

Cheltenham Borough Council
Licensing Committee – 6th September 2013
Highways Act 1980
Local Government (Miscellaneous Provisions) Act 1982
Application for Permission to Place Tables and Chairs on the
Highway
O'Neill's 23 Montpellier Walk
Report of Senior Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been received from Mitchells & Butlers Leisure Retail in respect of O'Neill's, 23 Montpellier Walk, Cheltenham. The premises currently has two public entrances, one on Montpellier Street and the other on Montpellier Walk, therefore the applicant wishes to place tables and chairs on both Montpellier Street and Montpellier Walk.
- 1.2 Members may wish to note that the application is not to increase the number of tables and chairs on the highway but to extend the timings of the current consent and allow for the tables and chairs to remain on the highway overnight, chained securely. The current consent allows the tables and chairs to be placed on the highway between 11.00 and 23.00.
- 1.3 The proposed application is as follows:
- 1.4 **Montpellier Street**
- 1.5 The applicant wishes to place 4 tables and 16 chairs on Montpellier Street for customer use between 10.00 and 00.00. Between 00.00 and 10.00 the applicant wishes to leave the tables and chairs on the highway by securely chaining them as per the photograph attached at **Appendix A**. The tables and chairs would therefore remain on the highway 24 hours per day.
- 1.6 **Montpellier Walk**
- 1.7 The applicant wishes to place 7 tables and 28 chairs on Montpellier Walk for customer use between 10.00 and 00.00. Between 00.00 and 10.00 the applicant wishes to leave the tables and chairs on the highway by securely chaining them as per the photograph attached at **Appendix B**. The tables and chairs would therefore remain on the highway 24 hours per day.
- 1.8 Although the application does not seek to increase the number of tables and chairs, it does now seek to include the addition of flower pots on Montpellier Walk, in addition to the canvas barriers which already form part of the current consent issued for the premises.
- 1.9 A scale plan of the layout is attached at **Appendix C**.

1.10 **The Committee is recommended to resolve that:**

1.10.1 The application be approved because Members feel the application is compatible with the current Street Scene Policy, or

1.10.2 The application be refused as the application falls outside the provisions of the current Street Scene Policy.

1.11 Summary of implications

1.11.1 Financial **Contact officer: Sarah Didcote**
 E-mail: sarah.didcote@cheltenham.gov.uk
 Tel no: 01242 26 4125

1.11.2 Legal No right of appeal.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@teWKesbury.gov.uk
Tel no: 01684 272015

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 and Objectives

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

3.2 In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officer - No Comments

Environmental Health Officer - The main reason we are not objecting to this application from environmental protection perspective is that the last noise related complaint we have received [for these premises] in relation to environmental health was in July 2007 and this was relating to noise from music inside and not from the noise of people using the outside space. The premises history has been reviewed back to 2000 and there are no recorded complaints relating to the use of the outside area.

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – No Comments

Waste & Recycling Manager – No Comments

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties

Paul O'Neill (Local Resident – Rotunda Terrace) - .I am a resident of Montpellier Street and fear that we will suffer from extra noise pollution if this application is successful. My objection to the extension to the hours of allowing tables and chairs at O'Neill's pub. We feel 00.00 is late enough for people to be sitting across the road from my house drinking. We find that they usually make enough noise to disturb our sleep and peaceful enjoyment. Extending this to 01.00, we fear will make matters worse.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 This report has been brought to Members' attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.3 Members must determine this application in respect of the location plan as shown at **Appendix C**. A full consultation has taken place based on this location plan and layout only.
- 5.4 Mitchells & Butlers Leisure Retail have submitted the application to extend the hours of the existing tables and chairs consent following a recent enforcement visit during which it was identified that the tables and chairs were being displayed past the time stated on the consent. Mitchells & Butlers Leisure Retail immediately submitted an application to rectify the situation.
- 5.5 In accordance with the current Street Scene Policy Members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

Contact officer: Mrs Amelia Byres
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264217

