

Cheltenham Borough Council
Licensing Committee – 7 March 2014
Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Application for Permission to Place Tables and Chairs on the Highway
Coffee & Co, 7 Montpellier Terrace, Cheltenham

Report of the Licensing Officer

1. Executive Summary and Recommendation

1.1 An application has been received from Mr Abdul Mannan in respect of Coffee & Co, 7 Montpellier Terrace, Cheltenham, Gloucestershire, GL50 1US. The applicant has applied to place 4 tables and 8 chairs on the pavement directly outside the premises.

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

Monday	07.30 – 23.59
Tuesday	07.30 – 23.59
Wednesday	07.30 – 23.59
Thursday	07.30 – 23.59
Friday	07.30 – 23.59
Saturday	07.30 – 23.59
Sunday	07.30 – 23.59

1.3 A plan of the layout of the premises, showing the position of the tables and chairs in relation to the premises, is attached at **Appendix A**. A map showing the location of the premises in relation to the objectors' properties is attached at **Appendix B**.

1.4 **The Committee is recommended to resolve that:**

1.4.1 The application be approved because Members feel the application is compatible with the current Street Scene Policy, or

1.4.2 The application be refused as the application falls outside the provisions of the current Street Scene Policy.

1.5 Summary of implications

1.5.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.5.2 Legal

No right of appeal.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

- 2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.

3. Consultation and Feedback

- 3.1 Consultation was undertaken in accordance with the Council's normal consultation procedure for applications to place tables and chairs on the highway. No objections were received from consultees.
- 3.2 Objections were received in respect of this application from:
- 3.2.1 Stephanie Brookes, Suffolk Court, Suffolk Place, Cheltenham, Gloucestershire, GL50 2QG
- 3.2.2 Robert Brookes - Suffolk Court Management Co Ltd, Suffolk Court, Suffolk Place, Cheltenham, Gloucestershire, GL50 2QG
- 3.3 The objections relate to the potential for the use of tables and chairs at this location to cause a noise nuisance, an obstruction to the public, a hazard to traffic and the public, and the potential over-development of the area due to other, nearby tables and chairs.
- 3.4 Members' attention is drawn to **Appendix C** which contains copies of the above objections and to section 5 of this report where, for purposes of clarity, officers have addressed some of the specific points made by the objectors.

4. Policy Principles, Aims and Objectives

- 4.1 This section outlines the policies the council will apply when making decisions on applications for consents.
- 4.2 In particular, this part of the policy will aim to promote the following aims and objectives:
- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
 - To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
 - To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
 - To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

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

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

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 Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.3 On 1st February 2013 the Licensing Committee granted permission to place 4 tables and 8 chairs at this location. The reason this application has been made is that the original permission expired because the permission-holder failed to renew it on time, and he was therefore required to make a new application. This application is unchanged from the previous permission granted by the Committee.
- 5.4 Comments have been made by objectors to the effect that this application was made in a surreptitious manner and that it is a retrospective application because tables and chairs have previously been at the location without the proper consent. Members should note that the applicants previously had consent but it expired in March 2014, prompting this new application. The premises users removed the tables and chairs when requested to do so following the expiry of that permission. With regards to the application being surreptitious, Members will note that the application was publicised in the manner prescribed in the Policy, which is as follows:
"A pale pink notice . . . must be put on display by the applicant in the window of the premises the application relates . . . in a prominent position for the duration of the consultation period to give interested parties who may be affected by the application opportunity to make comments on the application. The notice has to be at least A4 size, printed legibly in black at font size 16 or larger. It must be capable of being conveniently read by passers by."
- 5.5 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

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