

Cheltenham Borough Council

Licensing Sub-Committee – 6 June 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for Street Trading Consent

Mr Tee Smith

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 An application has been made by Mr Tee Smith for street trading consent in respect of two mobile ice cream vehicles.
- 1.2 The trading times relating to the application are as follows:

Every day
17:00-22:30
- 1.3 The vehicles are Mercedes Sprinters as pictured at **Appendix A**.
- 1.4 If street trading consent is approved, it will apply to the whole borough with the exception of certain locations that are prohibited in the council's adopted policy. These are listed at paragraph 2.2.
- 1.5 **The sub-committee can:**
 - 1.5.1 **Approve the application because Members are satisfied that the location, size of unit and type of goods are suitable;**
 - 1.5.2 **Refuse the application because Members consider the location, size of unit or goods being sold to be unsuitable.**

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. Policy Principles, Aims & Objectives

2.1 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.

2.2 Special conditions for mobile ice cream traders

1. Trading is prohibited in the following streets or parts of streets:

- a) High Street (from Sandford Park entrance to Townsend Street)
- b) Promenade (from High Street to Montpellier Walk)
- c) Clarence Street
- d) North Street
- e) Pittville Street
- f) Regent Street
- g) Rodney Road
- h) Winchcombe Street (from High Street to Warwick Place)
- i) Imperial Square
- j) Montpellier Walk
- k) Montpellier Street
- l) Warden Hill Road (within 100 meters of frontage to Bournside School), both sides of the road in any direction, during the period half an hour before school opening to 1 hour after closing during school terms).
- m) Loweswater Road (from the junction with Alma Road to the junction with Langdale Road during the above period and times).
- n) Evesham Road and roads adjacent to Pittville Park.

2. Trading is prohibited within 75 meters of the gates of all schools, except Bournside School (see Special Condition 1) on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms.

3. The consent holder shall comply with all traffic regulations, rules, orders and directions which apply to the public highways on which he trades.

4. The consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.

2.3 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 Responses

During the consultation process the following objection was received from a Cheltenham Borough Councillor:

I'm not happy and object to allowing these vans to attract potentially noisy crowds on residential streets at 10.30 on a Sunday night. I regard their intentions as irrelevant if we are being asked to license them for anywhere in town.

4. Licensing Comments

- 4.1 The applicant has provided the following additional information about the way he intends to trade:
- The vehicles' chimes are not used – instead, the vehicle uses social media to announce its arrival in a place.

- The intention is that the vehicles will arrange with local businesses such as supermarkets to use their car parks, rather than parking on the street.
- The applicant has a food registration certificate and has the appropriate level of public liability insurance.

4.2 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;
- Maintain the quality of the townscape and add value to the town;
- Encourage inward investment; and
- Promote quality markets.

4.3 Other considerations when deciding whether street trading is appropriate are:

- The needs of the area;
- The potential for public nuisance;
- Public safety;
- The appearance of the trading unit; and
- The impact on the environment.

4.4 Members are advised that any street trading consent, once granted, can be reviewed at any time if problems occur and are reported.

4.5 Members are further advised that conditions can be applied to street trading consents if they are proportionate and appropriate. These could include specifications about the locations in which trading is allowed.

4.6 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

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