

7. FOOD STANDS IN THE PUBLIC PLACE - CITY MALL - OXFORD TERRACE

RR 10549

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The purpose of this report is to consider permitting the setting up and operating of food stands in the public place area of City Mall and along Oxford Terrace, whether associated with currently established cafe/bar operations with licences to occupy the road or otherwise.

INTRODUCTION

An application was received to operate hot dog stands in the areas of the City Mall and Oxford Terrace, on which two bars have licences to place tables, chairs, umbrellas and planter boxes on legal road. The applicant considered that this application could be considered under the provision of their Deed of Licence for Occupation of Legal Road by adding to the permitted furniture under that licence “hot dog stand”. A report (RR 10460) was prepared for the Committee at its August meeting, but was withdrawn at the request of a solicitor for the applicant on the grounds that they were not making an application for a food stand in a public place, but for a variation to the definition of “Permitted Furniture” in the First Schedule of the Deed of Licence. The solicitor advised that owners of other bars along Oxford Terrace and in City Mall were particularly interested in the outcome and may wish to make submissions when the matter was heard at a later date.

Another premises has already made an application for a licence to operate a Hot Food Service Stand on the road outside their premises. They were advised that the Council was considering the matter and they would be advised once a decision on the policy was made.

CURRENT POLICY ON STREET TRADING IN CITY MALL AND OXFORD TERRACE

The Council, at its meeting of 23 September 1998, resolved that the Legal Services Manager be authorised to apply for an injunction or take other steps as may be necessary against persons involved in the selling of food from temporary stalls in Oxford Terrace and City Mall. The Council also resolved to issue temporary licences for four food stands in the City Mall, but only east of the Guthrey Centre. The Council in setting the policy for the four temporary stands in City Mall expressed a strong desire to retain the high amenity value of the pedestrian precincts, particularly the areas close to the Bridge of Remembrance and the bar strip along Oxford Terrace.

Provisions of Christchurch City Public Places and Signs Bylaw 1992 apply to these activities.

Clause 6, Trading in Public Places states, ... no person shall sell or hire, or expose for sale or hire, any goods, wares, merchandise or services, or sell or expose for sale any food, on any road or public place without a licence issued by the Council and only in compliance with the conditions imposed by that licence.

Clause 24, Permit Required states; No person shall, without having first obtained a permit from the Council: (a) Stand in, or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall (including a vehicle used as a stall) or structure, for the purposes of distributing or selling any food, newspapers, lottery tickets, real estate agents magazines or for collecting clothing, bottles or cans, or any other goods or performing services, (b) Stand in, or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, automatic vending or slot entertainment machine or any other similar structure, apparatus or contrivance.

These requirements continue to apply to the areas which are the subject of a Deed of Licence to Occupy Legal Road as they clearly fall within the definition of public place contained in the bylaw.

[“Public Place” includes, within the Council’s district, every road and thoroughfare of a public nature or open to or used by the public as of right; and every park, reserve, beach or place of public resort or place to which the public has access and which is under control of the Council.]

DISCUSSION

Despite the view that is held that the road area the bars occupy for the purpose of setting out tables and chairs are extensions of their premises these are still public places in terms of the bylaw. As such there is a need for compliance with the bylaw provisions and any policy of the Council related to trade in the street, which includes the sale of food.

There is no doubt that the sale of food to those persons unable to enter the many licensed drinking areas in City Mall and Oxford Terrace during the night hours but who have obtained alcohol could be seen as helpful on the basis of reducing problems. This is seen by some of the bar owners as being part of their “host responsibility” duties under the provisions of their licences under the Sale of Liquor Act. This was a matter addressed last year at the time of consideration of the four sausage sizzle sites in City Mall, although the view was expressed at that time, that places such as McDonalds, KFC and Burger King could provide such “fast food” from permanent premises for such persons in the area.

Indeed the view has been expressed that in making the determination to exclude the sausage sizzle operations from this area the Council was not meaning to exclude those operations if operated by the premises licensed to occupy the road. However, in making the decision in September 1998 the Council did not specifically include approval for those premises to so operate. Under the Christchurch City Public Places and Signs Bylaw 1992 the Council has the power to do so if it wishes.

When setting conditions for the operations for the four temporary stands operating sausage sizzles in City Mall, hours of operation were set to avoid their operation during hours at which retail premises were open. Conditions were placed on matters such as litter, soiling of the roadway, and compliance with food safety standards. In regard to the hours of operation it was set as between the hours of 10pm and 4am. Concern was expressed by Councillors that retail premises in the area were experiencing problems of litter in their doorways, allegedly from these street-based operations. Concern over the safety of the food being served was another matter raised and a condition of the approval was compliance with requirements of the Environmental Monitoring Section of the Environmental Services Unit.

CONCLUSION

It is considered that to permit the temporary food stands within the areas licensed for tables and chairs at the west end of City Mall and along Oxford Terrace could compromise the Council's objectives for these sites. It is recommended that the conditions of the licence to occupy public space should be restricted to tables, chairs, umbrellas, and planter boxes and should not be extended to include food stands within these areas, selling food to either customers of the premises or "take away" customers.

Recommendation: That where businesses are licensed to occupy roads for the purpose of providing tables and chairs for dining, no food stands shall be permitted for either serving the customers or persons outside the area.

Chairman's

Recommendation:

1. That the officer's recommendation be approved.
2. That a seminar be held to discuss the draft of a constitution on the policy on trading in public places, to be held together with discussion on the Christchurch City Council's resolution to review leased area of public land.