

Cheltenham Borough Council

Licensing Sub-Committee – 3 January 2018

Local Government (Miscellaneous Provisions) Act 1982

Application to repeat street trading consent

Mr William Danter

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 An application has been made by Mr William Danter to repeat his street trading consent. The trading location is on the High Street at the location shown at **Appendix A**.
- 1.2 This location is identified in the council's current street trading policy as being suitable for street trading, with the appropriate types of trading being confectionery / cakes; buskers selling their merchandise; and traders offering sign-up services.
- 1.3 Mr Danter proposes to trade on the following days and at the following times:
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|---------------------|--|
| February half term: | Sat 10 Feb - Sun 18 Feb 2018 |
| Easter holidays: | Thurs 29 March - Sun 15 April 2018 |
| Whitsun: | Sat 26 May - Sun 3 June 2018 |
| Summer holidays: | Thurs 26 July - Sat 1 September 2018 |
| October half term: | Sat 20 - Sun 28 October 2018 |
| Christmas trading: | Fri 9 November 2017 - Sun 6 January 2019 |
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- | | |
|-----------|---------------|
| Monday | 09:30 - 18:00 |
| Tuesday | 09:30 - 18:00 |
| Wednesday | 09:30 - 18:00 |
| Thursday | 09:30 - 18:00 |
| Friday | 09:30 - 18:00 |
| Saturday | 09:30 - 18:00 |
| Sunday | 11:00 - 17:00 |
- 1.4 An image of the trading unit is attached at **Appendix B**. The unit measures 4.2m x 2.72m and trades in doughnuts and other hot and cold food and drinks.
- 1.5 Given that one of the principal products being sold is doughnuts, which falls within the normal definition of confectionery, the application is compliant with the council's policy.
- 1.6 Comments have been received from local businesses and others, and for this reason the application has been referred to the licensing sub-committee to be determined.
- 1.7 **The sub-committee can:**

1.7.1 Approve the application because it is compliant with the council's policy and Members are satisfied that the location, size of unit and type of goods are suitable;

1.7.2 Refuse the application because Members feel that the location, size of unit and / or type of goods are not suitable.

1.7.3 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. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for street trading 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.

2.1 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. In the town centre zone of control, several limited locations have been identified as suitable for street trading. No such restriction applies outside the town centre, where each application is determined on its own merits.

2.2 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 meters 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.

3. Consultee Comments

3.1 The following comments were received during the consultation period:

3.2 Gloucestershire Highways

Thank you for your enquiry regarding the Street Trading License.
We have no objection to the street trading license.

3.3 Cheltenham Business Improvement District (BID)

Cheltenham BID opposes the application for the Barrow Little Donut Stall in High Street.

A significant number of businesses in the immediate area sell similar products to the “Hot & Cold Food & Drink” being sold by the stall.

They pay business rates and the BID does not believe they should face competition from a stallholder who does not make the same contribution to the town.

The street trading licensing policy, approved in 2016, rightly identifies which type of stall are appropriate for which locations. It makes it clear that this location - High Street 4 in the policy - allows for the following permitted traders – confectionary/cakes, busking and sign-up services. Hot food/drink is allocated to other sites in the town centre.

This location is also inappropriate because this is an area of High Street that is due for improvement works in 2018. If the stall is given permission, where will it go when the works are on-going?

Also, this is not a short-term application. The request is for entitlement to trade for a total of more than 13 weeks – more than a quarter of the town’s annual shopping days. It covers some of the busiest times of year, including Christmas and the main school holidays. Our businesses trade throughout the year and should not be put at a disadvantage at a time of the year when more customers are in town.

For all the above reasons, the application should be refused.

3.4 Café / restaurant in nearby Pittville Street

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4. Licensing Comments

- 4.1 The proposed trading location is within the town centre zone of street trading control and is in one of the locations that has been identified as suitable for street traders, with the appropriate types of trading being confectionery / cakes; buskers selling their merchandise; and traders offering sign-up services. Whilst “confectionery” is not defined within the policy, the stall sells doughnuts as a principal product which would fall within the normal definition of confectionery (a baker’s confection) and so the application is compliant with the policy requirement for this location.
- 4.2 Members are advised that on occasion, when works are being carried out to the highway or shop frontages in the approved location, this trading unit moves a few metres to an alternative location in consultation with officers. If such a move were to be more significant – e.g. to a different street or on a permanent basis – a new application would be required which would involve a new consultation, thereby giving businesses and others the opportunity to comment on the new location.
- 4.3 Members are advised that while the unit does not trade continuously, Mr Danter has held consent for several years in this location. The licensing team does not have any recorded complaints.
- 4.4 The sub-committee must determine the application with a view to promoting the council’s adopted policy and Members should not deviate from the council’s policy unless there are clear and justifiable reasons to do so.
- 4.5 The overarching aims of Cheltenham Borough Council’s street trading policy are to:
- Prevent the obstruction of the streets by street trading activities;
 - *Sustain established shopkeepers in the town*; [emphasis added]
 - Maintain the quality of the townscape and add value to the town;
 - Encourage inward investment; and
 - Promote quality markets.
- 4.6 Members will note that the objections that have been received make reference to the impact of street trading on established shopkeepers in the town.
- 4.7 All applications should be determined on their individual merits taking into account the policy considerations and the comments made, whilst balancing the needs of the community with the legitimate aspirations of businesses.

Background Papers

Service Records

Adopted Street Trading Policy

Case Officer

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