

Cheltenham Borough Council

Licensing Sub - Committee – 8th November 2023

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Case Number: 23/01467/STA

Mr Matthew McGinn

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Matthew McGinn for a street trading consent to sell Takeaway snacks, hot and cold drinks from a Converted horse box measuring 4.27m L x 2.04m W.
- 1.2 Mr McGinn has applied to trade on Imperial Square, Cheltenham. **Appendix 1** shows the location of the proposed trading pitch.
- 1.3 Mr McGinn has applied for an annual consent on the following days and times:-

Monday	06:30 - 17:30
Tuesday	06:30 - 17:30
Wednesday	06:30 - 17:30
Thursday	06:30 - 17:30
Friday	06:30 - 17:30
Saturday	07:30 - 17:30
Sunday	09:00 - 16:00

- 1.4 An image of the trading unit, along with other supporting information is shown at **Appendix 2**.
- 1.5 **The Committee may:-**
- 1.5.1 **Approve the application because Members are satisfied that the location is suitable and that there is sufficient mitigation in place to ensure that key principles in the policy are still properly promoted, or**
- 1.5.2 **Refuse the application because it does not comply with the provision of the Street Trading Policy and/ or due to the objections raised against the application.**

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.

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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 One objection has been received at Appendix 3.
- 4.2 Health and Safety commented that – the LPG location and some of the signage have been addressed – no objection. There are no further objections

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 and locations. Permitted Locations are discussed in the policy 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 cogent reasons should be given for decisions made by the committee particularly where the decision is contrary to adopted policy and/ or where are relevant objections.

5.5 Members should consider the relevance of the representation received in general terms and particularly in relation to the council's policy. They must then determine what weight they wish to attach to it on the basis of any evidence presented and/ or argument put forward. If they believe that the objection might materially influence their decision to refuse the application, they should consider whether conditions could be attached to a consent that might sufficiently mitigate those concerns.

6. Officer recommendation

6.1 There is no officer recommendation for this item. It will be for Members to consider the application and objection to it.

Reason(s): This application complies with council policy, but there is an objection to be considered fully. It would seem inappropriate in this case to make a recommendation that might fetter the discretion of the Sub - Committee

Background Papers

Service Records

Case Officer

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