

Cheltenham Borough Council

Licensing Committee – 2 January 2019

Local Government (Miscellaneous Provisions) Act 1982

Review of Street Trading Consent

Mr Mark Morris

Report of the Licensing Team Leader

1. Summary and recommendation

- 1.1 Mr Mark Morris was granted a 12 month renewal of his street trading consent in October 2018. On the 20th of November 2018 the council received a complaint that Mr Morris was exceeding his permitted pitch size. The complaint was accompanied by a picture showing the infringement.
- 1.2 In October, a number of the objectors to the renewal application referenced the perceived lack of enforcement by the council for breaches of the terms of the consent. Mr Morris responded to this by stating that he subsequently ensured the stall was within the permitted 12-18sqm the next day. He advised that he now measured the site to ensure it complied with these limits.
- 1.3 In light of the sensitivities around the trading location and in the interest of fairness and transparency, officers, in consultation with the chair and vice-chair of the Miscellaneous Licensing Sub-Committee, decided it would be appropriate to refer the matter to the sub-committee for consideration.
- 1.4 The accompanying background papers outline in further detail the complaint.
- 1.5 **The Committee can:**
 - 1.5.1 **Resolve to take no action in relation to the complaint;**
 - 1.5.2 **Issue Mr Morris with a written warning; or**
 - 1.5.3 **Revoke the consent.**

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.

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 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.

4. Licensing Comments

- 4.1 Street trading consents are issued subject to a location plan and conditions. In the case of Mr Morris' consent, his permitted trading location should not exceed the permitted 12 to 18 sqm with the proviso that the width does not exceed 3m (9.8ft). The 3m width restriction is to ensure that adequate and unobstructed space on both sides of the pitch is maintained.
- 4.2 A copy of the plan attached to the consent is attached at Appendix 1.
- 4.3 Members are reminded that this is not a review of the suitability of the trading location. The location has already been deemed suitable by the sub-committee in October. Members must therefore limit your consideration to the suitability of the trader to comply with the restrictions and terms of his consent.
- 4.4 For reference, there have been two previous occasions where Mr Morris was issued with a warning:
- 29/11/16 – Written warning for breaches on 5/11/16 and 26/11/16
 - 3/11/14 – Informal interview.
- 4.5 The previous written warning and interview notes have been included in the accompanying background paper.

Background Papers

Service Records

Case Officer

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 262626