

Cheltenham Borough Council

Licensing Committee – 6th September 2013

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

Farmers' Markets and Arts & Crafts Markets relocation

Report of the Senior Licensing Officer

1. Summary and recommendation

- 1.1 We have received an application from Gill Morris on behalf of Cheltenham Borough Council to relocate the Farmers' Markets and a separate application to relocate the Arts and Crafts Markets to the pedestrianised area of the Promenade outside Cavendish House.
- 1.2 Both markets are run and operated by Grenchurch Markets Ltd. The markets are held at the following times:
- 1.3 Farmers Markets – Fortnightly every second Friday of each month (09.00 – 15.00)
Arts and Crafts Markets – One Saturday per month (09.00 – 17.00)
- 1.4 Each individual stall measures approximately 10ft x 5ft. It is proposed to display up to 40 individual stalls on the pedestrian area of the Promenade.
- 1.5 A location map outlining the proposed layout of the markets stalls is attached at **Appendix A** and details of the proposed generator are attached at **Appendix B**.
- 1.6 **The Committee is recommended to resolve that:**
- 1.6.1 **The application be approved because Members are satisfied that the location is suitable, or**
- 1.6.2 **The application be refused because it does not comply with the provision of the Street Scene policy as the proposed location(s) are deemed unsuitable.**
- 1.7 **Implications**
- 1.7.1 Financial **Contact officer: Sarah Didcote**
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1.7.2 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 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.

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.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - I have now visited all the businesses fronting on to the area where the markets will be trading. **There are no objections**. Indeed, many are very positive as the increased footfall helps the business in the area.

There have been some concerns raised though:

It would appear that the gaps between the stalls, allowing people to get from one side of the Promenade to the other, are not always being made so this requires more careful management during the erection of the stalls. It would help if the 'walk throughs' were clearly indicated (and were not obstructed with merchandise 'spreading' into the gaps) so that the public could more clearly see how they can get from one side to the other. There was also a concern that emergency vehicles may not readily be able to get to the Waterstones side of the Promenade from the Cavendish House side.

The set up and take down of the stalls is carried out to the detriment of some of the businesses in that it is done untidily and very noisily (poles being 'thrown' on the ground, etc.). It was felt this does affect business as the market take down happens mid afternoon when the shops and cafes are still trading. It would help if more consideration was made by the market operators. This also requires closer supervision from the management.

I'd be grateful if this could be passed on to the market operators.

Highways Enforcement Officer - Gloucestershire Highways would not have any highway related objections to this application. However the following should be noted:-

- 1) Generator exhaust outlets should not be anywhere near the existing Highway trees /tree canopy.
- 2) No stalls, vehicles, boards or the like should be placed over any existing tree pit areas.

Environmental Health Officer - I notice on the details for the generator supplied they state: *"In the longer term, the proposed redesign of the space will include the provision of an electricity supply and so use of the generator is a temporary measure until a permanent supply is in place."* This is going to be the best option and most environmentally friendly one for the market, especially as this move is to be permanent, it would be good to know when they think there will be a permanent supply in place for them to use?

In relation to conditions can I add:

- 1) No mobile generators shall be used without the express permission of the Council. Where permission is granted generators shall be so positioned that: - they do not present a danger to the public do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not cause any noise or fume nuisance.
- 2) A competent person must install all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
- 3) Market organisers shall only use the generator as specified with the street trading application, or one of an exact or lesser specification. Only one generator as described in the application can be used at once during each market.

The option of using a generator is not the most environmentally friendly option for the market and other options I believe have been explored by the organisers, but a workable solution has not been found. I would encourage and add my support to having a permanent supply available and used at the very earliest opportunity.

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – No Comments

Waste & Recycling Manager – I have some concerns about this in terms of trade refuse collection.

We make collections (separately) of trade waste and trade recycling on a Tuesday and a Friday every week. The collections take place from exactly where the stalls are planned to be. The shops have a choice - they can either leave their waste / recycling out early which we collect first thing (before 7) or they can put them out when they arrive at work around 9am, so we then visit for a second time after 9am. We collect both refuse and recycling on each occasion, so two trucks each time.

The vehicle (a 26 tonne HGV) must be able to gain access up the centre of this area. When the Christmas Market is in situ we are very careful to make sure we look out for the safety of the pedestrians/stallholders etc, and we take extra care. This is fine for the special duration of this market. The positioning of the Christmas Market Stalls means that they sit between the benches and do not protrude further forward than the bollards, and this suits us OK and we can adapt accordingly. However increasing the frequency of having such stalls in this area to twice a month increases the safety risks to both the stall holders and their customers/ the public. We have no choice but to visit twice (four vehicle passes) and with the times that we go there a high chance of

our visits coinciding with either stall holders setting up, and their vans/trailers etc being in the way too, and then later in the day it will coincide with the public visiting the stalls.

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties – No Comments

5. Licensing Comments

5.1 The following statement has been provided by Gill Morris in support of the Farmers' Market application -

Cheltenham farmers' market has been running since May 2002 and is a partnership arrangement between the council and Grenchurch Markets Ltd, who are responsible for the day-to-day operation of the market. The council originally established the market to support local sustainable development and deliver social, economic and environmental benefits:

- Reinforcing the appeal of local produce and encouraging more healthy eating
- Raising awareness of environmental issues
- Adding to the attraction of Cheltenham town centre
- Providing opportunities for producers to meet customers and explain how the food is produced
- Supporting the local economy

These benefits remain valid ten years later and, since it was established, the market has been a popular and well patronised event. Until April this year the market was held in front of the Long Gardens, but it was temporarily relocated to the pedestrianised area of the Promenade to accommodate the redesign of the Long Gardens pavement.

Although originally a temporary relocation, the move has been very positively received by customers, other businesses trading in that area, market traders and the market operator. The overwhelming feeling is that it enhances the area, creating a vibrant 'social' atmosphere and bringing greater footfall, which benefits everyone. This has prompted the application for a more permanent move to this space.

It should also be noted that, although the market will need to move back to the Long Gardens to accommodate the annual Christmas market, there are significant issues with moving back to that location on a permanent basis.

- The redesign of the Long Gardens does not lend itself to being an events location. The installation of bollards hinders loading and unloading and the extended tree pits greatly interfere with the positioning of market stalls.
- The decision late last year to extend the taxi rank up as far as the war memorial has created a major obstacle for the effective operation of the market, reducing space for loading and unloading the market stalls and produce.
- There has always been an agreement for the operator to cone off parking spaces in front of the Long Gardens to enable unloading in the morning and loading in the afternoon. These parking spaces are now the responsibility of the county's private contractor and, whilst a waiver is in place at present to allow coning off at no charge, this is not guaranteed long term.

These issues have created additional health and safety problems for the operation of the market in this area.

Members may also be aware that there is a planned redesign of the pedestrianised area of the Promenade, which is being led by the council's Townscape team. A discussion has taken place to ensure that the planned changes will support market events in the area. Of particular note is the plan to install an electricity supply. This will mean the markets will not need to use a generator in the long term. This was an initial concern of the temporary relocation, although a generator has since been used without any issues.

The additional health and safety issues of operating the market in front of the Long Gardens, together with the positive benefits demonstrated by the temporary relocation and the planned changes to the pedestrianised area of the Promenade, all support the application to move on a permanent basis to the pedestrianised area. We would therefore request committee members look favourably on this application and that of the arts & crafts market.

- 5.2 Douglas Cotton on behalf of Grenchurch Markets Ltd has submitted the following comments in relation to the Waste and Recycling Managers comments - Although I was not at the Farmers Market event last Friday, I am aware of the fact that some of the stalls were erroneously placed too far forward on the frontage facing Cavendish House.....this will not happen again.

I have however attended the majority of markets since the relocation and have witnessed a variety of vehicles.....fire engines, ambulances, police, municipal vehicles and many others.....negotiate the bollarded route - from both directions - at high speeds and slower, visibly without any difficulty whatsoever. I am not conscious of the stalls ever overhanging the bollards. In my opinion, given the constant presence of pedestrian traffic outside Cavendish House, it would be difficult for any vehicle - other than the emergency services - to knowingly contemplate proceeding other than at steady speeds.

I can assure everyone that we have not been knowingly inching forward, the trade waste crew's comments are however valuable because they serve to remind us that the market activity is akin to a living and moving entity.....we have been operating on the pedestrianised area for some five months without problems and with an emphasis on avoiding obstruction of the bollarded path - all feedback is relevant to us of course and the exact placement of the stalls and thence their overhangs will be an imperative ongoingly.

I should simply like to emphasise that we have given the highest possible operational priority to ensuring that the status of the bollarded path - as an emergency route - has not been compromised by the Farmers/Arts & Crafts activities on any occasion during the period of the relocation.....with particular focus, of course, upon the periods of unloading and loading when the market is assembled and then at the conclusion of trading dissolves away.

I have seen Gill's submission and consider that all of the relevant aspects have been admirably covered.....my only addition would be to point out that the contribution made by these events, as facets of the attraction of Cheltenham town centre, is not of a momentary, seasonal or passing nature but rather that these markets provide a motivation to visit the Town for the most weeks of the year.

- 5.3 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.4 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) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.5 Members must determine this application in respect of the location plan as shown at **Appendix A**. A full consultation has taken place based on this location plan and layout only.

- 5.6 The applicant has submitted the application to permanently relocate the markets however they do not wish to use the pedestrianised area of the Promenade during December when the Christmas Market is trading within Cheltenham. During the Christmas Market the applicant proposes to hold the market on the pavement adjacent to the Long Gardens outside the Municipal Offices.
- 5.7 Members will note that the pedestrianised area of the Promenade is subject to a number of changes in the near future, mainly to the street furniture layout which is currently being finalised with the planning department. Plans of the proposed changes are due to be available in October/November. The market organisers have met with the planning department and despite plans not yet being finalised have concluded that the new designs should not affect the market being positioned on the Promenade outside Cavendish House. As and when plans are available a slightly different plan will be submitted for approval.
- 5.8 The addition of an electricity supply is also planned for the pedestrianised area of the Promenade. The exact dates of the installation cannot be confirmed however the plans are proposed for early 2014.
- 5.9 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

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