

Cheltenham Borough Council Licensing Sub-Committee - Miscellaneous

Meeting date: 8 November 2023

Meeting time: 6.00 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Dr David Willingham (Chair), Councillor Angie Boyes (Vice-Chair), Councillor Diggory Seacome, Councillor Simon Wheeler and Councillor Ed Chidley

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Speaking at Licensing Committee

To find out more about Licensing Committee or to register to speak, please click [here](#) or contact Democratic Services.

Please note: the deadline to register to speak is 5.00pm on the day before the meeting.

Contact: democraticservices@cheltenham.gov.uk

Phone: 01242 264 130

Agenda

1 Apologies

2 Declarations of Interest

3 Public Questions

**4 Application for permission to place an object on the highway – ‘A’ Board
(Pages 5 - 14)**

5 Application for a Street Trading Consent (Pages 15 - 32)

6 BRIEFING NOTES

**7 Any Other Items the Chairman Determines Urgent and Which Requires a
Decision**

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Licensing Sub – Committee Miscellaneous – 8th November 2023

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

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

Case Number: 23/01370/OBJA

Report of the Licensing Officer

1. Executive Summary

1.1 Miss Nicole Morrisey based at The Strand; Cheltenham has made an application to place 2 advertising boards at the front of the premise on High Street. The proposed advertising boards are 81cm in height and 66cm in width.

1.2 It is intended that the ‘A’ boards be displayed on the following days and times:-

Monday	12:00 – 00:00
Tuesday	12:00 – 00:00
Wednesday	12:00 – 00:00
Thursday	12:00 – 00:00
Friday	12:00 – 01:00
Saturday	12:00 – 01:00
Sunday	12:00 – 01:00

1.3 **The Sub - Committee are asked to note that there a number of departures from the Council’s policy. The applicant wishes to have permission for 2 ‘A’ boards, there is less than 1.8m of footway between the object and the edge of the kerb, the premise is inside the conservation area and has shop frontage.**

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

1.5 Width of footpath available is 1.65m

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

1.7 The committee may chose to:-

1.7.1 Approve the application because Members are satisfied that the location is suitable and that there is sufficient mitigation in place to ensure that key principles in the policy are still properly promoted, or

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

1.8 Summary of implications

Legal

No right of appeal.

Contact officer: One Legal

Email: legalservices@onelegal.org.uk

2. Introduction

2.1 A number of authorisations and matters related to the highway are administered and/ or enforced by Gloucestershire County Council. However through a transfer of responsibility for this area of work, the borough council administers and enforces the scheme for placing certain items on the highway.

3. Policy Principles, Aims and Objectives

3.1 All new applications for 'A' boards/display stands are considered by the Licensing Committee or a Sub – Committee thereof.

3.2 Such objects are subject to a maximum width of 844mm (32") in any one direction and a maximum height of 1100mm (43") and must be of a colour, design, finish and materials which are of a high standard appropriate to the conservation area (however please note comments elsewhere in the report on the general restriction of 'A' boards in the Conservation Area in most circumstances).

3.3 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"*.

3.4 Cheltenham Borough Council's Outdoor Advertising Protocol states:-

"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 thoroughfare / right of way."

3.5 Permission to place an 'A' board on the highway is subject to the following standard conditions:-

Conditions of Consent

- 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 metres (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.

- Page 7
- g) The 'A' board must not interfere with 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.

4. Consultee Comments

4.1 One objection was received and can be seen at **Appendix C**.

5. Licensing Comments

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

5.2 This report has been brought to members' attention as prescribed in the scheme of delegation set out in the adopted policy, whereby all applications for 'A' boards which do not comply with the policy requirements are referred to the Licensing Committee for determination.

5.3 The application does not comply with the policy requirements as permission is being sought for 2 'A' boards.

5.4 The application does not comply with policy requirements in that the premises has direct street frontage on High Street. The location is in the conservation area.

5.5 The application does not comply with policy requirements in that there is less than 1.8 metres of footway remaining between the edge of the objects and the kerb.

5.6 The application must be determined on individual merits, taking into account the information received and in accordance with the Council's current adopted policy with respect to objects being placed on the highway.

5.7 Whilst the policy and officer recommendation should not fetter the committee's discretion, the committee should only depart from the policy where there are clear and cogent reasons for doing so.

5.8 Miss Morrissey has been sent a copy of this report and invited to attend the meeting. She has been advised that she may be represented if she so chooses.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused

Reason(s): The application does not comply with the adopted policy in the following respects:

- (1) The Council's Outdoor Advertising Protocol permits the use of 'A' boards in the conservation area only where premises are disadvantaged due to their location, for example where they have no shop front at street level, or where they are positioned in a side alleyway or away from a public thoroughfare. In this case, the premises benefit from street-level shop frontage on High Street and are therefore not disadvantaged by their location.
- (2) The distance between the edge of the object and the kerb is less than the 1.8m the Council's Street Scene policy requires.

(3) Permission is being sought for 2 'A' boards. **Page 8** ever the Council's Street Scene policy states "the Council will permit one 'A' board per premises".

Background Papers

Service Records

Case Officer

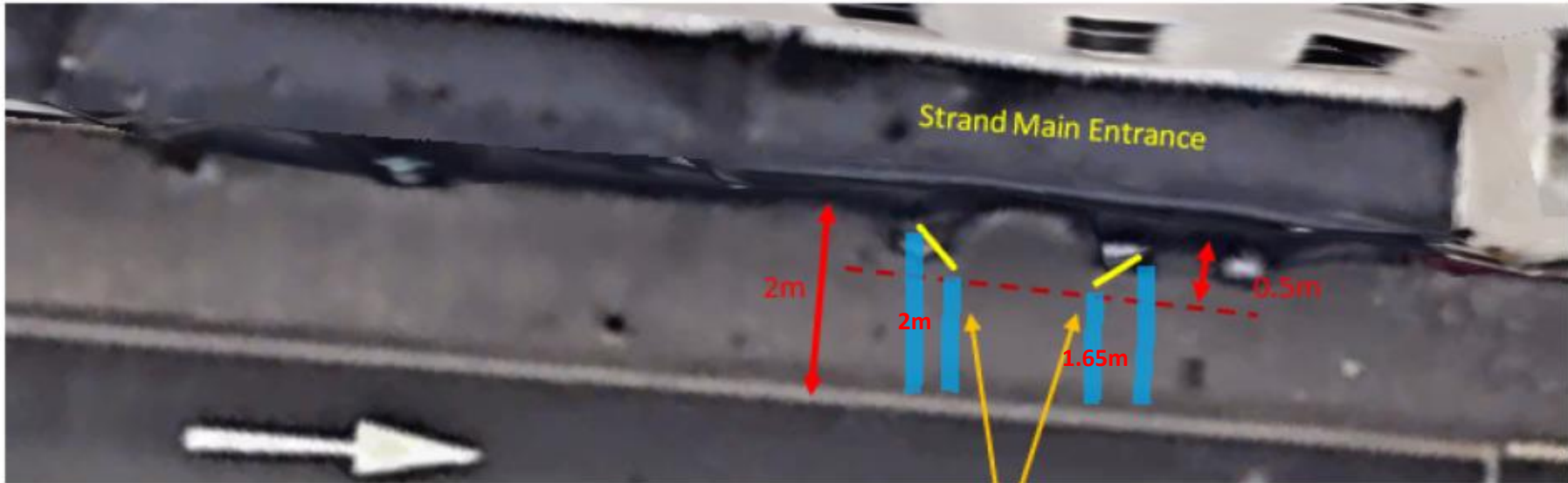
Contact officer: Catherine Drinkwater

Email: licensing@cheltenham.gov.uk

Tel no: 01242 264135



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2 x 'A' Boards (Height 81cm. width 66cm) set at 45 degrees. Total distance from front of building 50cm.

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Appendix C

From:

Sent: 26 September 2023 09:14

To: Licensing@cheltenham.gov.uk

Subject: Re: New application for Object on the Highway – The Strand

“Objection to the placing of 2 A boards at The Strand. The business is at street level and has large frontage on the pathway. I suggest that the placement of 2 boards is not required and goes against the need to stop a proliferation of objects on the highway. It places problems for the passage for those with sight impairment and those using prams, wheelchairs etc.? It appears as if one of the boards does not leave the required amount of gap to end of footpath/kerb.

Chair Cheltenham Access Forum

Member Glos Sight Loss Council

Sent from my iPhone

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Licensing Sub - Committee – 8th November 2023

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Case Number: 23/01467/STA

Mr Matthew McGinn

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Matthew McGinn for a street trading consent to sell Takeaway snacks, hot and cold drinks from a Converted horse box measuring 4.27m L x 2.04m W.
- 1.2 Mr McGinn has applied to trade on Imperial Square, Cheltenham. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr McGinn has applied for an annual consent on the following days and times:-

Monday	06:30 - 17:30
Tuesday	06:30 - 17:30
Wednesday	06:30 - 17:30
Thursday	06:30 - 17:30
Friday	06:30 - 17:30
Saturday	07:30 - 17:30
Sunday	09:00 - 16:00

- 1.4 An image of the trading unit, along with other supporting information is shown at **Appendix 2**.
- 1.5 **The Committee may:-**
 - 1.5.1 **Approve the application because Members are satisfied that the location is suitable and that there is sufficient mitigation in place to ensure that key principles in the policy are still properly promoted, or**
 - 1.5.2 **Refuse the application because it does not comply with the provision of the Street Trading Policy and/ or due to the objections raised against the application.**

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

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

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

2. Background

2.1 The current street trading policy was adopted by Council on 11 February 2020. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. 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

3.3. 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; and
4. encourage inward investment.

3.4 In doing so, 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 change, therefore, it will apply this criterion to applications for new or renewal applications.

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

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 One objection has been received at Appendix 3.
- 4.2 Health and Safety commented that – the LPG location and some of the signage have been addressed – no objection. There are no further objections

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the council's adopted policy and Members should not arbitrarily deviate from the council's policy.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types and locations. Permitted Locations are discussed in the policy and Members should take these into account when determining this application.
- 5.3 Whilst the policy creates a presumption against the grant of an application if the application does not comply with the policy, this position should not fetter the committee's discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.4 Members are reminded that clear and cogent reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy and/ or where are relevant objections.

5.5 Members should consider the relevance of **Page 18** information received in general terms and particularly in relation to the council's policy. They must then determine what weight they wish to attach to it on the basis of any evidence presented and/ or argument put forward. If they believe that the objection might materially influence their decision to refuse the application, they should consider whether conditions could be attached to a consent that might sufficiently mitigate those concerns.

6. Officer recommendation

6.1 There is no officer recommendation for this item. It will be for Members to consider the application and objection to it.

Reason(s): This application complies with council policy, but there is an objection to be considered fully. It would seem inappropriate in this case to make a recommendation that might fetter the discretion of the Sub - Committee

Background Papers

Service Records

Case Officer

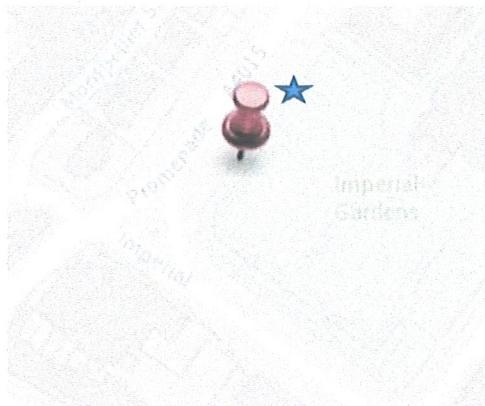
Contact officer: Miss Catherine Drinkwater
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200



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The Box Coffee Ltd Proposed location

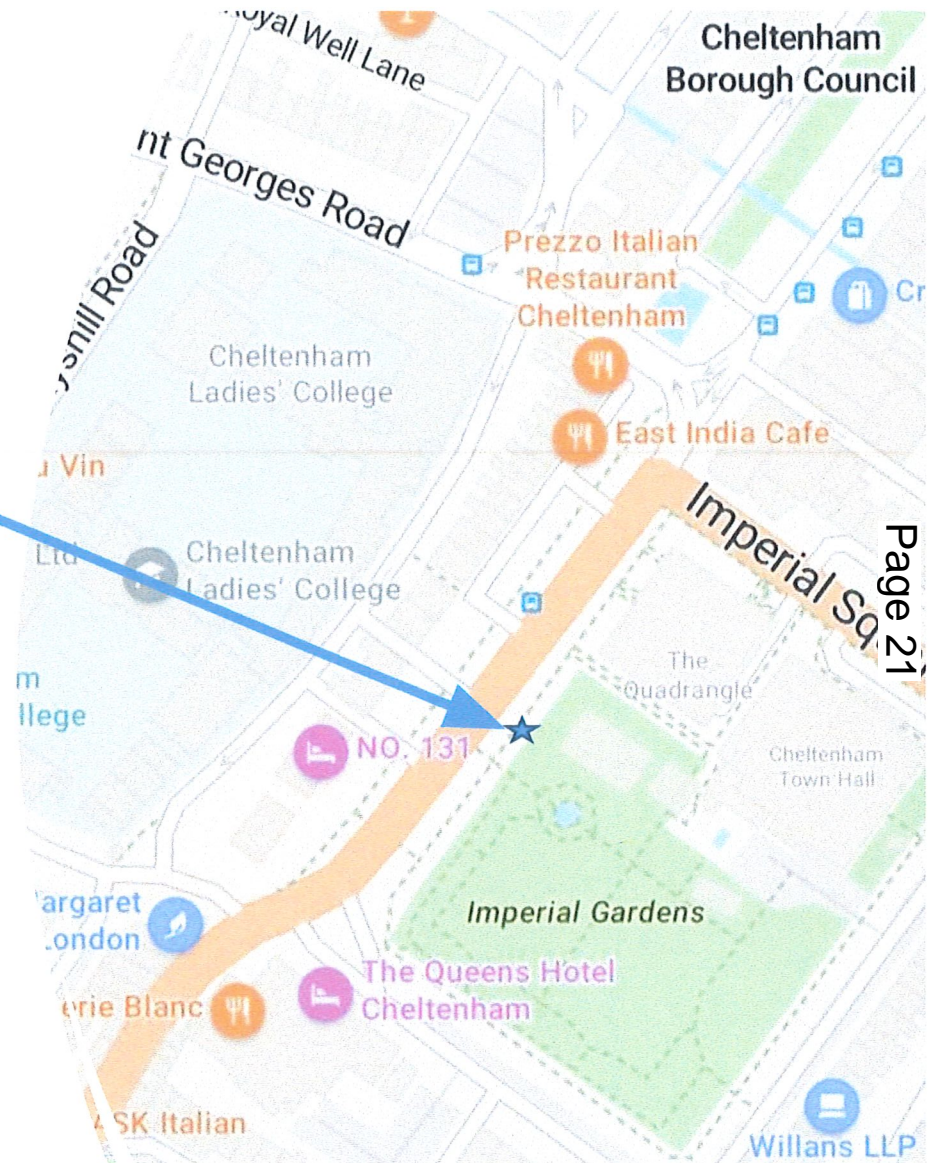
Situated between the Cheltenham Bid plant box and a tree. This ~~will~~ is separate to the pavement.

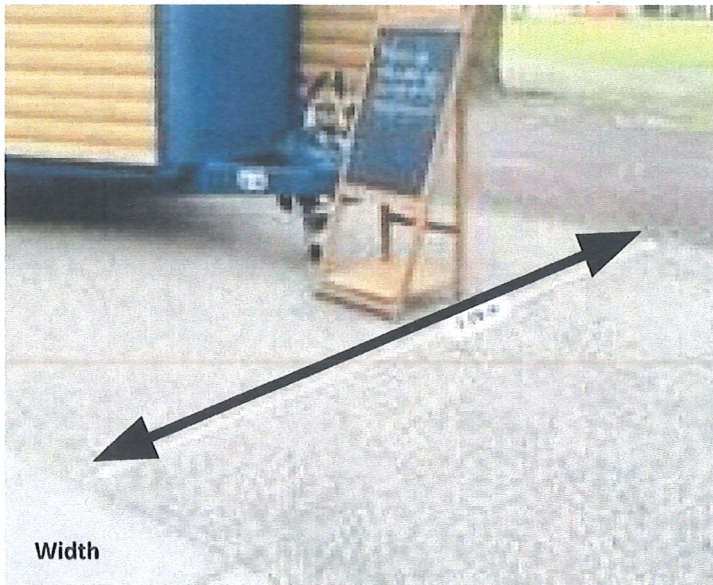


Above is the current Cheltenham Council trade location map. Imperial Gardens now have new railing restricting this site.



GiGi's coffee site – located the other side of the Cheltenham Bid plant box.





Digital tape measurements
of the paved non-pedestrian
proposed site location:

Width used: 3.28m
Length used: 7.98m
(exceeds the length of the
trailer)





This was taken for display purposes only.

Pedestrian safety is important to us. The converted horse box proposed site will be off the main pedestrian walkway.

Additional precautions:

- The tow bar has been sprayed bright yellow.
- An A-frame board will cover this area.
- The door covers the tow area when open



A-frame board

The LPG cylinder will be secured during travel and then housed in a secure locked unit when on site, with warning signage.

- CCTV (with signage) will be facing the LPG cylinder.
- Staff will do regular checks.
- The brand-new coffee machine is dual powered and was professionally installed.



Back door open



Brightly painted tow bar

These pictures are of the converted horse box on site. This was done during a quiet time of day.

The Box Coffee Ltd

Opening Times

Monday – Friday

- 6.30am set up for 7.00am trading*.
- Closing will vary.

Saturday

- 7.30am set up for 8.00am trading*.
- Closing will vary

Sunday

- 9.00am set up for 9.30am trading*
- Closing will vary.

Special events

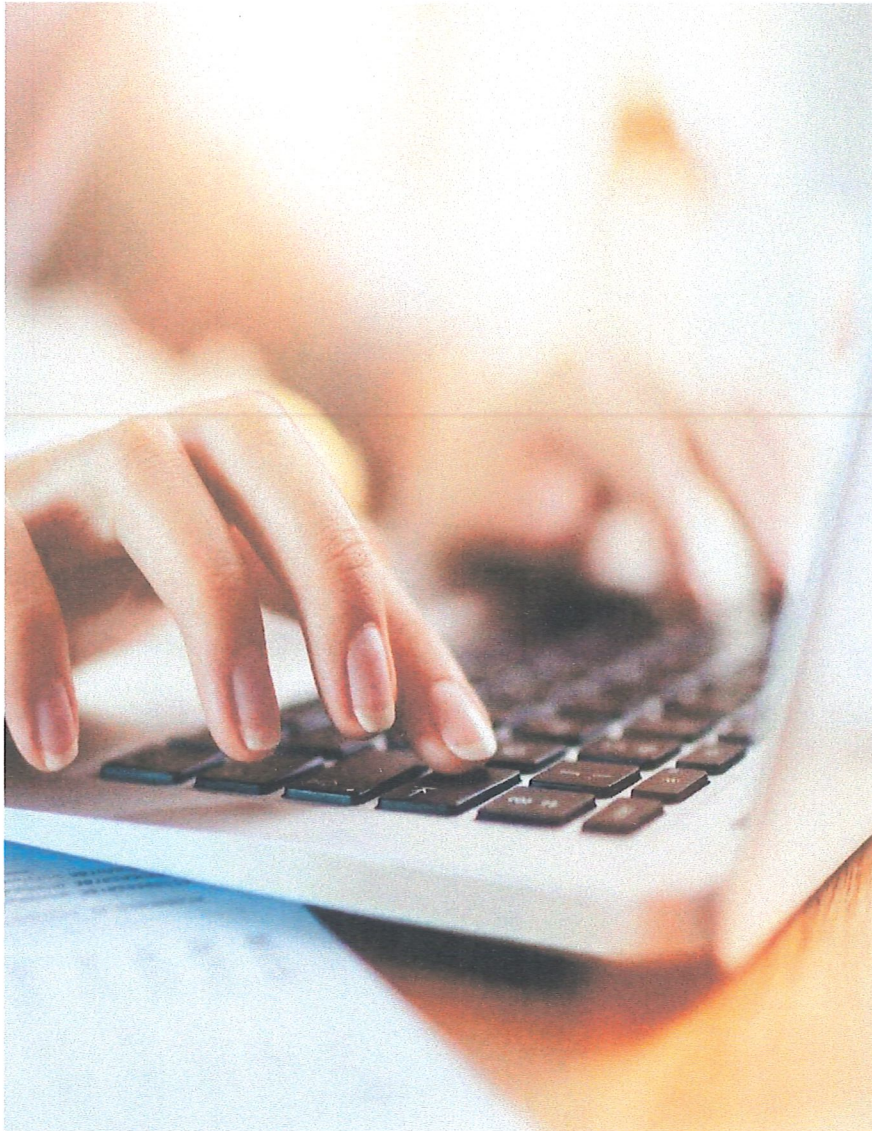
An extended license maybe applied for to support the Christmas markets, Imperial Garden events, Cheltenham festival etc...

Transportation

The horse box will be transported on to and off site each day by a pick-up truck, which will not stay on site.

* - maybe slightly earlier depending on set up





The Box Coffee Ltd Paperwork

Document	Expiry Date	Notes
Companies House ☆☆☆☆☆	N/A	Registered business No: 14644761
Cheltenham Council Food Business registration	Applied May 2023	Ref: ES6CCC-YX3XE8-N55627 Inspection: 13.09.23 5 Stars!
Insurance - Trailer Giles Insurance	23/05/2024	Policy Number 100718108BDN/0072254
Insurance - Public Liability Giles Insurance	23/05/2024	
Gas certificate	19/06/2024	Duel coffee machine Hot water system
Electric Report The London Electronic Compliance Company Ltd	19/06/2024	Batteries Solo panels
Policies Review <ul style="list-style-type: none"> Waste Control Sustainability Method Statement HS Policy COSHH Risk Assessment 	Written July 2023	N/A
NCASS renewal	May 2024	Membership

Giving back to Cheltenham:

- * Will be a mobile business member of The Bid.
 - exploring offering deals for other members
 - exploring being listed on their gift voucher scheme

- * Charity support
 - Imperial garden charity
 - Sue Ryder, Leckhampton

- * Will apply to attend local events if outside of agreed hours. eg Christmas markets, light switch on, Imperial garden events.

Risk Assessment

What are the hazards?	Who might be harmed and how?	What are you already doing to control the risks?	What further action do you need to take to control the risks?	Who needs to carry out the action?	When is the action needed by?	Done
LPG Cylinder	<ul style="list-style-type: none"> General Public Staff Member 	<ul style="list-style-type: none"> The Box Coffee Ltd have already had gas safety checks done and certified professionally (19.06.2023) All staff will receive clear training and step by step instructions to set up and shut down the gas cylinder. The gas cylinder will be locked and secured during transportation to and from the trading site. Set up will include the use of gas liquid to check for any bubbles. This step will be recorded, daily. The gas cylinder will be housed within a secure unit/cage. This will be housed 1 metre away from the box itself. This location is not near any drains, manhole covers or public bins. This unit/cage will be locked and secured to the box. Only the staff member of duty will have access to the key/s. The unit/cage will have clear signage warning people not to smoke near or tamper with the locked away cylinder. Staff members will do regular checks to ensure the gas unit/cage has not been tampered with. The gas cylinders will be checked before they are taken to the site, during its time at the site and once it is returned to overnight storage. The gas supply can be turned off within the trailer. 	<ul style="list-style-type: none"> We are exploring having an alarm system that alerts staff if someone has come close to the unit/cage. We will have CCTV set up and signage for people's awareness. This could include covering the area in which the unit/box is located. 	<ul style="list-style-type: none"> The Manager and staff will be responsible for the day-to-day checks on the gas cylinder, safety and securement. The Manager will ensure annual checks are carried out in accordance with the legal requirements. 	The main safety recom. have been carried out.	Safety certificate 19/06/23
LPG Equip.	Staff Public	<ul style="list-style-type: none"> The Box Coffee machine is dual powered and brand new. All safety checks have been carried out by certified professionals when they installed the machine. The Box Coffee trailer has been set up for a lpg water urn. This will be checked by a certified professional. Each set up and shut down plan includes the checking of 		All staff	Daily checks	Annual certificate Last done 19/06/23
		<ul style="list-style-type: none"> Staff members will have various checks to complete during the day, this will include ensuring the gas light is on and working. 				

The Box Coffee Ltd. Sustainability Policy

A sustainable caterer adopts business practices that leave a positive impact on the environment and society. Therefore they consider sustainability in every stage of the business, from sourcing ingredients to serving food.

They're also not afraid to roll up their sleeves to benefit their local community, whether it's working with local food banks, offering their services pro bono for community groups or offering work placement opportunities to those that need it.

Sustainable caterers understand how clients and staff well-being connects with reducing carbon emissions, plastic pollution, food waste and ethical sourcing. Let's take a closer look at the four elements of sustainable catering:

The Food

The National Food Strategy states: "The food system – agriculture, food production, distribution and retail combined – releases more greenhouse gases than any other sector apart from energy. It is responsible for 25–30% of global emissions: a tally that dwarfs, say, the 3.5% contributed by air travel."

High welfare standards

The UN defines a sustainable diet as being "nutritionally adequate, safe and healthy while optimising natural and human resources." A healthy diet is more likely than not, more sustainable too, following the old expression, what's good for the goose is good for the gander.

Unfortunately, catering and hospitality is failing public health. Susan Bagwell from London Metropolitan University comments, "The unhealthy nature of much of the food eaten outside the home has been identified as one of a number of key aspects of our modern-day lifestyle that is contributing to rising levels of obesity (Foresight 2007)".

The Box Coffee Ltd offers a variety of hot drinks and snack foods, all of which are locally sourced where possible and made with care. They include a nutritional balance of healthy snacks (e.g. fruit) and alternative milks.

Avoiding industrially farmed food

Many of the farms Ritual Coffee work with have created their own, sustainable foundations that support the welfare of the wider community and environment.

Paying the right price to farmers

The coffee used at The Box Coffee Ltd. has been sourced from Cheltenham roasters, Ritual Coffee. The beans are from a smallholder from the Cauca region in Colombia and Tarrazu in Costa Rica, as well as the family-run El Carmen in El Salvador.

Ethical Sourcing

Ritual Coffee is transparent when it comes to sourcing coffee, choosing producers and sourcing experts who share the same goal – great coffee, produced with fairness at heart. They are driven by quality, paying producers a price that is not only fair, but provides a sustainable income and livelihood for coffee farming communities.

Where possible the baked goods are kept seasonal to ensure The Box Coffee Ltd is a sustainable caterer.

Reduced carbon footprint

- The coffee is roasted in Cheltenham.
- Where possible, the baked goods and milk supply are sourced from a local supplier.
- This is done to ensure a reduced carbon footprint.

Serving and Packaging

One UK government report emphasised that, “8.3 billion tonnes of plastic have been produced globally since the 1950s. Without urgent action to cut demand, this is likely to be 34 billion tonnes by 2050, the majority of which will end up in landfill or polluting the world’s continents and oceans.”

Where possible, The Box Coffee Ltd. will offer packaging that can be recycled or is biodegradable.

- A can recycling bin will be provided to ensure customers can dispose of cans correctly.
- Items which are biodegradable can be broken down into increasingly smaller pieces by bacteria, fungi or microbes to be reabsorbed by the surrounding environment, ideally without causing any pollution.
- An example of these products includes: canned cold drinks and paper bags offered in place of plastic alternatives.

Minimising Leftovers and Waste

WRAP, a charity for resource efficiency, comments: “Redistributing surplus food is one way that businesses can reduce the amount of food that ends up as waste. This not only prevents the waste of money and resources that go into the production of the food but ensures that more food is available for people to eat.”

Where possible The Box Coffee Ltd. will donate leftover food to a local homeless person, food charity and/or staff member.

The Box Coffee Ltd. has made enquiries with a number of companies who collect and use used coffee grind, to reduce the grind being wasted. Customers will also have the opportunity to take used coffee grind home for garden fertiliser, compost or insect repellent.

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Appendix 3

From:

Sent: 19 October 2023 09:46

To: Licensing (CBC) <Licensing@cheltenham.gov.uk>

Subject: reference 23/01467/STA New Street Trading application - The Box Coffee Ltd

Hi there,

I have been forwarded this planning application from the BID team xxxx.

Although it doesn't affect us directly, I actually don't agree with the addition of this coffee box in the square. Firstly for look and visibility, but also there are plenty of coffee shops in the area, notably Artisan Baker and the Garden Bar being closest.

I honestly don't feel there is a need for another and this only adds additional competition to businesses paying high rates and rents already surrounding the gardens that they could probably all do without. I therefore don't support this application.

Best wishes,

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