

Cheltenham Borough Council

Licensing Committee – 4 December 2015

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Nickey James Bryan

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Mr Nickey Bryan for a street trading consent to sell burgers, fish finger sandwiches, chips and pork tacos from a catering van measuring 3m (10ft) long and 2m (6.6ft) wide.
- 1.2 Mr Bryan has applied to trade on the High Street opposite the Regent Street junction. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Bryan has applied for a seasonal four month consent on the following days and times:

Monday	10:00 - 16:00
Tuesday	10:00 - 16:00
Wednesday	10:00 - 16:00
Thursday	10:00 - 16:00
Friday	10:00 - 16:00
Saturday	10:00 - 16:00
Sunday	None

- 1.4 An image of the catering van is attached at **Appendix 2**.
- 1.5 **The Committee can:**
- 1.5.1 **Approved 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 provision of the Street Scene policy.**

1.6 Implications

1.6.1 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.

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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. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- 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.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The site does not allow the consent holder, staff and customers to park in a safe manner,

- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town’s reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader’s business must enhance, or at least not be detrimental, to the street scene.

4. Consultee Comments

4.1 A number of objections and comments have been received in respect of this application:

- **Cheltenham Business Partnership:** *“I would like to raise concerns regarding this application for a catering van on High Street by the junction with Regent Street.*

A number of restaurants on Regent Street have said they oppose another food outlet being given permission to open from 10am-4pm six days a week in competition with them. Shops on High Street are also concerned that it will detract from their businesses and from the appearance of the street.

The overall view is that it would be inappropriate to allow such a permission ahead of the launch of the new Street Trading Policy, which would allow all applications to be judged more fairly.”

- **Marks & Spencer (173 - 181 High Street):** *“I believe that this Burger Van is to be situated directly in front of Marks and Spencer. It will completely obscure the front of the store including both main windows and entrances especially the view of the store from Regent Street .*

This is not something that we would want in front of our store. I would expect customers to take offence to it and also the smell into the store would be extremely unpleasant for both our staff and customers. To also add we have both a cafe and strong food on the move business to which I believe this would provide a conflict of interests.”

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 member's 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 Members must determine this application in respect of the location plan as shown at **Appendix B**. A full consultation has taken place based on this location plan and layout only.
- 5.4 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.

6. Officer recommendation

- 6.1 The officer recommendation is that this application be refused.

Reason(s): The type of trading and unit is not compatible with the proposed location that is situated in the town's conservation area. The council's policy is to adopt a more restrictive approach to applications for street trading in conservation areas. The more restrictive approach is to only permit the type of street trading which *could positively enhance the enjoyment of the town as a tourist and leisure destination* and is in *keeping with the streetscape*. [Policy paragraph 3.4, Emphasis added]

The type of trading proposed, in officer's view, does not meet the policy criteria in that there is no evidence to suggest the trading offer could in any way positively enhance the enjoyment of the town as a tourist and leisure destination.

Officers are also of the view that due to the size of the proposed trading unit (catering van), it will cause a substantial obstruction on the public highway and to existing retail units in an area that is already cluttered by street furniture, other exiting traders, charity collectors and delivery vans.

Background Papers

Service Records

Report Author

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