

Cheltenham Borough Council

Licensing Sub - Committee – Miscellaneous

Local Government (Miscellaneous Provisions) Act 1982

Application for a Street Trading Consent

**Bambas Shaouna T/A Mr Whippy - 24/00920/STA, 24/00919/STA,
24/00906/STA, and 24/00905/STA**

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 The authority has received four applications from Mr Bambas Shaouna for street trading consent to sell ice creams from four Ice Cream Vans.
- 1.2 Mr Shaouna has applied to trade in all permitted areas of the borough.
- 1.3 Mr Shaouna has applied for consent on the following days and times:

Monday	12:00 - 19:00
Tuesday	12:00 - 19:00
Wednesday	12:00 - 19:00
Thursday	12:00 - 19:00
Friday	12:00 - 19:00
Saturday	12:00 - 19:00
Sunday	12:00 - 19:00

- 1.4 Images of the trading units are shown in **Appendix 1**.

1.5 The Committee can:-

- 1.5.1 **Approve the application because Members are satisfied that the location is suitable and that it complies with policy, or**
- 1.5.2 **Refuse the application because it does not comply with the provisions 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.

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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 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, along with any other matters considered reasonably relevant:-

- **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 Environmental Protection replied during consultation to advise of noise complaints received in relation to this operation in September 2023, as well as a second noise complaint in June 2024, stating that this demonstrates a lack of noise control especially when considering that the majority of the time between these complaints was off-season for the operator. Whilst the Environmental Health officer has not raised this as an objection to the application they do want to raise concerns they have regarding this operator.
- 4.2 Further comments were received from a second Environmental Health officer concerning air quality, and these are raised as an objection. They also suggest condition that could be attached to the grant of a consent, should the sub – committee be minded to grant.
- 4.3 It should also be noted that the Licensing enforcement team have received complaints during consultation from members of the public concerning three separate vehicles specified in these applications. As the consultation was ongoing none of these vehicles had street trading consent at the time that these complaints were received. These issues are outlined in an officer's report - **Appendix 2 and Appendix 2.1**. These complaints raise concerns regarding the apparent trading without consent and potential compliance with conditions if a consent was to be granted. Members would need to be assured that such complaints do not highlight potential for conditions to be disregarded, if a consent is to be granted.

5. Licensing Comments

- 5.1 The Sub - 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.

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- 5.2 The policy takes into account a number of factors when determining the permitted trading types. In addition the policy discusses the notion of “Permitted Locations” and Members should take these into account when determining an application, where appropriate.
- 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.

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 and any representations from the applicant.

Reason(s): Objection received relating to public safety, with concerns relating to air quality and children’s health. In addition, there are concerns raised about the apparent/ alleged failure to comply with advice and to trade without a consent.

Background Papers

Service Records

Case Officer

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