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# Bath & North East Somerset Council

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## Democratic Services

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Date: 4 May 2015

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**To: All Members of the Licensing Sub-Committee**

**Councillors:-** To be appointed

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Sub-Committee: Tuesday, 12th May, 2015**

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 12th May, 2015** at **10.00 am** in the **Council Chamber - Guildhall, Bath**.

### **Briefing**

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.30am.

The agenda is set out overleaf.

Yours sincerely

Sean O'Neill  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*



## NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath democratic\_services@bathnes.gov.uk or by calling at the Guildhall Bath (during normal office hours).
2. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Reception: Civic Centre - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

### 3. **Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

The Council will broadcast the images and sound live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast) An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
6. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

## **Protocol for Decision-making**

### **Guidance for Members when making decisions**

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

**Licensing Sub-Committee - Tuesday, 12th May, 2015**

**at 10.00 am in the Council Chamber - Guildhall, Bath**

**AGENDA**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**,  
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES: 28TH APRIL 2015 (Pages 7 - 16)

6. LICENSING PROCEDURE: MISCELLANEOUS LICENCES, PERMITS, CONSENTS  
(Pages 17 - 20)

The Chair will, if required, explain the procedure to be followed for the next item of business.

7. APPLICATION FOR STREET TRADING AT THE CHELSEA VILLAGE PARTY (Pages 21 - 40)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on [democratic\\_services@bathnes.gov.uk](mailto:democratic_services@bathnes.gov.uk).

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Tuesday, 28th April, 2015, 10.00 am

**Councillors:** Manda Rigby (Chair), Roger Symonds and Anthony Clarke

**Officers in attendance:** Carrie-Ann Evans (Senior Legal Adviser) and Kirsty Morgan (Public Protection Officer)

**166 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**167 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**168 DECLARATIONS OF INTEREST**

There were none.

**169 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**170 MINUTES: 27 MARCH 2015 AND 7 APRIL 2015**

The minutes of the 27 March 2015 and the 7 April 2015 were approved as a correct record and signed by the Chair.

**171 LICENSING PROCEDURE**

The Chair explained the procedure to be followed for the next item of business.

**172 APPLICATION FOR A PREMISES LICENCE FOR BURGER & LOBSTER, 25 (THE OCTAGON) 7 28 MILSOM PLACE, MILSOM STREET & BROAD STREET, BATH BA1 1BZ**

Applicant: Burger and Lobster, represented by Thomas O'Maoileoin (Thomas & Thomas partners LLP) and Alex Neil (proposed Designated Premises Supervisor)

Other Persons: Simon Potter and Julian Parry.

The parties confirmed that they understood the procedure to be followed for the hearing.

The Public Protection Officer presented the report and outlined the application from Burger and Lobster for a new premises licence. Representations had been received from two local residents in respect of all four licensing objectives. Since the application sought authority to sell alcohol for consumption on the premises and was situated in the Cumulative Impact Area, a rebuttable presumption was raised that the

application should be refused. The onus was therefore on the applicant to demonstrate that there would be no significant contribution to the cumulative impact from the application. Additional information, including proposed further conditions submitted by the applicant, had been received since the publication of the agenda, which had been circulated to Members and the parties.

Mr O'Maoileoin stated the case for the applicant.

He said that the premises were in the Octagon, which was situated by Milsom Parade, Milsom Street and Broad Street and was therefore in the Cumulative Impact Area.

He had had correspondence with the two Other Persons and as a result the applicant had proposed a number of additional conditions. He had hoped to meet the Other Persons, but unfortunately this had not happened because of a communication problem.

Burger and Lobster was a restaurant chain, which already had premises in London and Cardiff, and would shortly open in Manchester. There was also one in New York, off of Time Square. The product was of high quality, and Burger and Lobster had received good reviews in the national press. The company liked buildings which were slightly quirky, such as the Octagon. The premises were not ideal for a company that simply wanted to make a quick buck. Burger and Lobster was putting £2.4 million into the Octagon and was working with the Bath Preservation Trust, English Heritage and the Council's building officers.

In response to a concern of the Other Persons, the applicant was now proposing to bring forward the terminal hour for licensable activities to 00:00 (midnight) seven days a week with a closing time of 00:30.

Another concern expressed by the Other Persons was the dispersal of customers. There were several exits from the premises, some of which led more directly to residential properties than others. The applicant had decided that the best exit route for customers at night would be to Green Street.

CCTV would be installed throughout the premises. The applicant did not feel that the provision of SIA security staff would be appropriate given the style of the premises; customers might expect them at a nightclub, but not at a restaurant. They were not provided at other Burger and Lobster premises. However, the two entrances to the premises would be supervised by members of staff. On arrival customers would be shown to a table.

There would be an area outside the premises designated for smoking.

The total capacity of the premises was 300 persons although this was not set in stone and could go up or down. However, this would probably be reduced because of the tables. About 95% of the space within the premises was taken up by tables and chairs. The applicant would be happy to accept a condition restricting sales of alcohol to customers seated at table, with an exception made for the small bar in the basement. He indicated the area on the plan. He expected that the vast majority of customers would order drinks from their tables.



The applicant was happy to agree to conditions relating to free calls for taxis and for signage at all exits advising customers to leave quietly.

He commented on the list of eighteen proposed further conditions (a copy of which is contained in the Appendix to these minutes.) In relation to condition 1, he said that it was difficult to forecast how frequently the facility to have alcohol with breakfast would be used by customers. All the other Burger and Lobster premises had this facility.

The manager's direct telephone number would be publicised (proposed condition 14).

He addressed concerns about underage drinking and said that the type of customer attracted to Burger and Lobster establishments should be considered. These included members of the local business community, families and tourists. Alcohol was not a large element in what these customers ordered. The typical customer would have a couple of glasses of wine or a glass of beer. The average spend was £20—25 per head; the prices charged which would be unlikely to attract underage drinkers.

Members put questions to the representatives of applicant, in response to which they stated:

- the operator would work with the local manager to identify designated smoking areas; no specific area for smoking had yet been designated, but one might be at the front of the premises in Milsom Street and another in the courtyard
- there would an outside seating area on an upper level
- there had been no problems with local residents at the other Burger and Lobster establishments

The Chair asked Mr O'Maoileoin to explain, with reference to each of the licensing objectives, why the application would not significantly add to cumulative impact. In reply, he noted that there had been no representations from the Responsible Authorities. He said the premises would be monitored by CCTV. He submitted that crime and disorder was mostly linked to premises which were alcohol-centred, which the Burger and Lobster was not. Public safety was being addressed by a £2.4 million investment in the building. Protecting children from harm was promoted by the premises being very family-oriented and by the implementation of a Challenge-21 policy. The potential for public nuisance was being minimised by conditions addressing how customers left the premises and the removal of waste. Music being limited to background music only and extractor equipment would minimise the emission of smells.

In reply to a question from the Public Protection Officer Mr O'Maoileoin confirmed that the applicant was no longer seeking authorisation for the provision of recorded music.

The Chair asked whether the applicant would be prepared to have fewer operating hours from Monday to Thursday than on Fridays and Saturdays. Mr O'Maoileoin replied all the other Burger and Lobster establishments had the same operating hours seven days a week. This made the production of advertisements and signs easier. In practice there would usually be fewer customers earlier in the week and the full operating hours might not be utilised then.

In response to a question from the Chair about security, Mr O'Maoileoin referred to proposed condition 6 and said that security staff would be engaged if recommended by the police at any time.

In response to questions from Mr Potter he stated that if there were any changes to the present plans, or if major events were planned at the premises, local residents would be consulted.

Mr Potter stated his case. He said that he was very pleased by the new conditions and by what he had heard from the applicant's representatives. He hoped that there would be an ongoing relationship between the management of the premises and local residents.

Sometimes there was dialogue with local residents when licensed premises first opened, followed by a decline in the relationship over time because of high staff turnover.

Mr Parry said that he been very encouraged by the discussions that had taken place at today's hearing. It should be borne in mind by the operators of licensed premises that that there were people living in the city centre.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application with additional conditions as detailed below.

### Decision and reasons

Members have today determined an application for a new premises licence for Burger & Lobster, 25 (The Octagon) and 28 Milsom Place, Milsom Street and Broad Street, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. In this case, however, Members noted that the premises are situated in the Cumulative Impact Area and the application involves the provision of 'on trade' sale of alcohol. As the Council has a Cumulative Impact Policy a rebuttable presumption is raised that such applications should be refused unless the applicant demonstrates that the application promotes the licensing objectives and would be unlikely to add significantly to the cumulative impact being experienced.

Members were careful to take account of the relevant written and oral representations made and were careful to balance their competing interests. Members were however careful to disregard irrelevant matters.

Members noted that there had been no representations from Responsible Authorities.

### **Applicant**

Thomas O'Maoileoin spoke as the solicitor for the applicant. He indicated that Burger and Lobster offer a high quality product; they are family led as opposed to alcohol led and that they are prepared to invest in the integrity of the building.

Mr O'Maoileoin acknowledged and addressed the fact that the premises fall in the middle of the Cumulative Impact Area and indicated that as an operator they would not add to the Cumulative Impact experienced in Bath. He addressed each of the licensing objectives in turn and referred to the conditions proposed which seek to address those objectives.

The applicant indicated that if members were minded to approve the licence they would reduce the hours sought for late night refreshment and sale of alcohol to midnight and they would reduce the premises closing time to 12.30am (save for non-standard timing sought in relation to New Year). The Applicant also indicated that they are no longer pursuing the part of their application for Recorded Music as they only seek to play background music which is not a licensable activity. Furthermore, it was clarified by the applicant in relation to the further conditions document circulated to Members and all parties that:

- except in the area immediately in front of the bar in the basement of the premises, alcohol shall be by waiter/waitress service only.
- After 00:00 hours customers will exit the premises from Green Street.

And the following further conditions were offered by the applicant:

- All smoking areas at the premises shall be supervised by a member of staff.
- A receptacle shall be provided in all smoking areas for the disposal of cigarette butts.
- Smoking areas shall be regularly checked for litter which shall be collected and suitably disposed of by a member of staff.

### **Interested Parties**

In written representations the interested parties objected under all four licensing objectives. However, Mr Potter indicated in oral submissions that he was extremely happy that the premises were being brought back into use. He was happy and encouraged by what he had heard from the applicant and indicated that his main areas of concern had been addressed very well. His principal residual concern was to ensure a continuing dialogue and relationship with the applicant in relation to the premises.

Mr Parry said that he was very encouraged by discussions with the applicant. He asked the applicant to continue to be mindful of residents.

### **Members**

Members determined that the application would not add significantly to the cumulative impact already being experienced and found that the application promotes the licensing objectives.

Members resolved to grant the application subject to conditions consistent with the operating schedule save for the following amendments:

Recorded Music  
No longer sought

Sale of Alcohol  
08:00 to 00:00 daily

Late night refreshment  
23:00 to 00:00 daily

Opening hours  
08:00 to 00:30 daily

Further, Member resolved to grant the application subject to the mandatory conditions and imposed the following further conditions as offered by the applicant and circulated to Members and all parties (annexed hereto), subject to the following points of clarification (numbers relate to paragraphs within the further conditions document):

2. Except in the area immediately in front of the bar in the basement of the premises, alcohol shall be by waiter/waitress service only.

17. After 00:00 hours customers will exit the premises from Green Street.

And Members imposed the following further conditions as offered by the applicant in oral submissions to the committee:

- All smoking areas at the premises shall be supervised by a member of staff.
- A receptacle shall be provided in all smoking areas for the disposal of cigarette butts.
- Smoking areas shall be regularly checked for litter which shall be collected and suitably disposed of by a member of staff.

Members imposed the additional conditions on the basis that they were appropriate and proportionate in promoting the licensing objectives.

Authority was delegated to the Public Protection Officer to issue the licence accordingly.

The meeting ended at 12.02 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**BURGER AND LOBSTER, 25 (THE OCTAGON) AND 28 MILSOM PLACE, MILSOM  
STREET AND BROAD STREET, BATH BA1 1BZ**

**PROPOSED FURTEHR CONDITIONS TO ADDRESS CONCERNS RAISED BY  
OBJECTORS AND LICENSING POLICY**

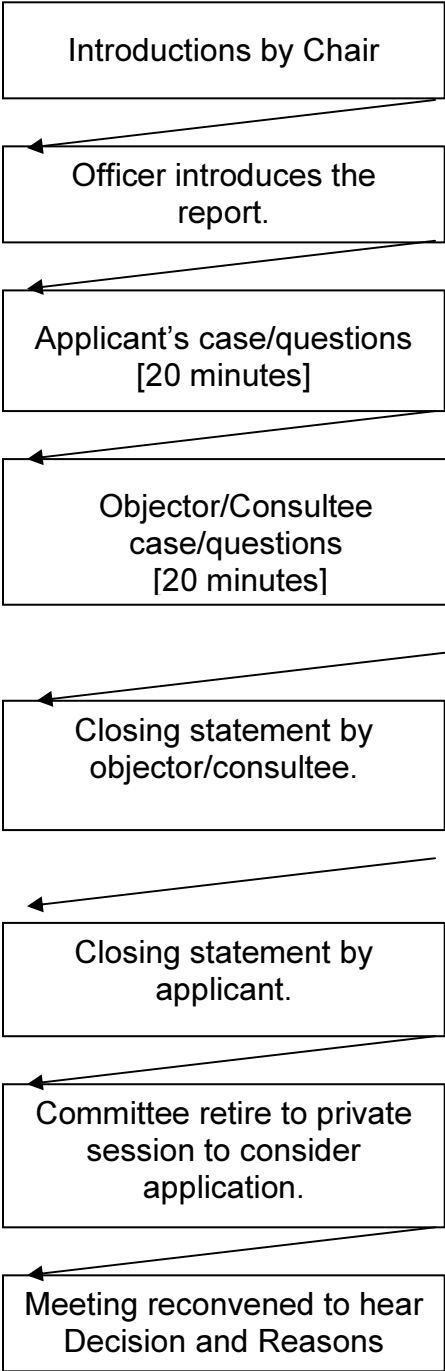
1. Between the hours of 08:00 hours and 10:00 hours the sale of alcohol shall be ancillary to substantial refreshment (e.g. champagne breakfasts).
2. Except in the bar area hatched green on the plan alcohol shall be by waiter/waitress service only.
3. CCTV to be installed at the premises in accordance with the reasonable requirements of the police Crime Prevention Officer.
4. The applicant will join the appropriate local Pubwatch/Nightwatchescheme.
5. Off-sales of alcohol to be in sealed containers only.
6. The need for door security shall be assessed by the licence holder or designated premises supervisor on a regular basis and door staff shall be employed when and where the risk assessment deems this appropriate. The number of Door Supervisors employed at the premises when licensable activities are taking place, their location within the premises and the times they will be employed will be decided in consultation with the police
7. All relevant fire and health and safety regulations will be adhered to and staff trained accordingly.
8. Prominent notices shall be displayed at all exists requesting patrons to respect local residents and to leave the premises and area quietly.
9. A telephone number for free calls to local taxi firms to be available for departing customers at the end of the night.
10. A Challenge 21 policy shall be implemented and full and appropriate identification shall be sought from any person who appears under the age of 21. The only acceptable forms of identification shall be passport, photo driving licence and those carrying the PASS logo.
11. Notices shall be displayed indicating that the Challenge 21 policy is in force.
12. A sales refusal book shall be kept at the premises and this shall be checked each week by either the premises licence holder or the designated premises supervisor to ensure that staff are accurately recording refusals. The refusal book shall be open to inspection by appropriate officers of responsible authorities.
13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

14. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
15. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. After 00:00 hours customers will exit the premises from (to be decided).
18. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police.



**LICENSING SUB COMMITTEE PROCEDURE  
APPLICATIONS FOR  
MISCELLANEOUS LICENSES, PERMITS, CONSENTS**

**OVERVIEW**



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**LICENSING SUB COMMITTEE PROCEDURE  
APPLICATIONS FOR  
MISCELLANEOUS LICENSES, PERMITS, CONSENTS**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Applicant and or representative present their case and may be questioned by the Committee and other parties.
4. The Applicant may call witnesses in support who may be questioned by the Committee and other parties.
5. The objecting parties address the Committee and can be questioned by the Committee and other parties on matters relevant to the application. Any person presenting evidence for an objecting party may also be questioned by Members and other parties.
6. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be questioned.
7. The parties are invited to make closing statements.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Service Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

### **PLEASE NOTE:**

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

#### **N.B.**

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
  2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
  3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
  - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
  - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

<b>Bath &amp; North East Somerset Council</b>			
<b>MEETING/ DECISION MAKER:</b>	<b>Licensing Sub Committee</b>		
<b>MEETING/ DECISION DATE:</b>	<b>Tuesday 12<sup>th</sup> May 2015</b>	<b>Agenda Item Number</b>	
<b>TITLE:</b>	<b>Application for Street Trading at the Chelsea Village Party</b>		
<b>WARD:</b>	Abbey and Newbridge		
<b>AN OPEN PUBLIC ITEM</b>			
<b>List of attachments to this report:</b>			
Annex A – Copy of Application			
Annex B – Copy of the Street Trading Policy			
Annex C – Copy of the Standard Conditions			
Annex D – Site Plan Chelsea Road / Kennington Road			
Annex E – Copy of the Highway Notice			
Annex F – Letter of objection to the application			
Annex G – Supporting Statement from applicant			

**1 THE ISSUE.**

1.1 An application has been received from the organiser for permission to have Street Trading Stalls at an event on Saturday 16<sup>th</sup> May 2015. This is a community Event / Street Party and an objection has been received.

**2 RECOMMENDATION**

2.1 That the Licensing Sub Committee determines the application.

**3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

3.1 As the application is for a Community Event all fees have been waived as per the Street Trading Policy.

**4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 In accordance with section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) Bath and North East Somerset Council have adopted Schedule 4 of that Act. In accordance with that Schedule the Council has designated all Streets / Highways within the authority as “consent street[s]” which means that street trading is

prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.

- 4.2 This application has been brought to the committee as an objection was received from a local resident.
- 4.3 When making a decision consideration needs to be given to the Human Rights Act 1998.
- 4.4 An Equalities Impact assessment (EqIA) has been completed. No adverse or other significant issues were found.

## 5 THE REPORT

- 5.1 An application has been received from Peter Heywood for Street Trading Consent at Chelsea Village Party on 16<sup>th</sup> May 2015. See **Annex A**.
- 5.2 The application is for a maximum of 10 stalls spread through Chelsea Road and Kennington Road.
- 5.3 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the council may grant a consent if they think fit. Sub-paragraph (3) provides that a street trading consent shall not be granted-
  - (a) to a person under the age of 17 years; or
  - (b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- 5.4 Paragraph 7(4) of Schedule 4 to the 1982 Act provides that when granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- 5.5 Each application for a Street Trading Consent will be considered in line with the Council's current Policy on Street Trading (**attached and Annex B**).
- 5.6 Bath and North East Somerset Council has current Street Trading Standard Conditions (**attached at Annex C**) which are applicable to all Street Trading Consents issued by the Council.
- 5.7 A plan of the area is included at **Annex D**
- 5.8 Highway Notices for the application were placed in prominent positions in Chelsea Road and Kennington Road. A copy of this notice is attached at **Annex E**.
- 5.9 Notification of the application was also delivered to all residents / retail outlets in both locations. The application was also placed on the Council's website.
- 5.10 An objection has been received from a local resident Mr Cheadle. The grounds for the objection are
  - (1) It is not a Street Party or principally for the benefit of the residents. It is being imposed by a minority of local and outside traders for commercial advantage.
  - (2) There are no clear community benefits and it will cause considerable inconvenience and nuisance in terms of invasion of privacy, loss of parking, noise from music and the presence of large numbers of people not from the area but attracted by the prospect of eating and drinking in a confined space.

A copy of the letter is attached at **Annex F**

5.11 A supporting statement has been received from the applicant. A copy is attached at **Annex G**

## **6 RATIONALE**

6.1 As an objection has been received the Licensing Sub Committee must determine the application.

## **7 OTHER OPTIONS CONSIDERED**

7.1 None

## **8 CONSULTATION**

8.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with the Police, the Council's Highways Department, Property Services, Environmental Services, Development Control Services, Ward Councillors, adjacent premises and local residents.

8.2 The report has not been sent to the Trade Unions because they would have no involvement in this application.

## **9 RISK MANAGEMENT**

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

9.2 A Traffic Regulation Order has been applied for and issued to close parts of Chelsea Road and Kennington Road.

<b>Contact person</b>	Andrew Tapper, Licensing Officer. Tel: 01225 477533
<b>Background papers</b>	None.
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## Annex A

From: [cis@bathnes.gov.uk](mailto:cis@bathnes.gov.uk) [<mailto:cis@bathnes.gov.uk>] On Behalf Of Licensing web form  
Sent: 26 March 2015 12:43  
To: Licensing  
Subject: Form submission from: Street Trading Pitches

Submitted Information from the form is shown below:

Name: Peter Heywood

Home Address: ***details removed by licensing officer***

Phone Number: ***Details removed by Licensing Officer*** - Email Address: ***details removed by Licensing Officer***

Details of Pitch: We are holding a Street Party in Chelsea Road and Kennington Road

Details of Goods: Food. Arts and crafts

Trading Days & Hours: Saturday 16 May 2015 3.00 to 9.00pm

Type of Stall: Trestle tables perhaps with a gazebo (depends on the weather)

Attached Document:

Submitted on Thursday, 26 March 2015 - 12:42pm



# Street Trading Policy

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## 1 Purpose

- 1.1 Bath and North East Somerset Council understands that street trading is important to both the local environment and local economy. Street trading can provide vibrancy and interest to the local environment and an opportunity for small businesses to establish themselves and grow.
- 1.2 The Council's vision for Bath and North East Somerset is to create a street trading environment which:
  - complements premises-based trading
  - is sensitive to the needs of residents
  - ensures that public spaces become active spaces
  - provides diversity and consumer choice;
  - seeks to enhance the character, ambience and safety of local environments
  - promotes healthy eating
  - provides local food

## 2 What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public has access without payment.
- 2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'Consent Streets' for street trading purposes.
- 2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.
- 2.4 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.
- 2.5 Street trading consents for buskers wishing to sell items associated with their performance (e.g. CD's) will be established
- 2.6 Consents may be issued to mobile vendors such as Ice Cream Traders to operate in specific locations outside of the central area of Bath.

### **3 Exemptions from the need to obtain a Consent**

3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the following are exempt from the need to obtain Street Trading Consent:

- trading by a person acting as a pedlar under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order
- trading in a trunk road picnic area
- trading as a news vendor
- conducting a public charitable collection
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station, and
- trade carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop

### **4 Pitch assessment**

4.1 The Council will maintain a map showing the location of street trading pitches. This map is available on the Council's web site at [www.bathnes.gov.uk/services/business/street-trading](http://www.bathnes.gov.uk/services/business/street-trading)

4.2 The Council may from time to time identify new pitches for street trading and will consider applications for new pitches. In determining whether to create a street trading pitch the Council will have regard to:

- an overriding public interest
- any effect on road safety, either arising from the siting of the pitch, or any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians; and
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- any land owners permission which may be required from a private land owner or a relevant Council service e.g. Environmental Services (Open Spaces), Commercial Estates or Economic Regeneration

### **5 Application Process for a New Pitch**

5.1 Before new pitches are created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- existing holders of street trading consents in the immediate area
- relevant ward councillors
- relevant parish or town councils
- Avon & Somerset Constabulary

- relevant Council Services including Development Control, Highways, Property Services, Environmental Services (Open Spaces), Commercial Estates, Trading Standards and Food Safety
- a relevant land owner
- any other stakeholder considered by the Council's Licensing Team to be relevant to the application

5.2 In addition to the above, public notices will be placed in a clearly visible location at the site of the proposed new pitch.

5.3 The Council will consider any responses received in relation to public notices and any objection from consultees will be assessed against the criteria in paras 1.2, 4.2 and Section 12 and may be referred to the appropriate Licensing Sub-Committee for determination.

5.4 Any proposed change to conditions attached to a consent will be in consultation with consent holders and others, as specified in 5.1 above, if relevant.

## **6 Application Process for an Existing Pitch**

6.1 When an existing or new pitch becomes available, the Council will publish details of the vacancy, inviting applications for the pitch. The details will be published on the Council's website.

6.2 Applications will be determined by the Licensing Manager. If no suitable application is received then the pitch will be re-advertised.

6.3 In situations where there are competing applications then the Licensing Manager will decide the most appropriate applicant in consultation with the Service Manager. The pitch will be offered to the applicant whose proposal is considered the most suitable for the particular location.

## **7 Mobile Street Artists**

7.1 Mobile street artist consents may be issued to persons who sketch or paint and sell their own work and move from location to location.

7.2 Applicants for mobile street artist consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their application.

## **8 Mobile Traders**

8.1 Any mobile trader e.g. ice cream vans, will require a street trading consent.

- 8.2 Before issuing a consent the Council will consult with relevant bodies, as specified in section 5.1, and will require details of the daily routes and times of the rounds.

## **9 Street Markets**

- 9.1 The Council actively supports the provision of temporary street markets within the district and special consideration will be given to markets which are considered beneficial to the local area.
- 9.2 Applications for temporary street markets will be considered using the same criteria set out in Para 1.2 and in sections 4 and 5 of this policy.

## **10 Pitches for Buskers**

- 10.1 The Council will issue Street Trading consents for use by buskers who wish to sell items associated with their performance (e.g. CD's).
- 10.2 Applications for pitches for buskers will be considered using the same criteria set out in Para 1.2 and sections 4 and 5 of this policy.

## **11 Pitches for Charitable Street Trading**

- 11.1 The Council issues permits to enable charitable street trading. Charitable street trading must not be undertaken in any street or public place unless the Promoter has obtained a consent from the Council. The only exception to this is where the collection is exempt under schedule 4 of the 1982 Act (see section 3)
- 11.2 In relation to charitable street trading, the Council has a designated street trading pitch for this purpose at Kingston Parade, Bath. This pitch will be available to registered charities, or organisations demonstrating that they are a 'not-for-profit' organisation. Use of this pitch will be subject to the Council's standard street trading conditions.
- 11.3 The charity or organisation must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade whose details can be obtained from the Licensing Department.

## **12 Nature of Goods and Trading Hours**

- 12.1 The nature of goods which may be sold from any pitch and the trading hours will be specified in the consultation process. Any subsequent application for a change in the nature or type of goods sold or the trading hours will require a further application and will be subject to the level of consultation as set out in section 5.1 above.
- 12.2 Until 1<sup>st</sup> April 2015, the Council will not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops or nearby street trading pitches. (After this date, changes to Schedule 4, Local Government [Miscellaneous Provisions] Act 1982 come into effect which promote open competition).

- 12.3 Goods will normally consist of craftwork, fresh flowers, fresh fruit and vegetables, ice cream or soft drinks. Other types of goods, including services, will be considered on a pitch by pitch basis and have particular regard to local needs, product diversity and balanced with other retailers in the immediate vicinity.
- 12.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis.
- 12.5 In the case of stalls selling hot food trading hours will be determined on a pitch by pitch basis.
- 12.6 Late night food traders operating after 11:00 pm will be subject to the requirements of the Licensing Act 2003 regarding the need for a Premises Licence. Greater consideration will be given to the impact on the night time environment and the possibility of crime and disorder on the streets as a result of the granting of a street trading consent.

## **13 Design and Appearance of Stall, Barrow, Van, Cart etc.**

- 13.1 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.
- 13.2 The Council has a preferred set of standards of design and appearance that they wish to achieve for all street trading pitches based in the central area of Bath.
- All new applicants will be required to use an approved design unless a suitable alternative is agreed
  - All existing Consent Holders will be required to change to an approved design by 1st January 2017, or upgrade the whole or parts of their units, as appropriate
- 13.3 The condition of all pitches will be monitored regularly to ensure that the required standards are maintained.
- 13.4 All consent Holders trading in food products are required to be registered and inspected by the Council's Food Safety Team. Contact details of the Food Safety team can be found on the Council's website.
- 13.5 All consent Holders are required to comply with relevant health and safety regulations including those relating to electrical and gas safety.

## **14 Issue of Street Trading Consents**

- 14.1 An application for a street trading consent or the renewal of such a consent shall be made, in writing, to the Council. Applications can be e-mailed to the Council at: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk) .
- 14.2 Consents will not normally be issued for a period of less than six days per week, unless the applicant can provide an alternative scheme acceptable to the Council.
- 14.3 Where a consent has expired the pitch will become subject to paragraphs 14.4 and 14.5 below.
- 14.4 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch on its website.
- 14.5 Applications for an existing pitch will be determined by the Licensing Manager or other authority delegated by the Council. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received then the pitch will be re-advertised.
- 14.6 Any application received by a person less than 17 years of age will be considered by taking into account the provisions contained in the Children and Young Persons Act 1933 and the Children and Young Persons Protection at Work Regulations 1998.
- 14.7 An application for an existing pitch may be refused or revoked if the applicant is found to be unsuitable to hold the consent by reason of having been convicted of a relevant offence, or for any other reason.
- 14.8 The issue of a street trading consent will not normally be delayed where other approvals, permits, licences are required by other departments or statutes except in the case where advice is required from the Council's Food Safety and Health and Safety teams.

## **15 Fee Structure**

- 15.1 The Council may charge such fees as it considers reasonable having regard to pitch location, the size of the Pitch, trading days, hours and the description of goods offered for sale.
- 15.2 The fees will be reviewed and set on an annual basis and any variation advertised by notice in a local newspaper.
- 15.3 Fees for consents must be paid in full in advance:
- in the case of Direct Debits, on a monthly basis
  - all other methods, three months in advance

15.4 Failure to maintain payments as above may result in the consent not being renewed. Where a payment is not made by the due date the Council may charge an administration fee as determined by the Licensing Manager. This will include cheques or Direct Debit requests that are not honoured.

15.5 The Council cannot guarantee that pitches will be available every day and accepts no liability for the loss of earnings in relation to street trading consent holders or their employees.

15.6 In the event of road works, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager will consider appropriate refunds on a case by case basis, provided a written request has been made by the consent holder.

## **16 Street Trading Consents for which fees are not payable**

16.1 The Council will not require the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events
- non-commercial or charitable events
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people); and
- sale of articles by householders on land contiguous with their homes

## **17 Conditions and Enforcement**

17.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

17.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

17.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.

17.4 Persons trading without a consent and who are not exempt (see 3 above for examples) will be the subject of enforcement action in accordance with the Council's Enforcement Policy. Copies of the Enforcement Policy can be obtained from the Council's Licensing team or website.

17.5 The consent Holder is required to obtain and maintain their own Public Liability Insurance to a minimum of £5m. This will be required to be produced for inspection before any consent is issued and on demand when requested by an officer of the Council.

## **18 Equality**

- 18.1 The Council is committed to equality of opportunity and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area.
- 18.2 The Council commits to ensure that no resident of, or visitor to, the area or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.
- 18.3 The Council will take positive steps to stop any unfair/unlawful discrimination, and will carry out positive action where discrimination is found.

## **19 General**

- 19.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.
- 19.2 This policy will complement and inform other Council initiatives including those on street markets and the public realm.
- 19.3 This policy will be the subject of periodic monitoring and review.
- 19.4 This policy will inform the detailed conditions attached to every street trading consent.
- 19.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.



## Street Trading Policy Conditions

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### Standard Conditions (attached to each Street Trading Consent)

1. The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed to assist on the Pitch shall produce the Consent on demand when so required by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
2. The holder shall return this Consent to the Council immediately on revocation or surrender of the Consent.
3. The holder shall not trade otherwise than strictly in accordance with this Consent.
4. The holder shall notify the Council's Licensing Team at Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG immediately of any convictions or cautions obtained by the holder of this Consent.
5. The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
6. The holder shall not use or suffer or permit any music playing, music reproducing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent or in relation to Consents relating to buskers.
7. The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the consent, in writing, of the Council's Licensing Manager.
8. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
10. The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and they must maintain the same in a clean and tidy condition and not place them so as to cause any obstruction.

11. The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, statutory or common-law nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
12. The holder shall not assign underlet or part with his interest or possession under this Consent or any part thereof but they may surrender it at any time.
13. The holder shall observe and comply with any directions in relation to the use of the street given by any duly authorised officer of the Council.
14. The holder shall keep the trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
15. The holder shall provide at their own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use under this Consent.
16. The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.
17. The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) which may be sustained by the Council or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this Consent.
18. The Consent Holder shall arrange their own Public Liability Insurance for a minimum value of £5M.
19. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
20. The Consent holder or any person employed by them to assist them on the Pitch shall at all times wear the identification badge issued by the Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
21. The holder shall return the identification badge(s) to the Council immediately on revocation or surrender of the Consent.

## 22. Street Trading Fees

All street trading fees are due in advance:

- i. Where fees are paid by cash or cheque then they need to be paid before the

1 January, 1 April, 1 July and 1 October each year unless;

- ii. The Consent Holder has in place arrangements to pay the street trading fee by monthly Direct Debit installment whereas the Consent will be renewed on an annual basis commencing on 1 April.
- iii. Failure to maintain Direct Debit payment as above may result in the consent being revoked or not renewed.
- iv. Where the payment fails to be made by the due date the Council may charge an administration fee as determined by the Licensing Manager.

## Notes:

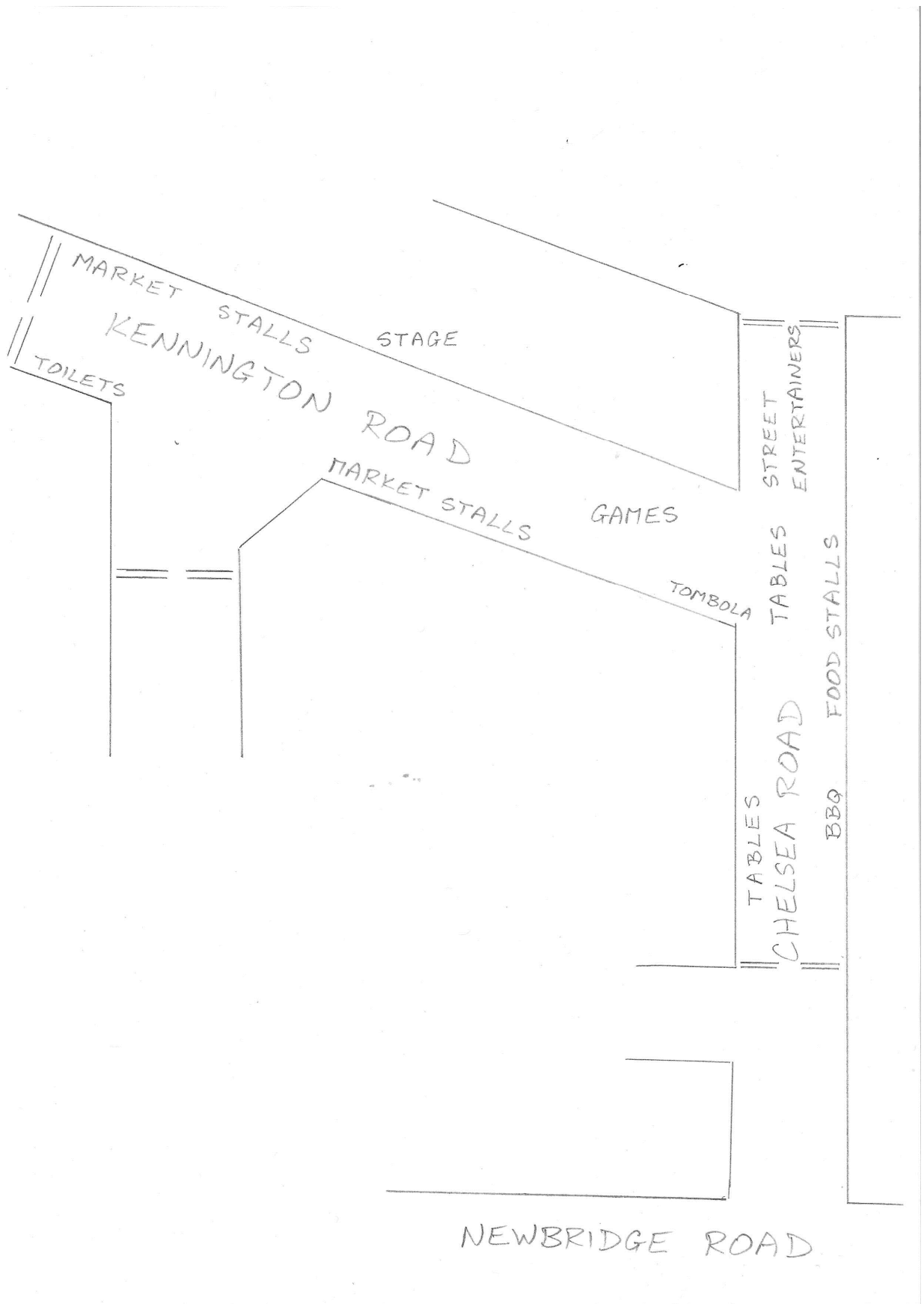
1. Street trading in a consent street without a Street Trading Consent, or from a van, cart etc., not specifically permitted by Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.
2. A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order unless an exemption has been specifically approved. In case of doubt about the effect of any such Order, enquire at Licensing Services, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG. Any abuse of a specifically approved exemption may lead to the privilege being withdrawn for all traders.
3. The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

### Schedule 4, paragraph 10

1. A person who:
  - b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
  - d) being authorised by a street trading consent to trade in a consent street, trades in that street:
    - i) from a stationary van, cart, barrow or other vehicle; or
    - ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
  - e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.
2. It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

3. Any person who, in connection with an application for a street trading consent, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence.
4. A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine.

Annex D



## Annex E

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

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**CHELSEA VILLAGE PARTY - CHELSEA ROAD & KENNINGTON ROAD  
NEWBRIDGE BATH**

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NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council for the grant of a Street Trading Consent at the above location.

<b>Name of each applicant</b>	Mr Peter Heywood
<b>Trading times</b>	Saturday 13 <sup>th</sup> May from 15:00 to 21:00
<b>Articles for sale</b>	sale of hot / cold food plus arts and craft
<b>Stall type</b>	Trestle Tables and Gazebo

If you wish to make any objections to the Council regarding the above application you should do so in writing to the undersigned by 23 April 2015.

**Under the provisions of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, such objections will be made available for public inspection.**

Dated 2 April 2015



Cathryn Humphries  
Environmental Protection and Licensing Manager  
Licensing Services  
Bath & North East Somerset Council  
Lewis House  
Manvers Street  
Bath BA1 1JG

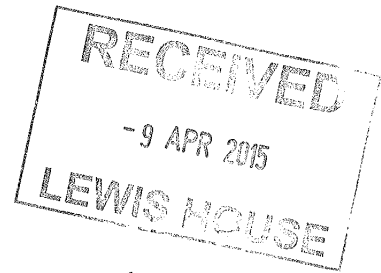
Email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)

Annex F

David Cheadle



7<sup>th</sup> April 2015



Cathryn Humphries  
Environmental Protection and Licensing Manager

Dear Ms Humphries,

**Chelsea Village Party – Application Ref: 15/01369/STTRAD**

I live opposite the Methodist church within the immediate area affected by the above application and wish to object to it on the following grounds:

- a. It is **not** a street party in the accepted sense of that term. It is **not** principally for the residents of the two streets affected. It is being imposed on them by a minority of local and outside traders for commercial advantage.
- b. There is no clear community benefit. On the contrary the event will result in considerable inconvenience and nuisance in terms of invasion of privacy, loss of parking, noise from music and the presence of large numbers of people not from the area but attracted by the prospect of eating and drinking in a confined space.
- c. A similar event last year claimed that surplus funds would be donated to charity but it is not clear whether this happened nor what amounts were involved. There is no clarity or transparency on this aspect of the event. Last year the event exceeded its agreed time limits.

Yours faithfully,

A handwritten signature in black ink, appearing to read "David Cheadle".

David Cheadle

## Annex G

Address Details removed

16 April 2015

Dear Mr Tapper,

This Party is a local community event, helping to bring a sense of friendship and community to the area. It gives many people a chance to meet each other and to have fun together.

Chelsea Road is well endowed with good food outlets, and the Party allows them for one day a year to sell their food out on the street in a party atmosphere.

Financially, the prime purpose is not to raise money, but to cover costs. Last year there was a small surplus, which has gone into the fund to plant trees in Chelsea Road. Any profit from this year's event will go to the same fund.

The Party will be stopping this year at 9.00pm rather than 10.00pm.

Yours sincerely,

Peter Heywood