

Cheltenham Borough Council

Licensing Committee – 7 June 2013

Local Government (Miscellaneous Provisions) Act 1982 Application for a Street Trading Consent

Mr Martin Paul Hayes

Report of the Senior Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Mr Martin Hayes for street trading consent to sell local fruit, jam and preserves from a traditional market barrow on the High Street outside Beechwood Shopping Centre.
- 1.2 The barrow measures 185cm (L) x 84cm (W) x 210cm (H). The requested trading period and days are :-

Monday	10.00 - 16.00
Tuesday	10.00 - 16.00
Wednesday	10.00 - 16.00
Thursday	10.00 - 16.00
Friday	10.00 - 16.00
Saturday	10.00 - 16.00
Sunday	NONE

- 1.2 An image of the proposed market barrow is attached at **Appendix A**. Members may wish to note that the market barrow has not yet been made and therefore Appendix A is an illustration of the type of unit proposed.
- 1.3 A location map is attached at **Appendix B**.
- 1.4 Mr Hayes wishes to make an application to trade from 24th June to 14th August and 2nd September to 7th October 2013.

1.4 The Committee is recommended to resolve that:

- 1.4.1 **The application be approved because Members are satisfied that the location is suitable, or**
- 1.4.2 **The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location be deemed unsuitable.**

1.3 Implications

1.3.1 Financial

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1.3.2 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.

Consent can be revoked at any time. An existing trader or a trader who has previously traded from a location does not have a legal right to any consent being automatically renewed or granted.

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 policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- To have a clear & transparent policy governing street trading activities in the Borough.
- To enable the Council to manage all street trading activities in order to provide effective control measures.
- To ensure that all street trading activities meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Council's efforts to improve the image, perception and attractiveness of the Town as a tourist and leisure destination, and is in keeping with the streetscape.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

3.1 Site Assessment

Consent from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,

- The site does not allow the consent holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

3.2 Public Safety

In the interests of highway safety, no activity will be permitted within a minimum of 2 metres of a kerb.

3.3 Conservation Areas

The scope of this part of the policy covers the entire borough. However, the town centre, amongst a number of other areas in the borough, has conservation area status and as a result the Council will adopt a more restrictive approach to applications for these areas in particular.

3.4 Town Centre & Conservation Area

Despite this, the Council would not wish to prevent a modest amount of street trading in these areas of the town of a type which could positively enhance the enjoyment of the town as a tourist and leisure destination. To this end, street trading will generally be permitted in these areas where it enhances the town's reputation as a tourist and leisure destination, and is in keeping with the streetscape.

The appearance of a trader's business must enhance, or at least not be detrimental, to the street scene.

3. Consultee Comments:

3.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officers - No Comments

Environmental Health and Cleansing - No Comments

Gloucestershire Constabulary - No Comments

Built Environment Division - No Comments

3.2 Interested Parties

No Comments

4. Licensing Comments

4.1 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6). Despite the application receiving no comments from the consultees during the 14 day consultation period, all new street trading applications are referred to the Licensing Committee as prescribed in the scheme of delegation in the Street Scene Policy adopted on 1st April 2013.

4.2 In accordance with the current Street Scene Policy members must determine and consider if the application of this type positively enhances the enjoyment of the town as a tourist and leisure

destination by enhancing the town's reputation as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

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