

Cheltenham Borough Council
Licensing Committee – 6 February 2015
Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Application for Permission to Place Tables and Chairs on the Highway
Rotunda Tavern, 3 Montpellier Street, Cheltenham

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Stephen Ashley in respect of 3 Montpellier Street, Cheltenham GL50 1SX, trading as Rotunda Tavern. The applicant has existing permission to place 4 picnic style tables with attached benches on the highway during the operating hours of the premises, and is now applying to extend that permission to 24 hours a day.
- 1.2 The existing permission authorises the street furniture to be in place at the following times:

Monday	11:00 – 23:00
Tuesday	11:00 – 23:00
Wednesday	11:00 – 23:00
Thursday	11:00 – 23:00
Friday	11:00 – 00:00
Saturday	11:00 – 00:00
Sunday	12:00 – 23:00

The application under consideration is to authorise the street furniture to be in place 24 hours a day, every day.

- 1.3 **Appendix A** shows a photograph of the furniture. **Appendix B** shows plans of how the tables and chairs will be positioned during the premises opening hours and how they will be positioned when the premises are closed.

- 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

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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 consultation procedure for applications in respect of tables and chairs. Representation was received from the Council's Senior Enforcement and Compliance Officer (Planning), whose objection is as follows:

"These premises are a Grade II* Listed Building where precedence is given to protecting the special architectural character and appearance of the building. The permanent placing of these picnic style benches to the front of the building will detract from these special architectural and historic qualities and the street scene of this part of the designated central Conservation Area. (Paragraphs 3.4 and 3.4.1 of the Policy).

. . . Moreover the application conflicts with the conditions contained in Appendix G of the Policy on measures to control street scene activities as the permanent placing will be not subject to supervision when the premises are closed. Paragraph 2.1.3 makes it clear that "the enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into." This is again repeated at paragraph 2.2.4.

. . . This application is contrary to Policy. There would be no need to have tables and chairs situated and stored on the public highway permanently if they were portable and lightweight in design.

. . . The application does not meet the required quality standard, it is arguable that it will pose a risk to public safety and protection, and it clearly will prejudice the council's efforts to improve the image, perception and attractiveness of the town."

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 Members are to note that the applicant already has permission to place picnic style furniture at the location during the opening hours of the premises. The applicant is not seeking to alter the style, quantity or location of the furniture. The existing permission was made in July 2014 and the consultation attracted no objections, with the Planning team confirming that they did not object to the application at that time.

5.3 The application relates solely to extending the times during which permission is held. For that reason Members should base their decision on the effects of the furniture being *in situ* at night when the premises are not trading, rather than the style of the furniture.

5.4 Members should note that the Council's current adopted Policy includes the following conditions applicable to all tables and chairs permissions.

"The enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

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

In that respect the application being considered does not comply with the conditions because the furniture will not be brought in at the end of the working day but will remain in place 24 hours a day (at night the furniture will be moved against the building and chained and locked). However Members have the option of disapplying that condition if they are minded to grant the permission.

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.

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