

Cheltenham Borough Council

Licensing Committee – 6 September 2017

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Stoyan Velev

Report of the Senior Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been made by Mr Stoyan Velev for street trading consent to sell hot spiral chips and sweetcorn from a catering cart measuring 1.2m in length (4 feet), 0.6m in width (2 feet) and 2m in height (6 feet).
- 1.2 Mr Velev has applied to trade on Collets Drive Cheltenham GL51 8JQ.
- 1.3 **Appendix 1** shows the location. Photographs of the unit are attached at **Appendix 2**.
- 1.4 The proposed trading times are:

Monday	None
Tuesday	None
Wednesday	None
Thursday	None
Friday	09:00 – 18:00
Saturday	09:00 – 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.

Contact officer: One Legal
E-mail: legalservices@tewkesbury.gov.uk
Tel no: 01684 272015

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 3**.

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 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 Gloucestershire County Council Area Highway Representative:

Objection to this application. The highway Authority would not wish the handcart to be placed in Collets Drive. The road is continually busy with traffic leading to the supermarket and the location could well lead to vehicles stopping to buy goods and causing obstruction to other road users.

5. Licensing Comments

- 5.1 Members are advised that an application from this applicant has previously been considered by the committee in respect of two different locations, but this application should be determined on its own merits.
- 5.2 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.
- 5.3 The proposed trading location falls outside of the current street trading policy's scope in that it is not located in the town centre. To this end, the committee should determine the application based on its individual merits taking in to account the assessment criteria (as stated above), the policy Principles, Aims & Objectives and the comments received in relation to this application.

- 5.4 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.
- 5.5 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.

Background Papers

Service Records

Case Officer

Contact officer: Andy Fox
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775204