

Cheltenham Borough Council Licensing Sub-Committee - Miscellaneous

Meeting date: 18 June 2024

Meeting time: 5.30 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Julie Sankey, Councillor Simon Wheeler (Chair), Councillor Dilys Barrell, Councillor Tabi Joy and Councillor Dr Steve Steinhardt

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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 Request to revert to saloon vehicle from WAV (Pages 3 - 8)

4 Application for Street-Trading Consent (Pages 9 - 34)

5 Review of Hackney Carriage Driver's Licence (Pages 35 - 50)

To be considered in closed session.

6 Review of Hackney Carriage Driver's Licence (Pages 51 - 66)

To be considered in closed session.

7 Application for Hackney Carriage Driver's Licence (Pages 67 - 78)

To be considered in closed session.

8 Briefing Notes

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

Cheltenham Borough Council

Licensing (Misc.) Sub - Committee – 18th June 2024

Request to revert to saloon vehicle from WAV – Mr Rogers – HCV198

Report of the Team Leader Licensing

1. Executive Summary and Recommendation

- 1.1 The matter before Members is a little complicated as it reflects a situation not envisaged or discussed in the legislation. The Local Government (Miscellaneous Provisions) Act 1976 refers to the grant of a vehicle licence and stays silent on other application types.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal and a replacement.
- 1.3 Where the council brings in a newly adopted policy that places new/ amended requirements on a vehicle proprietor - new applications must meet the policy quite quickly but there will be a transitional period to allow for existing licence holders to meet any new requirements by renewing their existing vehicle or replace it 'on a like for like basis' until the end of transitional period.
- 1.4 When the council brought in the policy for all hackney carriages to be wheelchair accessible vehicles (WAVs) from 31st December 2021, it gave a transitional period to provide for **existing** saloon vehicle proprietors to transition to the then new policy requirements more easily.
- 1.5 During that transitional period this vehicle proprietor suffered significant mechanical failure with his vehicle around January 2021, and he needed to replace it urgently to continue working. The individual decided to replace his then saloon vehicle with a WAV in anticipation of the then council requirement that all hackney carriages would be WAV from 31st December 2021. It would have made no sense to replace his saloon with another saloon for less than a year's use before having to replace it with a WAV.
- 1.6 This proprietor had licensed a vehicle under this plate number since 2007, and throughout that period it had been a saloon type vehicle.
- 1.7 The council decided to stop the implementation of the fully WAV hackney fleet as it was then planned around September 2021. This was due to concerns around the financial impact of the Covid 19 pandemic on the hackney trade, concerns about the sustainability for the trade of continuing with that specific plan and with a view to continuing to promote access to taxis for disabled people and promoting zero emissions vehicles through future policy once it was set after a review.
- 1.8 The review and reassessment of taxi policy took a protracted period of time, and it became clear that although there must be availability of WAVs, that many disabled customers prefer to travel in a saloon – non – WAV for a number of reasons. This led to the council to strive for a mixed hackney carriage fleet, whilst still taking a robust approach to improve the availability of WAVs as hackney carriages and private hire vehicles.
- 1.9 To that end draft proposals were discussed with the taxi and private hire trades earlier this year, following comprehensive and detailed discussions between officers and the then portfolio holder over a protracted period of time.
- 1.10 It is hoped that subject to approval from the new portfolio holder, that the draft proposals for the

Mr Rogers		Last updated 10 June 2024
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review of taxi policy will go into consultation in the near future.

- 1.11 One proposal likely to be put forward will be the principle that current WAV hackney proprietors that only replaced an existing saloon licensed vehicle with a WAV in the lead up to 31st December 2021, on the basis of their assumption that the council would implement its requirement that all hackneys would have to be WAV, would be permitted to licence a saloon as a hackney carriage. It would be hoped that the WAV would remain licensed as a hackney or private hire vehicle, but the vehicle proprietor could effectively revert to their position prior to changing their vehicle to comply with a policy that was changed in September 2021.
- 1.12 This cohort of WAV proprietors would usually have been forced to change their saloon vehicle through the vehicle being written off in an accident, beyond economical repair or through terminal mechanical failure in the lead up to 31st December 2021.
- 1.13 It should be noted that it will be proposed that all new hackney carriage applications must still remain to be for a WAV only, as has been the case for a number of years now. In addition, any hackney carriage plate that has been licensed as a WAV since it was first licensed (usually on the same plate number) will be required to remain as a WAV throughout the period of it being licensed and/ or replaced in the future.
- 1.14 The council has refused similar requests previously for a WAV to revert to a saloon in the past but that was before the council had discussed the proposals detailed above, and where it seems possible at least that council policy will change as explained in the coming months.
- 1.15 The details of this case are included at ANNEX 1. A specific vehicle is not given, as the applicant needs to ascertain the stance of the council and whether he will be permitted to licence a saloon in its place.
- 1.16 The proprietor will update the hearing with his specific and individual circumstances.
- 1.17 The committee is asked to consider the matter and determine whether to:-
- a) It gives delegated authority to officers to grant an application for a new vehicle when it is made in due course or
 - b) Decide to refuse to provide such delegated authority for an application where the vehicle does not comply with current policy and is not a WAV.
- 1.18 **Legal Implications** There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

Contact officer: One Legal

E-mail: legalservices@onelegal.org.uk

2. Background

- 2.1 Permission is sought to make a new application for a Hackney Carriage Vehicle Proprietor's licence (a HCV licence) for a new vehicle (in this report the term 'new vehicle' will not necessarily mean a brand new vehicle, but will refer to a vehicle that is not currently licensed and which the applicant wishes to licence).

- 2.2 The council had previously adopted a policy that non - WAVs would no longer be licensed as hackney carriages from 1st January 2022. This meant that non – WAVs could have been replaced with non – WAVs or simply renewed, but the new licence would not expire beyond 31st December 2021. After that date all hackney vehicles were required to be WAVs.
- 2.3 On 21 September 2021 the council decided not to complete that process. The council decided that saloon type (non - WAV) vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy. Although only a WAV could be granted for a new application, that element of the adopted policy had not changed.

https://www.cheltenham.gov.uk/news/article/2588/cheltenham_pursues_climate_ambition_and_improved_accessibility_for_taxis

- 2.4 Prior to that decision being made in September, it would be fair to say that following submissions by members of the licensed trade during the course of 2021 that there was some hope for license holders that the council would change its policy and not continue with the WAV requirement or would delay the final implementation date. However, the council did not change course until September and discussions had only been taking place in the lead up to that time.
- 2.5 The Licensing Team had been approached by a number of saloon vehicle proprietors when the council changed direction and did not decide to implement the requirement for all existing hackney vehicles to be WAV from 1st January 2022. They made representations that the uncertainty surrounding the implementation of the WAV policy and the detrimental impact of the pandemic placed them in an invidious situation in respect of their licence renewals when they were due in 2021 or 2020. A small number of WAV proprietors asked whether they could go back to having a saloon.
- 2.6 They argued that uncertainty led them to choose not to renew and in some cases they disposed of that (previously) licensed vehicle or that they had been forced to licence a WAV.
- 2.7 In January 2022, the committee allowed a small number of vehicle proprietors to late renew/ replace saloon type vehicles, and not replace them with a WAV, due to the pandemic having had such an impact on the trade, the uncertainty for hackney licence holders during 2021 (prior to the change of direction above) and that such requests were made in a timely fashion after that.
- 2.8 The council allowed such requests in exceptional circumstances. However, throughout the committee made clear that it would not allow hackney carriage proprietor that had made the change to a WAV to go back to a saloon.
- 2.9 In addition, at the current time saloon vehicle proprietors can replace their saloon vehicles in exceptional circumstances (i.e. where the vehicle is written off or requires a high level of financial outlay to remain roadworthy) with a saloon.

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee/applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The authority will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 Any vehicle application must meet the usual requirements of an application, in any event, such as meeting the council's age policy, provision of a valid MOT and council fitness test. It is felt there is no risk to public safety in connection with this matter.

- 3.4 The council has adopted a local policy to reflect the manner in which it will carry out its licensing responsibilities under the hackney carriage and private hire legislation. The committee must have regard to this policy in making its decision, but it may depart from it where it is considered appropriate to do so. If the committee do depart from it they should provide cogent reasons for doing so.
- 3.6 The council policy permitted replacement and/ or renewal of non – WAVs provided they did not expire after 31st December 2021, during the transitional period prior to that previously planned date for the provision of a fully WAV licensed hackney fleet.
- 3.7 Whilst the council considered reviewing its vehicle policy, where reasonable reasons are given to the council, a non – WAV is currently permitted to be replaced like for like provided it is Euro 6 or better in terms of emissions and a renewal of such a vehicle is currently permitted, until a new policy is implemented.
- 3.8 It now seems likely that the council will consult in the near future on a policy change that would allow this vehicle proprietor to licence a saloon instead of their current WAV, and effectively to revert to their previous position.

4. Licensing Comments

- 4.1 This individual is in the difficult position of his current vehicle no longer being fit for use due to terminal mechanical failure of the engine, where the cost of repair would far outweigh the value of the car. If the council goes forward with the proposals in relation to the cohort of WAV hackney carriages that he falls within, he would be able to replace this vehicle with a saloon vehicle once that policy principle might be adopted. That cohort numbers approximately 13 vehicle proprietors.
- 4.2 It is a difficult situation for the council, in that there is a clear intent to consult on certain proposals, one of which affects this vehicle proprietor significantly, but where current council policy would not allow this change from a WAV to a saloon.
- 4.3 However, Members must be mindful of the issues in play and act reasonably, and ultimately in the public interest:-
- The draft council policy principle in respect of this matter will go out to consultation with a view to potential adoption within the coming months.
 - It is proposed that the council policy would be changed to allow such proprietors to revert to a saloon vehicle due to the cohort of WAV proprietors that they fall under.
 - The vehicle proprietor must make a financial investment based on the council’s decision if he wishes to continue working, and so there is an urgency to this question, as he is currently not working as his vehicle is off the road.
 - It is likely that other vehicle proprietors within this cohort may face similar circumstances before the policy might be adopted.
 - The main risk in allowing this application would be to effectively set precedent to an extent, although the individual circumstances will be considered; and this would most likely be problematic only if the council did not go on to adopt this principle.
 - It is worth considering that the taxi and private hire trades were supportive of this proposal when it was discussed with trade representatives, and that the council will likely be proposing further meaningful steps to better promote the availability of WAVs in the borough through any amended policy in due course.
 - However, it should be noted that all draft policy proposals would be subject to proper consultation and full and proper consideration prior to possible implementation. The open and transparent nature of that process should mitigate any concerns regarding the council potentially fettering its judgment in respect of this idea.
 - Alternatively, one could argue if the council refused this request, that it might be fettering its judgement and might go on to remove this specific proposal.

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- Therefore the correct approach is to consider this matter fairly with proper consideration of this report and the issues in play and in due course for the council to go through an appropriate and comprehensive process to discuss its taxi policy proposals and for them to be considered with proper and meaningful consideration in due course.
 - Unfortunately the proprietor is faced with this situation now, and so the matter must be determined prior to any amended policy being adopted.
 - Finally, one must consider that if this request is refused, and then a few months after this decision, the council were to potentially change policy to allow such an application, this might not seem a reasonable and/ or fair approach.
- 4.4 It is clear that should this application be permitted that other vehicle proprietors are likely to submit similar requests, and so the committee must consider this case fully and carefully.
- 4.5 Members may wish to set some criteria for officers to consider on a temporary basis, pending the completion of consultation and potential implementation in respect of this draft policy principle, to allow similar circumstances to be dealt with by officers in the meantime.
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Report Author

Contact officer: Jason Kirkwood - Team Leader
E-mail: licensing@cheltenham.gov.uk

ANNEX 1

Case Specifics

Name of applicant: Malcolm Rogers

HCV licence number: HCV198

Vehicle registration number: TX51 MAL

Uniform case reference number (internal use only): 24/00334/HACKVA (last granted 23rd March 2024)

New vehicle details: to be confirmed on application

Licensing Committee – Sub Committee (Miscellaneous)

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Mehmet Yilmaz

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Mehmet Yilmaz for a street trading consent to sell hot food and hot/cold drinks from a Kebab Van measuring 2.1m x 3.6m.
- 1.2 Mr Yilmaz has applied to trade on the Promenade. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Yilmaz has applied for an annual consent on the following days and times:

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 **The Committee can:**
 - 1.5.1 **Approve the application because Members are satisfied that the location is suitable, or**
 - 1.5.2 **Refuse the application because it does not comply with the provisions of the Street Trading Policy and/ or they have concerns in respect of issues raised by those objecting to the application and/ or other reasonable grounds.**

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 is attached **Appendix 3**.

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 All objections against the application received are attached as **Appendix 4** including objections from the Cheltenham Business Improvement District, Environmental Protection, and 6 additional local businesses.

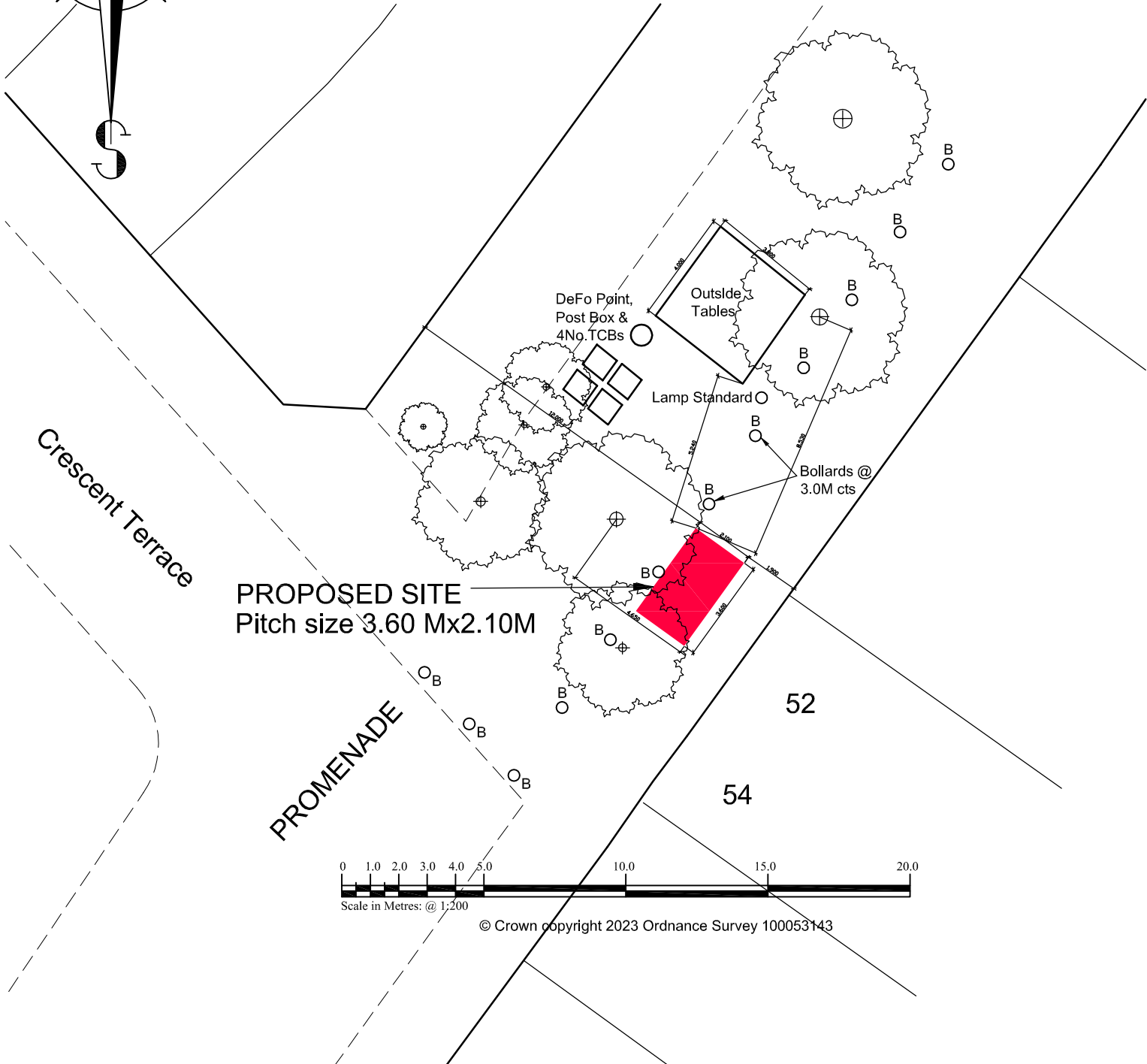
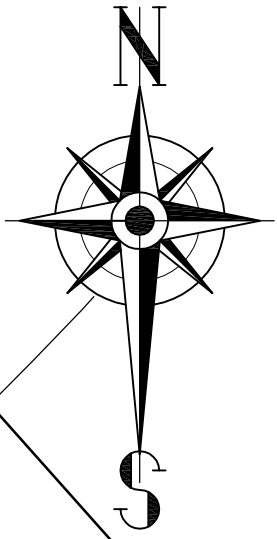
5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the council’s adopted policy and Members should not arbitrarily deviate from the council’s policy.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above (“Permitted Locations”) and Members should take these into account when determining this application.
- 5.3 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 must note that this location is outside of a permitted zone for street trading. Therefore the default position is that this application should be refused as it does not comply with policy in that respect. For clarification, if an application is to be sited in such a designated zone there is a presumption for grant, unless other concerns exist.

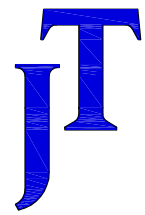
- 5.5 In addition, and notwithstanding the street policy does not make a great deal of reference to the issues of crime and disorder, it would be not in the public interest to ignore such issues if they could be considered relevant. The policy although listing assessment criteria could not be expected to cover all eventualities and all concerns that might arise. Many applications for street trading relate only to daytime hours and are less likely to raise concerns in respect of crime and disorder but as can be seen from comments received this application has given rise to such concerns from respondents.
- 5.6 Although the licensing authority has not received an objection from the police, it must be noted that such a business would be sited very close to the main taxi rank which operates throughout the night and therefore is somewhat of a 'hot spot' in it's own right due to the location being a hub for people to travel home after a night working in the town or enjoying the night time economy. It is considered that the location of a takeaway unit during the evening and into the small hours of the following day would be likely to exacerbate any potential issues that might exist already and/or create more likelihood of issues arising.
- 5.7 It should also be noted the size of this vehicle and the likely weight of it. The Highways Department again have not responded, but it is known that there have been concerns about vehicles being parked on this paved area in the past. An update will be sought for Members in respect of this point.
- 5.8 Further considerations which do not seem to have been raised which members should be aware of will include the following.
- The possible implications of this trader being on site during race meetings at Cheltenham Racecourse, when the town centre has a higher footfall in the evenings, particularly during the March meeting.
 - The fact that a number of events/markets/festivals use this space during weekends or at other times throughout the year. In many instances these existing attractions would have a hot food offer and clearly would not wish to see this trader in operation during their events.
- 5.9 Finally, members should consider if they are minded to refuse an application whether the attachment of conditions could mitigate any concerns to a satisfactory extent. If conditions are to be attached, they should be proportionate, appropriate, and enforceable.
- 5.10 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 is in conflict with representations made to the authority.
- 5.11 Mr Yilmaz has been advised prior to submitting his application in full that the chosen location would be likely to draw objections and that the location is used for emergency vehicle access and so likely to be unsuitable.

Case Officer

Contact officer: Mr Jake Johnstone
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200



Rev.

Project: PROPOSED MOBILE FOOD PITCH SITE. ADJACENT TO 52 PROMENADE. CHELTENHAM GL50 1LY			
Drawing Title: SITE LAYOUT			
Drawn: JT	Date: DECEMBER 2023	Scale: 1:200 @ A3	
Drawing No. 23 457 11		 <p>JOHN TURNER Plan & Design 11 The Weavers Old Mill Lane Old Town Swindon SN3 1SE Tel: 01793 638695 Mbl: 07836 222223 Email: john.tplan@gmail.com</p>	

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CHELTENHAM
BOROUGH COUNCIL

Street Trading Licensing Policy



All enquiries should be directed to:

Licensing Section
Municipal Offices
Promenade
CHELTENHAM
GL50 9SA

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Website: www.cheltenham.gov.uk/licensing

This Policy was approved on 11 February 2020.

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1. Purpose of the Policy

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

Through the street trading scheme the authority aims to control:

1. the location of street traders;
2. the number of street traders; and

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.

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.

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.

2. Review of the Policy

It is the intention that this policy will be reviewed every 3 years or more frequently should it be deemed necessary.

3. Legislation & Designation of Streets

The authority has resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") should apply in the borough. Under Schedule 4 of the 1982 Act, the authority can regulate street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

The authority has designated the entire borough as consent streets. A 'consent street' is a street in which street trading can only take place if consent from the authority has first been obtained.

It is a criminal offence to engage in street trading in a consent street without consent.

There are currently no licence streets or prohibited streets within the borough.

4. The Licensing and Determination Process

This part of the policy sets out how the authority will deal with applications for consent in the borough.

Applications can be made for:

1. a “Fixed Pitch” (see “Permitted Locations” below);
2. a “Roaming Consent” (Borough wide consent when a schedule of stops/streets is included with the application i.e. ice cream vans etc.)

4.1 Permitted Locations

Consents are limited to the sites identified in **Annex 1**.

Sites can remain with the same person for a number of years. In the event of the consent being revoked, surrendered or if it lapses without being renewed, the authority will accept new applications for the vacant site. This might be at any time of the year.

If more than one application is received for any new or vacant pitch, the applications will be referred to the authority’s licensing committee to consider the applications. The applications will be assessed against the authority’s Assessment Criteria.

4.2 Assessment Criteria

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

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other 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.

5. Renewals

Consents are issued for a period of up to one year.

Consent holders should re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent. As a matter of convenience, the authority will send renewal reminders to consent holders.

However, the authority is clear that it remains the consent holder's responsibility to ensure that their consent is renewed in time.

If, without reasonable excuse, a renewal application is not made before the expiry of the current consent it will expire and the pitch will become available. A new application must be submitted in accordance with the procedure set out above ("Application for Consent – Permitted Locations").

The authority may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

Where a renewal application has been made and:

1. there have been no significant complaints or enforcement issues;
2. all fees have been paid on time; and
3. there has been no significant change to the retail environment in the vicinity of the trading location

the consent will normally be renewed.

6. Transfers

An issued consent can be transferred. Written consent will need to be obtained using the authority's adopted form available on the website at <https://www.cheltenham.gov.uk/licensing>.

7. Special Events

The authority recognises that there may be times when consent may be sought otherwise than in accordance with the policy for special one-off events.

These may include, for example, one-off charitable or promotional events.

Applications of this type will be determined on a case-to-case basis taking into account the assessment criteria set out above.

8. Markets

Street trading associated with markets will require individual consent applications from individual traders. The market operator can act as an agent for individual traders by submitting a single application on behalf of all the traders on the market.

Please refer to the authority's website for further information on the application process (<https://www.cheltenham.gov.uk/licensing>).

On dates and/or in locations where applications have been made for trading associated with markets, the authority will only permit traders associated with that market.

9. Conditions

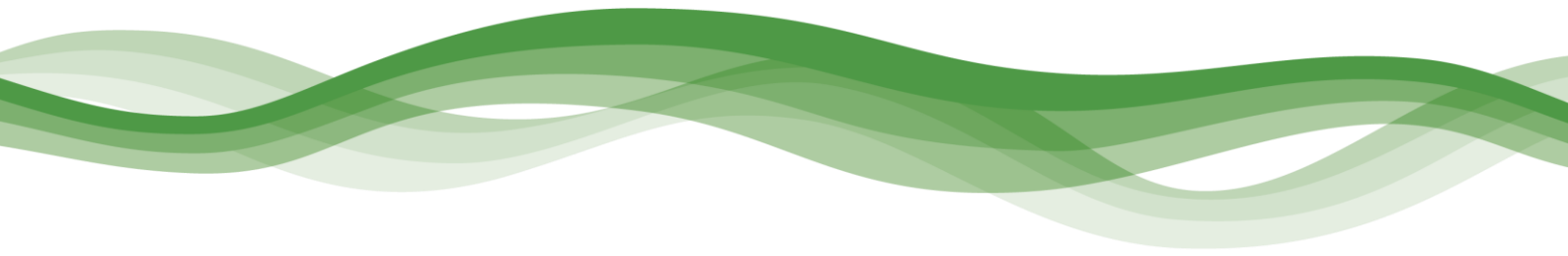
Consents are issued subject to the authority's standard conditions. See **Annex 2** for the authority's standard conditions.

In addition, the authority can impose additional conditions where it is deemed appropriate.

10. Enforcement

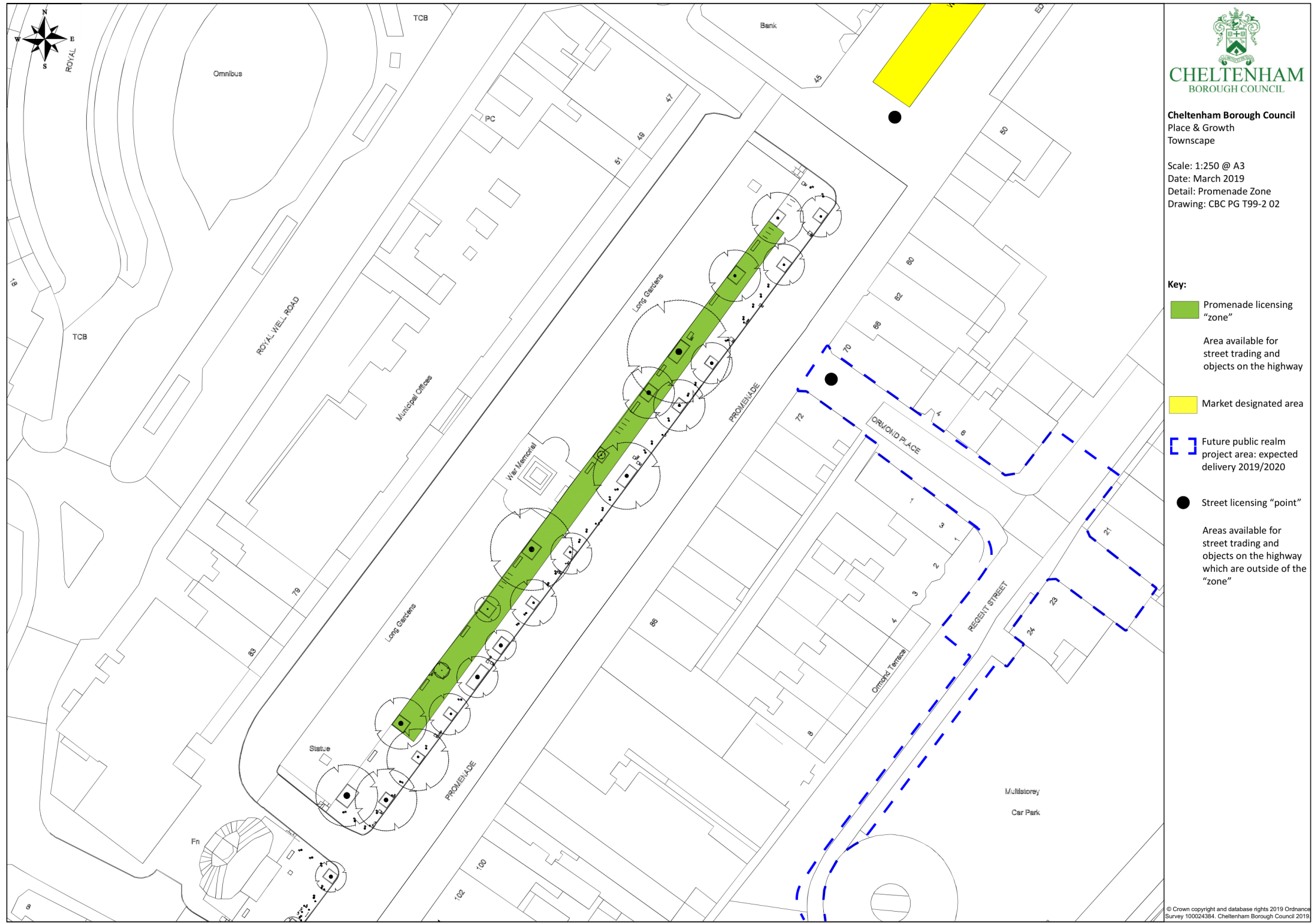
The authority has a responsibility to regulate street trading in the borough and is therefore committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies.

All enforcement action will be undertaken in accordance with the authority's adopted enforcement policy available on the website at <https://www.cheltenham.gov.uk>.



Annex 1

CBC PG T99-2 02 Promenade Zone



CBC PG T99-2 03 High Street Zone



CBC PG T99-2 04 Cambray Zone




Annex 2 – Standard Conditions

1. Definitions

- 1.1 “Consent” means this Street Trading Consent issued pursuant to Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 “Consent holder” means the person named in this Consent and for the purpose of enforcing these conditions includes any other person engaged by them to assist in trading (including any Nominated Assistant(s) named in this Consent).
- 1.3 “Council” or “the authority” means Cheltenham Borough Council.
- 1.4 “Site” means the site identified in this Consent.
- 1.5 “Unit” means the unit described in this Consent.

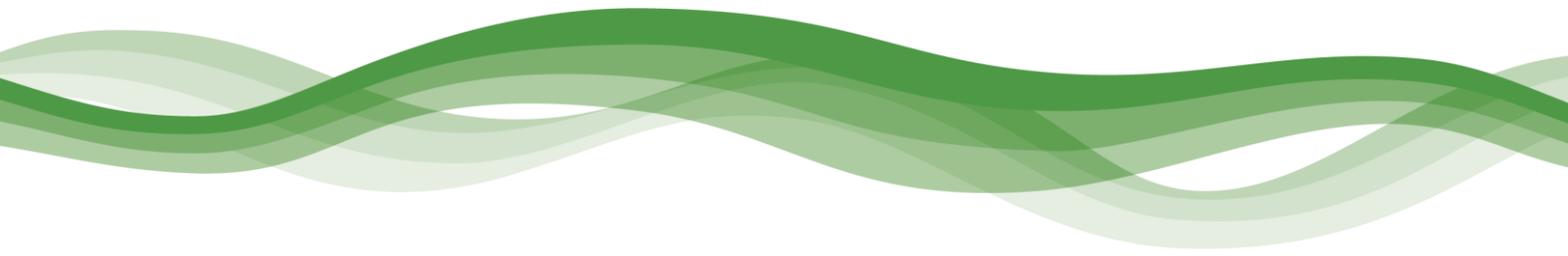
2. Obligations on the Consent holder

- 2.1 Not to use the Site for any purpose other than that of the operation of the Unit.
- 2.2 Not to trade or operate the Unit in such a way as to cause obstruction of the street or danger or annoyance to persons using the street.
- 2.3 To adequately manage the street trading activity so as not to cause a statutory or public nuisance (from noise, fumes and odour, for example).
- 2.4 To ensure that the Unit is securely erected, is of such material and design, and so constructed and maintained that it is not liable to cause injury to any person present on the Site or otherwise.
- 2.5 To pay to the Council the cost of making good any damage which may be caused to the Site in consequence of the Consent Holder’s operations thereon.
- 2.6 To keep the Site in a clean and tidy condition and to pay to the Council the cost of carrying out any works, including cleansing of the highway, that is required due to the Consent Holder’s use of the Site.
- 2.7 The Consent Holder will be responsible for cleansing of the Site and ensuring that all refuse arising as a result of the activities of the Consent Holder shall be placed in suitable covered containers provided by the Consent Holder, unless otherwise provided by the authority, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and disposed of in an approved manner on a daily basis.
- 2.8 To observe all statutory and other provisions and regulations for the time being in force which relate to the Consent Holder’s use of the Site.

- 2.9 So far as is reasonable to ensure that patrons or customers of the Consent Holder conduct themselves in an orderly manner.
 - 2.10 To ensure that the use and storage of liquefied petroleum gas complies with any relevant codes of practice.
 - 2.11 The Consent Holder shall ensure that liquefied petroleum gas is not used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.
 - 2.12 The Consent Holder shall ensure that goods may not be of an inflammable, corrosive or otherwise dangerous nature.
 - 2.13 The Consent Holder shall ensure that no mobile generators are used without the express permission of the Council. Where permission is granted generators shall be so positioned that they do not present a danger to the public, do not present a fire or similar hazard to the stall, goods displayed thereon, or adjoining premises and do not cause any contamination, noise or fume nuisance.
 - 2.14 The Consent Holder shall ensure that a competent person installs all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
 - 2.15 The Consent Holder shall ensure that no combustible materials are to be stored in the vicinity of a generator and suitable first aid fire fighting appliance(s) must be immediately available.
 - 2.16 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
 - 2.17 All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
 - 2.18 All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported.
 - 2.19 All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
 - 2.20 To ensure that the dimensions and appearance of the Unit at all times accord with the details agreed by the Council upon the issue of this Consent.
 - 2.21 To maintain the Unit in a clean and tidy condition.
 - 2.22 To indemnify the authority from all claims, damages and costs in respect of all spillages, accidents, damage 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
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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.

- 2.23 At all times while trading to display in a conspicuous position on the Unit the street trading permit issued by the Council.
- 2.24 To forthwith inform the Council in writing of the details of any change in the operation or staffing of the Unit (including changes in details of Nominated Assistants) or the sale or transfer of the Consent Holder's business to another party.
- 2.25 The Consent Holder(s) shall notify the Council's Licensing Section within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
- 2.26 The Council may revoke or suspend this Consent at any time in the event of:
- The breach by the Consent Holder, their servants or agents (included Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the authority; or
 - Work being carried out in, under or over the highway on which the Unit is located; or
 - A change in Council Policy which necessitates termination of this Consent; or
 - Circumstances outside the authority's control which necessitate termination of this Consent forthwith.
- 2.27 The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
- 2.28 The Consent Holder(s) shall not sell or permit the sale of any products containing or made up of real animal fur.



SPECIAL CONDITIONS FOR MOBILE ICE CREAM TRADERS

Trading prohibited in the following streets or parts of streets:

- a) High Street (from Sandford Park entrance to Townsend Street)
- b) Promenade (from High Street to Montpellier Walk)
- c) Clarence Street
- d) North Street
- e) Pittville Street
- f) Regent Street
- g) Rodney Road
- h) Winchcombe Street (from High Street to Warwick Place)
- i) Imperial Square
- j) Montpellier Walk
- k) Montpellier Street
- l) Warden Hill Road (within 100 meters of frontage to Bournside School), both sides of the road in any direction, during the period half an hour before school opening to 1 hour after closing during school terms).
- m) Loweswater Road (from the junction with Alma Road to the junction with Langdale Road during the above period and times).
- n) Evesham Road and roads adjacent to Pittville Park.

2. Trading prohibited within 75 metres of the gates of all schools, except Bournside School (see Special Condition l) on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms.

3. The consent holder shall not, without the prior permission of the authority, trade in any particular location for more than 30 minutes at any one time and shall not return to that particular location, or any position in the immediate vicinity thereof (which expression shall be as interpreted by the authority), within 2 hours of leaving it.

4. The consent holder shall comply with all traffic regulations, rules, orders and directions which apply to the public highways on which he trades.

5. The consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.



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Kebab Van – Promenade. 23/01787/STA

Objections

1. Env Health CBC

Please could Environmental Health register an objection to the Street Trading Application-23/01787/STA.

The grounds for objecting include concerns around noise and odour, especially given the timings and frequency of the proposed operation. Whilst the area is predominantly commercial use, there are some nearby residential flats that would have direct line of site to the trading vehicle and although the nature of this area is associated with a greater background noise, this street trader would introduce noise during times of the day where the background noise would be significantly less. Additionally, the application does not detail any odour or noise controls.

Therefore, it is my view that should permission be granted for the street trading application to operate every day from 18:00 until 04:00, that this will cause a disturbance to those living in the locality. The food associated with the kebab van will likely have a strong odour, which has a high potential to impact those in the vicinity. As a result there is a likelihood of odour complaints being received as a result of the trading of this vehicle which would then be investigated under the Environmental Protection Act 1990 as an alleged statutory nuisance, especially due to the times and frequency of operation furthering the likelihood of complaints of a persistent and continuing nature of odour as a result of trading.

2. Cheltenham Bid

Dear Sir/Madam

Kebab Van Street trading consultation: 23/01787/STA

I am writing on behalf of Cheltenham BID to object to this licensing application for a kebab van to be present on The Promenade from 18:00 – 04:00 seven days a week. The grounds for the objection include:

The prevention of crime and disorder. It is highly likely that the presence of a kebab van at this location would result in damage to nearby properties. It is also very close to a known anti-social behaviour 'hotspot' which has recently been the site of a serious assault. The risk of other such acts would be made worse by drunk people gathering together. Anti-social behaviour in general would also increase, creating more damage and detritus to be cleaned each morning by the Ubico team.

Public Safety. In addition to the likelihood of crime and anti-social behaviour, granting this licence would also create public safety issues given the proximity of traffic, and the risk of trips and falls on the (currently) uneven surface of The Promenade. Public safety would also be at risk from the mess that would still be in situ in the mornings.

Public nuisance/anti social behaviour. The presence of a kebab van in such a key location in a Regency town would be completely at odds with the overall look and feel. Given a target market would be people leaving clubs in the early hours, it is not fanciful to state it would lead to all kinds of

public nuisance. These range from low level anti-social behaviour- eg kicking all the carboard and other refuse awaiting collection from contractors – through to the potential for serious injuries to anyone who happens to be in the area.

In addition to the points outlined above, I would like to add that the area in question is not designated for vehicles. The pavement is already in a well-documented state

of disrepair, and the presence of a kebab van on a daily basis would only create more damage. This would be an utterly inappropriate use of The Promenade, undermining Cheltenham's positive reputation and its Purple Flag status. I have also been contacted by businesses in the local area who are concerned about the fact that the application is from 18:00. This would be at peak dining times for restaurants nearby and would detract from The Promenade as an attractive location where it's possible to sit outside in a pleasant environment. The presence of a kebab van would undermine this amenity.

In summary, this application is entirely inappropriate for Cheltenham. It brings reputational risks, risks of crime, disorder and anti-social behaviour. It undermines public safety and would create mess and detritus that would need to be cleared up others, notably by the Ubico team and by individual businesses opening up in the mornings.

3. Beards Promenade

Hi Licensing

I hope you're well, I'd like to add our companies objection to the proposal of a kebab van.

The highway is already in disrepair and will Be further worsened by a kebab van. It's likely to increase littering which is already an issue.

We don't normally object unless we feel strongly about it!

Best to all

4. Martin&Co

Good morning.

I am writing to formally object to the planning consent application for a kebab van to operate on the Promenade, specifically citing the proposed area as inappropriate and unsuitable for such an endeavour for several key reasons.

1. Unsuitability of the Proposed Location for Vehicles: The designated area proposed for the kebab van is not originally intended for vehicle placement, especially not for an operation involving a large van. This area is already in a state of disrepair, and introducing a heavy vehicle into this space on a regular basis will inevitably lead to further deterioration of the pavement and surrounding infrastructure. This degradation will not only diminish the aesthetic appeal of our community but potentially cause safety issues for pedestrians.

2. Potential for Increased Anti-Social Behaviour: There is a documented history of anti-social behaviour in the vicinity of the proposed location, with one spot nearby being particularly notorious. Introducing a kebab van, which tends to operate during evening hours, could potentially attract gatherings that lead to noise, disturbances, and other forms of anti-social behaviour. This concern is not just hypothetical but based on observable trends associated with similar operations in comparable areas.

3. Environmental and Sanitary Concerns: Food vendors, particularly those operating in a transient setup like a kebab van, can significantly increase the amount of litter and waste in the area. Despite best efforts in waste management, the presence of food packaging, leftovers, and other related refuse often results in increased littering. This not only impacts the cleanliness of our environment but also places a greater strain on local waste management services and can lead to sanitation issues, affecting the overall quality of life in the neighbourhood.

Given these points, I strongly urge the planning committee to reconsider the approval of this application. The proposed kebab van operation, while entrepreneurial, poses too great a risk to the community's infrastructure, social environment, and cleanliness. We hope that these concerns are considered, and that the decision will reflect the best interests of our community's well-being and safety.

Thank you for considering this opposition. I am hopeful that a decision will be made that preserves the integrity and safety of our community.

Kind Regards

5. Hotel Chocolate Promenade

Good Afternoon,

The Cheltenham BID has advised me about a proposal with regards to a kebab van being located and trading very close to our store.

I strongly object to this application.

The Promenade is renowned to be a premium shopping destination in a beautiful part of Cheltenham. This business does not, in my opinion, align with this at all.

It would be a problem causing a heightened risk of anti-social behaviour and no doubt would be a problem with rubbish.

Thanks,

6. Sue Ryder, Clarence Parade

To whom it may concern,

I am strongly against the idea of having a kebab van in this area. (Cheltenham, Promenade).

We put up with a lot of rubbish and anti social behavior currently, I believe this would just cause **more** issues.

Many Thanks.,

7. Promenade Jewellers

Good afternoon,

Further to the application for a kebab van on the Promenade I wish to register a complaint for the following reasons;

It is sure to cause an increase in discarded food, litter & goodness knows what else!

There are plenty of businesses in town offering a vast array of snacks & meals, ranging in price within sensible opening hours.

Also, it encourages people who are quite possibly inebriated or otherwise, to loiter in the town center, which in turn is bound to cause anti-social behaviors.

At a time when resources are over stretched it is not fair to expect community resources, business owners, people who might be working antisocial hours, to have to encounter the fallout from this type of business.

I certainly hope that this application does not succeed.

8. Dobbies Promenade

Good morning,

We're getting in touch regarding the attached application for the Kebab van being situated on the Promenade, as we are very much against the it.

We believe that the Promenade is a reputable and historic part of Cheltenham, and introducing this business could potentially lead to anti-social behaviour and not to mention an increase in the amount of rubbish created in the area. It's also not at all fitting with the types of businesses along the Promenade and would likely bring a negative impression to this area of Cheltenham.

9. Toni&Guy Cheltenham

We write pertaining to application 23/01787/STA and wish to object on the following grounds:

1. The proposed site is not intended for vehicles and is already in a state of disrepair, which would only be worsened by the regular presence of a large van. Only last week, one of our clients came to us badly shaken and bruised, having tripped on a damaged paving stone.
2. The presence of this vehicle and at the proposed times (6pm - 4am), is clearly aimed at attracting revellers and we fear that has the potential to lead to anti-social behaviour, where this is already an issue; with the area alongside our premises regularly subjected to 'wild' toileting, drinking, drug use, littering, graffiti and vandalism.

We very much hope that the very legitimate objections of ourselves and others will be given full consideration and that the application will be denied/refused.

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