

Cheltenham Borough Council

Licensing Committee – 29 July 2016

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Angel Andreev

Report of the Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been made by Mr Angel Andreev for street trading consent to sell hot spiral chips and sweetcorn from a catering cart measuring 1.2m in length (4 feet), 0.6 m in width (2 feet) and 2.0 m in height (6 feet).
- 1.2 Mr Andreev has applied to trade on the Promenade adjacent to Long Gardens. The council, in its Street Trading licensing policy, has determined this location to be suitable for street trading, with the approved types of trading limited to:
- Ice-cream
 - Busking (when also selling merchandise)
 - Confectionary/cakes
 - Sign-up services
- 1.3 **Appendices 1 and 2** show the location. A photograph of the unit is at **Appendix 3**.
- 1.4 The proposed trading times are:

Monday	None
Tuesday	None
Wednesday	None
Thursday	None
Friday	10:00 – 18:00
Saturday	10:00 – 18:00
Sunday	None

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 trading policy.

1.6 Implications 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 street trading policy was adopted by Council on 12 February 2016. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

2.2 Mr Andreev has provided a letter of support for his application. This is shown as **Appendix 4**.

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:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

3.1 Permitted locations for street trading

The council's adopted policy prescribes a number of permitted trading locations and associated permitted trading goods. These locations and permitted goods are outlined in the council's adopted policy that is available on the council's website.

3.2 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 retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold

by each competing applicant against those on sale in the adjacent area. The council 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.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of 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 council will generally not permit trading units over 3 metres tall to avoid obstruction of sight.
- **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, waste disposal and waste created by customers.

4. Consultee Comments

4.1 An objection was received from Cheltenham Borough Council's Planning Enforcement Officer:

Objection to this application. I fail to see how this complies with the policy principles, aims and objectives of the Policy on Measures to Control Street Scene Activities in Cheltenham. The placing of this spiral chips and sweetcorn unit here does not comply with the council's policy to "improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape" [For context please see 5.1 below]

5. Licensing Comments

- 5.1 The policy objective referred to by the planning officer above is from the council's 2013 street trading policy, which has since been superseded. However the new policy, like its predecessor, does contain a requirement that "Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials."
- 5.2 Members are advised that an application from this applicant has previously been considered by the committee in respect of a different location, but this application should be determined on its own merits.
- 5.3 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.
- 5.4 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above ("assessment criteria") and Members should take these into account when determining this application.

- 5.5 Members are advised that the proposed trading location *is* a permitted location in the council's policy, but the goods to be sold are not approved because the policy does not sanction the sale of hot food in this location. For that reason the application is not compliant with the approved policy.
- 5.6 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.
- 5.7 Members are reminded that clear and thorough reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy.

6. Officer recommendation

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

Reason(s): The application relates to a location that is not deemed suitable for the trading of hot food under the council's current adopted policy. For that reason, alongside the fact that objections have been received, officers recommend refusal of the application for street trading consent.

Background Papers

Service Records

Case Officer

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