

Cheltenham Borough Council

Licensing Committee – 05th October 2022

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Maximilian Ilau

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Maximilian Ilau for a street trading consent to sell beef burgers, chicken burgers, chicken wings, loaded chips and soft drinks from a Mercedes Sprinter LWB measuring 7345cm x 1993cm.
- 1.2 Mr Ilau has applied to trade on the pedestrian area of the Promenade, Cheltenham. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr Ilau has applied for an annual consent on the following days and times:

Monday	12:00 - 20:00
Tuesday	12:00 - 20:00
Wednesday	12:00 - 20:00
Thursday	12:00 - 20:00
Friday	12:00 - 20:00
Saturday	12:00 - 20:00
Sunday	12:00 - 20:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 This application is referred to the Licensing Committee because:
- 1.5.1 The application has received 8 objections and does not comply with the policy provisions for the town centre; and
- 1.5.2 All new street trading applications are referred to the Licensing Committee for determination.
- 1.6 The Committee can:**
- 1.6.1 Approve the application because Members are satisfied that the location is suitable,**
- 1.6.2 Approve the application because Members are satisfied that the location is suitable with added conditions set by Members, or**
- 1.6.3 Refuse the application because it does not comply with the provision of the Street Trading Policy.**

1.7 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. Background

2.1 The current street trading policy was adopted by Council on 11 February 2020. 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. Purpose of the Policy

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

3.2 Through the street trading scheme the authority aims to control:

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

3.3. 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.

3.4 In doing so, the authority 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.

3.5 This policy will guide the authority when it considers applications for street trading consents. It will inform applicants of the criteria against which applications will be considered.

Assessment Criteria

3.6 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 authority to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The authority 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.

The authority would expect a minimum of 6 feet (1.8m) of unobstructed highway/walkway on at least one side of the proposed trading unit/location.

- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street and street scene 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 authority 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 generally be accepted.

- **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.

The authority 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. The authority will expect applicants to submit environmental statements setting out how the applicant will operate in an environmentally sustainable way.

4. Consultee Comments

- 4.1 Eight objections have been 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 In coming to a determination, the committee must also take into consideration the representations received. For this application, eight objections were received as outlined at **Appendix 3** of this report.

Background Papers

Service Records

Case Officer

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