

Cheltenham Borough Council

Licensing Committee – 8 January 2016

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Miss Kirsty Westlake (Juicilicious)

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 We have received an application from Miss Kirsty Westlake for a street trading consent to sell healthy food and drinks from a Gazebo measuring 3m x 3m.
- 1.2 Miss Westlake has applied to trade on the Promenade outside Waterstones. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Miss Westlake has applied to trade from January to April, June to September and November on the following days and times:

Monday	08:00 - 18:30
Tuesday	08:00 - 18:30
Wednesday	08:00 - 18:30
Thursday	08:00 - 18:30
Friday	08:00 - 18:30
Saturday	08:30 - 18:30
Sunday	08:30 - 18:30

- 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 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.

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. 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 **GCC Area Highways Representative** - *"This is not suitable to be placed on the Promenade as this would affect pedestrian access."*

Huffkins – *"We wish to object to the new street trader application. We pay huge rates. We employ over 20 staff. We support numerous other local family businesses and support many other local businesses. How can the town high street remain vibrant if street traders are allowed to come into the promenade?"*

They do not have the overheads and yet they are allowed to occupy prime pitches. It is simply unfair and does not represent good competition. Please do not allow these self-serving traders to multiply. We already have a coffee van on the promenade. The high street will be destroyed."

Cheltenham Business Partnership – *"With Huffkins café and cafes in other establishments on the Prom, this would seem to be a direct competitor to established businesses."*

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. 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): Officers do not consider the application to be consistent with the current street trading policy for the following reasons:

1. The appearance of the proposed trading unit does not meet the required quality standards and will therefore prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, nor is it "in keeping with the streetscape". (Policy "3. Policy Principles, Aims & Objectives" & "3.4 Town Centre & Conservation Area")
2. The types of goods to be sold, although of a good quality, are not unique and are largely available from other existing street traders and retail units in the town.

For this reason the policy provision requiring goods to be of a "type which could positively enhance the enjoyment of the town as a tourist and leisure destination" is not satisfied. (Policy "3.4 Town Centre & Conservation Area")

3. The proposed trading unit will substantially obstruct the public highway and right of way. The area relevant to the proposed trading location is already congested with a lot of existing street furniture, art, phone boxes and pavement licences for tables and chairs.

Background Papers

Service Records

Case Officer

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