



# CHELTENHAM

## BOROUGH COUNCIL

### Street Trading Licensing Policy



#### All enquiries should be directed to:

Licensing Section  
Municipal Offices  
Promenade  
CHELTENHAM  
GL50 9SA

Tel: 01242 262626  
E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
Website: [www.cheltenham.gov.uk/licensing](http://www.cheltenham.gov.uk/licensing)

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## 1. Purpose of the Policy

This policy sets out Cheltenham Borough Council's ("the Council") framework and approach for the management of street trading in the borough.

Through the street trading scheme the Council aims to control:

1. the location of street traders;
2. the number of street traders; and

The scheme also aims to:

1. prevent unnecessary obstruction of the highway by street trading activities;
2. sustain established shopkeepers in the town;
3. maintain the quality of the townscape and add value to the town; and
4. encourage inward investment.

In doing so, the Council recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause public or statutory nuisance to the people in the area.

This policy will guide the Council when it considers applications for street trading consents ("consent"). It will inform applicants of the criteria against which applications will be considered.

## 2. Review of the Policy

It is the intention that this policy will be reviewed every 3 years or more frequently should it be deemed necessary.

Notwithstanding the policy review cycle, the Council will review street trading in the consent streets to identify any new street trading opportunities.

## 3. Legislation & Designation of Streets

The Council has resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ("Act") should apply in the borough. Under Schedule 4 of the Act the Council can regulate street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

The Council has designated the entire borough as consent streets. A 'consent street' is a street in which street trading can only take place if consent from the Council has first been obtained.

It is a criminal offence to engage in street trading in a consent street without consent.

There are currently no licence streets or prohibited streets within the borough.



## 4. The Licensing and Determination Process

This part of the policy sets out how the Council will deal with applications for consent in the borough.

Applications can be made for:

1. a “Fixed Pitch” (see “Permitted Locations” below);
2. a “Roaming Consent” (Borough wide consent when a schedule of stops/streets is included with the application i.e. ice cream vans etc.)

### 4.1 Permitted Locations

Consents are limited to the sites identified in **Annex 1**.

Sites can remain with the same person for a number of years. In the event of the consent being revoked, surrendered or if it lapses without being renewed, the Council will accept new applications for the vacant site. This might be at any time of the year.

If more than one application is received for any new or vacant pitch, the applications will be referred to the Council’s licensing committee to consider the applications. The applications will be assessed against the Council’s “criteria for assessment”.

### 4.2 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 established retailers 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 using 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 where the unit fully, or substantially, blocks

lines of sight to established retailers in the vicinity. Any street trading operation which negatively impacts public access by walking, cycling or public transport will not be encouraged.

- **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 and recycling, waste disposal and waste created by customers.

Note: The Council actively discourages the deployment of single-use plastics associated with street trading activities. The Council will encourage the use of sustainable products and will consider the trader's environmental credentials in respect of these when considering whether or not to approve applications.

## 5. Renewals

Consents are issued for a period of up to one year.

Consent holders should re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent. As a matter of convenience, the Council will send renewal reminders to consent holders. However, the Council is clear that it remains the consent holder's responsibility to ensure that their consent is renewed in time.

If, without reasonable excuse, a renewal application is not made before the expiry of the current consent it will expire and the pitch will become available. A new application must be submitted in accordance with the procedure set out above ("Application for Consent – Permitted Locations").

The Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

Where a renewal application has been made and:

1. there have been no significant complaints or enforcement issues;
2. all fees have been paid on time; and
3. there has been no significant change to the retail environment in the vicinity of the trading location

the consent will normally be renewed.

## 6. Transfers

An issued consent cannot be transferred or sold to another person. The sub-letting of a pitch is prohibited.

## 8. Special Events

The Council recognises that there may be times when consent may be sought otherwise than in accordance with the policy for special one-off events.



These may include, for example, one-off charitable or promotional events.

Applications of this type will be determined on a case-to-case basis taking into account the assessment criteria set out above.

## **9. Conditions**

Consents are issued subject to the Council's standard conditions. See **Annex 2** for the Council's standard conditions.

In addition, the Council can impose additional conditions where it is deemed appropriate.

## **10. Enforcement**

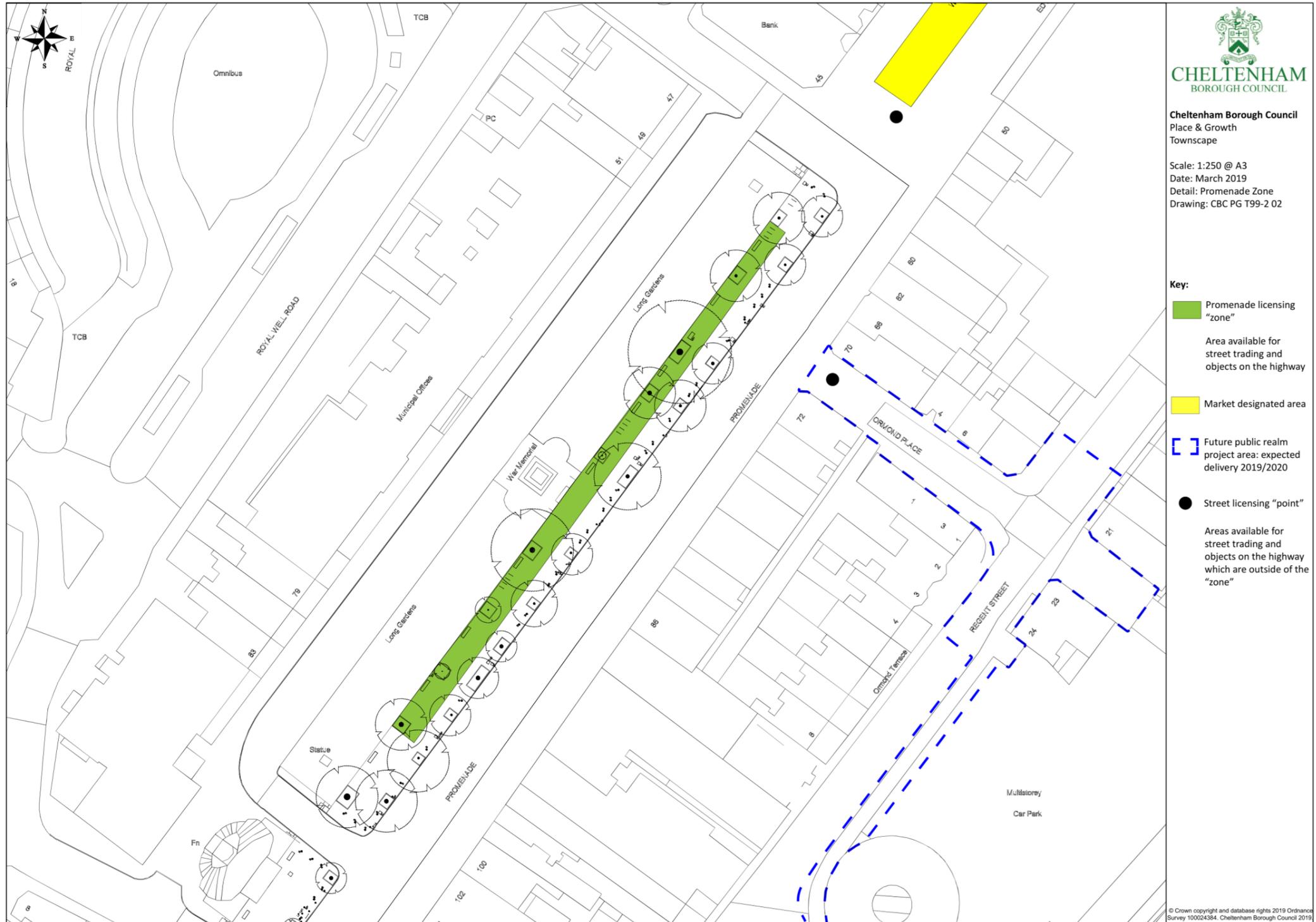
The Council has a responsibility to regulate street trading in the borough and is therefore committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies.

All enforcement action will be undertaken in accordance with the Council's adopted enforcement policy.



Annex 1 (Should be read in conjunction with the attached maps)

CBC PG T99-2 02 Promenade Zone



### CBC PG T99-2 03 High Street Zone





## **Annex 2 – Standard Conditions**

### **1. Definitions**

- 1.1 Consent means this Street Trading Consent issued pursuant to Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 Consent Holder means the person named in this Consent and for the purpose of enforcing these conditions includes any other person engaged by them to assist in trading (including any Nominated Assistant(s) named in this Consent).
- 1.3 Council means Cheltenham Borough Council.
- 1.4 Site means the site identified in this Consent.
- 1.5 Unit means the unit described in this Consent.

### **2. Obligations on the Consent holder**

- 2.1 Not to use the Site for any purpose other than that of the operation of the Unit.
- 2.2 Not to trade or operate the Unit in such a way as to cause obstruction of the street or danger or annoyance to persons using the street.
- 2.3 To adequately manage the street trading activity so as not to cause a statutory or public nuisance (from noise, fumes and odour, for example).
- 2.4 To ensure that the Unit is securely erected, is of such material and design, and so constructed and maintained that it is not liable to cause injury to any person present on the Site or otherwise.
- 2.5 To pay to the Council the cost of making good any damage which may be caused to the Site in consequence of the Consent Holder's operations thereon.
- 2.6 To keep the Site in a clean and tidy condition and to pay to the Council the cost of carrying out any works, including cleansing of the highway, that is required due to the Consent Holder's use of the Site.
- 2.7 The Consent Holder will be responsible for cleansing of the Site and ensuring that all refuse arising as a result of the activities of the Consent Holder shall be placed in suitable covered containers provided by the Consent Holder, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and disposed of in an approved manner on a daily basis.
- 2.8 To observe all statutory and other provisions and regulations for the time being in force which relate to the Consent Holder's use of the Site.

- 2.9 So far as is reasonable to ensure that patrons or customers of the Consent Holder conduct themselves in an orderly manner.
  - 2.10 To ensure that the use and storage of liquefied petroleum gas complies with any relevant codes of practice.
  - 2.11 The Consent Holder shall ensure that liquefied petroleum gas is not used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.
  - 2.12 The Consent Holder shall ensure that goods may not be of an inflammable, corrosive or otherwise dangerous nature.
  - 2.13 The Consent Holder shall ensure that no mobile generators are used without the express permission of the Council. Where permission is granted generators shall be so positioned that they do not present a danger to the public, do not present a fire or similar hazard to the stall, goods displayed thereon, or adjoining premises and do not cause any contamination, noise or fume nuisance.
  - 2.14 The Consent Holder shall ensure that a competent person installs all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
  - 2.15 The Consent Holder shall ensure that no combustible materials are to be stored in the vicinity of a generator and suitable first aid fire fighting appliance(s) must be immediately available.
  - 2.16 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
  - 2.17 All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
  - 2.18 All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported.
  - 2.19 All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
  - 2.20 To ensure that the dimensions and appearance of the Unit at all times accord with the details agreed by the Council upon the issue of this Consent.
  - 2.21 To maintain the Unit in a clean and tidy condition.
  - 2.22 To indemnify the Council from all claims, damages and costs in respect of all spillages, accidents, damage and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act, neglect or default of the Consent Holder, his
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servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000.

- 2.23 At all times while trading to display in a conspicuous position on the Unit the street trading permit issued by the Council.
- 2.24 To forthwith inform the Council in writing of the details of any change in the operation or staffing of the Unit (including changes in details of Nominated Assistants) or the sale or transfer of the Consent Holder's business to another party.
- 2.25 The Consent Holder(s) shall notify the Council's Licensing Section within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
- 2.26 The Council may revoke or suspend this Consent at any time in the event of:
- The breach by the Consent Holder, their servants or agents (included Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the Council; or
  - Work being carried out in, under or over the highway on which the Unit is located; or
  - A change in Council Policy which necessitates termination of this Consent; or
  - Circumstances outside the Council's control which necessitate termination of this Consent forthwith.
- 2.27 The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.



## **SPECIAL CONDITIONS FOR MOBILE ICE CREAM TRADERS**

Trading 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 prohibited within 75 metres of the gates of all schools, except Bournside School (see Special Condition l) 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 not, without the prior permission of the Council, trade in any particular location for more than 30 minutes at any one time and shall not return to that particular location, or any position in the immediate vicinity thereof (which expression shall be as interpreted by the Council), within 2 hours of leaving it.

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

5. 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.

