



# CHELTENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Licensing Sub-Committee - Miscellaneous

Wednesday, 7 April 2021  
4.00 pm

Virtual WEBEX video conference via the Council's YouTube  
Channel: [www.youtube.com/user/cheltenhamborough](http://www.youtube.com/user/cheltenhamborough)

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Mike Collins, Wendy Flynn (Vice-Chair), Diggory Seacome and Simon Wheeler
<b>Officers:</b>	Louis Krog, Vikki Fennell and Jason Kirkwood

### Agenda

1.		<b>APOLOGIES</b>	
2.		<b>DECLARATIONS OF INTEREST</b>	
3.		<b>APPLICATION FOR A STREET TRADING CONSENT - THE BEECHES CHARLTON KINGS</b> Application for street trading consent – The Beeches, Charlton Kings.	(Pages 3 - 38)
4.		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION</b>	

**Contact Officer:** Claire Morris, Democratic Services, 01242 264130  
**Email:** [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)

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## Licensing Committee –

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a Street Trading Consent

**Miss Melissa Hobbs**

#### Report of the Senior Licensing Officer

### 1. Summary and recommendation

- 1.1 We have received an application from Miss Melissa Hobbs for a street trading consent to sell Refreshments, coffee, tea, ice creams, cakes, toasties, waffles and fruit pots from a Mobile unit measuring 4.4m x 2.2m. Height 2.7m.
- 1.2 Miss Hobbs has applied to trade on the Beeches Playing Field, Sappercombe Lane, Charlton Kings in front of the Pavilion. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Miss Hobbs has applied for a 9 month consent for the following days and times:-

Monday	07:00 - 18:00
Tuesday	07:00 - 18:00
Wednesday	07:00 - 18:00
Thursday	07:00 - 18:00
Friday	07:00 - 18:00
Saturday	07:00 - 18:00
Sunday	07:00 - 18:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 **The Committee can:-**
  - 1.5.1 **Approve the application if they think it is appropriate to do so after considering the application and any objections, whilst having regard to the Street Trading Policy (Policy) or**
  - 1.5.2 **Refuse the application if they think it is appropriate to do so after considering the application and any objections, whilst having regard to the Street Trading Policy.**
  - 1.5.3 **In having regard to the Policy, Members must consider its relevance to the application, but they may depart from it, if they feel it is appropriate to do so. The Policy cannot fetter the Committee’s discretion, but instead it provides a framework for decision making to ensure a coherent and consistent approach is taken by the Licensing Authority in determining applications. If Members depart from the Policy they should provide reasons for doing so.**

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

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

**Contact officer: One Legal**  
**E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)**  
**Tel no: 01684 272015**

## 2. Background

2.1 The current Policy was adopted by Council on 11 February 2020. A copy of the Policy has previously been circulated to Members and it is available on the council's website at - [https://www.cheltenham.gov.uk/downloads/file/8050/street\\_trading\\_policy\\_feb\\_2020](https://www.cheltenham.gov.uk/downloads/file/8050/street_trading_policy_feb_2020)

## 3. Purpose of the Policy

3.1 This Policy sets out Cheltenham Borough Council's ("the authority") framework and approach for the management of street trading in the borough.

3.2 Through the street trading scheme the authority aims to control:-

1. the location of street traders;
2. the number of street traders; and
3. the types of goods to be sold or offered for sale.

3.3. The scheme also aims to:-

1. prevent unnecessary obstruction of the highway by street trading activities;
2. sustain established shopkeepers in the town;
3. maintain the quality of the townscape and add value to the town;
4. encourage inward investment and
5. promote quality markets

3.4 The authority recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause public or statutory nuisance to the people in the area.

3.5 This Policy will guide the authority when it considers applications for street trading consents. It will inform applicants of the criteria against which applications will be considered.

### Assessment Criteria

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

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other established retailers within vicinity. This criterion permits the authority to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The authority does however recognise that

the surrounding retail offer is subject to **Page 5** therefore, it will apply this criterion to applications for new or renewal applications.

- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public, or properties in the vicinity, from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

The authority would expect a minimum of 6 feet (1.8m) of unobstructed highway/walkway on at least one side of the proposed trading unit/location.

- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street and street scene rather than detract from it and be constructed in a suitable scale, style and using appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed.

The authority will generally not permit trading units where the unit fully, or substantially, blocks lines of sight to established retailers in the vicinity.

Any street trading operation which negatively impacts public access by walking, cycling or public transport will not generally be accepted.

- **Environmental Credentials** - The impact of the proposed operation on the local environment, including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation and recycling, waste disposal and waste created by customers.

The authority will encourage the use of sustainable products and will consider the trader's environmental credentials in respect of these when considering whether or not to approve applications. The authority will expect applicants to submit environmental statements setting out how the applicant will operate in an environmentally sustainable way.

## 4. Consultee Comments

4.1 No objections were received from the following consultees:-

Cheltenham Business Improvement District - No Objections  
GCC Streetworks - No Objections  
GCC Highways / Amey - No Objections  
Planning Enforcement - No Objections  
Public Spaces CBC - No Objections  
Townscape CBC - No Objections  
Ubico - No Objections

## 5. Other Objections and Applicant's Response

5.1 It was clear from feedback received from the consultation process that there had been an objection to the disposal by Cheltenham Borough Council of the lease to locate a unit for the purpose of street trading at the Beeches. It seemed appropriate to highlight the fact that this application was in consultation, in the interests of transparency and to ensure no perception of potential bias in determining this application by the council.

5.2 An objection was received from the owner of a local business, and his comments are attached at **Appendix 3**.

5.3 The applicant has submitted additional information to support their application, and this is attached at **Appendix 5** (her email from 11.03.21), **Appendix 5 a** (a copy of their proposed menu) and **Appendix 5 b** (screenshots of comments from social media in support of the application).

## 6. Licensing Comments

6.1 The Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) Schedule 4 prescribes the regulation of street trading.

6.2 Street trading can be controlled through the issue of 'licences' or 'consents' and the two permissions are treated differently through the 1982 Act. Paragraph 7 of Schedule 4 of the 1982 Act sets down the regulation of street trading through 'consents' and Cheltenham Borough Council controls street trading through the consent scheme.

6.3 The grounds to consider when determining an application for a consent are not clearly specified in the 1982 Act. However, paragraph 4 sub – paragraph 4 states a council may attach such conditions 'as it considers reasonably necessary'. Furthermore, sub – paragraph 5 goes on to state that conditions may be used (inter alia) to prevent:-

- Obstruction of the street or danger to persons using it; or
- Nuisance or annoyance (whether to persons using the street or otherwise).

6.4 Cheltenham Borough Council has adopted a Policy to make clear the approach it takes to carrying out its responsibilities in regulating street trading, as explained in Section 3 of this report above. The Committee must have regard to these considerations and should refer to them in their decision making.

6.5 The Committee must determine the application with a view to promoting the principles set down in the council's adopted Policy and Members should not arbitrarily deviate it.

6.6 The policy lays down certain 'Permitted Locations', but it should be noted that these are entirely located within the town centre. Members should consider whether this policy principle should be followed in the circumstances of this case when determining this application.

6.7 The objector to the application makes a number of arguments in his representation, but the main point is that the grant of this consent will not help sustain established businesses. He argues that the grant of this consent will harm his own business due to the cross over between the offer of his own business and that to be provided by the business making this application. He suggests that the application will harm his own due to the proximity of it to his own.

6.8 The Committee must consider relevant objections and weight the arguments made in them appropriately, but it must also consider potential benefits brought to the local community through an application i.e. does an application 'add value to the town (including the local community surrounding a proposed location)'?

6.9 Ultimately, the Committee must act in the public interest in considering this application and forensically assess any potentially negative impacts and any potential benefits to the community as discussed in the Policy, as far as is practicable. There will be constraints to this assessment as the commercial interests of the applicant and objector cannot be fully discussed in a public arena as this would not be appropriate to do so. However, the Committee can think through the practical impact of the potential grant of the consent in a thorough manner by considering known facts, in particular with reference to the geography of the local area and the potential benefits to the community.

6.10 The case officer visited the location on Thursday 18<sup>th</sup> March 2021 to provide further evidence to the Committee in respect of the key issues in play for this application. The findings from that visit are summarised below:-

- The proposed location is shown on area r **Appendix 4 a, b and c**. The proposed location for the consent is adjacent to the skatepark on The Beeches and the objector’s business is located in Church Piece towards the top left of each map.
- The two possible routes for a person to walk between the location for the consent and the objector’s business are shown as Route A and Route B, by way of a line with markings on the maps.
- Route A is a distance of approximately 0.44 km (481 yards) and took approximately 4.50 minutes to walk.
- Route B is a distance of approximately 0.49 km (536 yards) and took approximately 4.30 minutes to walk.
- Immediately adjacent to the proposed location for consent there are three popular areas – the allotments, the skate park and a playground. This could mean that customers using those areas may use the street trader that would not necessarily have walked to the ‘village centre’ for refreshments, if an almost 10 minute round trip by foot was required.
- The street trader would offer more of an outdoor experience with less cover due to its location and the unit to be used and will be more affected by adverse weather conditions than the existing business.
- It seems unlikely that potential customers using the village centre will walk to the Beeches specifically to purchase a coffee, unless that is on their way home, due to the time/ distance involved.

These points are helpful in determining the extent to which unfair competition may arise and explaining how the businesses concerned may satisfy different customer requirements.

- 6.11 The findings from this visit suggest the Committee must ask itself whether the potential benefit to the community of having a trader selling refreshments immediately adjacent to the three popular areas named above and for the wider community having access to such a facility are outweighed by the potentially adverse impact on the objector’s business.
- 6.12 However, the street trading regime should not be used as a tool to stifle or stop genuine competition between businesses, as this is a natural part of the UK’s economy, but it can be a helpful tool to reduce the impact of unfair competition which can damage the local economy.
- 6.13 If the consent is granted it will attract an annual fee of approximately £3600 (or a pro rata amount for a lesser period) and there will be a charge associated with the lease for using the land concerned. Members should consider these factors in assessing the potential for unfair competition to arise, as similar products are sold by both businesses.
- 6.14 The Committee may wish to consider the potential impact of the ongoing health pandemic on people’s behaviours. It is difficult to predict but it seems likely for local green spaces in Cheltenham to remain popular and attract people from their local community throughout this summer with restrictions on holidays abroad and the subsequent additional pressure on popular holiday destinations in the UK.
- 6.15 Finally, a business being situated in this area may have a beneficial impact in respect of preventing crime and disorder and anti – social behaviour and would provide an additional facility for people to socialise in the open air locally.
- 6.16 Whilst the Policy creates a presumption against the grant of an application if the application does not comply with it, this must not fetter the Committee’s discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the Policy.
- 6.17 Members are reminded that clear and comprehensive reasons should be given for decisions made by the Committee particularly where the decision is contrary the Policy.
- 6.18 It should be noted that this application is not a re – run of the process to dispose of public open space that was recently undertaken by the council. That has led to a 9 month trial being permitted for this venture, in respect of the use of the land. It is understood that an adverse impact on the objector’s business will be considered in respect of that trial. The decision from that process is attached at **Appendix 6**.

**7. Officer recommendation**

7.1 An officer recommendation is not given for the reasons given below and to ensure no appearance of bias in determining the consent, as it relates to council owned land.

However, the Committee must act in the public interest by ensuring full and proper consideration of the potential merits of the application for the local community whilst deciding whether unfair competition will be facilitated through granting this consent.

**Reason(s):** The permitted locations contained within the Street Trading Policy are all within the town centre. It seems a pragmatic and sensible approach to limit street trading in a busy town centre area to particular areas of it. However, it is unlikely that the council's intention was to effectively prohibit all trading away from the town centre, particularly given the vibrancy and individual nature of the many communities in Cheltenham. It would seem to have been impractical to create permitted areas throughout the borough, and so this aspect of the Policy is seen as less helpful in determining this application due to the location being away from the town centre. It is also clear from the number of enquiries to the Licensing Team during the health pandemic that traders are looking to operate away from the town centre and utilise green space.

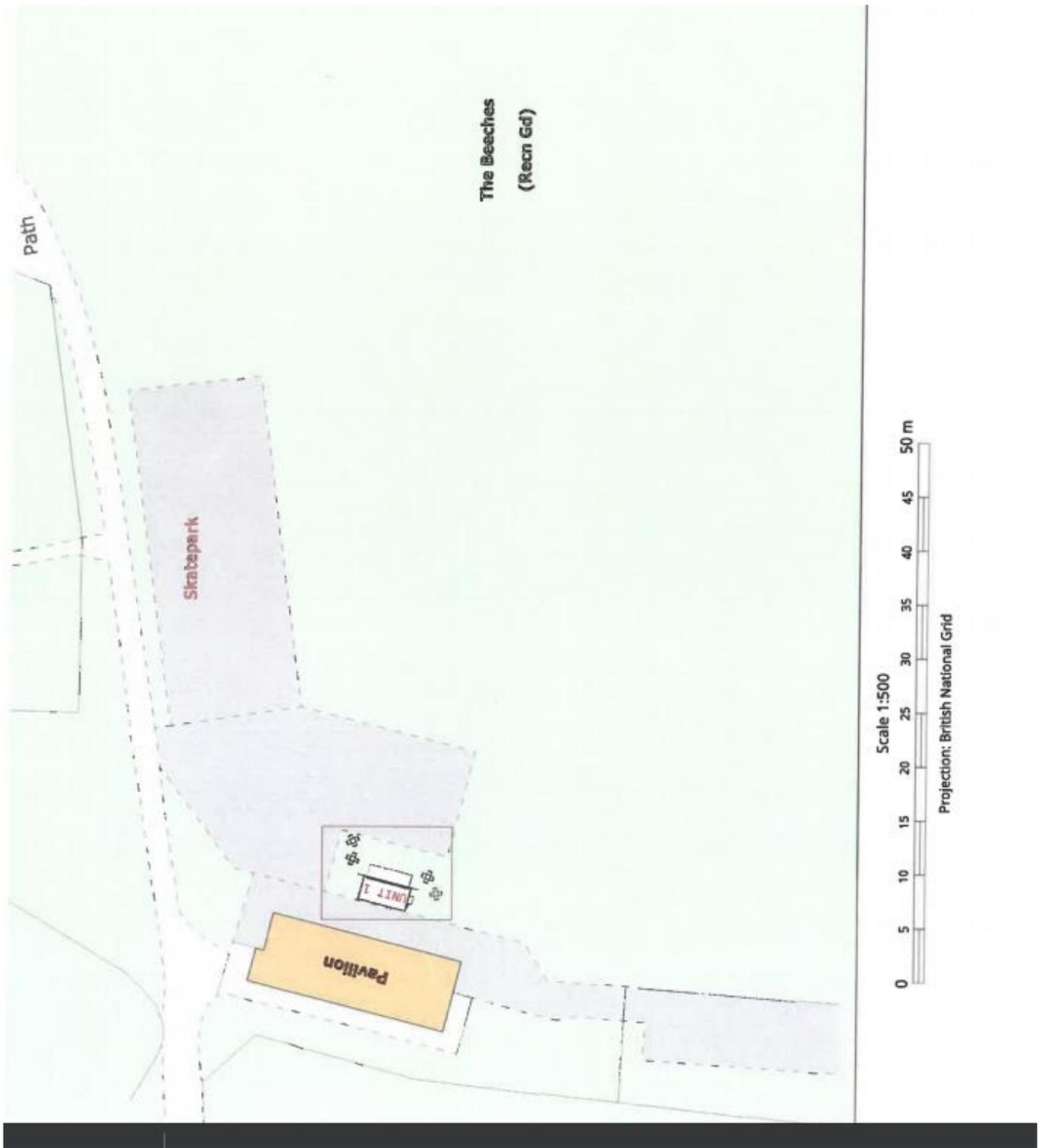
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**Background Papers**

Service Records

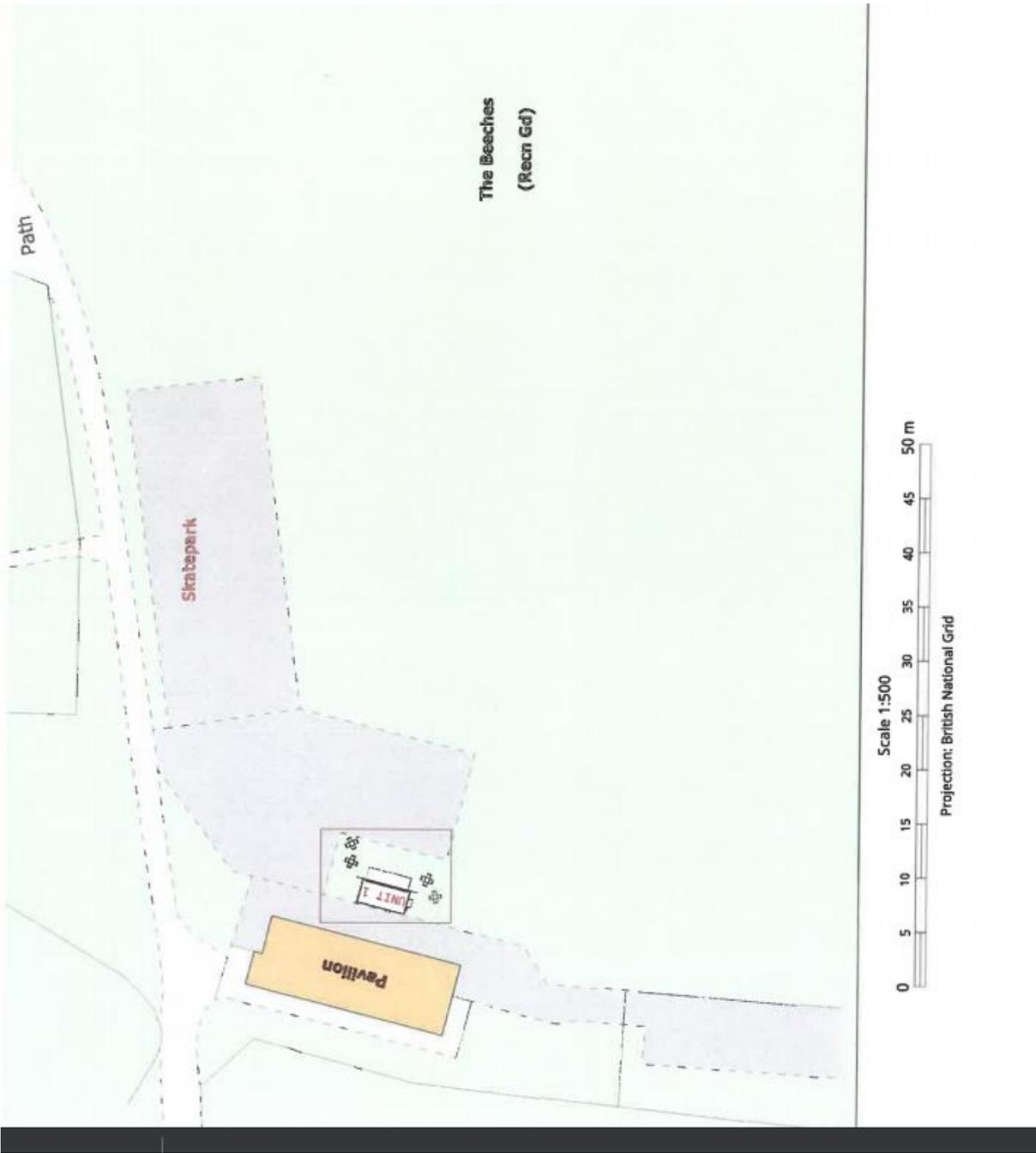
**Case Officer**

**Contact officer: Mr Jason Kirkwood  
E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
Tel no: 01242 775200**



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APPENDIX 1



APPENDIX 2



## APPENDIX 3

### Comments from objector

#### **Email objection received 12.03.21**

I am very pleased to have the opportunity to convey my thoughts, concerns and worries in relation to the licence being granted in respect of the Coffee Kiosk on Beeches field.

I believe you are in receipt of full correspondence and representation made to date. In the event that you are not privy to the dialogue, I have attached to this email as a point of reference and to avoid going over too much of what I have already expressed again but it is important that it is noted and considered.

Please also be aware that I am available to discuss matters further and in more depth as deemed necessary either on the phone, in person or on a webex call.

As highlighted in discussions with you, I am approaching this in a very pragmatic and professional manner and with an understanding of the current economic situation we all find ourselves in. It is not my intentions whatsoever to be a "Victor Meldrew" or a NIMBY or be unreasonable in my objectives and objection.

I find myself in the position here that I have very real and serious fears for the future of my business should the licence in question be granted and the café/kiosk at Beeches Field go ahead. We have some very quiet days, such is the dynamic of the village and some busier days that helps to balance the week out. Margins are tight and any slight drop in trade is cause for concern. The fact that the new offering is in direct competition and so close by, would call into question how commercially viable both businesses end up. From studying our figures, we feel that the likelihood is that the Beeches Café will take enough business away from us that will in turn force us into closure. To put it in context, even what may seem to be very small amount - £50 per day (approx. 18 hot drinks) drop in trade would have an enormous long term effect resulting in approximately £1500 per month drop in revenue which would severely impact us to the point of going under. I understand that CBC wants to support local business and assist with the bounce back along with affording others opportunities to thrive. The decision to open up Beeches Field for economic purposes and for the direct purpose of having a café/kiosk is a very unfair one to the local business' who are struggling through as it is. It is not sensible to give an opportunity out that will directly and adversely impact the existing local economy.

From the outset I should say that I am a fan of CBC and genuinely believe the council on the whole is doing a great job. It is difficult to get everything right all the time, however I feel the council is doing a fantastic job.

Throughout Covid my experience with various departments has been very positive and as previously mentioned to you Jason, I am hugely grateful for the support the Government and in particular local government has provided this past year. So many business' have managed to stay afloat owing to the grants and support received from CBC.

We have also been in a fortunate situation and been granted support over this time. Without the support, I am not sure the business would still be operating. With this in mind we have done everything we can to remain open throughout – only closing for Christmas Day and have been a lifeline to the village. We have been providing the service and been there for the community when there was no-one else in a position to be open for one reason or another. We have felt it is our duty to do so and I am very proud of the work we have done.

We have been working extremely hard in extreme circumstances over the past year and have managed to carve out a reputation for ourselves and stay in business. We have had a tough year and we are beginning to see the fruits of our labour with the customer base and evolution of the Café. The announcement a couple of weeks ago relating to the dates that the country and economy can start to rebuild brought a renewed energy and vigour to us and huge positivity across the board. It is the light at the end of a very long tunnel and we might just have a lifeline from the 12<sup>th</sup> April onward in stages. The hope that we will start to actually make some money as a business and may be in a position to draw some form of wage from it for all the work. Employees of course are paid but as yet I have not taken anything. It is tight but promising.

The creation of a Café (Beeches Café) as they are calling themselves is a major body blow to us. A sucker punch just as we are seeing the possibilities that may lie ahead. It feels like CBC has been financially supportive all these months and in giving with the right hand, it feels as though they are taking with the left by creating such an opportunity and offering so close by.

I understand some of the view points and where CBC is coming from on some of them but I would argue that a coffee kiosk/café on Beeches Field is simply not needed. Moosh has been and continues to provide the refreshments and food needed and sought after by the people of the village within such close proximity to the field.

Like so many businesses we operate on such tight margins and having the threat of Beeches Café hanging over us is very difficult to take. I feel very strongly about this and feel like I have a pretty good understanding of the village and what is needed. I live on Copt Elm Road in the heart of Charlton Kings and Chairman of St. Marys Playgroup. I have two young children, who attend St. Marys Playgroup and The Arc Nursery in Charlton Kings too. We use Beeches playing field and playground on a regular basis and of course we know our customers in Moosh and throughout the village having relationships with the other business's.

We support local artists, crafters and suppliers by purchasing and also providing them with an outlet to sell their products, we also and employ locally too.

We support local charities and schools in their charitable endeavours.

Throughout the pandemic and series of lockdowns, we have been ( from the mouths of our customers ) a lifeline and a consistent place to come particularly for the local sheltered housing residents, the vulnerable, old age and lonely. We are seen as an integral part of the community for this and many other reasons besides.

I raise these points to reiterate our commitment to the community that we are serving, it's very much a 2 way street as far as we are concerned and it would be a great shame if we were forced into closure, creating another void "on the high street" and in the community that rely on us. This is sure to happen if the Beeches Café / kiosk is permitted to go ahead.

Of specific concern regarding the license is the following

- 1) The unfair commercial advantage that the cafe will be granted by being on the field, the location is not ordinarily a commercial district and is being created out of nothing without much thought or consultation.
- 2) The product range that the café will be serving and providing is essentially identical to what we are currently offering.
- 3) The opening hours are again very similar.
- 4) The lack of consultation and research by CBC and others into the viability and effect such a commercial offering is likely to have on neighbouring businesses.
- 5) The lack of any answers or clarity surrounding the apparent commitment by CBC to review to trial on the grounds of its negative impact on the local economy as stated in the vendor

tender/application pack and cease the trial at any point if a negative impact is been seen and proven.

- 6) It would only take a few weeks for any negative impact on our trade to cause a major negative to the future of Moosh.

I do hope that my concerns are considered seriously and taken into full account when assessing the application for the license.

In the event that the license is likely to go ahead and be granted there are some stipulations or clauses that I would like to see included in order to give us a chance of surviving, at least until we can assess and discuss the impact with some more evidence.

- 1) That the café/kiosk is not permitted to provide the same product range as Moosh currently offer – ie Coffee, Tea, Soft Drinks, Cakes, Sandwiches, Toasties, Milkshakes, Ice Cream and Snacks
- 2) That the café/kiosk provide a different and unique offering, such as a Pizza van or a full range Ice Cream Kiosk or a Noodle Bar. Essentially something that is not in direct and unfair competition to Moosh.
- 3) The opening hours are amended to be closed Monday/Tuesday/Wednesday (generally being the quieter days of the week) where trade is particularly slow.

I would also like to have clarity and confirmation on how the issue of a negative impact on our trade will be assessed and dealt with, I propose weekly or fortnightly catch ups, any longer could spell disaster for Moosh.

I trust that my concerns and ideas will be treated seriously and considered fully. I am available to discuss further and I am looking forward with trepidation to hearing what the outcome is.

### **Letter attached to email of 12.03.21**

Moosh 3A Church Piece Charlton Kings GL53 8JN

15/02/2021

Dear Abigail,

I am writing to get in touch about the vendor opportunity for Beeches Playing Field as Owner of Moosh Café.

I was first alerted to this through social media last week, that the council were encouraging applications to host a refreshments stall at Beeches. Until this point, I had not been aware of this idea, we hadn't received any notification or seen any public notice at, near or around the area, which as a resident, I use daily with my children.

Upon investigation, I can see that this proposal was heard before the Cheltenham Borough Council Cabinet on 22 December 2020 and the recommendations in the report passed.

I note from the report the success and widespread community welcome for the trials at Hatherley and Burrows.

The option of Beeches gives me some cause for concern, given the extreme impact of Covid and restrictions on local businesses including Moosh.

Moosh, for example, has managed to keep afloat despite tremendous restrictions placed upon its trading and core business due to Covid, but this has been a major struggle and the profit margins are not anywhere near what was expected and could ordinarily be expected during pre or non Covid times.

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We are very grateful for the community's support through Covid and feel we deliver back to the community immensely. Some very notable examples of this are the amount of elderly and disabled customers we serve who come to us from the local sheltered housing blocks. We have a great number of customers who are lonely and vulnerable who come to Moosh as the highlight of their day and worked into their daily rituals. They come to us as they feel safe, supported and have a comfortable environment where they can shelter and have friendly chat with us and other customers alike.

Moosh is leaned on by various community charitable initiatives such as the CKIS and CKJS amongst others. We provide support and fundraising in conjunction with these bodies. We support and encourage local enterprise by working together with local bakers, crafters, artists and so on to showcase their products and help them with promotion of their business through our window display and sales in our coffee shop.

We distribute our used coffee grind to the local community (FoCK) allotment and other local residents who use them at home and on their allotments.

When Charltonbury festival was put on last August, hosted by FoCK and the Parish Council, there were no public toilets available and Moosh was there to support, not only the event but also the patrons by way of allowing our private coffee shop toilets to be used by them.

Moosh is a cornerstone of the community and many have likened us to a community service as throughout the lockdowns and restrictions we have remained open and consistent giving the local community somewhere they feel they can get out and escape to, bringing them some peace, some treats or just a change of scene. We have worked to improve the outlook of the precinct and on multiple occasions have swept up and weeded the area when it was being neglected, overlooked and at times unsafe due to the vast amount of wet leaves under foot.

In the report it is mentioned that CBC would be looking for reference of working with local businesses within any bid submission. How does CBC envisage that any bidder would work with and support Moosh? I am aware the deadline for submission is this Wednesday 17 February, but I haven't had any approach from any potential bidder.

The report talks in detail about public consultation via S123 for the Hatherley site, but little to no mention of any public consultation on the Beeches site. Was there any public consultation or was there a conscious decision to not consult, and if so, what were the reasons for this?

I am unclear from the report's statements under paragraph 4 and contribution to the corporate plan. It suggests about promoting inclusive growth while the implementation is no doubt a risk to local, independent coffee shops. It also mentions about listening to the community, but CBC don't appear to have spoken to our local community in Charlton Kings, and gave no notification to Moosh of this idea.

I am surprised at Charlton Kings Parish Council's specific support for Beeches, given their location is a matter of metres away from Moosh, and again there was no communication with us about this idea. I will seek to discuss this with the PC directly, but it does further indicate that the community hasn't been wholly involved in the consultation.

There is a further concern that the council's risk assessment gives no consideration to the major risk of putting local operators out of business and the knock-on effect of the loss of a community asset, and the perception of a possible long term vacant unit as a result. I feel for a risk assessment to hold sufficient weight in business terms, this should have been included and perhaps this could be revisited?

In reading the vendor opportunity, I am pleased to see more emphasis on consideration of adverse effect on local markets and that CBC wants to support the local economy and not compete with it.

From a local business perspective, my clear view is that any alternative vendor in the local vicinity can only be competition and not support.

The vendor opportunity document also talks about ensuring stakeholder buy in and support, I am interested to understand how CBC plans to engage with Moosh, particularly given the tight timescale – with deadline for submission this Wednesday.

The document explains that footfall at Beeches is regarded as being potentially high, has CBC undertaken any footfall monitoring to arrive at this assertion? In particular, has it considered the direction of this footfall, and the levels of traffic via Charlton Kings village centre and precinct?

I am pleased that CBC state in this document that “The Council will seek to end this opportunity (possibly earlier than the end of the term) should it result adversely on local businesses and it will not be offered again until this can be resolved.” As mentioned above, the parish council has not discussed with Moosh what the impact might be locally, and I would respectfully disagree with their opinion that Moosh ‘is removed enough’ to not be adversely impacted. To be clear, a substantial number of customers frequent Moosh coming from or on route to Beeches playing fields, often with children visiting the play area (including myself and my wife!)

Regardless of the above, I am keen to understand what the council’s monitoring will be of any adverse effect? I would be grateful for clarification on this point so as I may begin to prepare Moosh’s books in the format you wish to enable you to effectively analyse the impact on local businesses. Will CBC be wishing to consider the impact on a weekly basis? What is the criteria for ‘adverse effect’, is there a percentage? Of turnover, or profit? At what percentage does CBC feel local businesses can survive? Is this percentage to be made clear to any potential bidder or successful vendor?

How does CBC intend to write into any tenancy or contract that the kiosk can be closed down by the council at short notice if adverse effect on local economy is identified?

I would greatly appreciate your urgent attention to this matter. I apologise that I have only been able to make contact now, but there has been no public notification or direct communication, and this was only brought to my attention following some social media activity, much of which shares my concerns above, although of course there is some support on these online posts for CBC’s attempts to think innovatively.

I’d also like to express my appreciation to Cllr McCloskey who has posted publicly about wanting to support the local economy, although I must point out that for a business the size of Moosh, that nine months of lost business would be enough to close down any local independent retailer to the point of no return. My real concern is that the community might lose a local coffee shop, and that the vendor trial or the successful bidder not continue beyond this period, leaving the community with no outlet altogether which would be a massive blow for the Charlton Kings community.

I am aware there is a cabinet meeting tomorrow evening, perhaps some of the concerns and points raised above may feed into the discussion and decision making. I look forward to hearing from you and am available to meet and/or discuss matters further.

Raymond Dowling CC: Parks Kiosk, Dominic Stead, Paul Jones, Cllr. Steve Jordan, Cllr. Chris Coleman

### **Email attached to objection dated 18.02.21**

Dear Ms Freckleton,

I wish to make a formal objection to the proposals at Beeches Playing Field. Section 123 (1), (2A)

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I am not sure it is expressly clear whether the objection needs to be against the 'DISPOSAL OF OPEN SPACE' or indeed the proposal to have a "TENANCY AT WILL" for the purpose of a refreshments kiosk.

As a local coffee shop business - Moosh, within extremely close distance from the playing field, I object to the proposals on the grounds that my business and indeed others in the village will be adversely affected by the proposed idea of granting a tenancy for a refreshments kiosk on the site.

I have tried to understand the measure the council are planning to take to support local business and monitor the negative effect on the local economy – as mentioned in the proposals document.

As you are well aware this information and open dialogue has not been forthcoming and attempts made and concerns raised have been masked by officials when reporting on the issue at cabinet meetings.

The main issue is that the impact of the covid 19 pandemic and the lockdown/restrictions Imposed by government have made running a hospitality business extremely challenging. The business is on one of tight margins and profit is very hard to reach.

By creating space and granting a tenancy for a refreshment at the proposed location would severely impact and damage the trade in the already struggling businesses locally and with specific reference to my own business of Moosh Café.

I believe that Beeches playing field is already served well by the outlets in the village and there in not a need to have a kiosk on the site.

Having a kiosk there will I believe dramatically damage the custom of Moosh and other outlets nearby, creating unnecessary and unfair competition that will likely have a devastating impact and instead of supporting local business, it will in-fact go against that and cause severe difficulties which are likely to result in the closure of local outlet(s)

The vendor opportunity pack mentions .... " to see more emphasis on consideration of adverse effect on local markets and that CBC wants to support the local economy and not compete with it." It also talks about "ensuring stakeholder buy in and support" and also "The Council will seek to end this opportunity (possibly earlier than the end of the term) should it result adversely on local businesses and it will not be offered again until this can be resolved."

It is very unclear how this might be assessed.

You will see below and have been privy to my concerns put forward to date and wish to formally object to the proposals.

Details of my business –

Moosh,

3A Church Piece,

Charlton Kings,

Cheltenham

GL53 8JN

Personal details –

Raymond Dowling

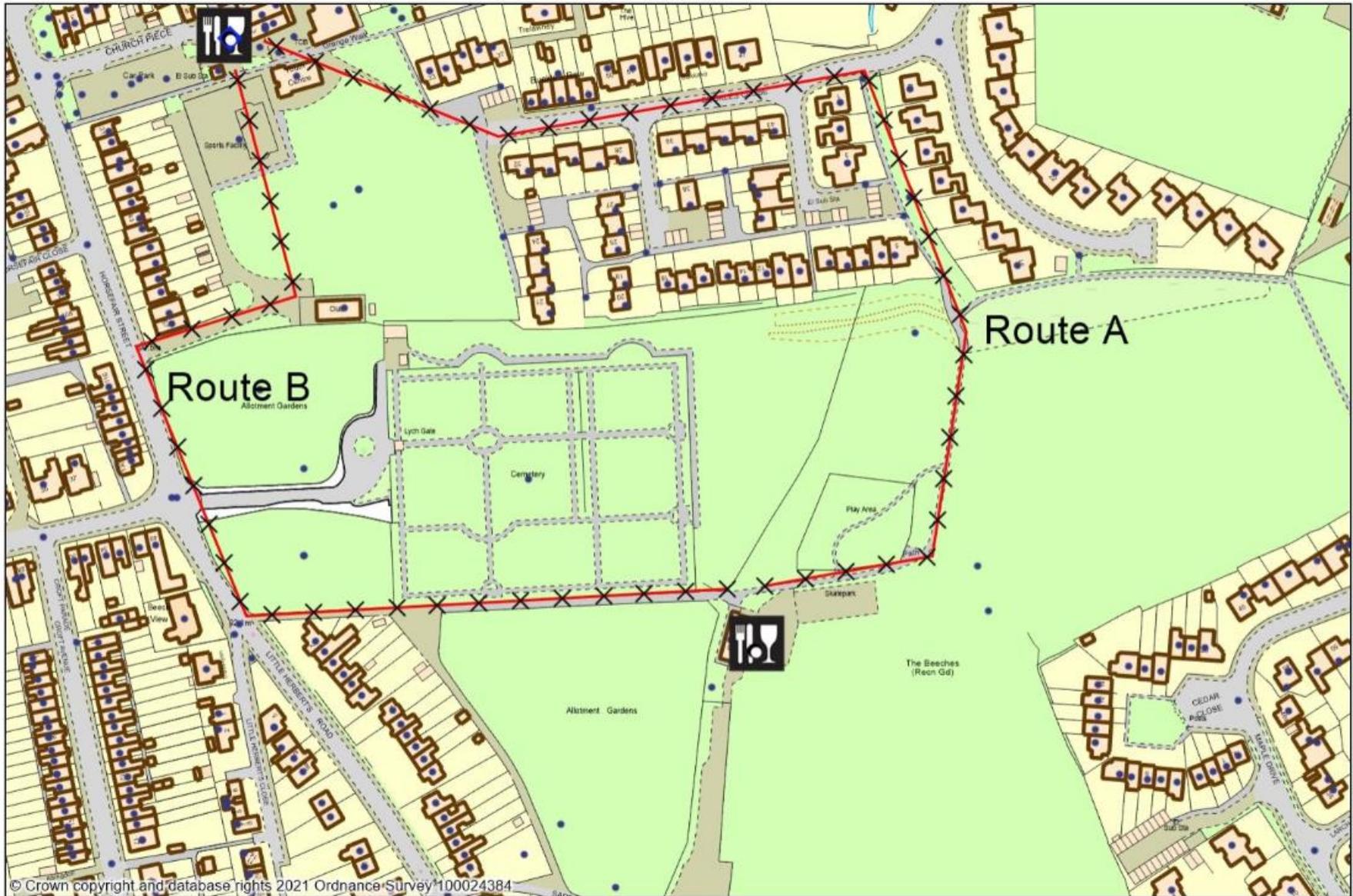
I trust this objection has met with the required process and am available for discussion on the topic as required.

I am hopeful of a positive outcome where the local economy does not suffer any further.

Yours sincerely,

Raymond Dowling

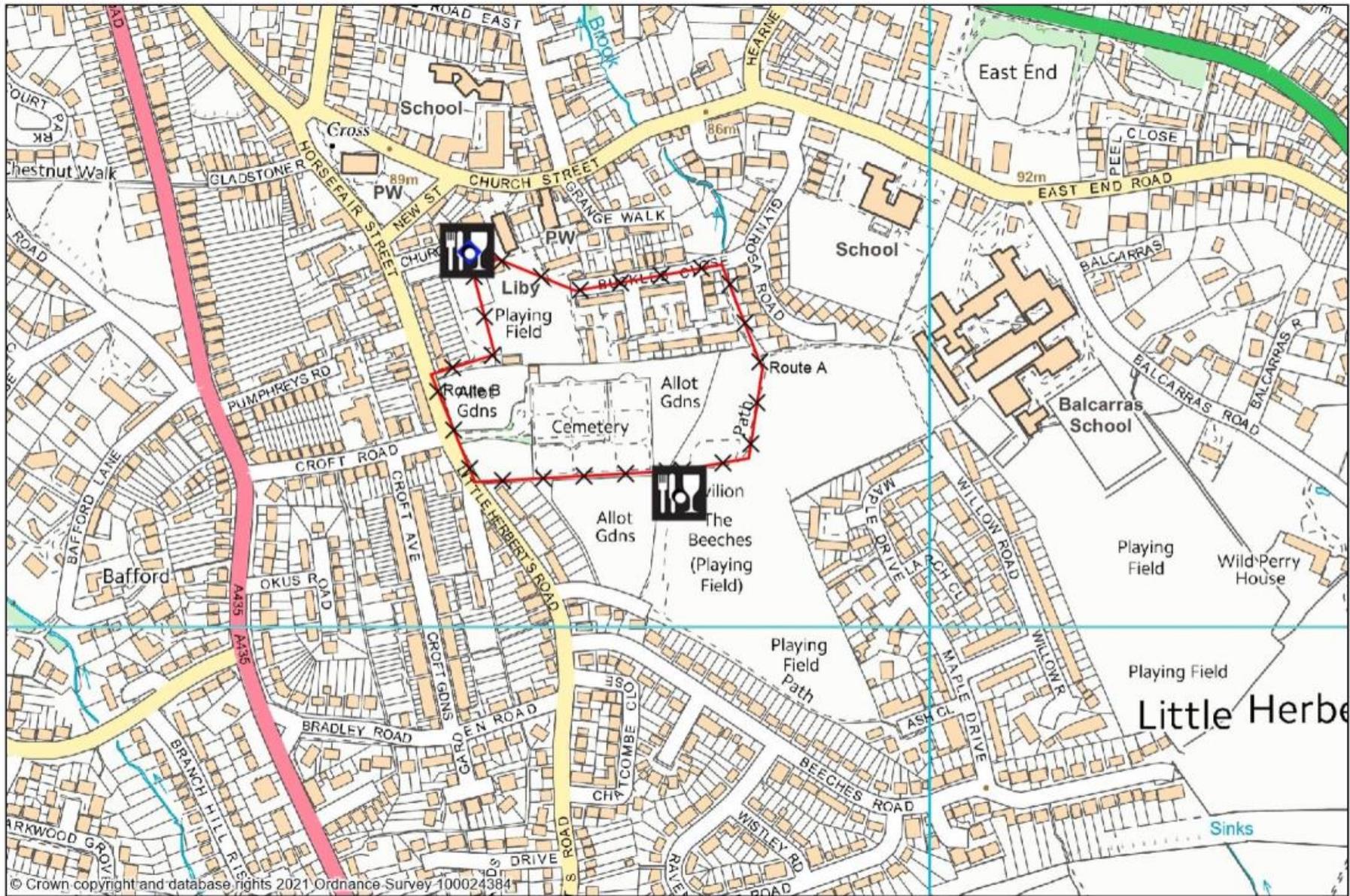
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*Coffee*  
*from Fire & Flow*

Espresso		2.20
Americano	Short black	2.50
	Long black	2.60
Flat White		2.70
Cappuccino		2.80
Latte		2.80
Mocha		3.10
Hot Chocolate	12oz	3.00
	8oz	2.00

*Make it deluxe for an extra £1*

Chai Latte 2.80

*Make it dirty for an extra 40p*

*Local speciality*  
*Tea*  
*from Born Wild Tea*

English Breakfast	2.10
Earl Grey	2.20
Raspberry Lemonade	2.20
Peppermint Cleanse	2.20
Masala Chai	2.20

*Extras*

Plant based milks available  
for an extra 20p  
Syrups 30p  
Decaf available

*Iced Drinks*

Iced Latte	2.90
Iced Tea	2.90
Iced Mocha	3.20
Choc Iced	3.10

# Food Menu

## Hot snack

Sourdough Toasted Garlic Bread £

Sourdough Toasted Garlic Bread with Grilled Cheese £

Sourdough Toasted Garlic Bread with Grilled Cheese & Bacon £

## Vegan options

Vegan Sourdough Toast with herb garlic oil £

Vegan Sourdough Toast with herb garlic oil and smoked Applewood Vegan cheese £

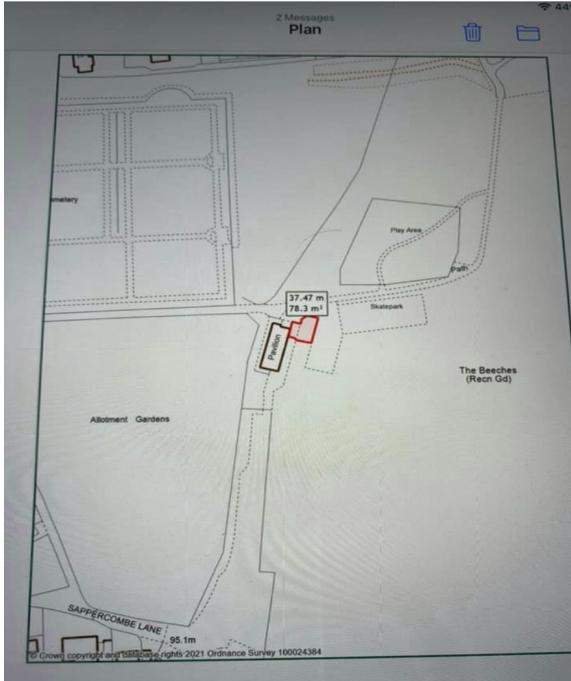
## Savoury pastry

Homemade Sausage Roll 2.50

Homemade Glamorgan Roll 2.50

Riddle or fact  
of the day...

Charlton Kings  
Conversation starter · 8 February ·  
The proposed site for the coffee hut for Beeches.



51 39 comments 1 share

Ross Constantine  
Perhaps we can get some more facilities for kids to play on at Beeches too??

4 w Like Reply 1

George Nourse-Wright  
Great news. Can't wait

4 w Like Reply 1

Anna Walden  
That would be marvellous 🥰



Sobbie Dibden  
Agree that it's a great idea but very close to basketball area, anyone buying/queuing for coffee risks being bumped on the head by a basketball. Surely on the side of the building near the car park would offer more space for all / less interference with existing space?

4 w Like Reply 1

Laura Bayston  
Love how we're all so positive about somebody trying to do something nice for us xx

4 w Like Reply 2

Katie Graham  
I think it's a great idea.

4 w Like Reply 1

51

1 share

**Aura Bayston**  
I think it's a FANTASTIC idea.. Really hope it comes good, kids would love it, as would parents with smaller kids, dog walkers etc, I can't see this ever effecting the other local businesses 🙌

4 w Like Reply 11

**Shayne Kingston**  
**Aura Bayston** - perfect for football matches too!

4 w Like Reply 1

Write a reply...

**Nina Perera**  
How exciting!!

4 w Like Reply

**Liv Davis**  
I can't see

**Shainne Newman**  
Personally having a permanent presence on beeches is not a bad thing... if nothing else from a safety point of view. Plus if I'm correct it's being proposed to offer an opportunity for vendors that have not been able to work due to all the Covid cancelled public events.

4 w Like Reply 6

**Rachel Train**  
I don't see it as a bad thing. I can understand the worries of the other coffee outlets though. However I would imagine there is alot of people like me with young children who do not regularly visit the coffee shops but do visit the beeches most days.

4 w Like Reply 6

**Nick Gill**  
Great, be nice to get a coffee, I'd like to see these in every park.

4 w Like Reply

**Fiona Black**  
Do you think all the empty coffee containers will make it to a rubbish bin or will they be chucked in the hedges along with unwanted masks 😞

4 w Like Reply 4

**Shayne Kingston**  
Brilliant plan ...along with toilets would be even better ...we go to the burrows and love the set up there it's great to watch the little ones have fun and parents able to grab a drink.. I hope this gets the thumbs up... other local cafes will survive I'm sure...

4 w Like Reply 1

**[Redacted]**  
Aagree that it's a great idea but

**ART FISH BAR Cheltenham**  
Surely that's not good for local coffee shops that are already struggling to keep open. As much as I think its a good idea if it isn't offered to the local coffee shop to run then your just putting them out of business.

4 w Like Reply 17

**ART FISH BAR Cheltenham**  
competition from small local people is always welcomed surely?? The person trying to set this up maybe struggling badly too? Competition always helps the customer by keeping costs lower and offering more. Very negative! There is hundreds in this town that does the same as me. Jusf makes me have to excel and do better. Not get lazy etc.

1 w Like Reply 2

**Jackie Blackwell**  
Great news when is it going to up and running ?

1 w Like Reply 1

**Melissa Hobbs**  
**Jackie Blackwell** Thank you, we are so excited 😊 within the next 10 days

1 w Like Reply 2

Write a reply...

**Laura Bayston**  
LOVE the logo.. will defo support this new cafe venture. Fantastic! Xx

1 w Love Reply 2

**Melissa Hobbs**  
**Laura Bayston** Thank you so much 😊

1 w Like Reply 1

1 w Love Reply 1

**Dynam Shuldham-Legh**  
Thank you 😊

1 w Like Reply

Write a reply...

**Claire Tanner-Tremaine**  
Can't wait! Hoping you'll be stocking some yummy ethical coffee for my dog walks ☕️😊

1 w Love Reply 1

**Melissa Hobbs**  
**Claire Tanner-Tremaine** We have the most delicious coffee that's all ethically sourced and roasted locally. Can't wait to meet you all and your lovely dogs 🐕 of course 😊

1 w Like Reply

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## APPENDIX 5

### Comments from applicant in support of their application

Email received 11.03.21

Dear Jason,

Following our conversation earlier please find below and attached information I would like to highlight regarding the opportunity at Beeches Playing Field following the objections from a local business owner:

I have recently, successfully, tendered for the opportunity to site my kiosk on Beeches Playing Field, Charlton Kings, for a 9month trial period. I was very grateful for this opportunity as the last year has been incredibly difficult, both emotionally and financially, due to the Covid-19 pandemic. This opportunity at Beeches Playing Field, albeit temporary for a 9 month trial period, has been a lifeline and gives me the opportunity to earn an income to support myself and my son and have some much needed stability.

I spent considerable time working tirelessly on preparing the tender for Beeches Playing Field, the opportunity was particularly attractive to me as, as a resident of Charlton Kings, Beeches is my local park and I am particularly keen to benefit the offerings in my local area, be able to walk to work and provide job opportunities to local residents. I have attached my tender document to highlight just how hard I have worked on this project and how much thought has gone into making the business advantageous to the local community, including working with the local PTA, working with local Charities, employing local residents and using locally sourced produce. I have provisionally offered jobs to 3 local residents, all of whom are looking forward to being able to work within their local community.

My aim is to work in conjunction with other businesses not to detract from them. I believe if the local offering is varied and attractive it will encourage local residents to visit the area more and the potential increased footfall would hopefully benefit all local business. As my kiosk will be based on the Playing Field we are not directly next to any similar businesses and I believe our customers will be mainly be dog walkers, walkers, families enjoying a walk in the park, children and families using the play facilities etc. These potential customers could have previously visited other parks that have the same facilities and hopefully will be encouraged to stay local by our presence which will encourage them to use other local resources. From feedback I have seen on local resident Facebook Groups I have noted that many of the residents who walk at the park would not have diverted to shop/buy at the shops but would if a kiosk was situated directly in the park, therefore not taking business away but adding to the local economy. I have attached examples for your reference.

Balcarras School is located directly next to the playing field and the park is frequented by many teenagers from this school and others. Having a presence on the park will help discourage anti-social behaviour and this in turn will hopefully make the area more attractive to those with young children, therefore hopefully benefiting the other local businesses as well.

This tender is offered on a trial basis and I am aware that the trial can be cancelled at any point within the 9 month tenancy should the Council believe that this is having a negative impact on other local businesses, due to the current financial climate, and due to the fact that all festivals and events I would normally attend with my kiosk have been cancelled this is a risk I was willing to take and why I will work incredibly hard not to jeopardise the trial period. I am also aware that should the 9 month trial be successful for the local economy and community I would have to re-tender along with any other local business that would like to tender the opportunity to grow their own business.

During the previous weeks I have looked at what other local coffee shops offer and the brands they use to ensure, where possible, that we offer a different menu to co-exist with other local coffee shops rather than be

disruptive to their business, a copy of which is attached for your reference.

Since being the successful applicant at tender, as well as interviewing local residents to offer employment, I have spent time and money purchasing additional equipment needed, arranging paperwork, finding local suppliers, placing first orders, creating social media pages and spending money on branding. It would be truly devastating both emotionally and financially if the decision was made to no longer go ahead. I truly believe that the presence of a kiosk on Beeches Playing Field would add significant value to local residents and local businesses and I would urge the Council to act for the majority not the minority and give me a fair chance to make this successful for ALL the community.

Kind regards,

Melissa

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**OFFICER / CABINET MEMBER DECISION REPORT  
FORM**

(NB. all decisions should comply with Article 13.2 of the constitution)

**1. Decision made**

That the 'objection received' in relation to the S123 Notice on Beeches Playing Field is not specifically in relation to the disposal of Public Open Space, but a concern relating to potential commercial competition.

The Council intends to continue to engage with any businesses expressing concern and consider any evidence presented in regards to an impact on them. We should not lose sight that these opportunities are providing other businesses a lifeline, and the best possible outcome would be for these businesses to co-exist.

This decision has been considered in accordance with the 16<sup>th</sup> February 2021 Cabinet paper mentioned below, with the Lead Cabinet Member for Finance and Assets and the Boroughs Solicitor.

**2. Identity of the Decision Maker**

Paul Jones – executive director Finance and Assets

**3. Date of Decision**

24/02/2021

**4. Reasons for Decision**

The objection received was not specifically an objection in relation to the disposal of open space.

**5. Alternative options considered and rejected**

None applicable

**6. Background documents**

Kiosk opportunities – Consideration of objections 16<sup>th</sup> February 2021  
<https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=166&MId=3196&Ver=4>

**7. Any Consultation undertaken**

Yes, as part of the 16<sup>th</sup> February Cabinet Paper 2021 and the 22<sup>nd</sup> December 2020. This consultation consisted of: contacting ward members and where they responded they were in support, parish councils and where they responded they were in support, Friends of Groups where they existed they responded in support, Asset Management Working Group, were in support but were keen to secure local traders, two cabinet papers, which showed unanimous support, Parks and green spaces were championing this offer and they also contacted local sports groups who were known to use the fields and where they responded about the kiosk opportunity they were in support. We also advertised the opportunity widely on social media and on our webpage and we advertise the S123 Notice in local papers for two consecutive weeks. We have received over 800 responses from members of the public which were overwhelming in support (however these did tend to focus on the Hatherley opportunity).

**8. Results of consultation (where undertaken)**

Positive and in support of the disposal of public open space for a trial period at Beeches Playing field, of upto 9 months.

**9. Any Conflict of Interest declared by an Executive Member who is consulted on the decision**

none

**10. Dispensation**

Was a dispensation given by the Head of Paid Service (Chief Executive) to Cabinet Members to participate in consultation on officer (or Cabinet Member) executive decisions where they have a conflict of interest in respect of any declaration of interest listed at 9 ?

Date of dispensation .....  Yes  N/A

**11. Supporting Report**

<https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=166&MIId=3196&Ver=4>

Final report attached ?  Yes  No

**12. Confidential or Exempt Information**

Confidential or Exempt information ?	Yes	No
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Name of document(s) which are confidential or exempt...		



**Signature**.....

**Date**.....25/02/2021.....

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