

Licensing Sub-Committee

Date: Thursday, 28th November, 2024

Time: 10.00am

Venue: Kingston Room - Pump Room, Bath

Councillors: Steve Hedges, Toby Simon and Ann Morgan

Chief Executive and other appropriate officers
Press and Public

A briefing session for Members will be held at 9.30am.



Mark Durnford

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NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

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. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet www.bathnes.gov.uk/webcast. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. Public Speaking at Meetings

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

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

6. Supplementary information for meetings

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Licensing Sub-Committee - Thursday, 28th November, 2024

at 10.00am in the Kingston Room - Pump Room, Bath

A G E N D A

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.

(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 4.4 Appendix 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 OF PREVIOUS MEETINGS: 17TH OCTOBER 2024 & 31ST OCTOBER 2024 (Pages 5 - 22)

6. LICENSING PROCEDURE (Pages 23 - 26)

The Chair will, if required, explain the licensing procedure.

7. APPLICATION FOR A VARIATION OF STREET TRADING PITCH 02 (LJ HUGS), TERRACE WALK, BATH. (Pages 27 - 58)

8. APPLICATION FOR A NEW STREET TRADING PITCH - OUTSIDE PINK ART, YORK STREET, BATH (FOR USE DURING THE BATH CHRISTMAS MARKET PERIOD). (Pages 59 - 78)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

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BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 17th October, 2024, 10.00 am

Councillors: Steve Hedges (Chair), Ann Morgan and George Tomlin

Officers in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and Wayne Campbell (Public Protection Officer (Licensing))

67 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

68 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor George Tomlin was present for the duration of the meeting as a substitute for Councillor Toby Simon.

69 DECLARATIONS OF INTEREST

There were none.

70 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

71 LICENSING PROCEDURE

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

72 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972.

It was **RESOLVED** that the public be excluded from the meeting for the following items of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

73 CONSIDERATION OF “FIT AND PROPER” STATUS - 23/00105/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

The licensee said that the reason for the late notification for his most recent offence was that the letter notifying him of the incident had been sent to him whilst he was out of the country.

He added that other previous faults regarding his licence had been either minor or as a result of a misunderstanding.

Councillor George Tomlin asked the licensee if he was aware that having 3 or more minor motoring offences during the previous three years was a breach of the Council's policy.

The licensee replied that he was not aware of this.

He stated that his licence was his livelihood and needed to be able to drive to support his family.

The Chair asked the licensee why he had broken the speed limit on numerous occasions.

The licensee replied that he mainly worked within Bristol and that his offences had occurred in Bath where he had found it difficult to control his speed whilst driving on hills. He added that he has never intended to drive at speed on purpose and now drives more carefully when in Bath.

The Chair asked how old his vehicle was.

The licensee replied that it was a 2018 model.

The Chair said that if that was the case he should be able to put a speed limiter in place on the vehicle.

The licensee replied that whilst the vehicle had been serviced this feature had been activated, but had somehow now turned off and he did not know how to put it back on.

The Chair stated that it was the licensee's responsibility to know the policy of the Council and asked him what measures he will put in place to make sure that he completes all of his statutory paperwork on time.

The licensee said that he would make sure that he renews his MOT and insurance well in advance of the deadlines. He added that for his most recent MOT his vehicle had been booked 2-3 weeks ahead of renewal, but the vehicle had failed and that the following appointment could only be made after the renewal deadline had passed.

The Chair said that it was important to inform the Licensing department as soon as you realise that there are any problems.

The licensee gave a summing up statement to the Sub-Committee. He said that whilst holding his licence he had received no complaints from the public and that he was in no way a threat to them. He stated that in his view the previous faults were minor and as a result of misunderstandings.

Councillor Ann Morgan asked the licensee if he was aware of the severity of his offences / actions now.

The licensee replied that he was.

Decision & Reasons

Members have had to consider whether or not the Licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of speeding convictions and his licensing background. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The Licensee addressed Members in oral representations. In relation to the reason why he had not notified licensing of his latest speeding conviction within 7 days, he indicated that the letter had been put to one side by his partner and he was not aware of it as he had gone abroad. Whilst he was abroad with his son, he had asked his partner if any post had arrived for him, and she had sent a WhatsApp image of the letter to him. It was at that point that he had notified licensing, and this is the reason for the delay in giving notification. In relation to his failures in providing MOT and insurance certificates, the Licensee explained that this was due to misunderstandings. Similarly, in relation to the incident where he attended the licensing offices in his Private Hire Vehicle without holding a Combined Hackney Carriage/Private Hire Driver's Licence, he said he did not realise that he could not drive his son to school for example, in his vehicle. He thought this was ok as he had removed his plates and was insured as far as he was concerned.

On questioning by Members, the Licensee indicated that he unintentionally committed speeding offences and whilst it was no excuse, he did not exceed the speed limits by a great deal; it was normally when he was going up or downhill. In terms of what he would do in future to ensure that he complies with the policy and conditions of his licences, he indicated that he would make sure he drives more carefully everywhere, and he would make MOT bookings and contact his insurance company earlier. The Licensee indicated that he had learned a lot now and he would make sure that he would comply with all of the conditions imposed on him. He apologised for his conduct and asked Members to give him another chance.

Members noted that the Licensee had obtained three minor motoring convictions in the last three years which was contrary to the Council's policy, and that two of these convictions had been considered when he had appeared before the Licensing Sub Committee in April 2023. At that Sub-Committee he had received a final warning that he needed to comply with the terms of his licences and must take care to travel within the speed limits, amongst other things.

Members noted that compliance with the conditions on BANES licences is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised. Members also noted the importance of complying with the speed limits in force to ensure the safety of road users.

Members found the Licensee's account regarding the delay in notifying Licensing of his latest conviction to be credible, they took on board his confirmation that he understood the severity of what he had done and would put measures in place to ensure this did not happen again, and Members noted that there had been no complaints from Members of the public in relation to his conduct as a BANES licensed driver. For those reasons, on balance, Members find that the Licensee is still a fit and proper person to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence but issues a warning to the Licensee that:

1. He must understand and comply with the Council's policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators.
2. He must understand and comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. He must set up and maintain arrangements which will ensure that he complies with all the obligations of his licences and indicate in writing to the licensing section within 21 days from today i.e. by 8th November 2024, what measures he has put in place.
4. He must confirm in writing to the licensing section within 21 days from today, that he has re-read the Councils policy and the conditions of his licences.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

Note

If the Licensee fails to comply with the requirements at paragraph 3 and 4 above, he may be referred back to Licensing Sub Committee to consider his fit and proper status.

74 CONSIDERATION OF FIT AND PROPER STATUS - 22/00579/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

He explained that there was an error on the Stop Notice within the agenda pack as that had indicated that a spare wheel was in the vehicle at the time of the inspection and there was not one present.

The licensee stated that the item that had been found within his vehicle was a gardening tool that he had purchased from B&Q. He said that it had been a genuine mistake that he had left the item in his vehicle whilst working. He explained to the Sub-Committee that he used the tool to chop down shrubbage near areas where he goes fishing and that he had offered to show the Police evidence of this if required.

He said that the tool is stored in a separate storage compartment within his boot and had totally forgot that it was in the vehicle. He added that this was an action that he regrets.

The licensee informed the Sub-Committee that he had received no complaints from members of the public since becoming a driver in 2016 and could supply a character reference if required from his employer.

The licensee addressed the Sub-Committee regarding the evening that his vehicle was stopped by a Taxi Licensing Police Officer in July 2024 and the subsequent breaches of his licence and conditions.

The licensee said that his missing vehicle roof sign, Combined Hackney Carriage/Private Hire driver's ID badges, interior comment plate, "No Smoking" signs, fire extinguisher, spare light bulbs and spare wheel were not within or on his vehicle when it had been stopped for inspection as the vehicle had been valeted and that the items that should have been in the vehicle had been removed prior to that.

He added that in his opinion the licence plates were in place and were clearly visible. He said that he had not been told that the licence plate for the rear of the vehicle could not be displayed in the window. He stated that when the vehicle was reinspected everything was fine.

Councillor George Tomlin asked the licensee when had the vehicle been valeted prior to it being stopped for an inspection.

The licensee replied that this had been one day before the inspection and accepted that all items should have been replaced.

Councillor Tomlin asked the licensee why he did not have his personal ID badge on him at the time the vehicle had been stopped for inspection.

The licensee replied that he could not explain this. He said that he understood the importance for all ID to be worn and displayed and accepted that these were his mistakes. He added that he had been calm when questioned at the inspection and that no charges had been brought against him.

The Chair stated that vehicle signage and ID need to be in place for many reasons and were vital, especially to ensure the safety of the public.

The licensee said the plate to the front of the vehicle had not been blocking the vehicle's registration and reiterated that he had not known that the rear plate could not be displayed in the window. He added that his vehicle has livery on the doors that show that the vehicle is a taxi.

The Chair asked the licensee if he now accepts that as a condition of his licence that the plates for the vehicle must be attached to the exterior of his vehicle, front and rear.

The licensee replied that he does now accept this.

The Public Protection Officer (Licensing) asked the licensee where he had had his vehicle valeted.

The licensee replied that he had done this himself. He said that he knows he should have put back the items that were removed.

The Public Protection Officer (Licensing) said that he disputed the licensee's account of his demeanour on the night of the inspection and said that the Taxi Licensing Police Officer had needed to calm him down.

The licensee said that he had been embarrassed about being pulled over for the inspection.

The Chair asked the licensee to make a summing up statement.

The licensee said that he acknowledged the mistakes that he had made and that he was telling the truth when answering questions at the inspection and the meeting today.

Decision & Reasons

Members have had to consider whether or not the Licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of a number of breaches of the conditions of his BANES licences and for having a gardening tool present in vehicle. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The Licensee addressed Members in oral representations and admitted his wrongdoing. He acknowledged that he had breached the conditions of his licence by failing to return items to his vehicle after he valeted it. He explained that he had all of those items at home and was able to put them back into his vehicle so that it was satisfactory on re-inspection. He disputed that the front plate was obscuring the VRN but accepted that as he was asked to move it, he did so. He explained to Members that it was negligent of him to leave the gardening tool in his vehicle. He could see how this might be perceived if a passenger had been aware of this. The Licensee explained that the tool was in his vehicle for use when fishing and that he was telling the truth that there were no malicious or suspicious reasons behind it being present in the car. He explained to Members that he had felt embarrassed when he was stopped by licensing officers and the police; he had a passenger in his vehicle at the time.

On questioning by Members, the Licensee acknowledged his wrongdoing and said he understood why it was important to have the items in his vehicle as required by the conditions on his licence, in the interests of public safety.

Members noted that the Licensee was found to have breached 8 of the conditions of his licence when his vehicle was inspected as part of a joint operation between the police and licensing. Compliance with these conditions is vital to ensure the safety of the travelling public.

Members noted that the police had decided to take no further action in relation to possession of the gardening tool.

Members were satisfied based on what they had heard and read that the Licensee understood now, the importance of complying with the conditions on his licence, to ensure the safety of the travelling public. They are also satisfied that the possession of the gardening tool in the car boot, was negligent. They also noted that he had no complaints on his licensing record from Members of the public. However, the breaches of condition and presence of the tool in the vehicle was sufficiently serious that they issue him with a final warning as to his future conduct as follows:

1. He must understand and comply with the Council's policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators.
2. He must understand and comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

The meeting ended at 12.55 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 31st October, 2024, 10.00 am

Councillors: Steve Hedges (Chair), Toby Simon and Ann Morgan

Officers in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and Geoff Cannon (Public Protection Officer (Licensing))

75 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

76 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

77 DECLARATIONS OF INTEREST

Councillor Toby Simon declared an other interest with regard to agenda item 7 (Application for a New Premises Licence for: King Edwards School, Bath, Pavilion and Playing Fields) as he said that he personally knew the representative from Bathampton Parish Council who were objecting to the application. He added that this would in no way have any impact on the decision made by the Sub-Committee and asked all parties present if they had any objection to him sitting on the Licensing Sub-Committee.

There were no objections from the applicant or objectors towards Councillor Simon remaining as a member of the Sub-Committee following this declaration.

78 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

79 MINUTES OF PREVIOUS MEETING: 3RD OCTOBER 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 3rd October 2024 and they were duly signed by the Chair.

80 LICENSING PROCEDURE

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

81 APPLICATION FOR A NEW PREMISES LICENCE FOR KING EDWARDS SCHOOL BATH PAVILION AND PLAYING FIELDS, BATHAMPTON, BATH. BA2 6SY

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that an application has been made under s.17 of the Licensing Act 2003 by King Edward's School, Bath for King Edwards's School, Bath, Pavilion and Playing Fields, Bathampton BA2 6SY for a new Premises Licence.

He stated that 48 relevant representations of objection had been received from local residents and other interested parties within the statutory period and 3 representations of support for the application had also been received.

He said that the application proposes the following licensable activities:

- The sale of alcohol (for consumption on the premises only) 12:00 – 23:00 every day.
- Performance of Dance, Exhibition of Film and Performance of Plays (outdoors) 14:00 – 22:00 every day.
- Performance of Live Music (indoors and outdoors) 10:00 – 22:00 every day.
- Performance of Recorded Music (indoors and outdoors) 10:00 – 23:00 every day.

He informed the Sub-Committee that the application proposes the following opening times:

07:00 – Midnight every day.

He stated that a number of measures had been offered by the applicant to promote the licensing objectives within their application and that following a consultation with the police during the statutory 28-day period, the applicant agreed to amend the original application and has presented additional measures to promote the licensing objectives.

Ewen McGregor, solicitor for the applicant, was accompanied by Peter Brockwell (KES Estates & Facilities Manager) addressed the Sub-Committee. He stated that there was no intention for the playing fields to be in operation for 365 days a year and that the licence, if granted, would support existing events held at the site.

He said that all events would be run and managed by the school by way of a schedule of conditions and stated that no event under the premises licence would be run by a third party.

He explained that the school is a registered charity and that any profit from events held would be put back into the school and to aid their outreach / community programmes.

He said that matters such as parking, wildlife and traffic, that had been raised in objection to the application, were not matters that were within the remit of the Sub-Committee.

He outlined that the licence would support the currently annually held sport festivals, the showing of films and any potential weddings. He added that the site was not a music festival location and that in the event of a high attendance event stewards and SIA (Security Industry Authority) staff would be in place.

He stated that no objections to the application had been received from the police or any of the other responsible authorities.

He explained that under the licence there would be no more than 10 events per calendar year that either a) finish after 6pm or b) have more than 500 people present. He added that if capacity of the event is over 500 this shall be submitted to the Licensing Authority, the Police, and the Emergency Planning Authority one calendar month in advance of the event and when the proposed maximum occupancy shall exceed 2,000, two calendar months' notice shall be required.

He informed the Sub-Committee that a Noise Management Plan would be developed by the school and implemented ahead of any licensable activity taking place at the premises.

He stated that the measures offered by the applicant had addressed all four of the licensing objectives, that the school has worked hard on its brand and reputation and that it was committed to working with the Council and community.

Councillor Toby Simon asked if any off-site parking for events could be arranged to reduce traffic in and around the village.

Ewen McGregor replied that as with the upcoming Laser Firework event they could consider the provision of a shuttle bus to events held on the site.

The Chair asked if the terminal hour for the sale of alcohol could be reduced to 22.00 for any of the events planned.

Ewen McGregor replied that the hours applied for are there as a guide and would take instructions from the applicant whilst the hearing was ongoing as to whether any reduction could be made.

Richard Smith stated that the applicant had referred to the community a lot within their oral submission, but said that despite the site being surrounded by residents no direct contact had been made with them prior to the application.

The Public Protection Officer (Licensing) replied that the applicant had complied with all regulations whilst submitting their application, including notices around the perimeter of the site and an advertisement within the local newspaper.

Ewen McGregor added that a letter on behalf of the applicant had now been sent to all parties who had registered an objection to the licence.

Tim Williams asked, if granted, would the licence allow i) 10 events per year with a capacity of 3,000 and ii) enable numbers of 499 people and under to attend events held every day of the year.

Ewen McGregor replied that yes this would be allowable should the licence be granted.

Stephen Haigh referred to a VW Camper Van rally that had been previously held on the site and asked if that were to be included within the 10 events per year.

Ewen McGregor replied that this event did not include any licensable activities.

Bernadette Metters asked why the applicant has applied for a 24/7 licence within a residential area.

Ewen McGregor replied that the licence applied for was not 24/7 and that the school is looking for ways to provide facilities for its staff and the wider community.

Stephen Haigh addressed the Sub-Committee and explained that he lives on a boat within a few metres of the playing field and that it is a quiet and tranquil area.

He said that when the pavilion has been in use for events that he finds it hard to sleep until they have concluded. He added that he wishes to continue to enjoy the peace and quiet that the area generally provides.

David Beard addressed the Sub-Committee and said that he lives 20 yards from the entrance to the field. He stated that he had received no communication from the school over the use of the field and that when events are held there, they are intrusive.

A representative from Bathampton Parish Council addressed the Sub-Committee and said that they were concerned over future use of the field and the prospect of a capacity of 3,000 people.

She added that the use of a shuttle bus for events might be considered welcome by some, but could still cause issues with a lot of movements around the village.

Councillor Toby Simon asked if she had any proposals to amend the operating schedule.

She replied that they would like outdoor events to cease by 20.00.

Michael Peddar addressed the Sub-Committee and said that as a local resident he was tolerable of the sporting events that take place on the field, but said that the prospect of 3,000 people in attendance was shocking.

He added that coaches used for transporting pupils for sport were already an issue.

Tim Williams addressed the Sub-Committee and said that the values and community nature expressed by the applicant today had not been shown during the application process and that he was concerned that the licence would allow for many events, with under 500 people, to take place.

He asked the members of the Sub-Committee to consider how they and their residents would feel about such a proposal in their local area.

Richard Smith addressed the Sub-Committee on behalf of the Harbutts' Residents Association and said that he wholly supports sport as part of the school curriculum, but said that other events on the site were a clear nuisance, especially those that finish after 10pm.

Alistair Mathers addressed the Sub-Committee and informed them that he was a Bathampton resident and that his home looked directly over the site. He acknowledged that activities had taken place on the site for many years.

He said that he felt that the school were seeking to industrialise their current practice and asked that they rethink their application.

Bernadette Metters addressed the Sub-Committee and said that as her house was built in 1760 it is not able to have double glazing fitted and has known her windows to rattle during certain events. She added that people, when attending events, do not always proceed to go straight home as they walk up and down Dark Lane.

She said that she was concerned that if the licence is granted there will be havoc, that it was an erosion of public life and would not be a liveable neighbourhood.

Stephen Haigh addressed the Sub-Committee to inform them that local boat dwellers must stop making noise from 8pm and so to be fair to all this is the time that events should cease.

He added that the canal was the biggest traveller site in the country, was in close proximity to the field and that this community is protected under the Equalities Act.

A representative from Bathampton Parish Council made a summing up statement on behalf of those present who were objecting to the application. She said that concerns remain on how the licence will be used in the future to potentially attempt to make more money.

She added that the village has already accepted some degree of disruption from events held, but said that it is a lovely setting and they would not want it to change further.

Stephen Haigh added that the noise from events is currently tolerable, any more and it would not be.

The Chair asked if any complaints had been received in relation to previous events held on the site.

The Public Protection Officer (Licensing) replied that he was not aware of any event objections in relation to a previous Temporary Event Notice (TEN) that had been in place for an event in 2021.

The representative from Bathampton Parish Council added that she was not aware of any complaints that had been made.

Ewen McGregor made a summing up statement on behalf of the applicant. He said that they respect the concerns that have been raised, but note that some of these fall outside the remit of the Sub-Committee.

He stated that the applicant has provided evidence as to how they will promote the licensing objectives and that there should not be adverse speculation on how the future activities on the site will be carried out.

He said that the applicant would not 'industrialise' its current activities and that there have been no objections to the application from the police or any other of the responsible authorities. He added that following consultation with the police the applicant has agreed to additional measures being put in place should the licence be granted.

He stated that no event under the premises licence would be run by a third party and that there was no intention to hold a large number of events within the year.

He said that larger events would be ticketed and reiterated that if the capacity of an event is over 500 this shall be submitted to the Licensing Authority, the Police, and the Emergency Planning Authority one calendar month in advance of the event and when the proposed maximum occupancy shall exceed 2,000 two calendar months' notice shall be required.

He said that the applicant does not plan in any way to hold events until 11pm for 365 days of the year and would not abuse the privilege of having such a licence if granted.

Councillor Toby Simon asked if he had been able to consult with the applicant regarding whether the terminal hour for the sale of alcohol could be reduced to 22.00 for any of the events planned.

Ewen McGregor replied that the applicant had agreed that when the exhibition of film takes place the sale of alcohol will cease at 10pm.

Decision & Reasons

Members have determined an application for a new Premises Licence at King Edwards School, Bath Pavilion and Playing Fields, Bath, BA2 6TR. In doing so Members have taken into consideration matters including the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998, Equality Act 2010 and case law.

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 on the information before them. Members reminded themselves that each application must be considered on its own merits. Members had regard to the case of R. (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin).

Members had regard to 2 lots of additional information provided on behalf of the applicant and circulated to the objectors in advance of the hearing. The first lot comprised written submissions and 5 annexes. The second comprised an information document produced by the Canal & River Trust in relation to the Bathampton L1 Leisure mooring site.

Members had regard to 1 lot of additional information provided by Dr Stephen Haigh who had objected to the application, and this had been shared with the applicant in advance of the hearing.

The Applicant

Ewen McGregor, solicitor for the applicant addressed members in oral representations and had provided written submissions in advance of the Licensing Sub Committee, referred to above as additional information. It was indicated by Mr McGregor that the purpose of the application was to support existing sporting events and a limited number of additional events where the revenue generated would help to support the school's bursaries, outreach and community programmes. When hosting a rugby festival this can attract up to ten to twelve visiting teams and parents, for which the number of people in attendance is in excess of 500. These events already take place, but they do not need a licence. The school is due to host a Laser Fire Works Night under a Temporary Event Notice with a limit of 499 people in attendance and would like to host occasional film events on the playing grounds, as well as dinners or wedding celebrations on site. Mr McGregor assured Members that the school would always have oversight and management of events and would not hire out the premises to third parties to run the events; the applicant was happy to agree to a condition to that effect.

Mr McGregor indicated in oral representations and the written submissions that it is not and never has been the intention of the school to host the type of festivals as is suggested in some of the representations to the application. It was noted that none of the Responsible Authorities were objecting to the application and none of them had sought to amend the hours for the provision of licensable activities. Mr McGregor referred Members to the Statutory Guidance where it provides that Responsible Authorities are experts in their respective fields.

Mr McGregor noted that some of the concerns raised by residents were outside of the remit of the Licensing Sub Committee, such as parking, animals and wildlife and the fact that the premises falls within an Area of Outstanding Natural Beauty. He further noted that the school is sympathetic to the concerns of the local residents and will continue to work hard at maintaining good working relationships with the local community. He submitted to Members that the proposed licensable activities will not undermine the licensing objectives, and the proposed Operating Schedule including schedule of conditions agreed with the police, will promote the licensing objectives.

If the licence is granted, Mr McGregor indicated that the applicant was agreeable to conditions that:

- When the exhibition of film takes place the sale of alcohol will cease at 10pm; and
- Where an Event Management Plan is required, it shall specifically address the arrangements for traffic and parking management and for transport of attendees. This was in relation to proposed condition 4 on the Schedule of Conditions.

Other Persons

There were 48 relevant written representations of objection, and 8 of those people made oral representations before the Licensing Sub Committee. Objections were based upon all four licensing objectives. One of these objections was made by Harbutts' Residents Association, one by Bathampton Parish Council and one by Councillor Sarah Warren.

Objections related to the public nuisance that would be caused to residents of the village, boaters living on the canal, the large population of children, the elderly and vulnerable people who reside in The Harbutts and St Nicholas' Court, as a result of the noise generated by outdoor music, the audiences, the number of people attending events and the location being in a valley which would result in sound being transmitted to all adjacent areas of Bathampton, Batheaston and Bathford. It was indicated that the events that have already been held at the pavilion are unreasonably noisy, with the sound of loud music and shouting carrying over the playing fields to adjacent properties.

Concern was expressed that music events with alcohol often lead to anti-social behaviour and the consumption of illegal drugs which may well lead to littering and vandalism. It was said that the noise would negatively affect the sleep of children and would spoil the enjoyment of boaters' leisure facility. The noise from music was expected to travel much further and an objector described this as an "environmental health issue".

In his additional information and oral representations to Members, Mr Haigh indicated that he had lived next to the school field for 14 years in his second home which is a boat. He resides there for almost half of the year. He expressed concern that bigger rugby matches, crowds, alcohol and outdoor music would equal a lot more noise and indicated that it is not possible to sleep until music in the pavilion stops. Noise from the school has already started to have an impact and Mr Haigh submitted that any more noise will seriously impact the quality of life for people whose homes surround the school field.

Mr Haigh referred to Travellers who moor adjacent to the field between Harbutts estate and Tynning Road and the protection afforded to them under the Equalities Act 2010. Mr Haigh described the tranquility that he enjoys and said you can hear a pin drop at night at the moment, unless there is an event going on in the pavilion. Mr Haigh referred to matters such as ecological awareness and the bat population, which are not issues that fall within the remit of the licensing sub-committee.

Numerous objectors referred to concerns related to parking and traffic issues in their oral and written representations however, members noted that those were matters covered by other statutory regimes and not the remit of the Licensing Sub Committee.

3 written representations in support of the application were received indicating that they thought the proposal was a fantastic idea, would bring much needed culture and entertainment to the Bath area. One indicated that they thought it would provide lots of much needed local events for residents and young families. The proposal was described as a positive move for Bathampton.

In determining this application Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members disregarded matters outside of the scope of their remit such as ecology, bats and parking, which fall within the scope of other regulatory regimes.

Members noted that paragraph 1.16 of the Statutory Guidance provides that *“Conditions on a premises licence...are important in setting the parameters within which premises can lawfully operate...Licence conditions: should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.”*

Members were mindful of the Statutory Guidance which provides at paragraph 2.1 that licensing authorities should look to the police as the main source of advice on crime and disorder and with regard to paragraph 9.21, it provides that each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective.

Members noted that there had been no objections from Responsible Authorities in relation to the application.

Paragraph 2.27 of the Statutory Guidance relates to public nuisance and provides as follows: *“Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and respect the rights of people living nearby to a peaceful night.”*

In terms of public safety, the Statutory Guidance provides *“Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act. This can include ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation.”*

In reaching its decision Members had regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty. This duty means that Members must have due regard to the need to: (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Members also had regard to the Human Rights Act 1998.

Members having considered all the evidence, which includes the application, additional information, representations from other persons, the Operating Schedule, Schedule of Conditions negotiated between the applicant and police and conditions offered today, do not think that Travellers or other people with protected characteristics will be discriminated against by the proposal and consider that the measures offered by the applicant will promote the licensing objectives.

Authority is therefore delegated to the licensing officer to issue the licence in accordance with the Operating Schedule, subject to the Schedule of Conditions agreed between the applicant and the police, the mandatory conditions and the following additional conditions which were agreed to by the applicant today. Members consider these additional conditions to be appropriate and proportionate in the promotion of the licensing objectives:

1. No event under the premises licence will be run by a third party.
2. When the exhibition of film takes place, the sale of alcohol will cease at 2200 hours.
3. Where an Event Management Plan is required, it shall specifically address the arrangements for traffic and parking management and for transport of attendees.

The meeting ended at 2.02 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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:

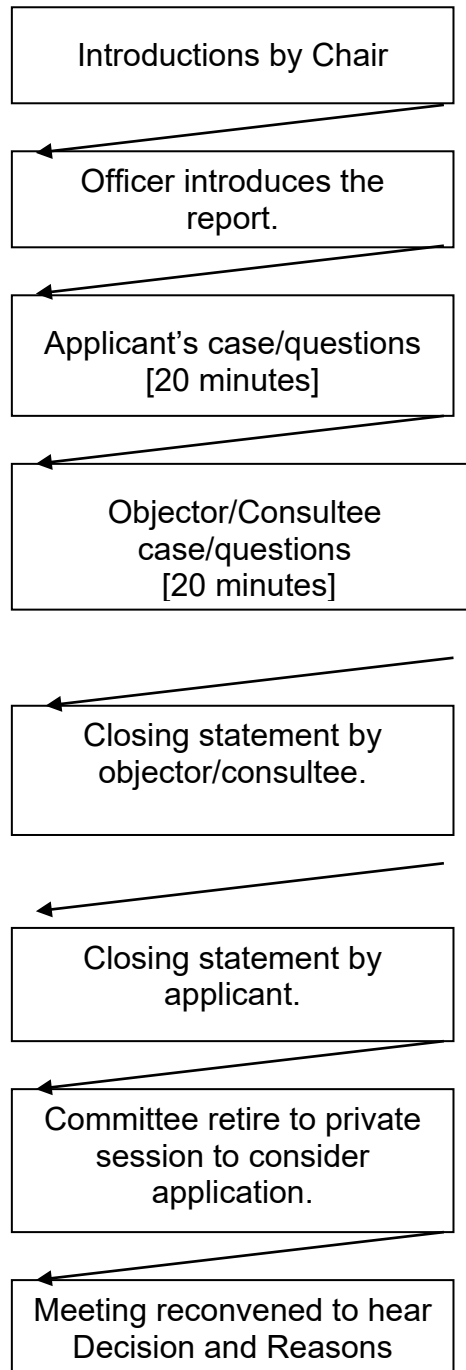
- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in 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.

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

OVERVIEW



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Bath & North East Somerset Council			
MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	Thursday 28 November 2024	Agenda Item Number	
TITLE:	Application for a Variation of Street Trading Pitch 02 (LJ Hugs) Terrace Walk, Bath.		
WARD:	Kingsmead		
AN OPEN PUBLIC ITEM			
<p>List of attachments to this report:</p> <p>Annex A - Application.</p> <p>Annex B - Copy of the current Street Trading Consent</p> <p>Annex C - Plan of the pitch area</p> <p>Annex D - Objections</p> <p>Annex E - Response from Applicant to Objectors</p> <p>Annex F - BANES Street Trading Conditions</p> <p>Annex G - BANES Street Trading Policy</p>			

1 THE ISSUE

1.1 On 1 October 2024, an application was received to vary the Street Trading Consent of LJ Hugs, Pitch 02 Terrace Walk Bath by adding Monday as a trading day. The application was validated on the 4 October 2024.

Objections were received during the consultation period from the management of businesses nearby.

2 RECOMMENDATION

2.1 That the Licensing Sub Committee determines the application.

3 THE REPORT

3.1 An application has been received from Nathan Lewis Farquharson of LJ Hugs, Street Trading Consent Holder for Pitch 02, Terrace Walk, Bath to vary the existing Street Trading Consent (**Annex A**).

3.2 The Pitch is a 3m x 3m gazebo and has been operating on Terrace Walk for 18months. Prior to this, LJ Hugs was operating in Southgate Street, Bath.

3.3 Details of the proposed variation are:

To add Mondays as a trading day 11:00 – 18:00

The current Street Trading Consent permits trading Tuesday to Saturday 11:00 – 18:00. (**Annex B**)

3.4 Notification of the application was sent to the standard list of consultees in accordance with the Street Trading Policy. Notification of the application was hand delivered to all nearby residential and retail premises and notices containing details of the application were also displayed near the pitch site on 04/10/24 giving persons until midnight on 25/10/24 to submit representations. Details of the application were also published on the Council's website.

3.5 A plan of the area is included (**Annex C**).

3.6 Three objections were received (**see Annex D**). Below is a summary of each objection, along with the objectors and their addresses:

- **Delshad Mageed, Bath Chip Shop, 9 Terrace Walk:** Concerned about an increase in food litter, traffic congestion, and parking violations on double yellow lines. Notes increased noise and unauthorised use of seating by LJ Hugs customers.
- **Lawrence, Bridgewater House, 2 Terrace Walk:** Expresses concerns about the smell of fried food from the proposed site affecting their clothing business.
- **Breno Sallas Costo, Sukko, 5 Terrace Walk:** Raises safety concerns about increased traffic posing a risk to pedestrians and obstructing loading bays. Finds the odour of fried food unpleasant for both businesses and residents.

3.7 The Applicant responded to objections received (**Annex E**)

4 STATUTORY CONSIDERATIONS

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 streets”. This means that street trading is prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.

4.2 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the Council may grant 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.

- 4.3 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. When making a decision consideration needs to be given to the Human Rights Act 1998.
- 4.4 Bath and North East Somerset Council has standard Street Trading Conditions which are applicable to all Street Trading Consents issued by the Council. These are produced at **Annex F**.
- 4.5 Bath and North East Somerset has a Street Trading Policy that was ratified by the Council. That policy is produced at **Annex G**
- 4.6 When making a decision consideration need to be given to the Human Rights Act 1998.
- 4.7 An Equalities Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 There are no resource implications arising from this report. The costs of processing licences are covered by the fees charged.

6 RISK MANAGEMENT

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

7 CLIMATE CHANGE

- 7.1 The Local Government (Miscellaneous Provisions) Act 1982 Act is prescriptive and does not take account of the climate change agenda at this time. We look forward to changes in legislation which will allow the Council to take this into consideration in the future. In the meantime, individual applicants are encouraged to consider climate change issues in the operation of their businesses

8 OTHER OPTIONS CONSIDERED

- 8.1 None

9 CONSULTATION

- 9.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with Avon and Somerset Police, the Council's Highways team, Property Services, Environmental Services, Development Control, Ward Councillors and adjacent premises
- 9.2 The Council's Monitoring Officer (Head of Legal & Democratic Services and Council Solicitor), Section 151 Officer (Director of Finance) and Head of Service, – Community and Compliance have had the opportunity to input to this report and have cleared it for publication.

This report has not been sent to the Trades Union because they would have no involvement

Contact person	Public Protection Officer Jacob Booth (Licensing) Tel: 07977833220
Background papers	Licensing File
Please contact the report author if you need to access this report in an alternative format	

Application received 1/10/24:

From: cis@bathnes.gov.uk <cis@bathnes.gov.uk>

Sent: Tuesday, October 1, 2024 5:58 PM

To: Licensing <licensing@bathnes.gov.uk>

Subject: Street Trading Consent change form received

**Bath & North East
Somerset Council**

Improving People's Lives

Street Trading Consent change form received

Submitted on: Tue, 10/01/2024 - 17:55

Reference number: 343149

About the pitch

Pitch number: Pitch 2 Terrace Walk

About the change

Type of changes

Trading days

Further information: Trading days Monday - Saturday 11am - 6pm

About you

Full name: Nathan Lewis Farquharson

Contact email address: [REDACTED]

Contact telephone number: [REDACTED]

I agree with the terms and conditions

I have read the Privacy Notice

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING CONSENT

L J Hugs Ltd

BATH & NORTH EAST SOMERSET COUNCIL being the Licensing Authority under Schedule 4, Paragraph 7 of the above Act hereby grant a Street Trading Consent to:

**Mr Nathan (Lewis) Farquharson
Mr Dino Lai**

to trade at:

**Pitch 2 Terrace Walk
Bath**

on the following days/hours:

Tuesday to Saturday from 11:00 to 18:00

in the articles of the following description:

Fried Chicken, Chili, Grilled Chicken, Beef and fries

Pitch Details:

Gazebo 3 m x 3 m maximum

Vehicle Registration:

This Consent is granted subject to the general conditions relating to Street Trading Consents and to any special condition(s) set out overleaf. The approved stallholders are also listed overleaf.

This Consent shall continue in force from **1 April 2024** until **31 March 2025** unless revoked or surrendered.

NON-PAYMENT OF FEE WILL INVALIDATE THIS CONSENT

Granted on **26 March 2024**

Signed for and on behalf of
Bath & North East Somerset Council:



.....

Operatives permitted to work on the stall (if any):

Messer Declan
Tom Barton
Pedro Inacio
Alan Davis
Liam Taylor
Oscar Bean
Daniel Elvira
Nathan Farquharson
Dino Yun Chi
Joseph Gilmer
Tom Whiley
Caleb Farquharson
Louis Bennett
Harry West

Special Conditions (if any):

PUBLIC REGISTER COPY

Street Trading Standard Conditions

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 re-producing 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 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 instalment 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 C - Plan

LJ Hugs pitch shown with the blue outline



Page 37

+24.1m

Tourist Information

Objection 1 – Delshad Mageed

Objection email received by Licensing:

From: Delshad Mageed <[REDACTED]>
Sent: Tuesday, October 8, 2024 10:39 AM
To: Licensing <licensing@bathnes.gov.uk>
Subject: Objection to Application 24/01914/STTRAD

Dear Licensing Officer

Objection to Application 24/01914/STTRAD

Please see attached objections to the above variation of licensing consent.

Yours sincerely

Delshad Mageed
Director
Bath Chip Shop Ltd
[REDACTED]

PDF Attached:

9, Terrace Walk
Bath
BA1 1LN

Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA1 1JG

Dear Sir or Madam

Re: Objections to Variation of Street Trading Consent Application number
241019141STTRA0

1 run Bath Chip Shop Ltd. The proposed installation is in front of my trading premises on the opposite side of the road.

I object to the granting of this licence on the following grounds:

- (i) The proposed installation previously traded from a nearby address: I have been reliably informed that a number of businesses at this address asked them to leave so they are now looking for new premises.
- (ii) I am concerned about the effect on my business: as we are both running takeaway food shops with very similar menus, passing clientele will now

have to choose between 2 competing outlets so the proportion Of customers visiting my business wilt inevitably fail. i no tongerbe able to cover fixed costs it this happens and face the prospect of having to close down: the proposed installation has no fixed costs due to its being a gazebo and not a permanent structure and so is at an unfair advantage.

- iii I am worried about the increase in food litter that would result from such an installation: I pay for bins and already have to pick up litter myself every day from both sides of the Street and dispose of it in a bin. I obviously have a waste collection contract and the proposed installation, being a temporary structure, would not be able to do this so I would end up paying to collect and dispose of the waste generated by his business.
- (iv) I am also concerned about the parking situation if the proposed installation goes ahead: the side of the road opposite my shop has double yellow lines and, given my experience with customers parking in the loading bay in front of my shop, I am sure many customers would park on the double yellow lines to visit this proposed food outlet which would make the toad and pavements unsafe road users, not just for my customers.
- (v) I am worried about the smell of fried food cooked in an outdoor installation. The proposed menu includes beef and Fries and tried chicken, au ot which is already sold in my shop as I sell chicken nuggets and chicken strips and have been doing so for over a year. The proposed menu directly duplicates what is sold by my shop.
- (vi) I am concerned that my seating areas on the first floor and ground floor witt become less attractive due to the noise generated by the proposed installation which wittl again directly affect my business, and also that customers of the proposed installation wittl try and bring food purchased mere to consume on my premises, which clearly does not make any contribution to my fixed overheads and reduces the ability Of my own customers to find seats.

Yours sincerely



Detshad Mageed

Director Of Bath Chip Shop Ltd

Objection 2 – Lawrence

From: B G <[REDACTED]>

Sent: 23 October 2024 00:00

To: Licensing <licensing@bathnes.gov.uk>

Subject: Objection to Application – Impact on Business at 2 Terrace Walk

Dear Aled,

I hope you are doing well. We are the owners of a small, family-run souvenir and textile shop located at 2 Terrace Walk, and I am writing to formally object to the application for [L J HUGS LTD PITCH 2 TERRACE WALK BATH Application Ref:24/01914/STTRAD] at the proposed location directly in front of our shop.

As a small shop, we keep our doors open to the street during business hours, which is essential for attracting foot traffic. The smell of fried chicken from the proposed site will undoubtedly permeate our store, potentially attaching to our clothing, scarves, and other fabrics. This would significantly affect the quality of our products and negatively impact our operations.

For this reason, we must oppose the application. Thank you for your time and consideration of our concerns.

Best Regards

Lawrence

House of Bridgewater

2 Terrace Walk,

Bath

BA1 1LN
[REDACTED]

Objection 3 – Breno Salles-Costa

Sukko 5 Terrace Walk Bath
BAI ILN
5th October 2024

Aled Williams
Licensing Services
BANES Council
Lewis House
Manvers Street
Bath
BAI IJG
Re: 24/01914/STTRAD
Dear Mr Williams,



I object to the variation of the pitch on Terrace Walk to add an extra day for two reasons.

Firstly, this pitch attracts a large number of customers each day by car and especially vans. This increased traffic causes a danger to coach passengers and also often obstructs the loading bays for deliveries to local businesses. Mondays are a particularly busy day for deliveries after the weekend and the added vehicles from customers of this food stand will cause traffic disruption.

Secondly, the stall states it sells fried meat and fries. This is cooked in an open tent on the pavement. There is no possibility or requirement for any extraction system to take the smells from the surrounding area. The smell of fried meat, etc. every day from this tent is already unpleasant and causes residents and businesses to have to close doors and windows. Adding an extra day trading will only add another day of frying smells to the area.

Finally I would like to add that this trading pitch has historically sold artwork, homemade lemonade and other retail items since it was established. When it became a hot-food takeaway tent (firstly with JC Kitchen and now LJ Hugs) this should have involved a new neighbourhood consultation as the use of the tent was fundamentally different to that of the original application for a street trading pitch in this area.

Regards
Breno Salles-Costa
Manager

████████████████████

Response to Objection 1 from Applicant:

From: LJ Hugs Ltd [REDACTED]
Sent: 14 October 2024 12:03
To: Licensing <licensing@bathnes.gov.uk>
Subject: Re: Variation Application - L J Hugs Ltd Ref. 24/01914/STTRAD

Dear Licensing Team,

Thank you for raising these objections with us. We would like to respond below.

1. The increase in litter and commercial waste is something that we manage through Grist. We have our bins emptied twice a week which costs us in excess of £400 a month. We cannot personally manage the litter in the streets as it is a busy city where lots of businesses trade locally to Terrace Walk. These businesses also produce litter from their consumable products, these are often unsightly as their waste is left in transparent bags on the side of the pavements for collection. Our waste is kept in concealed bags in commercial waste bins. We also pay Bath BID to power wash and clean the pavement fortnightly so that the area remains clean. This costs us £120 a month. We have also been recognised for our good practice by yourselves, of which we have linked the document below;

<https://food.blog.gov.uk/2023/06/06/lj-hugs-street-food-business-that-sees-the-kitchen-as-their-stage/>

2. The point on customers parking on the double yellow lines will need a further longitudinal research study conducted as there are several other 'take away' businesses in the vicinity who provide fast food and drinks, they also have customers who use the area, therefore the point is unfounded.

3. The increase in noise comes from having coach drops, students and the public waiting at the bus stops, homeless people causing nuisance on the benches on Bog Island. The higher footfall in the area correlates with an increase in the noise level. There are several taxi driver bays where drivers congregate and socialise together whilst waiting for work which also contributes to the increase in the noise level. There is also noise from the restaurants that have outside seating areas around the vicinity. It is impossible to pinpoint the increase in noise due to another business trading one more day a week such as ourselves, we have a queue where customers will speak to each other and also need to order food, in an open air area where colloquial chatter cannot be subdued. Our staff have a positive work environment and engage with each other in conversation, surely this makes for good tourism in the city as we are in a spot where coaches drop off and collect visitor groups?

We would appreciate your consideration in this matter regarding the above points.

Lidia Farquharson
LJ Hugs Ltd

Good practice blog document (see link provided in LJ Hugs Response to Objection 1)

LJ Hugs - Street food business that sees the kitchen as their stage

Posted by: [Here to Help](#), Posted on: 6 June 2023 - Categories: [Case studies](#)



[Cymraeg](#)

We spoke to Lewis, founder of [LJ Hugs](#), a Cajun Street food business operating in Bath and Bristol. They're open six days a week, specialising in grilled chicken and beef.

This blog is part of our [Here to Help series](#), making it easier for businesses to do the right thing through business stories, resources and [our improved hub of business guidance on our website](#).

Grown from modest beginnings 9 years ago, former teacher, Lewis started LJ Hugs with the desire to create a job that was fun and to create jobs for other people. It now employs 18 members of staff, who are all regularly trained on the importance of food safety and hygiene. Both venues now have 5 hygiene ratings with good relationships with both Local Authorities.

“Your Kitchen is your stage”

Food safety and hygiene have a particular significance to street food businesses. According to Lewis, when operating from a gazebo, “your kitchen is your stage.” He goes on to say that “the way we cook our chicken, the way we prep our beef is all part of the show, it’s all done in front of people”. Lewis describes how people “eat with their eyes”, “If you want them to buy from you, they have to trust you, and to trust you they need to see that you’re clean”.



When LJ Hugs first began operating in the centre of Bath, they had done their own Food Safety and Hygiene Training Levels 1 and 2 but they were “still getting to grips with how it should be run daily”. Lewis says the Environmental Health Officer (EHO) came onboard and started “working alongside us... she was amazing, she was really happy with what we’d done... she pointed out what was needed. We got a 5 hygiene rating, but we also had things to work on. It’s the little bits in the detail that we’ve been working on over the years now”. This includes details from changing gloves after handling cash, not overlaying knives that have opened packets of meat, and clearing your space before taking a product over to a customer.

“She didn’t use our naivety or us being beginners against us”

Lewis says, that following the first visit, he and the EHO “stayed in contact over the next couple of months”. Following the EHO’s advice and helpful “little hints”, Lewis would get in contact to say, “I’ve got this now, can you come in and have a look and see if it’s right?”. The EHO would respond and would usually say “That’s perfect or that’s even better”.



LJ Hugs have worked with three EHOs, who have “all been equally helpful”. However, Lewis describes that first relationship with their first EHO as being “an important one”. Lewis says, “She came in and laid the foundation, she didn’t use our naivety or us being beginners against us. She worked with us to make it happen, so she was a major factor in us being successful in where we are today”.

Fiona West, Environmental Health Specialist, The Nationwide Caterers Association (NCASS), of which LJ Hugs is a member, says:

“It is essential, in order for our members to be successful, that their businesses comply with the legal requirements, that they produce safe food and provide a safe work environment for staff. A good food hygiene rating is key, and it enables customer confidence in the business. Getting expert advice early on and investing the time into considering arrangements and the correct set up of the business will make such a significant difference.”

For more information on how to keep your business on track whilst keeping consumers safe head to our [business guidance hub](#). Alternatively, head to our [easy-to-navigate guide](#) for those starting up a new food business

Response to Objection 2 from Applicant:

From: Lewis Farquharson [REDACTED]
Sent: 23 October 2024 11:46
To: Licensing <licensing@bathnes.gov.uk>
Subject: Re: Variation Application - L J Hugs Ltd Ref. 24/01914/STTRAD

In response to the variation. We are nowhere near their store?
They are based round the corner by the Abbey more then 500 yards away?

Regards,

Lewis Farquharson
Director

Response to Objection 3 from Applicant

From: Lewis Farquharson <[REDACTED]>
Sent: 26 October 2024 17:11
To: Licensing <licensing@bathnes.gov.uk>
Subject: Objections : LJ Hugs

Hi Jacob, Licensing,

More than happy for you to send these questions to the objector.

I have just seen that another objection has come through as well as long the same lines as the previous objection, high footfall, smell of food etc and we believe that the same response is required to these objections. The accusation of an unpleasant smell is clearly subjective, and judging on the high number of customers that the same complaint mentions, the smell cannot be that unpleasant otherwise we wouldn't have any customers. All street food stands produce a smell as they are cooking outdoors. The coffee shops produce a smell of coffee which may be unpleasant for some, the Italian shop produces the smell of pizza which can be unpleasant for some.

We've looked through some of the paperwork regarding objections and its states that we can know who our objectors are.

Myself and Tom Barton will also be attending the meeting on 14th November so that we can represent ourselves.

Regards,

Lewis Farquharson

Director

LJ Hugs Ltd

[REDACTED]

[REDACTED]

Street Trading Policy Conditions

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 re-producing 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.

Street Trading Policy

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

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 1st 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 .

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 roadworks, 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.

Bath & North East Somerset Council			
MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	28th November 2024	Agenda Item Number	
TITLE:	Application for a New Street Trading Pitch Outside Pink Art, York Street, Bath (for use during the Bath Christmas Market period).		
WARD:	Kingsmead, Bath		
AN OPEN PUBLIC ITEM			
List of attachments to this report: Annex A - Application Annex B - Plans Annex C - Objection Annex D - B&NES Street Trading Conditions (as published on the Council website) Annex E - B&NES Street Trading Policy (As published on Council website)			

1 THE ISSUE

- 1.1 On 15 October 2024 a valid application was received for a new Street Trading Pitch to be created outside Pink Art, York Street, Bath. The pitch would be for use during period of the official Bath Christmas Market. An objection to the application has been received.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 THE REPORT

- 3.1 An application has been received from Svilena Nikolova for a new Street Trading Pitch to be created outside Pink Art, York Street, Bath. The pitch would be for use during period of the official Bath Christmas Market. The application indicates that mulled wine and cider, hot chocolate and waffles would be sold from a 2m x 3m gazebo.

- 3.2 A copy of the application is produced at **Annex A**.
- 3.3 The application specified a 3m x 3m gazebo would be used. However, the plan depicted the dimensions of the gazebo as 2m x3m. It was later confirmed by the applicant that 2m x3m was being sought as displayed on the plan included in the application. A copy of the pitch and a plan of the area taken from B&NES internal mapping system showing the proposed pitch location alongside the official Bath Christmas Market Chalets is produced at **Annex B**.
- 3.4 The times applied for are: 1000hrs to 2000hrs every day.
- 3.5 Notices containing details of the application were hand delivered to properties either side of the proposed pitch that may be affected by the proposed pitch. Recipients of the notices were given until midnight on 5 November 2024 to submit any objections. Details of the application was published on the Council's website. Notices of the application were displayed near the location of the proposed pitch and details of the application was sent to the standard list of consultees.
- 3.6 An objection to the application has been received from Councillor Paul Roper. The grounds for the objections are:
- Disrupt flow of pedestrians during the Bath Christmas Market.
 - Diminish the ambiance of the street.

A copy of Cllr Roper's objection is produced at **Annex C**

4 STATUTORY CONSIDERATIONS

- 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 streets". This means that street trading is prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.
- 4.2 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the Council may grant 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.
- 4.3 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.
- 4.4 Bath and North East Somerset Council has standard Street Trading Conditions which are applicable to all Street Trading Consents issued by the Council. These are produced at **Annex D**.

- 4.5 Bath and North East Somerset has a Street Trading Policy that was ratified by the Council. These are produced at **Annex E**.
- 4.6 When making a decision consideration needs to be given to the Human Rights Act 1998.
- 4.7 An Equalities Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 There are no resource implications arising from this report. The costs of processing Licences are covered by the fees charged.

6 RISK MANAGEMENT

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

7 CLIMATE CHANGE

- 7.1 The Local Government (Miscellaneous Provisions) Act 1982 Act is prescriptive and does not take account of the climate change agenda at this time. We look forward to changes in legislation which will allow the Council to take this into consideration in the future. In the meantime, individual applicants are encouraged to consider climate change issues in the operation of their businesses.

8 OTHER OPTIONS CONSIDERED

- 8.1 None.

9 CONSULTATION

- 9.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with Avon and Somerset Police, the Council's Highways team, Property Services, Environmental Protection Team, Development Control, Ward Councillors and adjacent premises.
- 9.2 The Council's Monitoring Officer (Head of Legal & Democratic Services and Council Solicitor), Section 151 Officer (Director of Finance) and Head of Service, – Community and Compliance have had the opportunity to input to this report and have cleared it for publication.
- 9.3 This report has not been sent to the Trades Union because they would have no involvement.

Contact person	Jacob Booth. Public Protection Officer (Licensing) Tel: 07977833220
Background papers	Licensing File
Please contact the report author if you need to access this report in an alternative format	

From: [REDACTED]
Sent: Thursday, August 15, 2024 4:50 PM
To: Licensing <licensing@bathnes.gov.uk>

Street trading consent application form received

Submitted on: Thu, 08/15/2024 - 16:32

Reference number: 332405

Licence type

Do you want to apply for street trading consent or for buskers street trading consent?
Street trading consent

About you

Full name

Svilena Nikolova

Business trading name

PINKART UK LIMITED

Contact telephone number

[REDACTED]

Contact email address

[REDACTED]

Your address

17 York Street

Bath. BA1 1NG

National Insurance number

Do you have a National Insurance number?

Yes

Pitch type

Do you want to apply for a pitch in one location or apply as a mobile trader?

Pitch in one location

Do you want to trade from an existing pitch or create a new pitch?

Create a new pitch

Upload a location plan of your proposed trading location

[street-trading-pitch-plan---christmas-market.pdf](#)

Goods details

Please enter details of the products you wish to sell

At our temporary Christmas stall, we will offer a selection of homemade beverages, including mulled wine, mulled cider, and authentic Italian hot chocolate, paired with freshly made Belgian waffles. Our focus on high-quality ingredients and traditional recipes supports the promotion of local food, as we source the fruit, spices, and local dairy products to craft our beverages and waffles. These offerings cater to local needs by providing warm, comforting treats that enhance the festive atmosphere, appealing to both residents and visitors. The stall adds product diversity to the

market by introducing a unique combination of traditional European holiday drinks and desserts, which complements rather than competes with existing retailers.

Trading times

Trading days

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Trading hours

10 am - 8 pm

Stall details

Stall detail

Our Gazebo is pink to match the name - Pinkart, it would be safely secured to the ground. It will have 3 open sides, 1 closed side as well as a roof covering.

Size of stall or gazebo

3m x 3m Gazebo

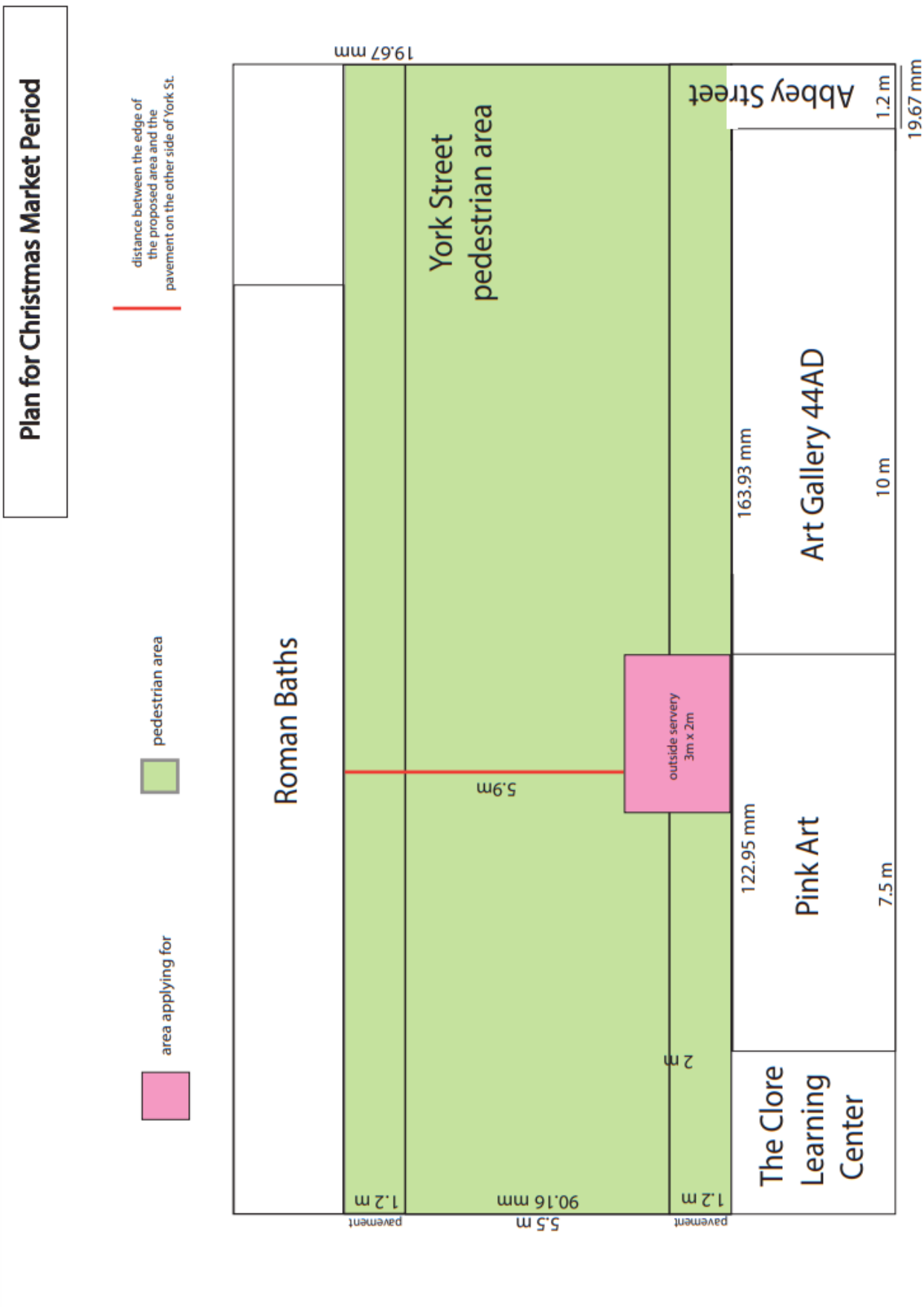
Stall image

Upload a location plan of your proposed trading location

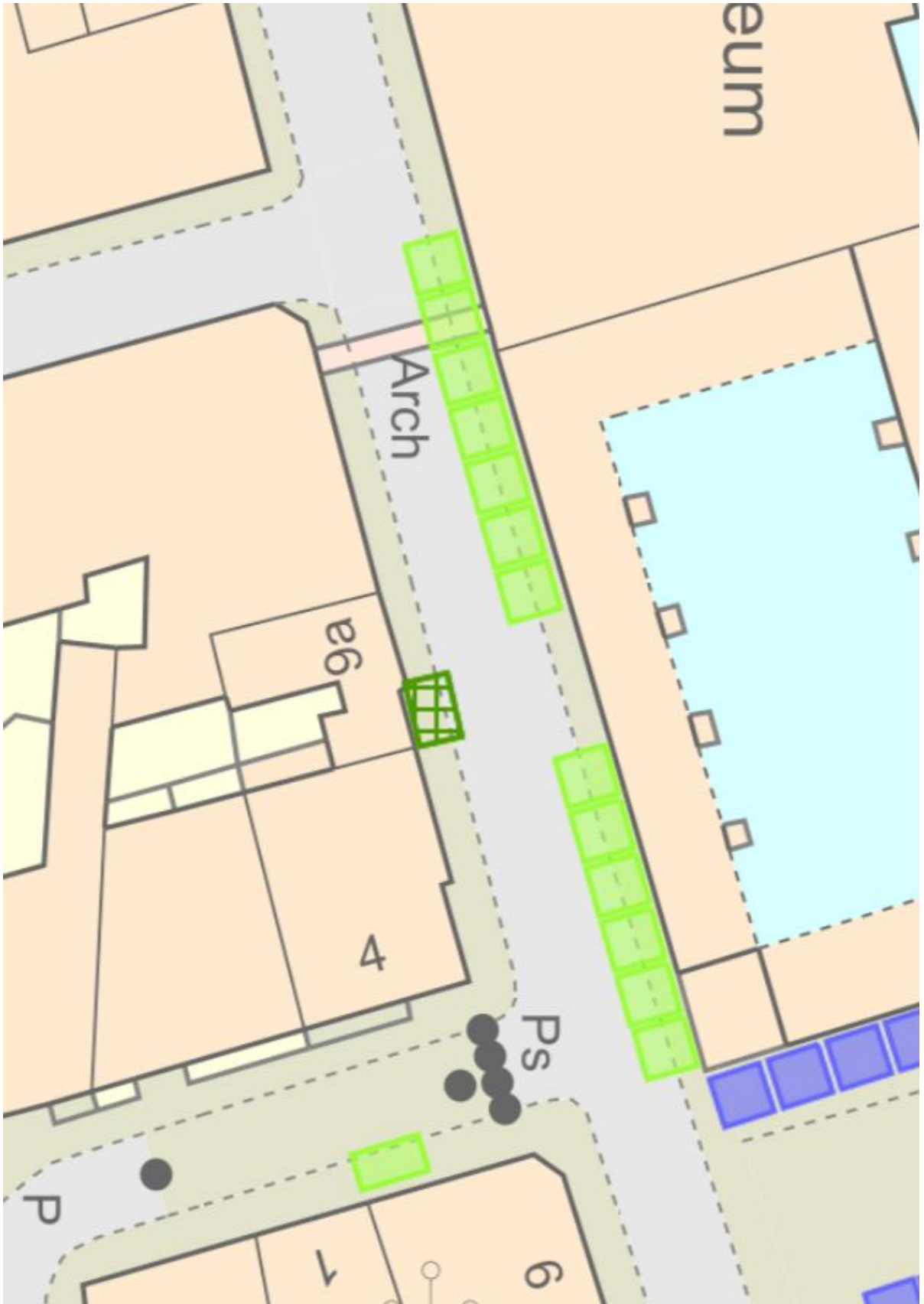
[gs_classicsteel30_3x3_closed_2020_pink.png](#)



Plan supplied with application



Plan with Christmas Market Chalets taken from Councils internal mapping software



Objection – Cllr Paul Roper

-----Original Message-----

From: Paul Roper (CLLR) <Paul_Roper@bathnes.gov.uk>

Sent: 16 October 2024 17:09

To: Licensing <licensing@bathnes.gov.uk>

Cc: George Tomlin (CLLR) <George_Tomlin@bathnes.gov.uk>

Subject: RE: Street Trading Consent Ref. 24/02050/STTRAD

Dear Licensing,

I object to this application.

This trader does not sell food and beverage. This tent is simply an extension to their shop and I see no justification for it.

Last year at the Christmas Market they set up an unauthorised stall selling food and drink and the authority had to take enforcement action.

This application appears to me to be a way of setting up shop during the Christmas Market without paying the normal fees for a place in the Market.

The location of a tent at this location when the busy Xmas market is in progress will cause serious disruption to the flow of pedestrians.

On a longer term basis I think it would be a detraction of the very pleasant ambiance that has been created in York St.

I do not think it should be allowed.

Many thanks.

Paul Roper

Paul Roper

Councillor for Kingsmead Ward

Cabinet Member for Economic and Cultural Sustainable Development Bath & North East Somerset Council

Telephone: [REDACTED]

Email: paul_roper@bathnes.gov.uk

<http://www.bathnes.gov.uk/>

<http://www.twitter.com/bathnes>

Street Trading Policy Conditions

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 re-producing 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.

Annex D - Standard Conditions

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.

Annex D - Standard Conditions

- 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.

Street Trading Policy

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

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 1st 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 .

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 roadworks, 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.