

Meeting:	Licensing & Enforcement Committee	Date: 26 th June 2012
Subject:	Street Trading Appeal – Ice Cream Van, Kings Square, Gloucester	
Report Of:	Regeneration Group Manager – Property & City Centre Services	
Wards Affected:	-	
Key Decision:	No	Budget/Policy Framework: No
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Appendices:	1. Street Trading Criteria 2. Street Trading Application 3. Photographs – Kings Square (Parked Vehicles)	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider the appeal of Mr Copner regarding refusal of street trading consent against agreed criteria.

2.0 Recommendations

- 2.1 Members are recommended to resolve:-

A. To dismiss the appeal STAPP22 (Mr Copner) and uphold the reasons for refusal of street trading consent namely:-

- (1) The unit does not provide a service of benefit to the public which enhances the area, by introducing new products or adding vitality of the area as there are already a number of ice cream providers nearby.
- (2) The unit is not considered to be compatible with the character of the area in which it is proposed to be sited.

3.0 Background and Key Issues

- 3.1 The Council adopted a new policy and process for Street Trading Applications in April 2009. A key driver to the policy change was the recognition that, if properly co-ordinated and controlled, street trading can provide significant benefits in terms of vitality and life to the streets. The new policy introduced an agreed Street Trading Criteria (Appendix 1) and a programme of consultation.
- 3.2 Since the policy has been in place there have been significant improvements to the street trading activity both in the city centre and in the surrounding areas.

STREET TRADING APPEAL – STAPP22 (MR COPNER)

- 3.3 A street trading application was received for an ice cream van in Kings Square, operational Monday to Saturday between 10 am and 6pm and Sundays 10am until 4pm. (Appendix 2). Consultation was carried out as outlined in the policy with the following:-

Gloucestershire Constabulary
Gloucestershire Fire & Rescue
Gloucestershire County Highways
Cabinet Member
Ward Councillors – Councillor Toleman and Councillor Tracey
Kings Square Retailers & Kings Walk Shopping Centre Management
Gloucester City Centre Community Partnership.

- 3.4 The following seven objections were received:-

Cabinet Member – concerns about number of ice cream sellers in the area and also the appearance of the ice cream van.

Councillor Tracey - concerns about the number of ice cream sellers in the area and the affect on their trade.

GCCCP – No objections in principle, however in partnership with Glos Constabulary and City Council we have spent a great deal of time resolving anti social behaviour in the area of the square. It was a gathering point for street drinkers and young people in large numbers. Concern would be that an ice cream van would provide a new focal point for the return of such activity.

Kings Walk Retailer 1 – Is this what Gloucester City Centre needs? In this area we already have 3 retailers selling ice cream and these retailers are here 12 months of the year every year. “Not Required in the Square”

Kings Walk Retailer 2 – We do not need another food trader in the area. We already have a unit selling ice cream in Kings Square, the new vendor would be too close to this existing business. In this financial climate there is not enough trade for another business.

Kings Walk Retailer 3 – We already have two shops in Kings Walk selling ice cream, soft drinks, crisps and sweets and it is a struggle for them to make ends meet. We certainly do not need another person selling ice cream in the Kings Walk, Kings Square area and I object to this application.

Kings Walk Retailer 4 – I must object in the strongest manner to the possibility of a mobile ice cream van being placed approximately 40 yards away from my business that also sells ice cream, soft drinks, crisps, chocolate and lollies. We have struggled through the winter and just as we hope the summer season will help our business we have the possibility of an ice cream van selling the same products as us parked close to our unit. On Glos Radio recently the “Federation of Small

Businesses” and Price Walker spent most of the program talking about the decline of small businesses in Gloucester, indeed we have just had a small shop close approx 12 yds from our unit because the owner could not afford the rent, rates, stock and staff. If this application is agreed I will definitely consider closing my business as it will no doubt have a profound affect on it. My family have been in this unit for 35 years and have never had to fight so hard to survive as we are at this difficult time.

3.5 I considered the proposal against the agreed criteria and resulting consultation. The application was refused for the following reasons:-

- (1) The unit does not provide a service of benefit to the public which enhances the area, by introducing new products or adding vitality of the area as there are already a number of ice cream providers nearby.
- (2) The unit is not considered to be compatible with the character of the area in which it is proposed to be sited.

3.6 **APPEAL DETAILS**

The following appeal was received by email on 19th March 2012.

I wish to appeal the decision to refuse to grant street trading consent.

The two main reasons the council have given are;

The unit does not enhance the area by introducing new products or add vitality
The unit is not considered compatible with the character of the area in which it is proposed to be sited

I respond as follows;

The original application which was made to Gloucester City Council did not ask for a detailed breakdown of the products offered and the way in which they differ from those offered within the City Centre. At no point during the consultation process was I asked to clarify what new products I was bringing to the site and the decision to refuse on this point is unreasonable and unjustified.

The area in which I wish to locate my unit is compatible as a visit to the site will soon identify that there is a large empty commercial property of run down appearance and also an extremely bright and overpowering fair carousel. Two days a week a market is held which brings a few market trader vehicles which use the square as a parking area. I enclose photos (Appendix 3) in support of my observations which were taken during peak trading time on a Saturday. As you will notice from the photos rather tatty vehicles are being parked in the square. During my time in the square a council vehicle entered the area to buy a cup of tea and the vehicle remained in the site for some time.

My unit would encourage more use of the square as the council has spent money on regenerating it and it is not benefiting users of the centre as they continue to walk around it. My operation would not cause any problems of highway safety,

obstruction to users of the highway, obstruction to CCTV or other associated problems.

My operation is not in direct competition with other retailers within the centre as the small number of outlets that offer ice cream do so as an additional line and not that of their main business activity. Any business regardless of whether it sells ice cream is built on the goodwill between the customer and the business itself, therefore if other business have similar products on offer and they have goodwill with their existing or previous customers there shouldn't be a problem. The overall outcome will be a raised standard in products sold within the centre.

I will be selling Jersey Dairy soft ice cream which is a fairly new product to the UK market and is not widely available. It is produced in Jersey and obtained via my supplier in Weston Super Mare. It is a premium product which will bring customers back and create a talking point within the area. The benefit of my unit will result in more footfall to the kings square area of the centre and hopefully increase the surrounding business as a result. My unit will specialise in soft ice cream and lollies as our main lines therefore we can create sundaes and offer a lot more variations to ice cream than those who simply have a counter top machine and a cone as an extra line to their other business activities.

I have a selection of lollies and pre packed products from across various manufacturers such as Francos and Mio which I have been unable to find anywhere in the centre. Such items include cider lolly, strawberry split, fruit twizzle, clown push up, and many more ice cream specialist related products.

In summary my unit offers a huge selection of new products in the area and will bring more families into the square. Everyone has memories of an ice cream van as a child and this is the wow factor I create every time I serve a new customer and see that smile when they receive their chosen treat whether they are children or adults alike. The centre does not currently have anyone specialising in just ice cream and my unit will help bring the tourists into the kings square side of the city.

I take my business very seriously and I am able to say that I have gained a good relationship with the manufacturers of the products I sell such as the director of francos ices which have invited me to their factory to see the products being made , the MD of Ice impressions and Marcantonio wafers in London.

I am simply trying very hard to make something of my unemployment and make a future for myself and not simply sign on and become another statistic and I would just like to be given a chance to give it a try.

4.0 Alternative Options Considered

- 4.1 I appreciate that Mr Copner has a genuine desire to make something of his unemployment and begin trading in the area. In response I have suggested that he may like to consider becoming a mobile ice cream trader rather than trading from a fixed point in the city.
- 4.2 I have also suggested that Mr Copner look for another fixed location that may be of interest to him and re-submit his application.

- 4.3 Finally, I have suggested that Mr Copner contact the events team with a view to attending the many events planned for the City this year and passed details on of a promotional event to be held in the City to him that may be of interest.

5.0 Reasons for Recommendations

- 5.1 There are a number of retailers in very close proximity selling ice creams, lollies, soft drinks, crisps and sweets, therefore this application does not offer anything new to the area.
- 5.2 The ice cream van is not compatible with the area, it is true that a number of vehicles are parked in the area on market day – mostly refrigeration units however this will be parked 7 days a week with the engine running.

7.0 Financial Implications

- 7.1 None

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

[Address legal implications, including power to carry out the proposal, implications of not carrying them out and any legislation that affects the proposals. This section to be completed in consultation with the relevant lawyer].

- 8.1 Street Trading is regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 8.2 The criteria that has been imposed by the Council to determine applications, needs to comply with both the Act and EU Services Directive.

(Legal Services have been consulted in the preparation this report.)

Background Documents: None