

Cheltenham Borough Council

Licensing Committee – 7th March 2024

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

Mr Ali Selcuk

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Ali Selcuk for a street trading consent to sell kebabs, burgers and chips from a Trailer measuring 10ft x 6ft x 6.6ft.
- 1.2 Mr Selcuk has applied to trade at Tommy Taylors Lane, Cheltenham. **Appendix 1.1 and Appendix 1.2** shows the location of the proposed trading pitch.
- 1.3 Mr Selcuk has applied for an annual consent on the following days and times:

Monday	17:00 - 23:00
Tuesday	17:00 - 23:00
Wednesday	17:00 - 23:00
Thursday	17:00 - 23:00
Friday	17:00 - 23:00
Saturday	17:00 - 23:00
Sunday	17:00 - 23:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 **The Committee may:-**
- 1.5.1 **Approve the application because Members are satisfied that the location is suitable, or**
- 1.5.2 **Refuse the application because it does not comply with the provision of the Street Trading Policy and/ or they are not satisfied the location is suitable on the basis of objections received.**

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
Tel no: 01684 272015

2. Background

2.1 The current street trading policy was adopted by Council on 11 February 2020. A copy of the policy is available at https://www.cheltenham.gov.uk/downloads/file/7332/street_trading_policy_-_revised_and_amended.

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 Summary of objection and comments provided in **Appendix 3**
- 4.2 Applicants reply to comments from Health and Safety and Trees departments in **Appendix 4**
- 4.3 GCC Streetworks, LI- GCC Highways / Amey, Planning Enforcement, Townscape CBC, Ubico and - No objections received.

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 Members should also consider the potential impact of this van being sited at this location, when the March race meeting takes place. This is because of the likely heavy footfall of persons in the area,

and the Committee may feel additional conditions are necessary at that time, for example security staff, if they were to grant the application.

- 5.5 In coming to a determination, the committee must take into consideration the representations received. The objections received are attached at **Appendix 3**.

6. Officer recommendation

- 6.1 The officer recommendation is that this application be refused, although Members are asked to consider this application on its merits, and in light of the objections received.

Reason(s): Objections have been received relating to public nuisance and public safety, with concerns relating to odour nuisance, air quality, sanitation and waste disposal.

Background Papers

Service Records

Case Officer

Contact officer: Mr Jake Johnstone
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200