iterated a couple of points:

- The police did not believe that the premises needed security staff.
- He stated that the Committee could put a restriction on regarding when the recycling would take place.

The applicant had a final right of reply :

- With regards to door staff for a Friday and Saturday night it would cost approx. £400 and with the amount of covers it doesn't seem viable.
- The business is sustainable with longer hours but not if it has to close at 2300. Would agree that the outdoors would close earlier than the indoors.
- This venue would hopefully open during the first ¼ of 2021 but until he knows that he can look at longer times he will not know if this is viable.

Member then stated if the police don't see the necessity for door staff then happy with that conclusion. Also would be happy to put a restriction on recycling.

Applicant was then asked what hours he would be happy with, he stated close at 2230 Sunday to Wednesday and stop serving at Midnight the other days and shut the courtyard at 2200 at weekend and 2100 in the week.

The Chair then explained the 3 voting options as follows:

- Grant the application with the mandatory conditions offered in the application only.
- As above but with added conditions placed on the application by the Committee, which may include revised hours
- Refuse the application as it does not fall within the Licensing policy.

The Legal Officer then suggested the matter went to the vote in order.

Grant the application as it was submitted:

For: 0

Against: 3

Abstain: 0

The Legal Officer suggested that the Committee talked about the conditions that they would want to impose and also to give the objectors the opportunity to speak.

- The Environmental Officer stated the recommended hours in his report were broadly in line with the venue No3 in the same area. A Member asked what happens if the licence is granted and there are complaints? The Member was informed that the complaints would be investigated and an abatement notice could be served. He stated that as the area is residential that the tolerance of noise will be low and the premises will be at high risk of being served and abatement notice if the noise is excessive after 0100.
- If bottles and refuse are a problem then the Committee can place a condition on the collection time.
- Also if smoking is prohibited in the Courtyard this moves the problem to the front of the building.
- The objectors were then asked if there was anything that they wanted to add. The objectors felt that it was still a very late hour, sympathised with the applicant and didn't see it as a good enough amendment. It was also raised that an establishment such as this was looking in the wrong part of town. Objector asked for understanding with regard to how individuals would feel if this was happening outside their property.

Legal Officer stated that we are now looking at granting the application but with added conditions with regards to the recycling and the opening hours offered by the applicant. The Legal Officer reminded the Committee that it needs to consider if changing the timings will promote the Licensing objectives. If they feel this is not the case then they have to refuse the application:

For: 0

Against: 3

Abstain:0

One councillor voted against due to the noise and the issue with smoking, the remaining Members agreed and were influenced by the report of the Environmental Health Officer.



The application was therefore refused and the process of appeal was explained by the Legal Officer.

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

There were none and the meeting ended 1845.

**Chairman**

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## Cheltenham Borough Council

### Licensing Committee – 2 December 2020

#### Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

#### Application for permission to place an object on the Highway – ‘A’ Board

#### The Urban Meadow Café

#### Report of the Licensing Team Leader

#### 1. Executive Summary

1.1 Mr Ben Hudson based at The Urban Meadow Café, 24 Rodney Road, Cheltenham has made an application to place an advertising board on the High Street at the junction with Rodney Road. The proposed advertising board measures 66cm (26") in width and 96cm (38") in height.

1.2 It is intended that the ‘A’ board be displayed:

Monday	08:00 - 20:00
Tuesday	08:00 - 20:00
Wednesday	08:00 - 20:00
Thursday	08:00 - 20:00
Friday	08:00 - 20:00
Saturday	09:00 - 20:00
Sunday	09:00 - 20:00

1.3 The Committee are minded to note that the size of the advertising board **complies** with the standard sizes recommended in the council’s policy.

1.4 This application is being referred to the Licensing Committee:

1.4.1 As the proposed location of the advertising board does not comply with policy requirements and conditions that stipulates at condition (d):

“The ‘A’ board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.”

1.4.2 To give the Licensing Committee an opportunity to consider comments submitted by the Highways Authority.

1.5 A picture of the proposed structure is attached at **Appendix A**.

1.6 Width of footpath available is in excess of 2m (6ft).

1.7 A location plan of the proposed location is attached at **Appendix B**.

**1.8 The Committee can:**

**1.8.1 Approved the application because Members are satisfied that the location is suitable, or**

**1.8.2 Refuse the application because it does not comply with the provision of the Street Scene policy.**

**1.9 Summary of implications**

Legal

No right of appeal.

**Contact officer: One Legal**  
**E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)**  
**Tel no: 01684 272693**

**2. Introduction**

2.1 Following the loss of the highways agency and the associated transfer of responsibility for this aspect of highways enforcement to the borough council.

**3. Policy Principles, Aims & Objectives**

3.1 All new applications for 'A' boards/display stands are considered by the Licensing Committee.

3.2 The Town Centre Policy for Street Trading and Objects on the Highway in relation to Advertising 'A' boards, states that *"It is accepted that some businesses operate from premises which are not in a prominent location and yet rely in large part on passing trade, and it is appropriate to assist in the promotion and success of those businesses to allow the use of 'A' boards or similar advertising displays. The Council does not however, want to see a proliferation of such items and will restrict to one per business with a clear need. It is not intended that every business in the town centre will be permitted to display an 'A' board"*.

**3.3 'A' Boards (Policy extract from para 3.3)**

In setting the policy principles relating to 'A' boards, the Council seeks to strike a balanced approach between promoting the Council's priorities, in particular strengthening the borough's economy by assisting and promoting local businesses but at the same time ensure the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.

To this end the Council will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below. Please note that one 'A' board will be permitted *per premises* not business. Premises housing more than one business will therefore, subject to the below, be permitted only one 'A' board. In these circumstances the Council will encourage businesses to share the use of the 'A' board.

**Conditions of Consent**

The Conditions of Consent is subject to the Revised Outdoor Advertising Protocol attached at **Appendix I** of this policy.

(a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.

(b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.

(c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.

**(d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.**

(e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*

(f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.

(g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*

(h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*

(i) The 'A' board must relate to the trade of the premises.

(j) The 'A' board must be constructed in such a way that it does not have any moving parts *(i.e. rotating or swinging 'A' boards).*

(k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

### 3.4 Outdoor Advertising Protocol

No 'A' board will be approved within Conservation Areas except in the following circumstances; having regard to the position and location of the premises;

a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,

b) the premises are situated along a side alleyway and / or on private land which is not a public thorough fare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

## 4. Consultee Comments

4.1 Whilst no objections were received, the highways authority submitted the following comment:

*"We would be in agreement considering that the A-board in question is*

- insured by the applicant.*
- sited amongst a cluster of bollards/street lighting addressing the concerns for those with mobility issues."*

## 5. Licensing Comments

- 5.1 The committee must determine the application with a view to promoting the authority's adopted policy.
- 5.2 Mr Hudson has been sent a copy of this report and invited to attend the meeting and advised that he may be represented if he so chooses.

## 6. Officer recommendation

- 6.1 The officer recommendation is that this application should be **refused** for the reasons stipulated below.

However Members must determine this application on its merits taking into account the individual circumstances. The Licensing Committee does have discretion to deviate from policy in cases where circumstances deems this appropriate, giving full reasons for any policy deviation.

In particular, Members should consider the business location down Rodney Road in relation to the policy (para 3.3) and Outdoor Advertising Protocol (para 3.4) that makes some provision for business disadvantaged due to their location.

**Reason(s):** The proposed location of the advertising board does not comply with the policy requirements, in particular standard condition (d) as outlined above.

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### Background Papers

### Service Records

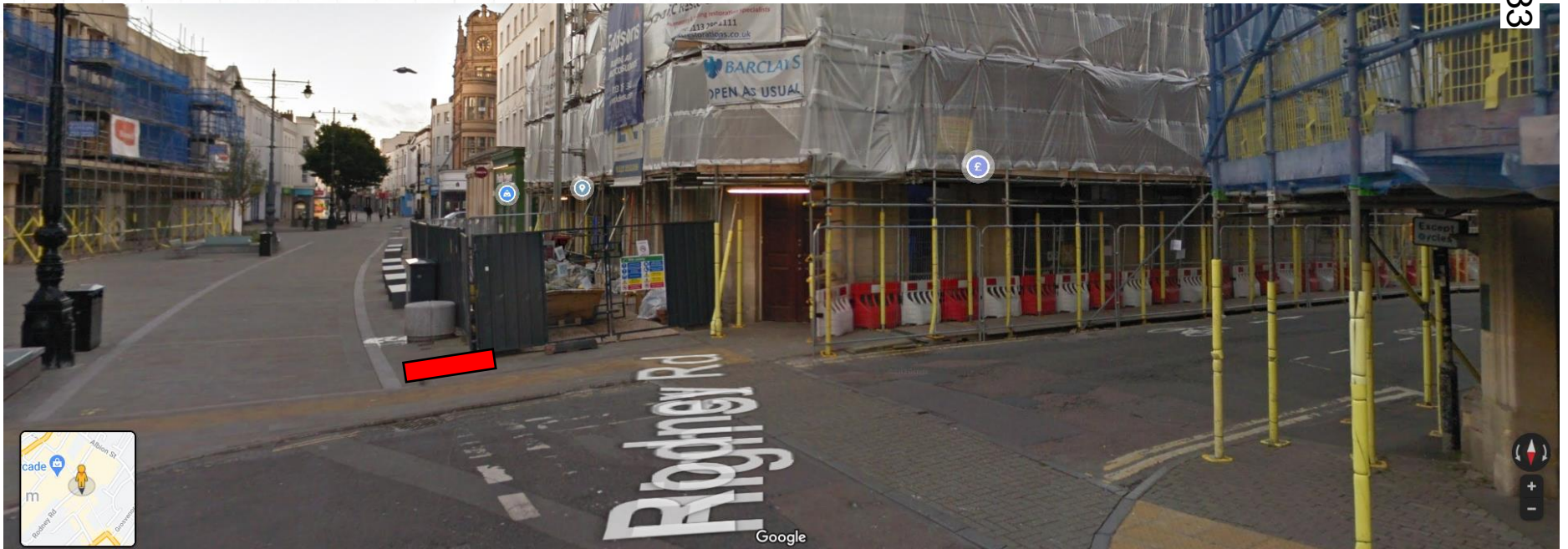
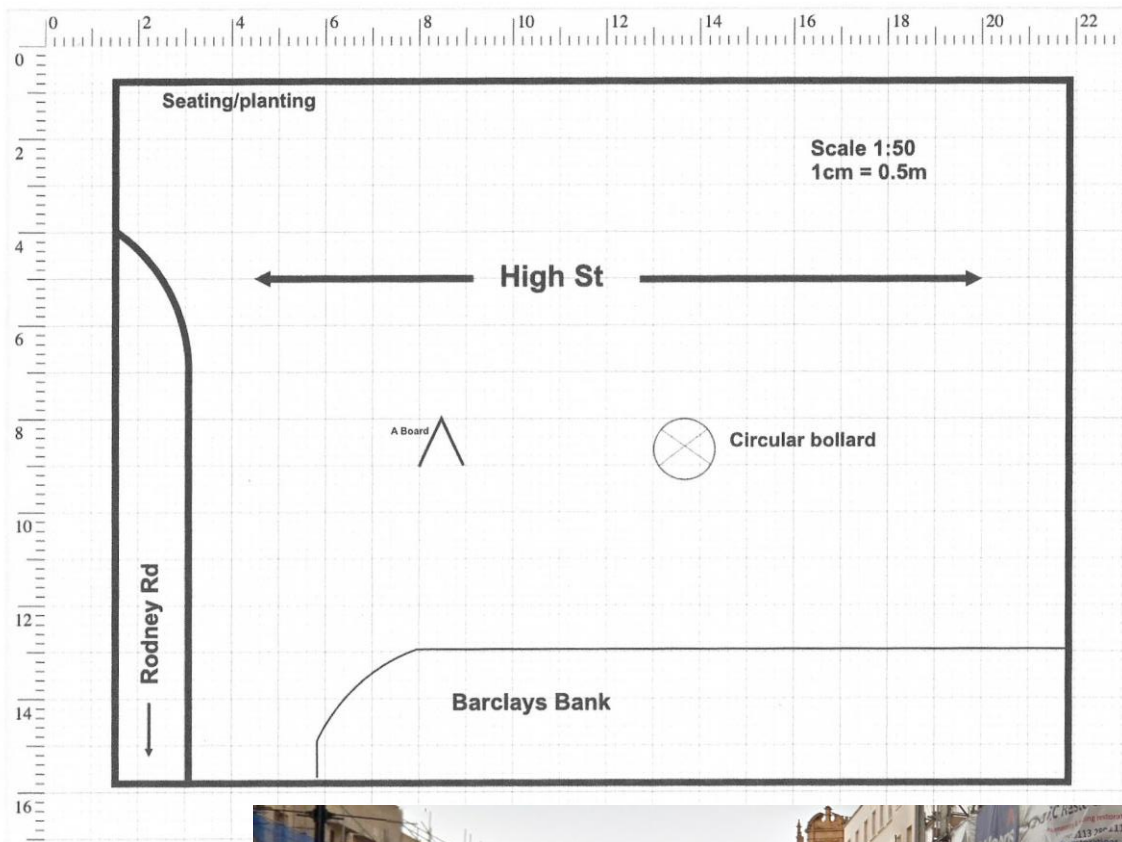
### Case Officer

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 264135**



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## Cheltenham Borough Council

### Licensing Committee – 2 December 2020

#### Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

#### Response to consultation to revised Street Scene Policy

### Report of the Licensing Team Leader

#### 1. Executive Summary

1.1 The current street scene policy was adopted by Council on 22 February 2013. A review of this policy has been undertaken by officers. The revised draft policy was approved for consultation by the Cabinet Member for Cyber and Safety.

1.2 This report provides an opportunity for the Licensing Committee, acting as lead consultee to the Cabinet Member for Cyber and Safety, to consider the policy revisions and submit any comments for consideration by Cabinet.

#### 1.3 The Committee is recommended to:

1.3.1 Note the revisions to the revised policy as outlined in this report; and

1.3.2 Acting as lead consultee to the Cabinet Member for Cyber and Safety, submit any comments or response this committee wish to make for consideration by Cabinet.

#### 1.4 Summary of implications

Legal

Legal implications as outlined in the report.

**Contact officer: One Legal**

**E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)**

**Tel no: 01684 272693**

#### 2. Policy on Measures to Control Street Scene Activities in Cheltenham

2.1 The policy covers the authority's approach to licensing and regulating objects on the highway and charitable collections.

2.2 A copy of the proposed revised policy is attached at **Appendix 2**. For the purpose of this report, tracked changes are indicated on the revised policy. These will be removed on the consultation version of the revised policy.

#### 3. Revisions proposed

3.1 Aside from minor changes and updates, the more substantial proposed changes to the policy relate

to part 2, permission to obstruct the public highway.

3.2 The proposed changes are as follows:

3.2.1 Determination of an application – Strengthening the authority’s position on applications that do not comply with the policy by making it clear the default position would be a refusal and that the onus is on the applicant to convince the committee otherwise.

3.2.2 Lengthening the period for consultation in response to Member concerns raised, and updating the list of consultees.

3.2.3 Formalising the requirement to maintain a minimum of 1.8m unobstructed thoroughfare.

3.2.4 Updates to the authority’s approach to enforcement to streamline the approach and reflect the change in the county council delegations to enable this authority to use removal powers under the legislation instead of relying on Magistrates Court Orders.

3.3 The majority of issues relating to permission to obstruct the public highway relate to advertising structures such as A-boards. The authority’s approach currently is set out in appendix E (Revised Outdoor Advertising Protocol) of the revised policy. In brief, where there is a need for additional forms of advertising (as defined by the policy), the authority will consider permission for an A-board subject to the standard conditions.

3.4 Following informal consultation with the Licensing Committee, it is not proposed that the authority’s current approach to licensing of A-boards be changed as part of this review. Members felt the current approach is still the best way to create a level playing field and respond to where there is evidence of need for additional support.

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**Background Papers**

Service Records

**Case Officer**

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 264135**



## Policy on measures to control street scene activities in Cheltenham

All enquiries should be directed to:-  
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E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
Website: [www.cheltenham.gov.uk/licensing](http://www.cheltenham.gov.uk/licensing)

**This Policy was approved by Full Council on xx taking effect on xx.**

## Contents

Introduction .....	4
General Information .....	4
Complaints against the Service .....	4
Social Inclusion/Equalities .....	4
Implementation and Review .....	4
Enforcement .....	4
Data Protection .....	4
Part 1 - Charitable Collections.....	5
Introduction .....	5
Street Collections.....	6
1. Framework.....	6
1.1 Definitions of terms used in this Part.....	6
1.2 Legislation .....	7
2. Application Procedure .....	7
2.1 Submitting an Application.....	7
2.2 Determination of application .....	7
2.2.2 Form of Statement/Returns Form .....	8
3. Policy Principles, Aims and Objectives.....	8
3.1 Allocation of street collection days .....	9
3.2 Transitory Collections .....	9
3.3 Emergency & Special Collections .....	9
3.4 Christmas Town Centre Street Collections.....	9
3.5 Cheltenham Festival collections .....	10
3.6 Collections on behalf of National Charities.....	10
3.7 Animals.....	10
House to House Collections .....	10
1. Framework.....	10
1.1 Definitions of terms used in this Part.....	10
1.2 Legislation .....	11
2. Application Procedure .....	12
2.1 Submitting an Application.....	12
2.2 Determination of application .....	12
2.2.2 Exemptions .....	12
3. Policy Principles .....	13
3.1 Permitted Duration and Frequency of Collections.....	13
Part 2C - Direct Debits .....	13
Part 2 – Permission to obstruct the public highway.....	14
1.1 Introduction .....	14
1.2 Legislation .....	14
1.3 Scope .....	14
1.4 Definitions of terms used in this Part.....	15
1.5 Licensing Process & Delegation of Functions .....	15
2. Application Procedure .....	15
2.1 Submitting an Application.....	15
2.2 Determination of application .....	16
2.2.1 Consultation.....	16
2.2.2 Subsequent Applications .....	17
3. Policy Principles, Aims and Objectives.....	17
3.2 Public Highway and Private Land .....	17
3.3 ‘A’ Boards .....	18
3.4 Tables & Chairs .....	19
3.6 Other Objects.....	19
3.7 Goods displayed on the pavement .....	19
4. Enforcement .....	20

Appendix A – Street Collection Regulations.....	21
Appendix B – House to House Regulations .....	24
Appendix C – Conditions to Place Object(s) on the Highway .....	27
Appendix D – Conditions of Permission to Place Tables & Chairs on the Highway .....	29
Appendix E – Revised Outdoor Advertising Protocol.....	32

DRAFT

## Introduction

### General Information

The aim of this policy is to detail procedures and policies that will apply to charitable collections, consent to obstruct the public highway across the whole of the borough of Cheltenham and other street scene activities as referenced in this policy document. Street trading activity forms part of a separate policy and is therefore not within scope of this policy document unless otherwise stated in this policy.

Policy aims and objectives:

- Clear & transparent policy governing all activities within scope of this policy document
- To enable the Authority to manage all activities in scope of this policy document in order to provide effective control measures.
- To ensure activities in scope of this policy meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Authority's efforts to improve the image, perception and attractiveness of the Town.
- To avoid duplication with other statutory provisions and the Authority's commitment to work in partnership with other enforcement agencies.
- To support the Authority's climate emergency declaration and work associated with this.

### Complaints against the Service

The Authority has a corporate complaints procedure, copies of which are available from the Authority's offices or on the Authority's website [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk).

### Social Inclusion/Equalities

This policy will be applied in a manner that is consistent with the Authority's equalities policies and duties.

### Implementation and Review

The Authority will keep this policy under review and will consult where appropriate on proposed revisions. It will in any event review this policy at least every three years.

**From the date of effect the policy overrides and supersedes all existing policies or arrangement in relation to consent to place an object on the highway and charitable collection permits. Existing consent holders will, upon renewal or when submitting a subsequent application, come under the provisions of this policy.**

### Enforcement

The Authority will enforce the provisions of this policy in line with its Corporate Enforcement Policy. This policy is accessible on the Authority's website.

### Data Protection

The Authority has published data protection statements for the authorisations within scope of this policy document. Please refer to the Authority's website for more information: <https://www.cheltenham.gov.uk/your-data>.



## **Climate Emergency**

The Authority has declared a climate emergency. This policy will consider this in this policy and implement measures to support the Authority's declaration and associated outcomes.

## **Part 1 - Charitable Collections**

### **Introduction**

This part of the policy document forms the Authority's charitable collections policy that will apply to Street, House to House & Direct Debit Collection activities in the borough of Cheltenham.

## Street Collections

### 1. Framework

#### 1.1 Definitions of terms used in this Part

Within this part the following definitions apply:

The Council or Authority: Cheltenham Borough Council

Borough: The Borough of Cheltenham

Permit: Street Collection Permit

Charity: Is any organisation or body that  
a) is established for charitable purposes only, and  
b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

Charitable purpose: Means any charitable, benevolent or philanthropic purpose that includes the following  
a) the prevention or relief of poverty;  
b) the advancement of education;  
c) the advancement of religion  
d) the advancement of health or the saving of lives;  
e) the advancement of citizenship or community development;  
f) the advancement of the arts, culture, heritage or science;  
g) the advancement of amateur sport;  
h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;  
i) the advancement of environmental protection or improvement;  
j) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;  
k) the advancement of animal welfare;  
l) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.

Promoter(s): a person or organisation who causes others to act as collectors.

Collection: a collection of money or a sale of articles for the benefit of Charitable or other purposes.

National Charity: Charities that are registered to operate throughout England and Wales as defined in its governing

document regardless of whether the charity has a local office.

Town Centre:

Core Commercial Area as outlined in the "Cheltenham Borough Local Plan" adopted July 2006.

### 1.2 Legislation

The licensing of street collections is regulated by the Charities Act 2006, which regulates collections of money or sales of articles for charitable or other purposes in streets and public places. The Police, Factories, & c. (Miscellaneous Provisions) Act 1916 gives district councils powers to write regulations and policies to control street collections.

The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a permit. It is a criminal offence to conduct a collection in any street or public place within the borough without first obtaining such a permit from the Authority.

## 2. Application Procedure

### 2.1 Submitting an Application

An application for a permit must be made to the Authority in writing on the prescribed application form provided no later than 2 weeks before the proposed collection date.

Permit application forms:

- may be downloaded or made online from the Authority's website, or
- are obtainable from the Authority's Licensing Section.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of street collection permits approved or refused (other than within the borough's area);
- (c) a copy of the organisation's most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Authority;
- (e) for transitory collections, details of the proposed routes must be provided with the application; and
- (f) statement of due diligence.

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

### 2.2 Determination of application

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

The legislation does not include statutory criteria for the approval or rejection of a permit request. This is a matter for the Authority's discretion. This policy reflects the wide discretion given to the Authority enabling it to grant/decline/limit permits on various grounds that are not specific within the legislation and regulations.

The Authority reserves the right to make more detailed enquiries about an application and the proposed collection in certain circumstances.

Enquiries may be made to Gloucestershire Constabulary and/or the Charity Commission for comment/investigation prior to consideration.

The Authority may also consult with other internal departments. Where the application for a permit includes a street procession or placing a structure or vehicle on the street/highway, or where the proposed collection relates to the sale of articles in a street/public place, permission should be sought in advance from the relevant Authority.

There are no statutory grounds for refusing an application for permits. However, the Council will refuse the application if it considers that the collections:

1. Are not for "charitable or other purposes", and/or
2. Contravene the provisions of this policy, legislation and/or regulations.

In addition, the Authority can refuse any application for any of the following reasons:

1. To limit the number of collections;
2. If too high a proportion of the proceeds are likely to be spent on expenses;
3. If inaccurate information was provided on the licence application;
4. If the promoter or any other person involved has been convicted of certain criminal offences, in particular offences of dishonesty e.g. theft, blackmail or fraud etc.; and/or
5. Once issued, a licence may be revoked if it is believed the objectives are or could be compromised.

### **2.2.2 Form of Statement/Returns Form**

Attention is drawn to section 16 of the regulations which sets out the procedure for submission of a statement of income and expenditure (certified by the applicant and either an accountant or an independent person of good standing acceptable to the Authority) etc. All items required under this regulation must be submitted within one month of the date of collection and it is essential that this time scale be adhered to. Failure to comply may prejudice any future applications.

## **3. Policy Principles, Aims and Objectives**

This section outlines the policies the Authority will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied and where and how often an organisation may make a street collection in the borough.

In particular, the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Authority to effectively regulate all charitable collections.

- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Authority commitment to work in partnership with other enforcement agencies.

### **3.1 Allocation of street collection days**

The above is subject to the special arrangements that apply to Christmas collections (3.4), Cheltenham Festival (in March annually) collections (3.5), collections on behalf of national charities (3.6).

The Authority operates a diary booking system on a “first come first served” basis for the allocation of street collection date(s) in order to ensure that all charities have equal access to their preferred collection dates. No guarantee will be given that a charitable organisation’s preferred date(s) will be allocated to that organisation. Where an organisation’s preferred date(s) cannot be granted, alternative dates may be suggested where practicable.

The Authority will normally only permit a maximum of one collection in the town centre per day although collection applications for other areas in the borough away from the town centre will be considered at the Authority’s discretion.

### **3.2 Transitory Collections**

Transitory collections, i.e. those whose collections pass through the borough, will be given permits subject to their route not coinciding with a permit already granted. These events are normally sponsored walks, street processions, bed pushes or cycle rides etc.

### **3.3 Emergency & Special Collections**

In exceptional circumstances, such as an emergency appeal or a national special event, consideration may be given to the grant of additional permits or reduced notice time, at the discretion of the Authority.

### **3.4 Christmas Town Centre Street Collections**

In addition to the requirements set out above, the Authority will specify additional requirements for collection applications for the months of November (from the 15<sup>th</sup> onwards) and December (“Christmas collections”) in the town centre.

The Authority will not accept applications for Christmas collections until the first week of September every year.

In order to permit as many Christmas collections as possible, the Authority may allocate applicants either a morning slot (8am to 1pm) or an afternoon slot (1pm to 5pm).

Where an applicant’s preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

Collection applications for other areas in the borough over December, away from the town centre, will be considered on merits and at Authority’s discretion.

### **3.5 Cheltenham Festival collections**

In addition to the requirements set out above, the Authority will also specify additional requirements for collection applications for March every year during the Cheltenham Festival (“race week collections”).

The Authority will not accept applications for race week collections until the first week of October every year.

Where the applicants preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

Collection applications for other areas in the Borough over the Festival week, away from the town centre, will be considered at the Authority’s discretion.

### **3.6 Collections on behalf of National Charities**

The Authority recognises that in certain cases a number of different individuals may want to have a collection for the same charity throughout any calendar year. These are normally national charities such as Help for Heroes, Children in Need, Comic Relief etc.

In cases like these, the Authority will not limit collections based on the charity benefiting from the collection (in accordance with 3.1 above). Instead, individual promoters or collectors will only be permitted one collection per calendar year for each benefiting charity.

### **3.7 Animals**

The use of animals in conjunction with street collections is discouraged and will only be permitted in conjunction with animal charities.

## **House to House Collections**

### **1. Framework**

#### **1.1 Definitions of terms used in this Part**

Within the terms of Cheltenham Borough Council’s Licensing of House to House Collections, the following definitions apply:

Permit:	House to House Collection Permit
Collection:	An appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property and the word “collector” shall be construed accordingly.
The Council or Authority:	Cheltenham Borough Council
Borough:	The Borough of Cheltenham
Charity:	Means any organisation or body that a) is established for charitable purposes only, and b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.
Charitable purpose:	Means any charitable, benevolent or philanthropic purpose that includes the following a) the prevention or relief of poverty; b) the advancement of education; c) the advancement of religion d) the advancement of health or the saving of lives; e) the advancement of citizenship or community development; f) the advancement of the arts, culture, heritage or science; g) the advancement of amateur sport; h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity; i) the advancement of environmental protection or improvement; l) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; k) the advancement of animal welfare; n) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.
Promoter(s):	a person or organisation who causes others to act as collectors.
Town Centre:	Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” adopted July 2006.

### 1.2 Legislation

House to House Collections are regulated by the House Collections Act 1939 and the House to House Collections Regulations 1947.

## **2. Application Procedure**

### **2.1 Submitting an Application**

An application for a permit must be made to the Authority in writing on the prescribed application form provided not later than two weeks before the proposed collection date.

Permit application forms:

- may be downloaded or made online from the Authority's website, or
- are obtainable from the Authority's Licensing Section.

The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Authority can grant a permit, it needs to have as much information as possible about the charity, its promoters and collectors.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of collection permits approved or refused (other than within the borough's area);
- (c) a copy of the organisation's most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Authority;
- (e) statement of due diligence.

### **2.2 Determination of application**

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

#### **2.2.2 Exemptions**

Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales, and is committed to promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain permits from the Licensing Authority, as respects all collections for that purpose in such localities as may be described in the Order.

If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be, made is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a Certificate in the prescribed form; and where a Certificate is so granted, a permit from the Licensing Authority is not required and the provisions of the Regulations shall not apply to a collection made in conformity with such Certificate.



Charities that benefit from a national exemption order made by the Secretary of State, although not needing a permit from the Authority, still have to notify the Authority when they are going to fundraise in the borough.

### **3. Policy Principles**

This section outlines the policies the Authority will apply when making decisions on applications for permits. In particular, it explains how the House to House regulations are to be applied and where and how often an organisation may make a House to House collection in the borough.

In particular, the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Authority to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Authority's commitment to work in partnership with other enforcement agencies.

#### **3.1 Permitted Duration and Frequency of Collections**

The Authority will restrict the frequency and period collections can take place in the borough.

A collection can only run for a maximum period of one month. Only two collections are permitted annually in the borough for each charity.

If an application is made for a period in excess of the maximum period permitted above, the application will be returned to the applicant as invalid.

An amended application can be submitted for reconsideration.

### **Part 2C - Direct Debits**

Collections made by means of visits from house to house are governed by the House to House Collections Act 1939 and the House to House Collections Regulations 1947 (as amended). The legal definition of 'collection' is an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property. This means that any person or organisation who wish to do house to house direct debit fundraising will need to obtain a permit. The term 'house' also includes a place of business.

All other forms of direct debit collections are not regulated in law but the Authority has entered into an agreement with the Institute of Fundraising (IoF) to control all other direct debit collections in the borough.

Under the agreement, the IoF is responsible for booking all collections in the borough and dealing with all complaints received in respect of direct debit collections in the borough.

## **Part 2 – Permission to obstruct the public highway**

### **1.1 Introduction**

This part of the policy sets out the framework for decision making and associated processes when administering applications relating to permission to obstruct the public highway.

This policy seeks to ensure the safety of all users of the public highway through the regulation of obstructions, which can be placed on the public highway or carriageway.

### **1.2 Legislation**

Consent for objects to obstruct the public highway is controlled in accordance with the provisions contained in the Highways Act 1980.

### **1.3 Scope**

This policy covers non-fixed or temporary objects that obstruct the footway or carriageway. It does not include objects placed on private forecourts or within trading pitches that are regulated by the Street Trading legislation.

The Authority has entered into agreement with Gloucestershire County Council to control obstructions placed on the highway in the Borough as defined by the agency agreement.

Under this agreement, the Authority is empowered to control, amongst others, the provision of amenities on the highways as specified under Part VIIA of the Highways Act 1980.

Consent for certain objects/structures to be placed on the public highway such as skips and scaffolding remains the responsibility of Gloucestershire County Council and does therefore not fall within the scope of this policy.

### 1.4 Definitions of terms used in this Part

Highway:	A highway shall be understood to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.
Object(s):	Includes any or all of the objects that is covered in the scope of this policy.
Consent:	Objects on the Highway Consent.
The Council or Authority:	The Borough Council of Cheltenham
Town Centre:	Core Commercial Area as outlined in the "Cheltenham Borough Local Plan" adopted July 2006.
Town:	The Borough of Cheltenham.

### 1.5 Licensing Process & Delegation of Functions

Permissions to obstruct the public highway will be administered in accordance with the Authority's scheme of delegation available on the Authority's website.

## 2. Application Procedure

### 2.1 Submitting an Application

An applicant for an initial new consent should give a minimum of at least 35 working days' notice of the application.

When an application is received, it is initially checked to see if all of the relevant information required is complete and all supporting documentation has been submitted.

Application forms:

- may be downloaded or made online from the Authority's website, or
- are obtainable from the Authority's Licensing Section.

Written applications should be marked for the attention of Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham GL50 9SA.

The following will be required to be submitted with the application:

- (a) A completed and signed application form.
- (b) A scaled plan that shows where the proposed trading location relation to the extent of any or all boundaries of the nearby buildings, the width of footpath available, any permanent structures and, if applicable, the location of the pitch in relation to the edge of the road. The plan must include all measurements.
- (c) Colour photographs of the proposed object (Where the proposed object has not been constructed or purchased, accurate and to scale detailed sketches must be supplied. If this information is not supplied the application will not be accepted.)
- (d) A non-refundable administration fee (see current fee sheet). If the consent is granted, the consent fee must be paid in full within 5 working days from the date the consent is granted. Failure to pay the remainder of the licence fee within the require timeframe, without prior agreement from the licensing section, will result in an invalid application.
- (e) Insurer's certificate with Public Liability Cover of no less than £5,000,000.

Applicants who submit an incomplete application will be contacted and informed of this and the application may be returned to the applicant for resubmission.

### **2.2 Determination of application**

Applications for objects to be placed on the highway which do not comply with this policy (see "Conditions of Consent (page 21) & the "Revised Outdoor Advertising Protocol A" at Appendix E) will normally be refused under the Authority's scheme of delegation unless exceptional circumstances exist. The onus will be on the applicant to make the case for exceptional circumstances.

#### **2.2.1 Consultation**

Before a consent is granted the Authority will carry out a consultation process for 28 days (starting on the working day after the application was made in full to the licensing section) with owners and/or occupiers of any premises appearing to the Authority to be likely to be materially affected and other agencies including (but not limited to):

- (a) Gloucestershire Highways
- (b) Environmental Health Department
- (c) Gloucestershire Constabulary
- (d) Cheltenham Business Improvement District
- (e) Built Environment
- (f) Any other person(s) or bodies the Authority deems relevant

Where valid objections have been made, the application may be referred to the authority's Licensing Committee for determination.

For information on the committee process, please refer to the Licensing Committee's adopted probity guide.

### 2.2.2 Subsequent Applications

Consents are issued for a period of up to one year. Applicants should submit a subsequent application at least one month before the expiry of their current consent if they wish to continue to place the object on the highway.

## 3. Policy Principles, Aims and Objectives

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

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

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway
- To enable the Authority 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 Authority's commitment to work in partnership with other enforcement agencies

### 3.2 Public Highway and Private Land

The Authority is responsible for regulating certain objects/structures that are placed on a public highway causing an obstruction.

At common law, a highway is defined to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements *over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.*

Where such uncertainty exist, the test whether an object/structure is placed on a highway (as opposed to private land) is whether there is a public right of passage where, at any time, members of the public can freely and at their will to pass and repass without let or hindrance, whether they do so or not is immaterial.

Therefore, if the proposed location is an area where any member of the public can pass over without hindrance, that area is likely to be considered highway and will for that reason fall within the Authority's remit and jurisdiction.

In light of the above and for the purpose of licensing under the Highways Act, it is also immaterial whether the particular location is designated as private on, for example, a lease, whether the particular highway is privately maintained or situated under an overhang etc.

The only exception would be areas where that particular location has been designated as private under the Highways Act and the appropriate signage is on display.

A highway can be maintained either at the expense of the taxpayer or privately. Where the highway in question is privately maintained, the Authority will not charge a consent fee although the non-refundable application fee will still apply.

Each situation will be determined on individual merits and this policy does not seek to provide an exhaustive list of areas and roads that are privately maintained public highway or private.

The licensing section has access to the county's highway register and can advise on the status of any highway.

### 3.3 'A' Boards

In setting the policy principles relating to 'A' boards, the Authority seeks to strike a balanced approach between promoting the Authority's priorities, in particular strengthening the borough's economy by assisting and promoting local businesses but at the same time ensuring the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.

To this end the Authority will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below and complying with the "Revised Outdoor Advertising Protocol A" at Appendix E.

#### Conditions of Consent

The Conditions of Consent are subject to the Revised Outdoor Advertising Protocol attached at **Appendix E** of this policy.

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.
- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.
- (d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.
- (e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*
- (f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.
- (g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*
- (h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be*

*able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*

- (i) The 'A' board must relate to the trade of the premises.
- (j) The 'A' board must be constructed in such a way that it does not have any moving parts (*i.e. rotating or swinging 'A' boards*).
- (k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

### **3.4 Tables & Chairs**

The Authority 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 Authority 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 Authority may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers. This is subject to the provisions of this policy, that the additional objects have been listed on the application form and indicated on the supporting documents, where applicable.

The Authority requires a minimum of 1.8m (6ft) to remain obstructed, measured between the edge of the pavement and edge of barriers.

### **3.6 Other Objects**

Objects not specifically referenced in this policy will be dealt with on individual merits.

### **3.7 Goods displayed on the pavement**

Certain traders, particularly grocers and florists, seek to put goods on display outside of their premises. This can enhance the vitality and vibrancy of the town, and is generally acceptable by virtue of Paragraph 1(2)(e)(ii), Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provided that:

- (a) The object/structure is placed directly outside, and only directly outside, the front of the premises in question,
- (b) The goods on display form part of the business of the premises;
- (c) The object/structure does not obstruct the highway,
- (d) The pavement is left clean and tidy after each close of trading.

## **4. Enforcement**

The Authority will undertake enforcement action in relation to objects placed on, and obstructing, the highway in accordance with the principles set out in its Corporate Enforcement Policy.

Specifically in relation to objects and structures placed on the highway without consent the Authority have removal powers under section 143 of the Highways Act 1980.

Under this section, the Authority will serve a removal notice on the person having control or possession of the structure to remove it within such time as may be specified in the notice. Should the person having control or possession of the structure fail to adhere to the notice, the Authority may take action to remove the structure and recover the expenses reasonably incurred in so.

The Authority may also seek to prosecute person(s) having control or possession of the structure where the circumstances deems this appropriate and in the public interest.



## Appendix A – Street Collection Regulations

1. In these Regulations, unless the context otherwise requires –  
  
“collection” means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word “collector” shall be construed accordingly;  
“promoter” means a person who causes others to act as collectors;  
“the licensing Authority” means Cheltenham Borough Council;  
“permit” means a permit for a collection;  
“contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;  
“collecting box” means a box or other receptacle for the reception of money from contributors.
2. No collection shall be made in any street or public place within Cheltenham, unless a promoter shall have obtained from the licensing Authority a permit.
3. Application for a permit shall be made in writing not later than 2 weeks before the date on which it is proposed to make the collection. The licensing Authority may reduce the period if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The licensing Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. No person may assist or take part in any collection without the written Authority of a promoter.  
  
Any person authorised under the above paragraph shall produce such written Authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing Authority or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway:  
  
Provided that the licensing Authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting –

- (a) a collector shall remain stationary; and
- (b) a collector or two collectors together shall not be nearer to another collector than 25 metres:

The licensing Authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

- 11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.
- 12.
  - (1) Every collector shall carry a collecting box.
  - (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them from being opened without the seal being broken.
  - (3) All money received by a collector from contributions shall immediately be placed in a collecting box.
  - (4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
- 13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon, the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
- 14.
  - (1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person.
  - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
  - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
- 15.
  - (1) No payment shall be made to any collector.
  - (2) No payment shall be made out of the proceeds of a collection, whether directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the licensing Authority.
- 16.
  - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the licensing Authority –
    - (a) a statement in the form set out in the Schedule of these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
    - (b) a list of the collectors;
    - (c) a list of the amounts contained in each collecting box; and shall, if required by the licensing Authority, satisfy it as to the proper application of the proceeds of the collection.

- (2) The licensing Authority may, if satisfied, there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
- (3) For the purposes of this Regulations “a qualified accountant” means a member of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales;  
The Institute of Chartered Accountants of Scotland;  
The Institute of Chartered Accountants in Ireland;  
The Association of Certified Accountants.

- 17. These Regulations shall not apply –
  - (a) in respect of a collection taken at a meeting in the open air; or
  - (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
- 18. Any person who acts in contravention of any of these regulations, shall be liable on summary conviction to a fine not exceeding level 1, or in the case of a second or subsequent offence not exceeding level 2.

## **Appendix B – House to House Regulations**

House to House Collections Act. 1939

House to House Collection Regulations, 1947

### **Responsibility of promoters as respects collectors**

1. Every promoter of a collection shall exercise all due diligence to:
  - a) Secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
  - b) Secure compliance on the part of persons so authorised with the provisions of these regulations.

### **Certificates of Authority, badges, collecting boxes and receipt books**

2. No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person:
  - a) A prescribed certificate of Authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
  - b) A prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection, and
  - c) If money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of their receipt.
3. Every promoter of a collection shall exercise all due diligence to secure:
  - a) That no prescribed certificate of Authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it was issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
  - b) That every prescribed certificate of Authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
4. In the case of a collection in respect of which a licence has been granted:
  - a) Every prescribed certificate of Authority shall be given on a form obtained from Her Majesty's Stationery Officer, and every prescribed badge shall be so obtained; and
  - b) Every prescribed certificate of Authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the licensing Authority for the area in respect of which the licence was granted.

**Duties of collectors in relation to certificates and badges**

5. Every collector shall:

- a) Sign his name on the prescribed certificate of Authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of the collection:
- b) Sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
- c) Keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.

**Age Limit**

6. No person under the age of 16 years shall act or be authorised to act as a collector of money.

**Importuning**

7. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof

**Collection of money**

8. Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitted the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.

9. Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.

**Duty of collectors to return boxes and books**

10. Every collector, to whom a collecting box or receipt book has been issued, shall:

- a) When the collecting box is full or the receipt book is exhausted, or
- b) Upon the demand of a promoter of the collection, or
- c) When he does not desire to act as a collector, or
- d) Upon the completion of the collection return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

**Examination of boxes and books**

11. Subject to the following paragraph, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.

12. Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.

13. As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.

14. Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

#### **Provision for envelope collections**

15. Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of the opinion that the collection is for a charitable purposes of major importance and is suitable administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

16. Where an envelope collection is made in accordance with this regulation:

- a) Every envelope used shall have a gummed flap by means of which it can be securely closed;
- b) No collector shall receive a contribution except in an envelope which has been so closed.

#### **Promoters to furnish accounts**

17. The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the licensing Authority by which the licence was granted within one month of the expiry of the licence.

18. The licensing Authority or the Secretary of State may extend the period within which an account is required to be furnished to the Authority or to him, as the case may be, if satisfied that there are special reasons for so doing.

#### **Form and certification of accounts**

19. The account required by the preceding regulation

- a) Where money has been collected, shall be furnished in the form prescribed by the Authority
- b) Where property has been collected and sold, shall be furnished in the form prescribed by the Authority

#### **Disposal of disused certificates of Authority, etc**

20. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of Authority and prescribed badges obtained by him for the purposes of the collection are destroyed when not longer required in connection with that collection or in connection with a further collection which has been authorised to promote for the same purpose.

## **Appendix C – Conditions to Place Object(s) on the Highway**

### **1. OBLIGATIONS ON THE PERMISSION HOLDER**

The Permission Holder undertakes:

- 1.1 To ensure that the object(s) is not placed in any other area than that stated in this Permission.
- 1.2 Not to allow the object(s) to be placed on the highway outside the times and dates permitted by this Permission.
- 1.3 To ensure that the dimensions and appearance of the object(s) at all times accords with the details agreed by the Council upon the issue of this Permission.
- 1.4 To ensure that the object(s) does not at any time obstruct the passage of or cause danger to persons lawfully using the highway.
- 1.5 To ensure that the object(s) is at all times well maintained and kept in a clean and tidy condition.
- 1.6 To ensure that the object(s) is at all times sufficiently weighted so that they do not move or blow over in the wind.
- 1.7 To pay to the Council the cost of making good any damage caused to the highway in consequence of the Permission Holder's operations thereon.
- 1.8 To indemnify the Council from all claims, damages and costs in respect of all accidents damages and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act neglect or default of the Consent Holder, his servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability.
- 1.9 To observe all statutory and other provisions and regulations for the time being in force which relates to the placing of the object(s) on the highway.
- 1.10 To comply with any directions or requirements issued by a chief officer of the Council or any member of their staff so authorised.
- 1.11 To forthwith inform the Council in writing of the details of any transfer/disposal to another person of the business to which the object(s) relates.

### **2. FURTHER CONDITIONS**

- 2.1 This Permission is not assignable.
- 2.2 The Council may at any time vary the conditions of this Permission.
- 2.3 Nothing contained in this Permission shall be deemed to be a consent or approval of the Council in its capacity as Authority for enforcing byelaws or as a local planning Authority, health or highway Authority or in any other capacity.
- 2.4 The Council may revoke or suspend this Permission at any time in the event of:
  - 2.4.1 The breach by the Permission Holder their servants or agents of any of the conditions herein or any supplemental/additional conditions imposed by the Council; or
  - 2.4.2 Work being carried out in under or over the highway on which the object(s) is located; or

- 2.4.3 A change in Council Policy which necessitates termination of this Permission; or
- 2.4.4 Circumstances outside the Council's control which necessitate termination of this Permission forthwith.
- 2.5 The Permission Holder may surrender this Permission by giving notice in writing to the Council.
- 2.6 The Council shall be under no obligation to renew this Permission at the end of the period stated herein.
- 2.7 All licences must be displayed on the premises referred to in the consent or on the premises to which the consent relates.
- 2.8 The Council reserves the right to require objects and displays to be removed if at any time they are found to be inappropriate or necessary. This may happen if the Advertising board or display becomes;
  - Unightly or unsafe through poor maintenance
  - Inappropriate because of new developments in the vicinity
  - During events likely to result in significant increase in level of footfall

**3. SPECIAL CONDITIONS RELATING TO MOBILE ADVERTISING**

In addition to the above conditions, the following special conditions will apply to all mobile advertising structures:

- 3.1 A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary and a minimum distance of 4 meters (either way) between other boards.
- 3.2 The board must be sufficiently weighed down and not permanently fixed to the highway or any furniture on the highway;
- 3.3 The board does not contain any material or information that would prejudice the council or break any current legislation or contain any visual or written material that could be construed as inappropriate or offensive;
- 3.4 The type of board used is of an agreed type with the council;
- 3.5 The 'A' board must be constructed in such a way that it does not have any moving parts (i.e. rotating or swinging 'A' boards etc.);
- 3.6 The board must be of sufficient contrast to its surrounding area
- 3.7 The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts;
- 3.8 The board must, and must only, relate to the trade of the premises;
- 3.9 The board must not exceed the dimensions stipulated in the consent;
- 3.10 The board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises;
- 3.11 The board must not obstruct safe passage for all highway users, emergency or service vehicles or interfere with sight lines for any road users. (Breach of this condition will result in the board being removed immediately.)



## **Appendix D – Conditions of Permission to Place Tables & Chairs on the Highway**

### **1. General matters**

- 1.1 The fee for the granting of the Permission shall be paid in advance.
- 1.2 The tables and chairs shall at all times be well maintained and kept in a clean and tidy condition.
- 1.3 The tables and chairs shall not be placed in any other area than that stated in the Permission. They shall be placed in an area delineated by a suitable temporary barrier which is positioned to the satisfaction of the Assistant Director of Operations.
- 1.4 Furniture and temporary barriers shall be in accordance with the *Pavement tables and chairs design guide*.
- 1.5 The person to whom the Permission is granted shall ensure that the tables and chairs so far as reasonably practicable, and the persons using the tables and chairs, do not at any time obstruct the passage of or cause danger to persons lawfully using the highway on which they are situated.
- 1.6 The Permission may be suspended by the council at any time in the event of work being carried out in, under or over the highway on which the tables and chairs are situated or any adjacent highway.
- 1.7 The person to whom the Permission is granted shall indemnify the council against any costs, claims, actions or damages arising out of the placing of the tables and chairs on the highway.
- 1.8 The person to whom the Permission is granted shall bear absolute responsibility for ensuring that adequate public liability and products liability insurance is held in respect of the permitted area and the cover obtained shall be not less than £5,000,000, any one claim, in respect of public liability and not less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability. Evidence of such public liability and products liability insurance shall be provided to the satisfaction of the council before the Permission can be exercised.
- 1.9 The Permission is not assignable.
- 1.10 The council may at any time vary the Permission or conditions thereof:
- 1.11 If the person to whom the Permission is granted breaches any one or more of the conditions thereof, the council may serve a 'default' notice requiring the breach of conditions to be remedied in a particular way within a stated time and should it be necessary in order to remedy the default, the council may require the tables and chairs, temporary barriers and other furniture to be removed from the highway either temporarily or permanently.

- 1.12 (a) The person to whom the Permission is granted shall ensure that the tables and chairs and use thereof by members of the public are at all times supervised so as to avoid nuisance being occasioned to:-
- (i) members of the public lawfully using the highway
  - (ii) local residents
  - (iii) other local businesses.
- (b) The person to whom the Permission is granted shall ensure that glasses, crockery, napkins, cutlery and any other item placed upon the tables and chairs by the person to whom the Permission is granted or by any other persons, when the tables and chairs are in use, are removed from the tables and chairs when they are not in use.
- 1.13 The person to whom the Permission is granted shall not allow music to be broadcast on to the street.
- 1.14 The person to whom the Permission is granted shall ensure that customers consuming food or drink outside the premises do not move beyond the demarcated area.
- 1.15 It shall be the duty of the person to whom the Permission is granted to clean the section of the highway in respect of which Permission is granted to the specification of the Assistant Director Community Services.
- 1.16 The Permission does not authorise the holder to allow alcoholic drinks to be served or consumed at the tables and chairs. It is the responsibility of the person to whom the Permission is granted to check with the Licensing Justices that the liquor licence for the premises allows such activities to take place.
2. **Design specification**
- 2.1 **Means of enclosure**
- 2.1.1 When in use the pavement area will need to be enclosed, to demarcate the permitted area and contain the tables and chairs, thus making it distinguishable to other pavement users, and particularly to assist blind and visually impaired pedestrians.
- 2.1.2 The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.
- 2.1.3 The enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.
- 2.1.4 The design of the barrier should complement the character of the surrounding area and in any event must have bars/elements at around 100mm and 1,000mm above ground level.

2.1.5 Planters can be particularly attractive and can be used as part of the means of enclosure but must be removed from the highway outside of the hours of operation.

2.1.6 Notwithstanding the contents of paras. 2.1.1 - 2.1.5 above the enclosure shall comply, in all respects, with the provisions of the council's design guide.

**2.2 Furniture**

2.2.1 The furniture should be of a high quality and uniform style within the permitted area. White plastic and or picnic tables will not normally be approved.

2.2.2 Where umbrellas are used these must be fabric type (ie non reflective) and display only limited advertising or logos up to 150 x 450 mm in size. Umbrellas are to be positioned so as to avoid overhanging, outside the enclosure or impairing vehicle sight lines.

2.2.3 Non furniture items, eg menu boards, signs and portable gas heaters also need to be approved as part of the enclosed area, and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.

2.2.4 All items need to be portable enough to be brought in at the end of the permitted period of each working day or in the event of an emergency.

## **Appendix E – Revised Outdoor Advertising Protocol**

Where a licensing application is made to display an 'A' board within a Conservation Area, the Licensing Section shall provide written notification to the Built Environment Enforcement team. The notification should include an explanation for the signage and the location of the premises to which it refers.

No 'A' board will be approved within Conservation Areas except in the following circumstances; having regard to the position and location of the premises;

- a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,
- b) the premises are situated along a side alleyway and / or on private land which is not a public thorough fare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

Where the premises meet the exceptions in the protocol then the Planning Enforcement and Compliance team will confirm to the Licensing Section that the 'A' board may be licensed.

Where contraventions exist the most appropriate enforcement action will be considered which would normally involve the use of licensing powers or powers contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.