

Cheltenham Borough Council

Director of Environment

Business and Planning Act 2020

Application for Pavement Licence

**Aquavitae 10 Ormond Place Cheltenham
Gloucestershire GL50 1JD
21/00388/TCAC**

Report of Licensing Officer Ms Freya Gill

1. Summary and Recommendation

1.1 An application has been received from Mr Paul Stephens in respect of Aquavitae, 10 Ormond Place Cheltenham Gloucestershire GL50 1JD. The applicant wishes to place 17 picnic benches, 6 chairs and 3 tables on the highway outside 10 Ormond Place.

1.2 Details of the application is as follows:

Number of tables: **17 picnic benches,
6 tables** Number of chairs: **12 chairs**

Dates & times applied for:

Monday:	N/A	Friday:	19:30 - 05:00
Tuesday:	N/A	Saturday:	19:30 - 05:00
Wednesday:	N/A	Sunday:	02/05/21 and 30/05/21 only 19:30 - 05:00
Thursday:	N/A		

1.3 A number of objections have been received in relation to this application.

1.4 A picture of the proposed structure(s) is attached at **Appendix A** and a location plan at **Appendix B**.

1.5 The Director of Environment, in consultation with the vice-chair of the Licensing Committee is recommended to:

1.5.1 Grant the pavement licence as revised.

1.6 Summary of implications

An applicant’s right of appeal is to the Miscellaneous Licensing Sub-committee.

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2. Background & National Guidance

- 2.1 The Business and Planning Act 2020 allows additional outdoor space to be lawfully licensed and used by premises through a system of Pavement Licences.
- 2.2 The Act introduces a ‘streamlined’ application process which will enable the operators of pubs, cafes and restaurants to apply for a Pavement Licence. A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.
- 2.3 A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.
- 2.4 In addition to locally adopted conditions, pavement licences are subject to two national conditions; a no-obstruction condition and a no smoking condition.
- 2.5 The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:
 - a) Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway,
 - b) any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;
 - c) any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs;

- d) so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

3. Determination

- 3.1 Council resolved to delegate authority to the Director of Environment, in consultation with the vice-chair of the Licensing Committee, to determine contentious applications under the Business & Planning Act 2020.

4. Consultee Comments & revised application

- 4.1 Two representations were received in relation to this application. These are listed in **Appendix C**. Concerns were raised in relation to access to Regent Arcade, the cleaning of the area, the end date of the permission, and the terminal hour.
- 4.2 In response, the applicant and Regent Arcade have negotiated and agreed on a revised application to limit the licence duration to 3 months, with a terminal hour of 03:30 each day. Two additional conditions have been proposed:
- 1. Where access (clear and straight route of 2 metres wide from the shopping centre to Regent Street) is required by the Regent Arcade between 19:30 and 22:00, Regent Arcade will give the licence holder a minimum 24 hours' notice and the licence holder will take reasonable steps to comply with the request.*
 - 2. After the close of business each day, the area will be thoroughly cleaned by the licence holder.*
- 4.3 The police licensing officer has agreed to the 03:30 terminal hour.
- 4.4 Officers are of the view that the above revisions and conditions satisfy the objections raised by the objectors and as such the objections are therefore discharged.
- 4.5 The Director of Environment, in consultation with the vice-chair of the Licensing Committee, is asked to endorse the revised application and approve the imposition of the two additional conditions referred to above.
- 4.6 Comments relating to glassware are not relevant to this application and should not be considered as part of this application.

5. Officer recommendation

- 5.1 The officer recommendation is that this application, as revised, be granted subject to the locally set conditions plus the two additional conditions.

Reason(s):

1. All the parties involved have reached agreement on a common compromise as outlined in the report and confirmed below.
2. The current terminal hour for alcohol sales at the premises, under the premises licence, is 03:00; the revised terminal hour for this permission of 03:30 provides drinking up time and orderly dispersal from the premises.
3. A pavement licence grant is subject to a minimum of 3 months duration, as detailed in section 4(2) of the 2020 Act. After this time, the applicant will have to apply for a new pavement licence which will include a new consultation.

Background Papers

Service Records

Case Officer

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