

## Bath & North East Somerset Council

MEETING: **Licensing Sub Committee**

DATE: **Tuesday 7 April 2015**

AGENDA  
ITEM  
NUMBER

TITLE: **Application for permission to provide facilities on the highway for recreation/refreshment at Seafoods Fish Bar, 38 Kingsmead Street, Bath. BA1 2AA.**

WARD: **Kingsmead**

### 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 Local Resident

## 1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of **Seafoods Fish Bar**, 38 Kingsmead Street, Bath. BA1 2AA.

## 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 £251.

## 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 **Seafoods Fish Bar**, 38 Kingsmead Street, Bath. BA1 2AA. (*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: **5 m x 1.2 m**.
- 5.5 The times applied for are:

**Every day: 08:00 – 22:00 Hrs**

- 5.6 There are no changes from previous applications, which have all been granted.
- 5.7 A notice was placed on the highway on 6 February 2015 (*Annex D*). The application was also placed on the Council's website.
- 5.8 An objection has been received from a **Local Resident**. The grounds for objection allege granting the application would lead to obstruction of the highway and public nuisance (*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.

<b>Contact person</b>	Mike Dando, Senior Public Protection Officer (Licensing Enforcement) 01225 477946
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format.</b>	

## APPLICATION

Bath & North East  
Somerset CouncilBath And North East  
Somerset CouncilLOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982  
PART VIIA HIGHWAYS ACT 1980

06 FEB 2015

## PERMISSION TO PLACE AMENITIES ON THE HIGHWAY

Received

SEAFOODS FISH BAR 38 KINGSMEAD STREET BATH BA1 2AA

I/We

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 477531 and quote reference 15/00478/TABLE (NB there will be an additional charge of 2.5% for credit card payments).

- ☒ I/We have paid the fee as follows:

Application Fee	£251.00
Number of Tables <u>3</u> @ £67 each	£201.00
£34 if any other items are used (e.g. planters, boundary markers etc.)	£
Please specify other items	
<b>TOTAL FEE</b>	<b>£452.00</b>

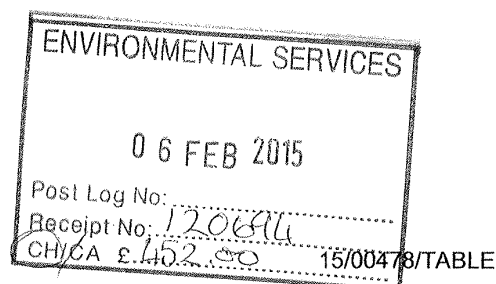
- ☒ I/We declare that the information given in this application is true.

Signed by the applicant(s) (type name in if sending by email)

Please email the completed application to

Dated

3/2/15



## APPLICATION

**Local Government (Miscellaneous Provisions) Act 1982  
Part VIIA Highways Act 1980  
Permission to Place Amenities on the Highway at Seafoods Fish Bar  
38 Kingsmead Street Bath BA1 2AA**

<b>1</b>	<b>Full name and address of each applicant</b>	Mr Ian Menzies Seafoods Fish Bar 38 Kingsmead Street Bath BA1 2AA
<b>2</b>	<b>Email address</b>	seafoods@btconnect.com
<b>3</b>	<b>Contact telephone number</b>	01225 789645
<b>4</b>	<b>Period of time for which the permit is required (maximum one year)</b>	From: 1 April 2015 To: 31 March 2016
<b>5</b>	<b>Size/Dimensions of area</b>	5.0 m x 1.2 m
<b>6</b>	<b>The Council must notify any "affected frontagers" of this application. Please provide details of the adjoining premises.</b>	Avonvale Carpets 37 Kingsmead Street Bath BA1 2AA  Bisque Radiators 15 Kingsmead Square Bath BA1 2AE  Resident At 38 Kingsmead Street Bath BA1 2AA  Resident At Top Floor Flat 38 Kingsmead Street Bath BA1 2AA
<b>7</b>	<b>Days of the week and hours of operation on those days</b>	Every Day 08:00 - 22:00
<b>8</b>	<b>Specific part of the premises proposed to be used</b>	Front of premises
<b>9</b>	<b>Alcohol permitted</b>	Yes
<b>10</b>	<b>If yes, please state your premises licence number</b>	

## SITE PLAN

**Seafoods Fish Bar  
Amenities on the Highway**

Compiled by P Rowland on 23 February 2007

Scale 1:400

Bath & North East Somerset Council  
Environmental Services  
9-10 Bath Street  
Bath BA1 1SN  
Tel 01225 477000



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License number 100023334

Proposed tables and chairs (5 m x 1.2 m)

SITE PLAN





SITE PLAN



11. 3. 2015 11:09



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 30<sup>th</sup> 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).

HIGHWAYS NOTICE

Application Ref. 15/00478/TABLE

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

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**SEAFOODS FISH BAR 38 KINGSMEAD STREET BATH BA1 2AA**

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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 and/or other items in or on that part of the highway specified above until:

**31 March 2016**

and at the following times:

**Every Day**

**08:00 - 22:00 hours**

Further information about the above application, including hours of operation, area of footpath or footway and other information, 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 by 6 March 2015.

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

Dated 6 February 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)



## OBECTIONS

Mr & Mrs M Walsh  
 Top Floor Flat  
 37-38 Kingsmead Street  
 Bath  
 BA1 2AA

22.02.2015

Bath & North East  
 Somerset Council

24 FEB 2015

Received

**Ref : Permission to place tables and chairs and other items at Seafoods Fish Bar, 38 Kingsmead Street, Bath BA1 2AA.**

With reference to your letter dated 6<sup>th</sup> February 2015 regarding the above mentioned application, I wish to give notice that **I strongly oppose** the use of any of table's and chairs etc. outside our home.

The reasons are many but I will try to outline the situation briefly.

Over the past few years we have had many difficult situations regarding the access to our front door, people eating at the tables constantly move the table's and chairs out of the designated area and as the area is not large they can only move to the left side this being our front door. And to make it worse there are buggy's or bags and sometimes bikes placed by our door while people are eating at the tables.

In the past, we have tried communicating with the owners only to be told to move if we don't like it. !!!

For this reason, we spoke to the council and they did remark the seating area outside the shop but within a short period of time the lines were crossed again.

Once the tables, chairs and A board are placed on the paving area there is very little room to get passed, and we normally have to walk on the cobbled road rather than stay on the pavement. This is really hard for passers by with pushchairs or wheel chairs, and even harder when cars park outside to buy fish and chips.

Another aspect of having food tables outside is the cleanliness problem. There are numerous occasions when unsightly leftovers are left outside and the floors are often left with food plus chip forks and cans etc all over the floor, this is never swept up at the end of the day ( my understanding was that they should clean the area at the end of each day as per there licence. ???) .

With the summer approaching the problem always get worse with more people wishing to sit outside in a very restricted area.

We feel we have no alternative but to object to Seafoods permit being issued . Or at best reducing the tables to only **two** maximum.

Yours Sincerely



Mr Michael Walsh