

# Cheltenham Borough Council

## Licensing Committee – 5 June 2019

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a Street Trading Consent

**Mr Edward Danter**

#### Report of the Licensing Team Leader

#### 1. Summary and recommendation

- 1.1 We have received an application from Mr Edward Danter for a street trading consent to sell hot turkey rolls, pork rolls, German and Gloucester Old Spot sausages, hot and cold drinks from a hot food unit measuring 3.1m (10ft) x 2.1m (6.8ft).
- 1.2 Mr Danter has applied to trade outside 109 - 113 High Street. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Danter has applied to trade between 9 November and 31 December 2019 on the following days and times:

Monday	09:00 - 18:00
Tuesday	09:00 - 18:00
Wednesday	09:00 - 18:00
Thursday	09:00 - 21:00
Friday	09:00 - 18:00
Saturday	09:00 - 18:00
Sunday	11:00 - 17:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.

#### 1.5 The Committee can:

- 1.5.1 **Approved the application because Members are satisfied that the location is suitable for the trading proposed, or**
- 1.5.2 **Refuse the application because it does not comply with the provision of the Street Scene 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](mailto: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 the 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. Consultee Comments

- 4.1 A number of objections were received in relation to this application. These are attached at **Appendix 3** of this report.

#### 5. Licensing Comments

- 5.1 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.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above (“Permitted Locations”) and Members should take these into account when determining this application.
- 5.3 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.
- 5.4 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.
- 5.5 The Committee will note that the application submitted in relation to Mr Danter’s proposed 2019 trading has been altered from previous years in that the location is slightly different and the trading unit has been scaled down in size.
- 5.6 The Committee is to note that the trading location does not comply with the council’s trading policy in that the proposed location is not an approved location.
- 5.7 The Committee must also be aware of the fact that the next phase of the High Street East Masterplan work is due to commence in September that will affect the suitability of the location Mr Danter has applied to trade from. The Licensing Section has been advised that the public realm works will run into 2020.

A copy of the plan showing the areas affected by the public realm improvement works is attached at **Appendix 4**.

## 6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

**Reason(s):** The proposed trading location is not designated as an approved trading location by virtue of Appendix 1 of the trading policy.

Officers are also concerned that the proposed trading location will be impeded the High Street East Masterplan work.

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**Background Papers**

Service Records

**Case Officer**

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**