

Cheltenham Borough Council

Licensing Committee – 2 August 2017

Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place an object on the highway: Tables and chairs Suffolk Arms, 40 Suffolk Road, Cheltenham, GL50 2AQ

Report of the Licensing Officer

1. Executive Summary

1.1 EI Group PLC have made an application to place 4 tables and 8 chairs on the highway outside Suffolk Arms, 40 Suffolk Road, Cheltenham, GL50 2AQ.

1.2 It is intended that the tables and chairs be placed on the highway at the following times:

Monday	09:00 – 01:30
Tuesday	09:00 – 01:30
Wednesday	09:00 – 01:30
Thursday	09:00 – 01:30
Friday	09:00 – 02:30
Saturday	09:00 – 02:30
Sunday	09:00 – 00:30

1.3 In addition to the tables and chairs, the applicants have applied for permission to place 2 planters on the highway.

1.4 A location plan is attached at **Appendix A** and a plan showing how the objects will be placed on the highway, along with measurements, is attached at **Appendix B**.

1.5 The application does not comply with the council's policy on objects on the highway because the applicants have indicated that they do not intend to have barriers separating the furniture from the rest of the highway, which is a policy requirement.

1.6 The council's standard recommendation is that any objects on the highway should leave a minimum distance of 1.8m to allow for pedestrian access. In this case, according to the plan provided, the distance left between the tables and chairs and the kerbside is 1.55m and the distance between the planters and the kerbside is 0.8m.

1.7 **The Licensing Committee can:**

1.7.1 **Approve the application because Members are satisfied that the location is suitable, or**

1.7.2 **Refuse the application because it does not comply with the provisions of the policy.**

1.8 Summary of implications

Legal No right of appeal.

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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 it has been published on the council's website to assist applicants.

3. Policy Principles, Aims and Objectives

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

3.2 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.

4. Consultee Comments

- 4.1 During the consultation process the following comments were submitted by the council's Senior Enforcement & Compliance Officer:

No objection in principle subject to: i) no barriers , ii) no A board, and iii) the furniture being of high quality and design. There is little if no space for barriers, A board and the like on this section of pavement fronting the Suffolk Arms which is a Listed Building, the setting of which will be compromised by the proposal.

5. Licensing Comments

- 5.1 This report has been brought to Members' attention as prescribed in the scheme of delegation set out in the adopted policy, whereby all applications for objects on the highway which do not comply with the policy requirements are referred to the Licensing Committee for determination.
- 5.2 The applicants, EI Group PLC, have been sent a copy of this report and invited to attend the meeting.
- 5.3 Members will note that the application does not comply with the council's policy in as much as the applicants do not propose to use barriers, whereas the policy requires the following:
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.
- 5.4 Further to 5.3, Members will also note that the senior enforcement and compliance officer has specifically stated that, whilst he is not opposed to the application, barriers should not be used in this instance because of the limited space available. The question for Members is therefore whether there are sufficient grounds in this instance to depart from the policy by permitting tables and chairs without barriers.
- 5.5 The senior enforcement and compliance officer has also stated that there is insufficient space available in this location for an "A-board and the like". Members are advised that the applicants have not applied for permission for an A-board, but have asked for permission to place 2 planters outside the premises. Due to the limited space available, if the committee is so minded, they could approve the tables and chairs but with a condition that no additional items such as planters be used.
- 5.6 This application must be determined on individual merits taking into account the information received and in accordance with the Council's current adopted policy with respect to objects being placed on the highway.
- 5.7 Whilst the policy and officer recommendation should not fetter the committee's discretion, the committee should only depart from the policy where there are clear and defensible reasons for doing so.

6. Officer recommendation

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

Reason(s): The council's adopted policy includes a requirement that barriers will be used wherever tables and chairs are permitted on the highway. In this case no such barriers are proposed and a consultee, whilst not objecting, has given his opinion that there is insufficient space available for barriers. Consequently the application, if approved, would not comply with the council's policy. Furthermore the council's recommendation is that any objects on the highway should leave a minimum distance of 1.8m to allow for pedestrian access, which these objects do not.

Background Papers

Service Records

Case Officer

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