

Bath & North East Somerset Council

MEETING: **Licensing Sub Committee**

DATE: **Tuesday 29th April 2014**

AGENDA
ITEM
NUMBER

TITLE: **Application for permission to provide facilities on the highway for recreation/refreshment at Roscoff Deli 18 Northumberland Place Bath BA1 5AR**

WARD: **Abbey**

AN OPEN PUBLIC ITEM

List of attachments to this report:

Annex A Application

Annex B Site Plan

Annex C Council's Standard Conditions

Annex D Highways Notice

Annex E Objection from Bath & North East Somerset Council, Highways Department

1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of **Roscoff Deli**, 18 Northumberland Place, Bath BA1 5AR.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLACATIONS

- 3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £241.

4 STATUTORY CONSIDERATIONS

- 4.1 Sections 115 A-K Highways Act 1980 give the Council discretion to grant permission to provide, maintain and operate facilities for recreation and/or refreshments on the highways subject to any reasonable conditions the Council thinks fit.
- 4.2 When making a decision consideration needs to be given to the Human Rights Act 1998.

4.3 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 for permission to provide facilities on the highway in respect of **Roscoff Deli**, 18 Northumberland Place, Bath BA1 5AR (*Annex A*).

5.2 The application is for permission to place **3 tables** on the highway outside the premises, along with appropriate seating (site plan attached at *Annex B*).

5.3 The Council's standard conditions for permission to place tables and chairs on the highway are attached at *Annex C*.

5.4 The size of the area applied for is **3.3 m x 1.90 m**.

5.5 The times applied for are:

Monday to Saturday from 07:00 to 19:00 hours

Sunday from 09:00 to 19:00 hours

5.6 The existing permit which expired on 31st March 2014 permitted the following:

3 tables on the highway outside the premises along with appropriate seating

Size of the area: **3.3 m x 1.06 m**

Times: **Monday to Saturday from 07:00 to 19:00 hours**

Sunday from 09:00 to 19:00 hours

5.7 The **changes** since the last permit issued are; an **increase in the size of the area** from 3.3 m x 1.06 m to 3.3 m x 1.90 m.

5.8 A notice was placed on the highway on 24th February 2014 (*Annex D*). The application was also placed on the Council's website.

5.9 An objection has been received from **Bath & North East Somerset Council, Highways Department**. The grounds for objection allege granting the application would lead to obstruction of the highway.

(Copy attached at Annex E).

6 RATIONALE

6.1 As objections have been received the Licensing Sub Committee must determine the application in accordance with Part VIIA, Highways Act 1980.

7 OTHER OPTIONS CONSIDERED

7.1 None

8 CONSULTATION

- 8.1 In accordance with current Bath & North East Somerset Council policy, the Licensing Service consulted with the Police, the Council's Highways Maintenance Services, Property Services and Development Control Services, Ward Councillors and affected frontages. The Highways Agency was also consulted for applications involving trunk roads outside of the city centre.
- 8.2 This report has not been sent to the Trades Union 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.

10 ADVICE SOUGHT

- 10.1 The Council's Monitoring Officer (Divisional Director-Legal & Democratic Services), section 151 Officer (Divisional Director-Finance) and the Divisional Director have had the opportunity to input to this report and have cleared it for publication.

Contact person	Kirsty Morgan, Public Protection Officer 01225 396719
Background papers	None
Please contact the report author if you need to access this report in an alternative format.	

APPLICATION

Bath & North East
Somerset Council

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980

PERMISSION TO PLACE AMENITIES ON THE HIGHWAY

ROSCOFF DELI 18 NORTHUMBERLAND PLACE BATH BA1 5AR

I/WE ROSALIO BARGTA SHAW

hereby give notice that I/we intend to apply for a permit in accordance with the particulars in the attached Schedule.

NEW applicants only to complete the following section

- I/We enclose an illustration/photo of the type, colour and dimensions of the furniture
- I/We enclose a site plan indicating the dimensions of the area of highway upon which we wish to place the above furniture (all plans should be drawn to scale)

Applicants REAPPLYING only to complete the following section

(please check the attached application form and amend the details as necessary)

- I/We certify that there have been no alterations to the size of the area
- I/We certify that there have been no alterations to the number or style of the furniture
- I/We enclose the maps/diagrams and/or photographs illustrating change to area/furniture

ALL applicants to complete the following section

To make the payment please call us on 01225 477556 and quote reference 14/00493/TABLE (NB there will be an additional charge of 2.5% for credit card payments).

- I/We are using tables and have paid the fee as follows:
- Application fee of £251
 - 3 tables @ £67 each
 - £34 if any other items are used
- _____ (please specify e.g. planters, boundary markers etc.)

TOTAL FEE £452

- I/We are not using tables and have paid the fee as follows:
- Application fee of £251
 - 0 other items @ £34 each
- _____ (please specify e.g. chairs, parasols etc.)

TOTAL FEE £452

- I/We declare that the information given in this application is true.

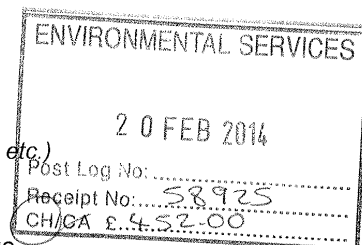
Signed by the applicant(s)

Rosario Bargta Shaw

Dated

19/2/14

Please email the completed application to licensing@bathnes.gov.uk

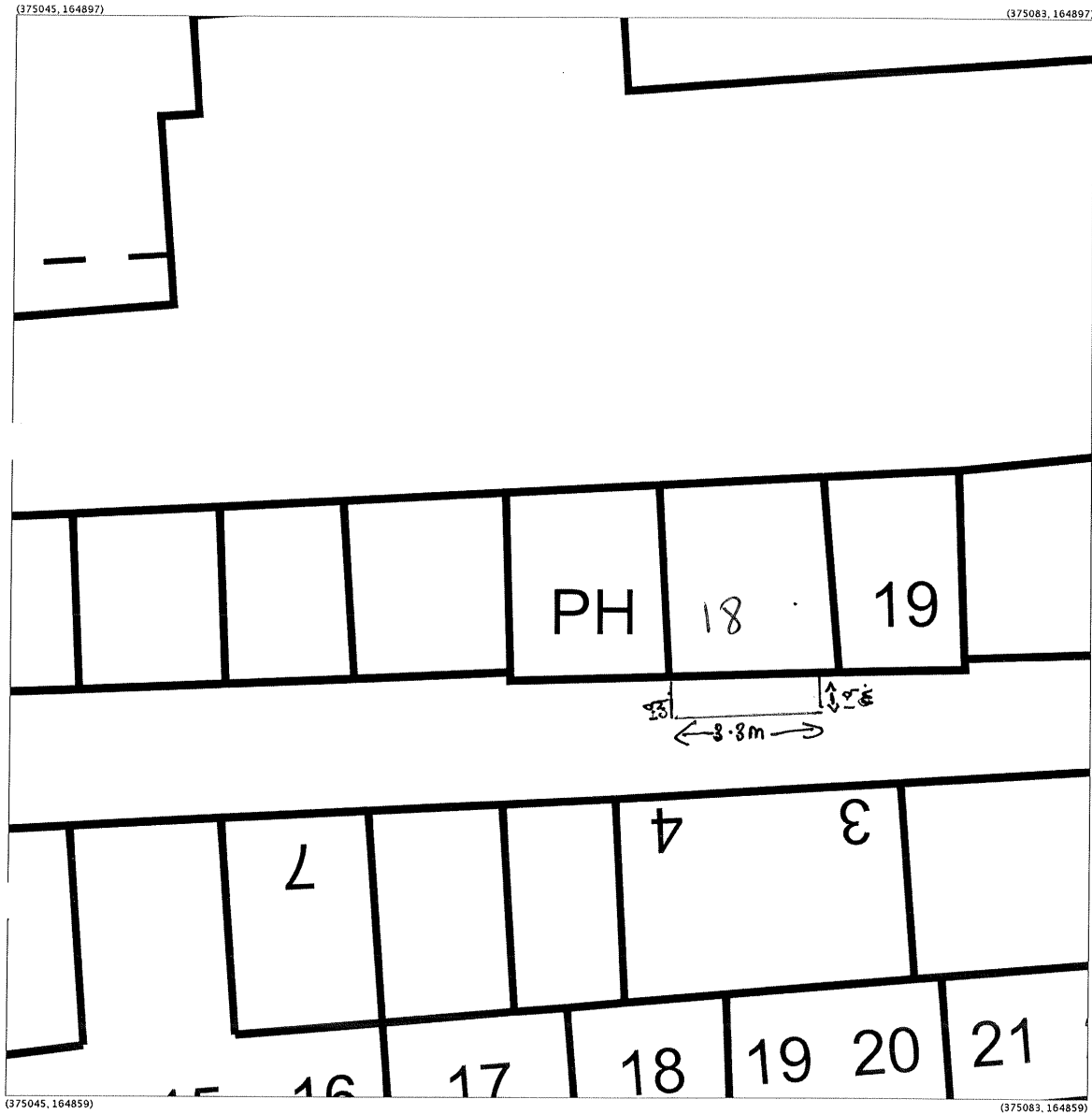
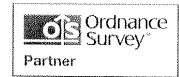


14/00493/TABLE

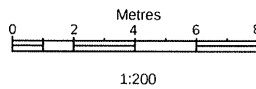
APPLICATION

12	If yes, please state your premises licence number	11 / 01161 / LARRE
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APPLICATION



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18 NORTHUMBERLAND PLACE
BATH
BA1 5AR

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Supplied by: **Stanfords**
Reference: OI499789
Centre coordinates: 375064 164878

The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

ENVIRONMENTAL SERVICES

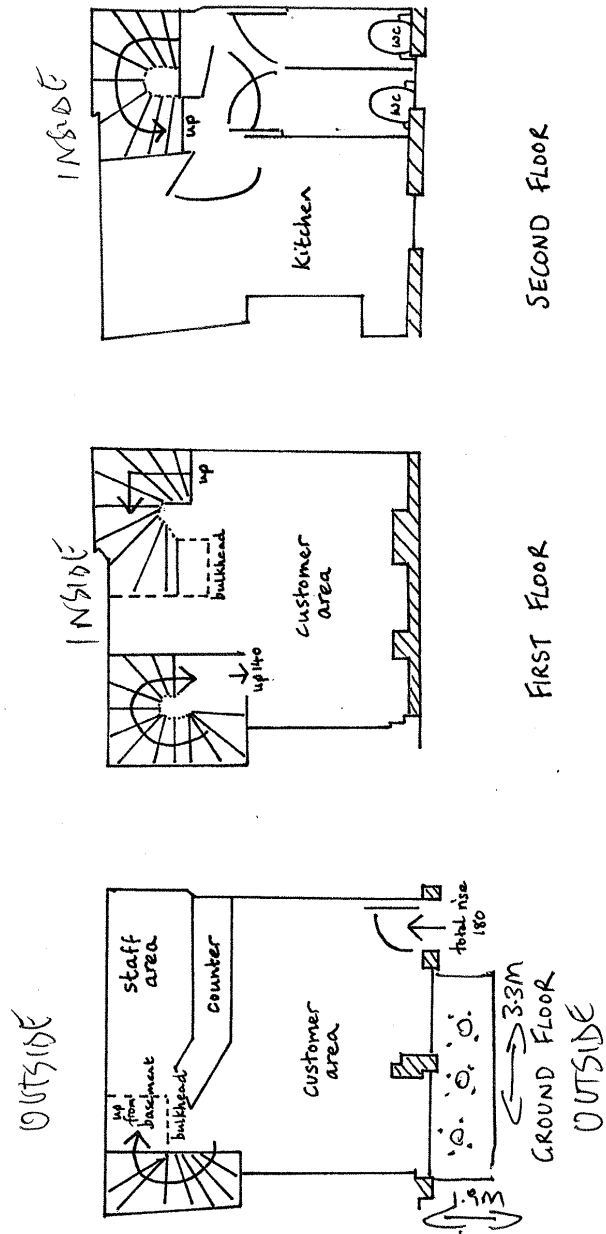
04 MAR 2014

Post Log No:

Receipt No:

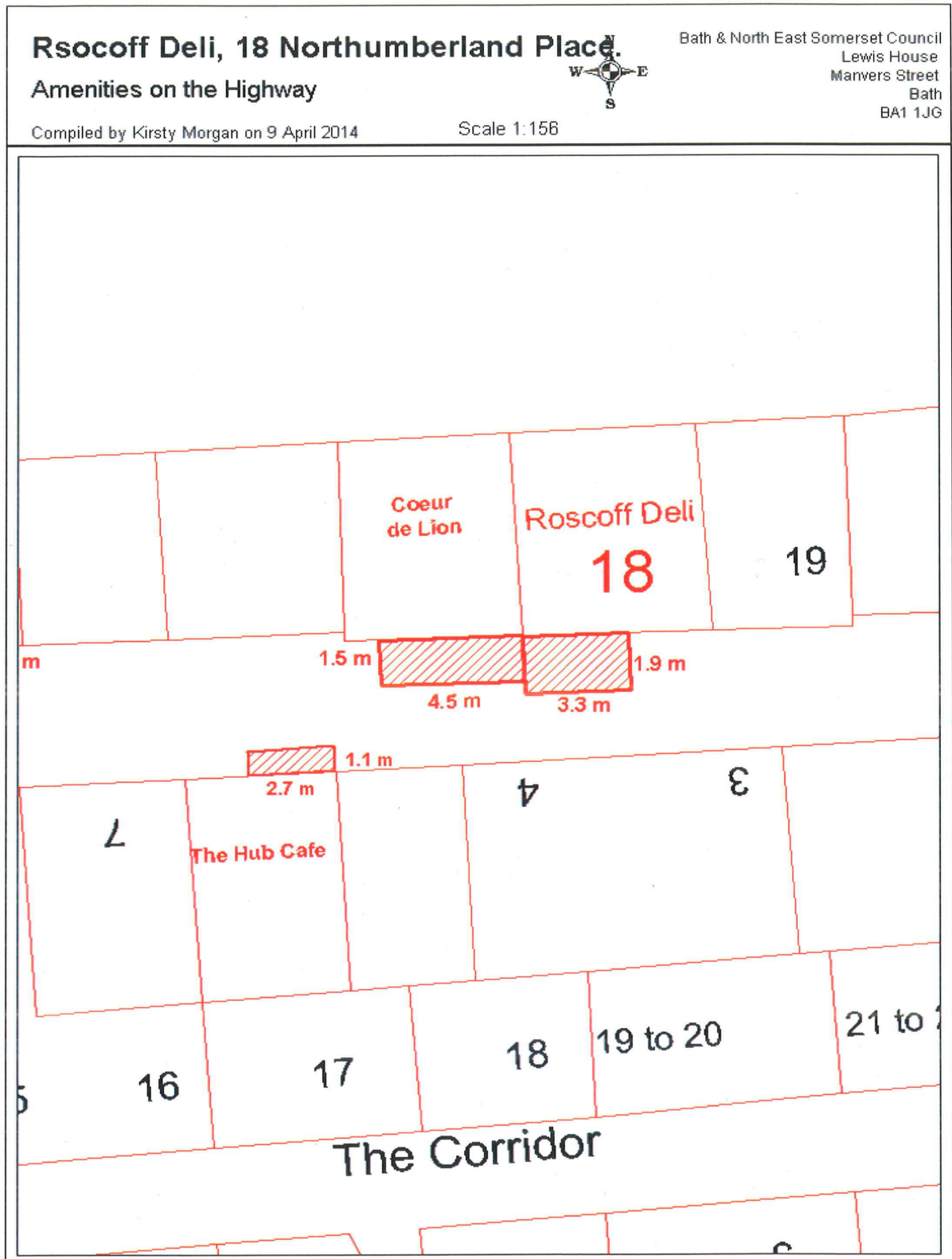
CH/CA £

APPLICATION



SCALE 1cm : 1 metre
18 Northumberland Place, Bath

SITE PLAN



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SITE PLAN



SITE PLAN



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980
PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY**

CONDITIONS

- 1 The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
- 2 The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Bath & North East Somerset Council.
- 3 The holder(s) shall return this Permission to the Service Manager immediately on revocation of this Permission.
- 4 The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
- 5 The holder(s) shall not use or suffer or permit any music playing music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst exercising privileges granted by this Permission.
- 6 The holder(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
- 7 The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during the permitted hours, other than lawfully passing or re-passing thereover as (a) member(s) or the public.
- 8 The holder(s) shall not place on the highway any furniture or equipment or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
- 9 Notwithstanding the specific requirement in Condition 5 above the holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of the Bath & North East Somerset Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 10 The holder(s) shall not assign, underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
- 11 The holder(s) shall observe and comply with any directions in relation to the use of the highway given by the Service Manager, or the Head of Engineering Services for the time being of the Bath & North East Somerset Council. Examples include the temporary removal of amenities during road closures, parades etc.
- 12 The holder(s) shall maintain the area shown on the plan attached to this Permission and edged in red, and the immediately adjacent area, in a clean and tidy condition during the permitted hours and shall leave the same in a clean and tidy condition and unobstructed, which shall include washing down the area, at the end of each daily period of use and on revocation or surrender of this Permission.

ANNEX C

- 13 The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required by the Head of Engineering Services and ensure that the same are emptied daily.
- 14 The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the expiry, surrender or revocation of the Permission.
- 15 The holder(s) shall indemnify and save harmless the Bath & North East Somerset Council their agents, servants and workmen from and against all proceedings, claims, damages, costs or expenses in respect of any injury (including personal injury) in damage or loss 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 the provision or use of facilities under this Permission, accept where such injury, damage or loss is attributable to the negligence of the Council.
- 16 This Permission may be revoked by the Bath & North East Somerset Council at any time and the Bath & North East Somerset Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder(s) in respect of such revocation.
- 17 Nothing herein contained shall be construed as the granting or purported granting by the council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1971 or any statutory modification or re-enactment thereof for the time being in force.
- 18 The holder shall, whilst members of the public are using the facilities provided for the consumption of intoxicating liquor, provide and maintain in a prominent position, to the satisfaction of the Service Manager, notices in the form approved by him concerning the provisions of the Byelaw made by the Bath City Council on 30th January 1991 relating to the consumption of intoxicating liquor in public places.

Notes:

- 1 Section 115K of the Highways Act 1980 provides as follows:-
 - (1) If it appears to a council that a person to whom they have granted a permission under section 115E of this Act has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.
 - (2) If a person on whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the council may take the steps themselves.
 - (3) Where a council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under sub-section (1) of this Act was served.
- 2 Failure to comply with any Condition of the Permission will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.

**BATH & NORTH EAST SOMERSET COUNCIL
ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES (BATH) ORDER 2004**

This Order is made under the Criminal Justice and Police Act 2001 and relates to the consumption of alcohol in a Public Place. For the purposes of the Order, your premises and the area covered by your permit are not a Public Place.

Where a constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to consume alcohol in such a place. The constable may require the person concerned either not to consume in that place anything which is, or which the constable reasonably believes to be, alcohol; or to surrender anything in his possession which is, or which the constable reasonably believes to be, alcohol or a container for alcohol. A constable may dispose of anything surrendered to him in such manner as he considers appropriate.

A person who fails without reasonable excuse to comply with a requirement imposed on him under in such circumstances commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500).

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

PART VIIA HIGHWAYS ACT 1980

ROSCOFF DELI 18 NORTHUMBERLAND PLACE BATH BA1 5AR

NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council by the proprietor of the abovementioned premises for permission to provide facilities for recreation or refreshment consisting of a number of tables and chairs in or on that part of the highway specified above until:

31 March 2015

and at the following times:

Monday to Saturday	07:00 - 19:00
Sunday	09:00 - 19:00 hours

Further information about the above application, including the area of footpath or footway, may be obtained by calling at the address below.

If you wish to make any representations to the Council regarding the above application you should do so in writing to the undersigned within 28 days from the date of this notice.

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

Dated 21 February 2014



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

OBJECTIONS

Objection from Bath & North East Somerset Council's Highway Department

From: Amanda Hall
Sent: 06 March 2014 09:28
To: Wendy Stokes; Licensing
Subject: RE: Plan - Roscoff Deli

Wendy

Thank you for the plan.

I have taken a look at this on site, and have also received comments from the Highway Inspector.

The increased area proposed for tables and chairs is currently being used on site and extends across the pedestrianized route of Northumberland Place such that there is only a residual 1.4m width which is not considered acceptable for this well used pedestrian route. A minimum of 2m is generally required.

The Highway Inspector has also commented that this area is already too cramped, and therefore we are bound to raise an objection.

Regards

Amanda