

Cheltenham Borough Council

Licensing Sub-Committee – 4 October 2017

Highways Act 1980 Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place tables and chairs on the highway

**The Find, 20 Regent Street, Cheltenham, Gloucestershire,
GL50 1HE**

Report of the Licensing Officer

1. Summary and Recommendation

1.1 Mr David Orme has made an application to place 2 tables and 4 chairs on the highway outside The Find, 20 Regent Street, Cheltenham, Gloucestershire, GL50 1HE.

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

Monday	08:00 - 20:00
Tuesday	08:00 - 20:00
Wednesday	08:00 - 20:00
Thursday	08:00 - 20:00
Friday	08:00 - 22:00
Saturday	09:00 - 22:00
Sunday	10:00 - 22:00

1.3 A picture of the proposed furniture is attached at **Appendix A**, a site location plan at **Appendix B** and a hand-drawn plan to illustrate the measurements is attached at **Appendix C**.

1.4 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.

1.5 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 - and verified by officers - the distance left between the tables and chairs and the kerbside is 1.8m without the addition of barriers.

1.6 The sub-committee can:

1.6.1 Grant the consent because members are satisfied that there are sufficient grounds to depart from the policy in this instance, or

1.6.2 Refuse the consent because the application falls outside the provisions of the current Street Scene Policy.

1.7 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 extracts are included in the application pack that was given to the applicant.

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 no objections or comments were received

5. Licensing Comments

- 5.1 The sub-committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 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 (or relevant sub-committee) or for determination.
- 5.3 The applicant, Mr David Orme, have been sent a copy of this report and invited to attend the meeting
- 5.4 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
- 5.5 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: The council's adopted policy includes a requirement that barriers will be used wherever tables and chairs are permitted on the highway.

Background Papers

Service Records

Case Officer

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