

Appendix 3 - Consultee Feedback

Clive Hodges (Chair of Charlton Kings Parish Council Environment Committee)

General

Charlton Kings Parish Council is broadly supportive of the proposed measures and the underlying philosophy that underpins the policy. It does however believe that the policy document itself is overly long and that the pagination scheme and its division into appendices and sections makes it difficult to navigate and open to confusion.

Specific Comments

The covering letter is numbered one but the following page is numbered Page 40 at the top and 2 at the bottom. The potential for confusion is increased by the fact that the document is Appendix 3 – presumably of some other document that is not subject to consultation – and that it also contains a series of appendices that are lettered.

Part 1 - 2.1(e) We are surprised at the requirement to have public liability cover of not less than £5m – this could put off many small charities and traders. Is it not possible to set a level that is commensurate with the assessed risk that the activity poses – it is hard to imagine that an accident caused by legally positioned A board could result in a claim for £5m.

Part 2 The amount of supporting paperwork that a charity is required to submit with its initial application seems excessive especially as the majority of the information is available on the Charities Commission web site and is easily located by use of the charity's registered number. Surely we should be reducing the amount of paper we produce! You should also note that charities with an annual income of less than £25,000 – very often the local charities whose fund raising you seek to encourage are not required to have their accounts externally audited.

Part 2 Para 3.7 We believe that this paragraph needs to be reworded to include those charities such as Guide Dogs etc

Part 3 Para 3.3(d) This measure would seem to seriously disadvantage businesses that are not situated on main thoroughfares. Some indication of the presence of a business in side road should surely be permissible.

Appendix 3 - Consultee Feedback

Mark Nelson (Enforcement Manager)

1. The comments relate to Part 3 of the Consultation - Objects on the Highway, and in particular to Advertising boards and advertising on canvas barriers enclosing table and chairs of street cafes.
2. The draft policy fails to mention the statutory provisions of the Town & Country Planning Act 1990, as amended, and the specific advertisement control system in England consisting of rules made by the Secretary of State, which is part of the planning control system. These rules are contained in the Town and Country Planning (Control of Advertisements) Regulations 2007 which has been in force since 6 April 2007.
3. An "A" board is an advertisement for the purposes of the Town and Country Planning Act 1990, and the Town and Country Planning (Control of Advertisements) Regulations 2007, and requires express consent of the Council. Therefore the legal position is that any person who wishes to place an "A" board on the highway must obtain advertisement consent from the Council acting in its capacity as the planning authority for the borough.
4. The local planning authority (LPA) is required to exercise its powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors. The definition of "amenity" in regulation 2(1) includes both visual and aural amenity.
"Public safety" is not confined to road safety. Crime prevention and detection are relevant; obstruction of highway surveillance cameras, speed cameras and security cameras by advertisements is also included.
5. All advertisements require consent from the LPA before they can be lawfully displayed. Any person who displays an advertisement in contravention of the Regulations is guilty of an offence under section 224(3) of the 1990 Act and liable to a fine on conviction.
6. The LPA may decline to determine an application if it does not include confirmation that:
the owners of the site and any other person with an interest in the site have agreed to the application; and where the site is on highway land, that the application is acceptable to the highway authority. And, in any event, in an Area of Special Control the LPA may decline to determine an application if it does not fall within any of the categories specified in regulation 21(1).
7. Whilst Conservation Areas are mentioned in the draft policy, there is no mention of Areas of Special Control for the display of advertisements. At paragraph 3.4 the policy states that "the Council will adopt a more restrictive approach to applications for these areas in particular." However, it does not expand upon what this more restrictive response entails and whether or not it includes consultation with Planning Enforcement & Compliance. (See also 11)
8. For a number of years areas of the borough have been formally designated as Areas of Special Control for the display of advertisements by the Secretary of State. An Area of Special Control of Advertisements is an area specifically defined by the planning authority because the LPA consider that its scenic, historical, architectural or cultural features are so significant that a stricter degree of advertisement control is justified in order to conserve visual amenity within that area.
9. In any Area of Special Control of Advertisements the only categories of advertising that are permitted are:
 - public notices
 - advertisements inside a building
 - advertisements for which there is deemed consent.-

Appendix 3 - Consultee Feedback

Additionally, the LPA may give their specific consent in an Area of Special Control for:

- notices about local events or activities;
- advance signs or directional signs which are 'reasonably required' in order to direct people to the place identified by the sign;
- an advertisement required for public safety reasons.

The main consequence for advertisements which can be displayed with deemed consent in an Area of Special Control is that there are stricter limits on permitted height and size of the advertisement than elsewhere.

A Boards are not permitted in an Area of Special Control and the LPA are not empowered to grant consent for them in such Areas.

10. The draft policy should therefore include reference and powers of delegation also to the Planning Committee and / or Built Environment enforcement and compliance officers. Whilst it is recognised that one of the reasons for the policy is to avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies, this should not be at the expense of overlooking the long established advertisement control system under Planning legislation.
11. With regard to consultation, 2-2-1 of the policy states that the Council may consult with '*any or all of the following organisations or persons*' – the list referred to include Built Environment. Does this mean that Built Environment may not be consulted? There needs to be a formal approach to consultation which should include Built Environment on all occasions (in particular Built Environment Enforcement)
12. With the Localism Act coming into force LPAs now also have additional powers to remove and dispose of any structure which in their view is used for the unauthorised display of advertisements and recover the costs in doing so.
13. It should be noted that signs attached to private property (such as railings outside a firm that clearly belong to the firm) and on private frontages/forecourts are already dealt with under planning enforcement powers.
14. The new Enforcement Team of the Built Environment Division is well place to deal with such contraventions in terms of Planning Legislation, especially within Areas of Special Control.
15. Further member consultation is required with Built Environment Officers before this policy is formalised.

Appendix 3 - Consultee Feedback

Neals Yard Remedies Cheltenham

We are writing in response to your letter dated the 11th of June this year. We are a business trading in Montpellier and in these difficult economic times very much appreciate all the help that the council can give us.

One of the major ways that business can be facilitated is when licenses and restrictions are lifted to enable companies to promote their businesses to the general public. We find that A Boards and black boards work very well on the pavements. They let passers by know what is happening in the various shops, they act as street furniture and they are big enough to not be a hidden risk on health and safety grounds. Customers enjoy the information and often entertainment that these types of signs offer because they are not fixed to walls and so can change with the different things that are happening in the area. For example we often have a black board outside telling people about available treatments in our therapy rooms or workshops that we are holding.

We as businesses have to be responsive and extra welcoming in the current climate, we are thinking of every way possible to make our area an exciting, friendly and accessible place to come and shop and we need the council to support us in our attempts to survive the recession. Since the parking charges were implemented in Montpellier our footfall has plummeted, we need a council which show imagination, flexibility and the ability to see the big picture and support initiatives that come from the ground and not stifle them with red tape and petty regulation.

We appreciate your desire to consult with us on this issue and hope you take our views into consideration.

Appendix 3 - Consultee Feedback

Chris Copner (Soho Coffee)

1. I can see no mention of charges for the various licences under consultation. In previous years I have been driven to question the basis of charges for the licence we maintain for our store at 2 Cambray Place. Currently we pay £2,838 for 9 tables and 33 chairs which is disproportionate to charges levied by other local authorities providing similar licences where we operate. There needs to be a fair and transparent charging mechanism for these licences in Cheltenham and this needs to take account of the business rates contribution already being paid by the licensee for the host premises.
2. The Licence granted is for use of space for a maximum of 10.5 hours per day. At all other times the pavement reverts back to normal pedestrian use. It is reasonable for the Council to undertake standard cleaning responsibilities rather than default these to the licensee. At Cambray Place there is significant overnight activity which results in all manner of residue being left. Some of this such as chewing gum requires specialist street cleaning equipment to remove and it would not be possible for a licensee to be suitably equipped – nor in these circumstances a reasonable expectation for them to assume responsibility.
3. There is no mention of fees for provision of licences for A Boards. We would expect that an A Board incorporated in a licensed area should not be subject to a separate or additional fee.

Appendix 3 - Consultee Feedback

Phillip Goode (Vinyl Vault)

Further to your letter dated 30/05/2012 we would like to make the following comment:

Having had an A-board licence for a few years we are concerned that the old criteria of having a shop in a basement off the high street seem to have been discarded. It is essential for our business that our A-board remains in it's present position – putting it on the pavement outside the shop, which appears to be the new plan, would serve no purpose.

As we are one of the few businesses which have complied with your licensing laws please consider this point in any future plans.

Prestbury Parish Council

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June 13th 2012

Louis Krog
Licensing & Business Support Team Leader
Public Protection
Cheltenham Borough Council
Municipal offices
Promenade
Cheltenham
GL50 9SA

Dear Mr Krog

Re. Consultation on Draft Policy Measures to Control Street Scene Activities in Cheltenham

I am writing to thank you for the opportunity to review the Draft Policy Measures to Control Street Scene Activities in Cheltenham. Prestbury Parish Council has reviewed the draft document and has no queries or contributions to make to what is a clear and comprehensive document.

Best wishes

Amanda C. Wragg

Amanda Wragg
Clerk to the Council

Appendix 3 - Consultee Feedback

Mr Will Capstick

2nd August 2012

Dear Sir / Madam,

I am writing this letter in reply to one I received dated 30th May 2012 regarding the 'Consultation on draft policy on measures to control street scene activities in Cheltenham – Street trading, objects on the highway and charitable collections'.

I currently hold street trading consent for 2 ice cream vans and as the only ice cream van firm based in Cheltenham I would like to put across my views on several of the current policies.

I'd like to start with the restrictions surrounding Pittville Park. I have been operating my ice cream vans for 16 years and used to have a regular position around the park. Several years ago the council enforced a policy banning ice cream vans from being near the park. As well as effecting my business this also enraged members of the public who enjoyed me being there at the park. I started a petition which received many signatures, and appeared in the press along with members of the community showing their support. I failed to overturn the policy and received little explanation.

On Wednesday August 1st 2012 I was invited to attend the National Play Day in Pittville park and I parked up by the Pump rooms looking out over the park. This was a very successful day and I had many comments saying how good it was to see me back in the park. I also had comments from others saying how convenient it was to have some refreshments available at that end of the park, as the kiosk is positioned too far away from the play area so on hot days it is a struggle to cool down without drinks or cold treats. Earlier in the year I visited the Pump rooms and enquired whether it would be possible to place my van within their car park and serve people in the park. They thought this was a great idea but unfortunately this wasn't their decision and suggested I contacted the Parks department of the council. I did this and my email got sent on to different departments however I didn't ever get a reply.

I realise there is a kiosk based in the park and they pay a fee to be there, but it is a large park and not everyone knows where the kiosk is. I would be happy to pay an extra fee on top of the fee I currently pay for my licenses to the council if I was to be granted a position within the park or around its perimeter.

My second point concerns the possibility of positioning an ice cream van within Cheltenham High Street. I have recently noticed many towns allow ice cream vans within their pedestrianised areas during the summer months and I think it would be great if Cheltenham can do the same. I recently visited Nuneaton and there are half a dozen vans doing business around their High Street grid. I spoke to the owner and he said they arrive before the shops open so there are very few pedestrians and they leave after the shops close, again avoiding members of the public.

Appendix 3 - Consultee Feedback

On page 3 of the councils 'Policy for town centre activities' document it states that street trading can be permitted assuming we serve

'Ready-to-eat foods for consumption on-street, provided that it is festive'

After reading the documents I can positively say an ice cream van satisfies all criteria as it would not require tables and chairs or an A-board and it can be very easily removed. To quote the document again (page 2, paragraph 3)

'Additionally, the sale of ready-to-eat 'treat' foods which are synonymous with holiday periods would be acceptable. For example, ice-creams during the summer months.....'

I also do not see how it would take business away from any other traders, especially as the council allow to have a burger/hot dog van operate only a few metres away from Burger King over the Christmas months. Again we would be happy to meet any extra fees required.

My third point is in relation to 'Special conditions for mobile ice cream traders'. Point number 2 is a very clear and obvious term relating to ice cream vans parking 75 metres away from schools. Whilst as I believe this is a very sensible rule, it is very restricting as this is not practical at all schools. There are several schools I visit that are more than happy to have an ice cream van visit at home time. Schools including Airthrie and Greatfield school I visit regularly and I can honestly say I serve approximately 90% of their pupils and parents (as well as some teachers) and have never received any complaints. Airthrie school let me park on their drive but as there is only room for 2-3 vehicles this is not always possible. The headteacher is more than happy for me to park directly outside the school but due to this rule I have to park 75 metres away causing the children to walk further from the school and some times cross the road, therefore making the situation more dangerous. At Greatfield school I used to park near the school in the car park on the same side as the school. The parents and children left the school and come to the van without having to cross any roads or the car park. Now I park 75 metres away it means they do need to cross the road as well as cross the car park, which is obviously busier now as parents in their cars are still arriving and leaving the car park. The ice cream van itself adds no extra danger as I arrive early before the children depart from the school and I leave after all the parents and children have left so I am stationary the whole time.

All I ask is that you keep this policy in place but add an extra condition that ice cream vans can park closer with the permission of the school.

I would like to finish by thanking you for your time and for inviting Cheltenham traders to have their say on council policies that effect their livelihoods. I do not have to tell you how difficult it is to earn a living in the current economic climate so any help the council can offer to small, local business such as mine is greatly appreciated.

I eagerly await your reply.

Yours faithfully,



Will Capstick & Bambas Shaouna
Mr Whippy Cheltenham

Consent numbers 12/00733/STA & 12/00629/STA