

PAPER B

Purpose: For Decision

Committee: **LICENSING SUB COMMITTEE**

Date: **15 MARCH 2007**

Title: **TO CONSIDER AN APPLICATION FOR A STREET TRADING
CONSENT FOR THE PLAZA ICE CREAM PARLOUR, ST JAMES'
SQUARE, NEWPORT**

REPORT OF THE HEAD OF CONSUMER PROTECTION

SUMMARY/PURPOSE

1. To invite the Licensing Committee to consider an application for a street trading consent for a market to be situated in St James' Square, Newport, Isle of Wight.

DETAILS OF THE APPLICATION

2. An application (appendix 1) for the grant of a street trading consent has been received from:

The Plaza Ice Cream Parlour
56 High Street
Cowes
Isle of Wight
PO31 7RR
3. The application was received on 29 January 2007.
4. The proposed dates of trading are Monday - Saturday from 2 April 2007 until 31 October 2007.
5. The proposed operating times are:

Setting up from: 10:20 hrs
To start trading from: 10:30 hrs
End of trading: 17:30 hrs
Cleared up by: 17:40 hrs
6. The site requested is the east side of St James Square, Newport in the pedestrian area south of the monument. (Appendix 3)

BACKGROUND

7. This is an application for a new street trading consent.
8. A street trading consent has not previously been granted to The Plaza Ice Cream Parlour for St James Square.

9. A street trading consent has been granted and is currently in existence for St James Square. However the consent permits the sale of hot and cold food and drinks and the hours of operation do not conflict with this application.
10. An application has also been received for a street trading consent for St James Square for The Vectis Food & Craft Market. This application is due to be heard by the licensing committee on 8 March 2007.

STRATEGIC CONTEXT

11. The decision to grant a street trading consent accords with the Corporate Plan and the Environmental Health Service Plan 2006-2007.

CONSULTATION

12. The Isle of Wight Council Street Trading Policy (The Policy) outlines the groups of people who should be consulted in respect of an application for a street trading consent. (Appendix 5)
13. The policy allows fourteen days from the date of application in which comments may be received.
14. The consultation period commenced on 1 February 2007 and concluded on 16 February 2007.
15. A letter consultation letter was sent to the following:
 - (a) Police: Sergeant Mudge; Simon Richardson
 - (b) Local Councillor: Cllr J A M D Whittaker (Newport North)
 - (c) Newport Management Committee: Andrew Shorkey (by e-mail)
 - (d) Newport Business Association
 - (e) Highways: Kevin Burton
 - (f) Cultural & Leisure: Sean Newton
 - (g) Revenues: Nikki Sampson
 - (h) Fire: Trevor Moyce
 - (i) Environmental Health
 - (j) Property owners within 100 metres of the proposed site
 - (i) The Blue Door, 18A St James Square
 - (ii) The Early Learning Centre, 19 St James Square
 - (iii) Top Shop, 20 St James Square
 - (iv) Milletts, 21 St James Square
 - (v) Age Concern, 22 St James Square
 - (vi) Newport Photographic Ltd, 22A St James Square
 - (vii) Alliance & Leicester plc, 23 St James Square

- (viii) Bitesize, 24A St James Square
- (ix) Capital Jewellers, 24 St James Square

16. Observations have been received from the following:

- (a) Mr John Fleming, The Blue Door states that he does not consider that the Plaza Ice Cream Parlour would be an asset to the square and that the supply of ice cream is adequately catered for by Thorntons located in the High Street. Mr Fleming also states that in his opinion this type of “outside activity” may be a potential health hazard. (Appendix 6)
- (b) Newport Town Management Committee object on the grounds that the proposed area for street trading is within the conservation area of the town. (Appendix 7)
- (c) Councillor J Whittaker has raised concerns and objects to the siting of a mobile ice cream van in St James Square each day on the grounds that this is a conservation area. Cllr J Whittaker states that any unit sited in the square should enhance the town. (Appendix 8)
- (d) Hampshire Constabulary state there are no police objections to the application. (Appendix 9)
- (e) The Isle of Wight Fire & Rescue Service state there are no objections to the application. (Appendix 10)

17. Letters of support have been received from the following:

- (a) M Gossage, Chief Executive of The Ice Cream Alliance. (Appendix 11)
- (b) J Gawthorpe, Beechdean, Farmhouse Dairy Ice Creams. (Appendix 12)

FINANCIAL/BUDGET IMPLICATIONS

18. Broadly, Council expenditure on Licensing matters and specifically those matters administered and enforced through Consumer Protection, balances income generated from fees. This arrangement is not expected to change by virtue of the grant of a street trading consent.

LEGAL IMPLICATIONS

- 19. An application for the grant of a street trading consent is made under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (The Act).
- 20. Paragraph 1 of Schedule 4 defines a “consent street” as a street in which street trading is prohibited without the consent of the district council.
- 21. On 20 April 2004 Isle of Wight Council resolved that for the purposes of street trading all current and future streets, council car parks, recreation grounds

and open spaces along with public parks, gardens, amenity areas, sports areas, play areas and parking bays adopted by the council in the Isle of Wight be adopted as “consent streets” with effect from 28 May 2004.

22. Paragraph 7 of schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 sets out the requirements in respect of street trading consents.
23. Paragraph 7(1): An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council
24. Paragraph 7(2) Subject to paragraph (3) below, the council may grant a consent if they see fit
25. Paragraph 7(3) A street trading consent shall not be granted
 - (a) To a person under the age of 17 years of age; 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.
26. Paragraph 7(4) when granting or renewing a street trading consent, the council may attach such conditions to it as they consider reasonably necessary.
27. Paragraph 7(5) Without prejudice to the generality of sub paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent
 - (a) Obstruction of the street or danger to persons using it; or
 - (b) Nuisance or annoyance (whether to persons using the street or otherwise).
28. Paragraph 7(6) the council may at any time vary the conditions of a street trading consent.
29. Paragraph 7(7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
30. Paragraph 7(8) The council may include in a street trading consent permission for its holder to trade in a consent street
 - (a) From a stationary van, cart, barrow or other vehicle, or
 - (b) From a portable stall
31. Paragraph 7(9) If they include such a permission, they may make they make the consent subject to conditions
 - (a) As to where the holder of a street trading consent may trade by virtue of the permission; and
 - (b) As to the times between which or periods for which he may so trade.

32. Paragraph 7(10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time
33. Local opposition or support (in whatever form) for a proposal is not in itself grounds for refusing or granting a licensing permission, unless that opposition or support is based upon valid reasons and concerns, which can be sustained.
34. There is no right of appeal against the refusal to grant or refuse a consent or against the revocation or variation of a consent.

IMPLICATIONS UNDER THE CRIME AND DISORDER ACT 1998

35. Members are advised that without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

IMPLICATIONS UNDER THE HUMAN RIGHTS ACT 1998

36. Members are advised that this application must be considered against a background of the implications of the Human Rights Act 1998.

There are three convention rights, which need to be considered in this context:

- (a) Article 6 – Right to a fair trial
In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- (b) Article 8 – Right to respect for private and family life
Everyone has the right to respect for his private and family life, his home and his correspondence. In the case of article 8 there shall be no interference by a public authority with the exercise of this right except as such in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder and crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
- (c) Article 1 of the first protocol – protection of property
Every natural or legal person is entitled to peaceful enjoyment of his possessions. In the case of article 1 of the first protocol it states that “no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and the general principles of international law. The preceding provisions (of which articles 6 and 8 are but 2) shall not however in any way impair the right of the state to enforce such laws as it deems necessary to

control the use of the property in accordance with general interest or to secure the payment of taxes or other contributions or penalties.

(d) The Licensing Authority acknowledges the right of business in its area to operate, but equally acknowledges the fact that this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises. The committee needs to be clear as to the rights granted and the need to ensure that the reasons given for any interference are proportionate and in accordance with the council's legitimate aim.

37. It has to be appreciated that there is a difference between licences and consents; however the members may wish to err on the side of caution and accept that the committee should consider Article 1 because a licence is normally deemed to be a possession.
38. The Freedom of Information Act 2000 requires public authorities to disclose certain information they hold if it is requested subject to specified exemptions. This includes information contained in responses to consultations.

OPTIONS

39. Option 1: The licensing committee may grant the street trading consent as requested by the applicant.
40. Option 2: The licensing committee may grant the street trading consent subject to conditions and/or amendments.
41. Option 3: The licensing committee may refuse to grant the street trading consent.

EVALUATION/RISK MANAGEMENT

42. The licensing committee should have regard to paragraph 9 of The Policy when considering the application. In particular members attention should be drawn to sub paragraphs 9(d) and 9(f).
43. The licensing committee should have regard to paragraph 12 of The Policy in considering the application.
44. The decision of the licensing committee may be capable of challenge by way of judicial review.

RECOMMENDATION

It is recommended that the consent be granted with conditions as the committee deem reasonable and necessary.

APPENDICES ATTACHED

Appendix 1	Application form
Appendix 2	Covering letter from applicant
Appendix 3	Plan of proposed site
Appendix 4	Copies of photographs of the ice cream van
Appendix 5	Isle of Wight Council Street Trading Policy
Appendix 6	Objection letter Mr. John Fleming
Appendix 7	Objection letter Newport Town Management Committee
Appendix 8	Objection letter Councillor J Whittaker
Appendix 9	Comments from Hampshire Constabulary
Appendix 10	Comments from Isle of Wight Fire & Rescue Service
Appendix 11	Letter of support from M Gossage, Chief Executive of The Ice Cream Alliance
Appendix 12	Letter of support from James Gawthorpe, Beechdean, Farmhouse Dairy Ice Creams

BACKGROUND PAPERS

56. Minutes of a meeting of the Licensing panel held at County Hall, Newport, Isle of Wight on 20 April 2004 commencing at 10.00 am.
57. Agenda and papers for a meeting of the Licensing panel held at County Hall, Newport, Isle of Wight on 20 April 2004 commencing at 10.00 am.
58. Isle of Wight Fire & Rescue Service – Fire Safety Guidance for Food/Concession Holders at Outside Events

ADDITIONAL INFORMATION

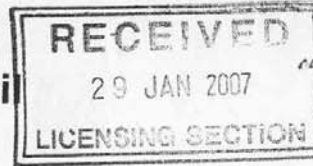
None

Contact Point: Andrea Colebrook
Licensing Officer Ext 5154

ROB OWEN
Head of Consumer Protection

221/019758

Isle of Wight Council



APPLICATION FOR STREET TRADING CONSENT

The following must be provided in order to apply for a Street Trading licence:

- 1. Where the proposed activity is from a fixed position, a map of at least 1:1250 scale clearly identifying the proposed site position by marking the site boundary with a red line.
- 2. Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.
- 3. An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.

Please click on the following links to read the documentation associated with this form:

- [Street Trading Conditions](#)
- [Street Trading Policy](#)
- [Trading Guidance](#)

The giving of false information may result in registration being refused or revoked, and the local authority reserve the right to make such further enquiries arising out of this application as they may consider desirable.

The consent fee is not refundable should the application be withdrawn or refused.

Please tick this box to confirm you have read and accept the terms and conditions

Your Details

First Applicant

Title MR

Forename GARY

Middle name/Initials JOHN

Surname HALL

Date of birth [REDACTED]

Year Month Day

Business address

Building/house name/number THE PLAZA ICE CREAM PARLOUR

Street 56 HIGH STREET

Town COWES

County ISLE OF WIGHT

Postcode PO31 7RR

Telephone number (include area code) [REDACTED]

Email address [REDACTED]

Fax [REDACTED]

Second Applicant (if applicable)

Title MRS

Forename DEBORAH

Middle name/Initials JULIA

Surname HALL

Date of birth [REDACTED]
Year Month Day

Our home address

Building/house name/number [REDACTED]

Street address [REDACTED]

Town name COWES

County ISLE OF WIGHT

Postcode [REDACTED]

Telephone number (include area code) [REDACTED]

Email address [REDACTED]

Fax [REDACTED]

Licence Details

Do you wish to apply for a grant or renewal grant renewal

Are you an existing Trader? Yes No

If YES, how long? N/A

Name of Street/Site: ~~N/A~~
ST. James Square
Newport. I.W.
opposite Top Shop
(In similar location to the burger van that trades at night time.)

Proposed type of Consent (please tick as appropriate) Market Food

	<input type="radio"/> Non-Food <input checked="" type="checkbox"/> Ice Cream <input type="radio"/> Car Sales	
Proposed months of trading (please tick as appropriate)	<input type="radio"/> January <input type="radio"/> February <input type="radio"/> March <input checked="" type="checkbox"/> April <input checked="" type="checkbox"/> May <input checked="" type="checkbox"/> June <input checked="" type="checkbox"/> July <input checked="" type="checkbox"/> August <input checked="" type="checkbox"/> September <input checked="" type="checkbox"/> October <input type="radio"/> November <input type="radio"/> December	
Proposed days of trading (please tick as appropriate)	<input checked="" type="checkbox"/> Monday <input checked="" type="checkbox"/> Tuesday <input checked="" type="checkbox"/> Wednesday <input checked="" type="checkbox"/> Thursday <input checked="" type="checkbox"/> Friday <input checked="" type="checkbox"/> Saturday <input type="radio"/> Sunday	
Proposed dates of trading		
Proposed hours of trading	Setting up from To start trading at: End of trading: Cleared up by:	1020 1030 1730 1730 1740

What will be sold? BEECHDEAN LUXURY FARMHOUSE
DAIRY SCOOPED ICE CREAM
ONLY

Have you registered with the Council as a food business? Yes No Not applicable

Please give names of any other employees or persons who may assist you in your trading (if applicable):

Company Details

Trading Name THE PLAZA ICE CREAM PARLOUR

Building/house name/number 56

Street address HIGH STREET

Town name COWES

County ISLE OF WIGHT

Postcode PO31 7RR

Telephone number (include area code) 01983 249600

Email address theplaza@onwight.net

Have you previously held a Street Trading Consent? Yes No

If yes, with which Council

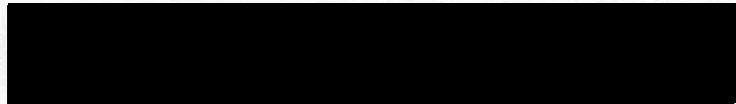
Details of Vehicle/ Trailer to be Used

Are you planning to sell items from a vehicle or trailer? Yes No

If 'yes,' please give details of the following:

Length	14ft 9 inches
Width	6ft 11 inches
Type	Classic Ice Cream Van
Height	7ft 9 inches
Registration	Big 9902
Make	BEDFORD

Where the vehicle is kept when not in use:



Miscellaneous

Are there any unspent convictions or prosecutions pending recorded against the applicant(s)?

Yes

No

If 'yes,' please give details

Street Trading Licence Options

A	Street trading licence for a single day	£67.00
B	Street trading licence for 1 day, at an established market	£51.00
C	Street Trading Licence for non-food for 1 to 7 days inclusive.	£87.00
D	Street trading licence for food, for 1 to 7 days inclusive	£130.00
E	Street trading licence for 8 to 14 consecutive days, non-food	£108.00
F	Street trading licence for 8 to 14 consecutive days, for food	£172.00
G	Street trading licence for one calendar month, for non-food	£128.00
H	Street trading licence for one calendar month, for food.	£195.00
I	Street trading licence for 3 months, non-food.	£323.00
J	Street trading licence for 3 months, ice-cream only (based on 75% of the food fee for the same period)	£384.00
K	Street trading licence 3 months, for food	£512.00
L	3 Month street trading licence for roundsmen	£153.50
M	Annual street trading licence for roundsmen, ice cream only.	£614.00
N	3 Month street trading licence for fast food vans etc	£153.50
O	Annual street trading licence for fast food van	£614.00
P	Street trading licence for a car lot/ car sales	£1,024.00

Please select your required Licence

(A) Street trading licence for a single day

- (B) Street trading licence for 1 day, at an established market.
- (C) Street Trading Licence for non-food for 1 to 7 days inclusive.
- (D) Street trading licence for food, for 1 to 7 days inclusive
- (E) Street trading licence for 8 to 14 consecutive days, non-food
- (F) Street trading licence for 8 to 14 consecutive days, for food
- (G) Street trading licence for one calendar month, for non-food
- (H) Street trading licence for one calendar month, for food.
- (I) Street trading licence for 3 months, non-food.
- (J) Street trading licence for 3 months, ice-cream only
- (K) Street trading licence 3 months, for food
- (L) 3 Month street trading licence for roundsmen
- (M) Annual street trading licence for roundsmen, ice cream only.
- (N) 3 Month street trading licence for fast food vans etc
- (O) Annual street trading licence for fast food van
- (P) Street trading licence for a car lot/ car sales

Declaration

I/We have read the guidance notes and personally complete the application below and have been honest in giving this information.

<p>First Applicant:</p>	<p>Signed </p> <p>Name <u>MR GARY HALL</u></p> <p>Date <u>22/1/07</u></p>
<p>Second Applicant:</p>	<p>Signed </p> <p>Name <u>MRS DEBORAH HALL</u></p> <p>Date <u>22-1-07</u></p>

This form must be signed and all the relevant documents, detailed on the form, presented to the licensing section before a decision is made and the licence may be granted. Either print off the

completed form, sign and post to the licensing department along with the required documents or attend council offices after you have submitted the form online.

The application fee is not refundable in the event of the application being refused or otherwise.

Data Protection Act 1998

This application may be monitored by the Isle of Wight Council for regulatory, quality control or crime detection purposes. Information from this application will be processed in accordance with the Data Protection Act 1998 for the purpose of processing your particular enquiry/request. The Isle of Wight Council ("the Council") is the data controller. By completing this form you consent to the Council contacting you by email or nominated contact method in relation to your enquiry/request.

The information contained in this application may, in exceptional circumstances, be subject to disclosure to third parties under either the Data Protection Act 1998 or the Freedom of Information Act 2000 to the extent the law allows and in accordance with the Isle of Wight Council's Access to Information Policy. Disclosure will only be made where in all the circumstances it would be fair to do so and in the public interest.

Please note that the Council may process your information in the absence of consent for the purpose of crime prevention or detection so far as is in accordance with the law.

Sometimes we may use your information to keep you informed about services, goods or relevant issues that we believe may be of interest to you. If you wish to receive this information for these purposes please tick this box



To improve the quality of other services that we provide to you the Council wishes to hold your non-sensitive personal information on a secure central database. This will enable all Council services to use this information when they are providing a service to/for you. If you wish your non-sensitive personal information to be held by the Council please tick this box



Product	Cost	VAT code	GL Code
1 day	£67.00	N	LF71S2511
1 day market licence	£51.00	N	LF71S2511
1 to 7 days (non-food)	£87.00	N	LF71S2511
1 to 7 days (food)	£130.00	N	LF71S2511
8 to 14 consecutive days (non-food)	£108.00	N	LF71S2511
8 to 14 consecutive days (food)	£172.00	N	LF71S2511
1 calendar month (non-food)	£128.00	N	LF71S2511
1 calendar month (food)	£195.00	N	LF71S2511
3 months (non-food)	£323.00	N	LF71S2511
3 months (ice-cream only)	£384.00	N	LF71S2511
3 months (food)	£512.00	N	LF71S2511
Roundsmen - Ice Cream Vans (3 months)	£153.50	N	LF71S2511
Roundsmen - Ice Cream Vans (1 year)	£614.00	N	LF71S2511
Roundsmen - Fast Food (3 months)	£153.50	N	LF71S2511
Roundsmen - Fast Food (1 year)	£614.00	N	LF71S2511
Car Sales	£1,024.00	N	LF71S2511

019758

2007020112 APPENDIX 2

THE PLAZA



2 Shooters Hill,
Cowes,
Isle of Wight.
PO31 7BE.

Tel. 01983 293863
email: the plaza@onwight.net
www.theplazaices.co.uk

Mr Gareth Davies,
Head of Licensing,
Jubilee Stores,
The Quay,
Newport,
Isle of Wight.

Dear Mr Davies,

Re. Application for Street Trading Consent - The Plaza Ices.

Please find enclosed our completed application form and relevant details for Street Trading Consent to supply luxury dairy ice cream in Newport town centre

We currently have a successful ice cream outlet in Cowes selling quality Beechdean Farmhouse Dairy Ice Cream. Beechdean specialise in supplying ice cream to quality heritage sites including Buckingham Palace, Windsor Castle as well as many National Theatres. Details of their products are attached.

It is our intention to grow our current business and to this end we have recently purchased a rare classic ice cream van which will fit in to heritage locations with the purpose of only specialising in luxury scooped farmhouse dairy ice cream. The vehicle is unique in the fact customers can view the ice cream in the freezer via a special window. Also the engine does not need to be running or any generators used due to its commercial hold over freezers.

We have identified St James Square, Newport as an appropriate site where we feel our unique vehicle would blend into the current street scene without conflicting with any existing traders and indeed add to the ambiance of the square serving both locals and tourists. We would of course be interested in discussing further sites that you may feel appropriate in the area.

With regards to Food Hygiene we of course hold the relevant Food Hygiene Certificates and as members of The Ice Cream Alliance follow their code of conduct.

We would be happy to meet with any councillors or members of your department to discuss the matter further.

We look forward to hearing from you in due course.

Yours sincerely,

A solid black rectangular box redacting the signature of Mr Gary Hall.

Mr Gary Hall.

Mrs Deborah Hall.

22/1/07.



Siteplan® 1:1250



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Centre Coordinates: 449923 089134

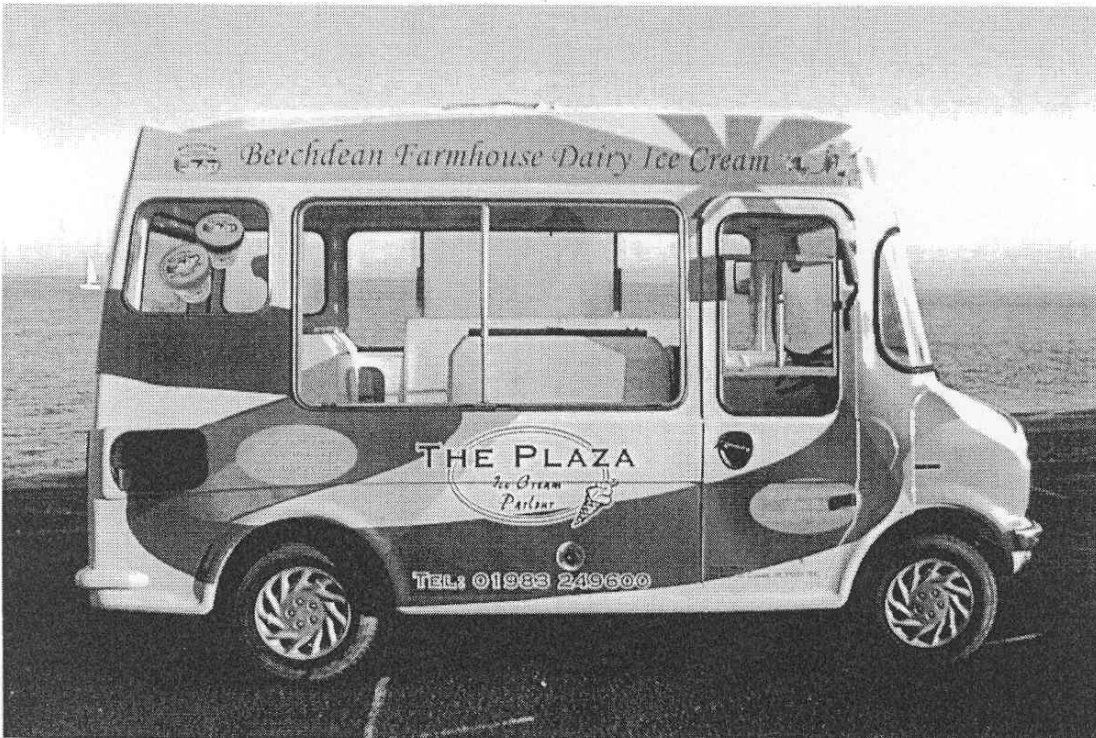
National Grid sheet reference at centre of this Siteplan: SZ4989SE

Supplied by: Maplines
Serial Number: 00393500

X proposed location

Plaza Ice Cream.

B - 16





LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**STREET TRADING**

The Isle of Wight Council has by the powers invested in it resolved that for the purposes of controlling Street Trading all current and future streets, Council car parks, recreation grounds and open spaces along with all public parks, gardens, amenity areas, sports areas, play areas and parking bays adopted by the Council in the Isle of Wight be designated as 'consent streets' from **28 May 2004**.

POLICY

1. This Policy will be applied to street trading activities in the Isle of Wight to ensure consistency in decision making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

2. **Definitions of terms used in these Guidelines**

Within the terms of the Isle of Wight Council's Street Trading Consent Scheme the following definitions apply:

The Council:-	The Isle of Wight Council.
Street Trading:-	The selling or exposing or offering for sale of any article (including a living thing) in any street,
Street:-	Includes: (a) any road, footway, beach or other area to which the public have access without payment. (b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street:-	Means a street in which street trading is prohibited without the consent of the Isle of Wight Council.
Consent:-	A consent to trade on a street by the Isle of Wight Council.
Consent Holder:-	The person or company to whom the consent to trade has been granted by the Isle of Wight Council.
Static Street Trader:-	A trader granted permission by the Isle of Wight Council to trade from a specified position.
Mobile Trader:-	A trader who moves from street to street but trades for less than 60 minutes at any one point and does not return to a similar trading position within 2 hours.
Authorises Officer	An officer employed by the Isle of Wight Council and authorised by the Council to act in accordance with the

provisions of the Local Government (Miscellaneous Provisions) Act 1982.

3. Procedure for determining Street Trading Consent applications

The application and approval procedure comprises of the stages as set out at Appendix 1. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide.

4. Submission of the application

An application for a Street Trading Consent must be made to the Isle of Wight Council in writing.

The following will be required to be submitted with the application

- (a) A completed and signed Street Trading Consent application form and a Notice of Application for a Street Trading Consent.
- (b) A deposit of 25% of the full fee. Fees for periods of less than 15 days will require submission of the full fee with the application.
- (c) Where the proposed street activity is from a fixed position, 5 copies of a location plan of 1:1250 scale and 5 copies of a detailed plan of 1:500 scale clearly identifying the proposed site position by marking the site boundary with a red line. Neighbouring properties that touch the red line must be identified. Applications WILL NOT be considered without plans.
- (d) Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.
- (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.

An applicant for the initial grant of a Street Trading Consent should give a minimum of 60 days notice of the application.

5. Consultations on applications made

Before a Street Trading Consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Highways
- Food Section
- Hampshire Constabulary
- Isle of Wight Fire & Rescue Service
- Local Councillor
- The appropriate Parish or Town Council
- Local Business Association
- Wight Leisure
- Environmental Health

For new applications, in addition to the above, further consultations will be carried out with property owners who's premises TOUCH the redline by the Council sending copies of the Notice of Application to the relevant property owners. Applicants will be required to put notices on the nearest and next lampposts.

Written observations from the above organisations and occupiers of properties will be sought and taken into consideration when determining an application.

Consultees will be given 14 days in which to make comments.

6. **Site Assessment**

Street Trading Consents from static locations will not normally be granted where:

- a. A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- b. Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- c. There would be a significant loss of amenity caused by traffic, noise, odour or fumes, or
- d. There is a conflict with Traffic Orders such as waiting restrictions, or
- e. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- f. The trading unit obstructs the safe passage of users of the footway or carriageway, or
- g. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- h. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
- i. The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

7. **Inspection of the Street Trading Unit**

The inspection will consider obvious hazards, and this may be satisfied by looking at the submitted photographs. The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity may be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consent, where this is reasonably practicable. The unit to be used for the street trading activity shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with food safety, environmental protection and health and safety legislation.

Further advice on any of the above requirements can be obtained by telephoning: 01983 823100.

8. **Objections to the Application**

If objections are received against the granting of a Street Trading Consent from:

- a. Occupiers of property within 100 metres of the proposed site, or
- b. Isle of Wight Council Ward members, or
- c. Parish or Town Councils, or
- d. Police and/or Fire Authorities

the application will be considered by the case officer for the area in which it is to be operated.

Before such a referral is made officers will assess the objections according to the following criteria:

1. Potential, or actual, nuisance to a property occupier from noise, fumes, smells, light or litter.
2. Concern for public order problems resulting from the proposed street trading activity, eg, congregations of individuals.
3. Any other valid reason raised that would affect the occupier of a property as a result of the application made.

The applicant will be informed in writing of the case officers decision who will give reasons for refusal, amending conditions or revoking if a consent is granted. Please note, whilst there is no right of appeal, if an applicant is aggrieved by a decision of a Licenising Officer he/she may direct written objections to the Principal Environmental Health Practitioner, 823159, within 14 days of the decision.

9. **Determination of the Application**

Delegated officers will use the criteria listed below in determining any Street Trading Consents. All criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

a) Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site assessment criteria.

b) Public Order: The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Hampshire Constabulary will be taken into consideration.

c) Avoidance of Nuisance: The street trading activity should not present a substantial risk of nuisance from noise, smells, fumes, light or litter to households and businesses in the vicinity of the proposed street trading site. Observations from Council Officers shall be taken into consideration.

d) Needs of the Area: The sufficiency of other trading outlets will be taken into consideration in relation to:

1. The general needs of a locality, should no comparable outlets exist

Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to point 1 above.

e) Compliance with legal requirements: The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations from Council Officers on the compliance with the requirements of Food Safety and Hygiene, Health and Safety and Environmental Protections legislation shall be taken into consideration.

f) Consultees Observations: In relation to points a) – d) above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

g) Permitted Trading Hours: The Council generally will only permit street trading between 6.00 am and Midnight on any one day. Any trading outside these hours will have to be approved by the Council. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. Where hot food and beverages are to be sold between 2300 hours – 0500 hours on any day, a Temporary Event Notice or Premises Licence application and fee will be needed.

The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate

h) Officer decisions on applications made: If an Officer of the Licensing Section acting is unable to grant a Street Trading Consent the applicant will be informed of the criteria from these Guidelines that have not been met. The applicant will be given an opportunity to discuss any relevant matters in relation to the application that has been made. If after the meeting officers are still unable to proceed with the granting of a Consent, and the applicant wishes to continue with the application, the application will be referred to the Principal Environmental Health Practitioner for determination.

The outcome of the meeting with the applicant will be confirmed in writing within 5 working days of the meeting taking place. If an applicant refuses an offer of attending a meeting with officers, or fails to attend, a letter will be sent to the applicant confirming the reasons for being unable to proceed with the application.

10. **Application Procedure where a Consent has previously been granted**

The application for previously granted street trading consents is similar to that described above. However, it is recognised that full consultation will already have been carried out. Therefore, the following application procedure will apply.

- The applicant must be the same individual as applied in the previous year, or the year before that.
- The goods for sale must be the same as those sold previously.
- The stall, unit, barrow, etc must be the same.
- The location must be the same.
- There must have been no revocations or suspensions of the Consent.
- There must have been no previous JUSTIFIABLE complaints against the applicant and his/her trade. Amongst other considerations, complaints must have been received that relate to matters in this policy (eg, public nuisance).

It may be the case that an applicant in year X allows his/her Consent to lapse in year Y but chooses to reapply in year Z.

Providing the above criteria applies, in this situation the applicant may be deemed to be a "previously granted" Consent trader.

It may also be the case that applicant A chooses not to reapply for a Street Trading Consent. Applicant B offering the same goods from the same type of unit and from the same location may apply as a "previously granted" consent trader PROVIDING he/she has had no justifiable complaints against him/her in the previous 2 years.

In these circumstances, the consultation period is fast tracked to only 48 hours instead of the usual 3 weeks.

Procedure where applicant seeks a Street Trading Consent for premises licensed under the Licensing Act 2003, eg, Temporary Event Notice or Premises Licence

A Street Trader planning to offer licensable activities, eg, sales of alcohol at any time or hot food and drink between 2300 hours – 0500 hours on any day, will also require licensing under the Licensing Act 2003. The application procedure for a Premises Licence requires considerable consultation with the public, businesses and responsible authorities. In such situations, the Street Trader can benefit from the provisions of this section. However, the applicant **MUST** indicate on the application form the numbers, types and location or site of various units/stalls/barrows.

An application for a Temporary Event Notice is not advertised and is only copied to the Police. For these reasons, Street Trading Consent applicants may not take advantage of this section for Temporary Events.

11. Approval of Applications

Delegated Officers may approve applications meeting the criteria contained within these guidelines.

On approving the application the Council will issue a Street Trading Consent to which the Council's standard conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, the goods that may be sold. Additional conditions may be attached if special circumstances apply to the Consent being granted by the Council.

The conditions attached to the Consent form part of the approval to carry out street trading in the Isle of Wight. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed.

Consent Holders are therefore strongly advised to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

12. Issue of Street Trading Consents

A Street Trading Consent for any particular site will be issued for a maximum period of 3 months for the first year and thereafter for 6 months providing there have been no problems. Shorter term Consents may be issued on a daily, weekly or monthly basis. These particular Consents will expire, unless renewed, on the date specified in the Consent.

In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made.

If a cheque is dishonoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge will also be imposed on the Consent Holder.

Street Trading Consents will be issued only at the Council Offices. The applicant must attend in person to collect any documentation.

13. Refusal of Applications

Where the Council refuses an application the applicant will be informed in writing. The decision of the Licensing Officer or Principal Environmental Health Practitioner (if appropriate) is final.

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. A person aggrieved against a decision of the Licensing Officer or Principal Environmental Health Practitioner (if appropriate) may seek a Judicial Review of the decision, should it be felt necessary.

14. General Information on Street Trading Consents

- i) **Reimbursement of Fees:** Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any reimbursement will be strictly from the date the Consent is surrendered to the Isle of Wight Council.

Refund of any fee paid in connection with the granting of a Street Trading Consent will be based on the following formula:

Number of complete days remaining divided by the fee paid **less** the current administration fee.

- ii) **Persons under the age of 17 years:** The Council will not grant a Street Trading Consent to persons under the age of 17 years.

- iii) **Access by Council and Police Officers:** Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times. Council Officers will carry with them and produce on request official identity cards issued by the Isle of Wight Council.

- iv) **Street Trading Consents:** The conditions attached to all Street Trading Consents stipulate that a Consent Holder shall not assign, sub-let or part with his interest or possession of a Street Trading Consent.

*The Consent granted is specific to the person to whom it is issued and is **non-transferable**.*

15. Enforcement of Street Trading

The Isle of Wight Council will actively enforce the provisions of the Street Trading legislation within its area in a fair and consistent manner. All enforcement activities will comply with the Departmental Enforcement Policy, copies of which are available free of charge from the Licensing Office.

16. Complaints against the Service

The Licensing Section has an agreed procedure for dealing with complaints. Any complaints should in the first instance be sent to the Principal Environmental Health Practitioner, Jubilee Stores, The Quay, Newport, Isle of Wight PO30 2EH, telephone 01983 823159.

If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

THE BLUE DOOR

LICENCED CAFÉ BISTRO

ST. JAMES SQUARE

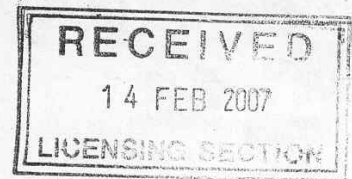
NEWPORT

ISLE OF WIGHT

PO30 1XU

Telephone 01983 532568

VAT No: 776915772



Environmental Health Manager,
Jubilee Stores,
The Quay,
Newport, I.W.
PO30 2EH

13th February 2007

Dear Sir,

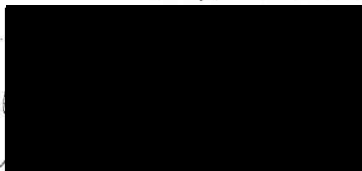
I am in receipt of your letter dated 9th February relating to street trading in St. James' Square, Newport.

I have had a discussion with the applicant for the Vectis Food & Craft application and in principal I do not have any objection to this as long as it is carried out in the way explained to myself. As you realise we have a licence for tables and chairs in the Square and I would insist that our area is not impinged on. I think a sensible way forward would be to try the operation on a trial basis of say six weeks, and should any problems occur they could be addressed at this time.

With regard to the second application for The Plaza Ice Cream Parlour: I feel that this would not be an asset to the Square and could cause problems. We have Thorntons just around the corner and I feel that this is adequate for an ice-cream supply. There would also in my opinion be a health hazard because of the type of outside activity.

Trusting you will take note of my concerns,

Yours Faithfully,



John Fleming (The Blue Door Bistro)



**NEWPORT TOWN
MANAGEMENT COMMITTEE**

SERVING

CARISBROOKE EAST, CARISBROOKE WEST,
FAIRLEE, MONTJOY,
NEWPORT NORTH & SOUTH, PAN, PARKHURST.



15 February 2007

Dear Ms Petty

RE: SCHEDULE 4 – STREET TRADING

APPLICATION FOR GRANT OF STREET TRADING CONSENTS

**APPLICANT: MR GARY JOHN HALL AND MRS DEBORAH JULIA HALL – THE
PLAZA ICE CREAM PARLOUR**

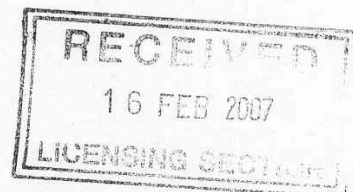
SITE: ST JAMES SQUARE, NEWPORT

Newport Town Management Committee oppose any street trading licence in St James Square Newport as it is within the conservation area of the town.

Yours sincerely

Maxine Yule

M Yule
Secretary



Petty, Tansy

APPENDIX 8

From: Whittaker, Julian
Sent: 12 February 2007 21:15
To: Petty, Tansy
Subject: Ice Cream Application

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SCHEDULE 4 – STREET TRADING

APPLICATION FOR GRANT OF STREET TRADING CONSENTS

APPLICANT: MR GARY JOHN HALL AND MRS DEBORAH JULIA HALL – THE PLAZA ICE CREAM PARLOUR

SITE: ST JAMES SQUARE, NEWPORT

With regards to the above application, I am not happy that a mobile ice cream van is positioned in St James sq everyday, this is in a conservation area and therefore any unit that wishes to be there everyday should enhance the town,

Please could you place this objection on the file, and to preserve the conservation of Newport

**Julian Whittaker CC
Newport North.**



HAMPSHIRE Constabulary

Chief Constable Paul R. Kernaghan CBE QPM LL.B MA

APPENDIX 9

Police Licensing Department
Consumer Protection
Jubilee Stores
The Quay
Newport
Isle of Wight PO30 2EH



Senior Licensing Officer
Isle of Wight Council
Jubilee Stores
The Quay
NEWPORT
Isle of Wight
PO30 2EH

Tel: 01983 823154
Fax: 01983 823521

Email: police.licensing.unit@iow.gov.uk

Our Ref: LIC/003/07

15th February 2007

Dear Sir

I refer to the application made by THE PLAZA ICE CREAM PARLOUR -
ST. JAMES SQUARE, NEWPORT
(GARY AND DEBORAH HALL)

For the GRANT/RENEWAL/TRANSFER of a:

- Street Trading Consent
- Other (specify)

There are no Police objections to this application at this time.

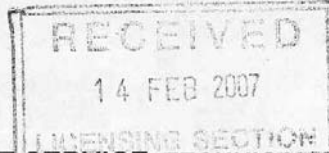
Yours faithfully



PP **G R Mudge**
PS 5863
Licensing Sergeant

Website – www.hampshire.police.uk

MEMORANDUM



ISLE OF WIGHT FIRE AND RESCUE SERVICE TECHNICAL SUPPORT AND OPERATIONAL PLANNING

Date: 09 February 2007

Ref: TSOP/TM/ED

To: Tansy Petty
Environment & Neighbourhoods

From: T Moyce
Operational Planning Officer

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SCHEDULE 4, STREET TRADING

APPLICATION FOR *TYPE OF LICENCE*

Applicant: Mr Gary John Hall and Mrs Deborah Julia Hall – The Plaza Ice Cream Parlour

Site: St James Square, Newport

Further to receipt of an application and recent inspection with reference to the above, I would confirm that the Isle of Wight Fire and Rescue Service on behalf of the fire Authority, as a Responsible Authority, will raise no objection, in respect of the above premises.

Appendix PEL/6 enclosed

Yours sincerely



T Moyce
Operational Planning Officer

APPENDIX 11

Licensing Committee
Isle of Wight Council
Isle of Wight

March 2 2007

Dear Sir/Madam

Re. Application from Mr GJ and Mrs DJ Hall T/A The Plaza Ice Cream Parlour.
St James Square - Newport, Isle of Wight.

First of all, allow me to introduce ourselves. The Ice Cream Alliance is the trade association for the UK's ice cream industry established for over 60 years. We are a not-for-profit organisation dedicated to promoting best practice and facilitating trade between members, suppliers and customers.

Our members operate some 1100 vans across the UK and fully comply with all the laws and regulations that govern the trade and also strive to be a 'good neighbour' to other retailers. Mr Hall is a member of the ICA.

We have no hesitation in supporting Mr Hall's application to trade in St James Square in Newport and believe that, if successful, the van would add significantly to the aesthetic appeal of the area and its commercial vibrancy.

Our belief is born out of a knowledge of the success of similar situations where the presence of a quality van being professionally operated brings not only benefits to the operator but to the area as a whole.

Mr Hall has given real consideration to what would be an appropriate approach for a conservation area and has chosen to use a period van decorated in a traditional, sensitive style. We even featured his vehicle in the February edition of our magazine. We also understand that he will trade responsibly both in terms of the quality and type of ice cream offered but also by avoiding possible conflicts with other traders but not offering Coke etc. Again, as an ICA member, he will undertake to keep the area as free of litter etc as is possible.

We hope you will support their application and bring the magic that an ice cream van would bring to St James Square.

Yours Faithfully

MG
Chief Executive

M. Gossage - Chief Executive.

The Ice Cream Alliance Ltd, the trade association for the UK ice cream industry, provides comprehensive support to members, including:
Ice Cream Information Service • ICA Technical Services • National Ice Cream Competitions • Annual Exhibition
A company limited by guarantee • Registered office as above • Registered in England No. 384175



Licensing Committee
 County Hall
 High Street
 Newport
 Isle of Wight
 PO30 1UD

March 1 2007

Dear Sir/Madam

Re. Application from Mr GJ and Mrs DJ Hall T/A The Plaza Ice Cream Parlour. (site) St James Square - Newport, Isle of Wight

Firstly can I apologise for not been able to make the meeting. I am writing to offer our support to the application above.

We have been working with the Plaza Ice Cream Parlour since 2004. We have seen our sales increase year on year as regular and occasional visitors have gone to the Plaza to enjoy our Ice Cream. However it is not just down to the Ice Cream why the Plaza is a successful business. Mr and Mrs Hall offer exceptional customer service and have created a very welcoming and warm environment for their customers.

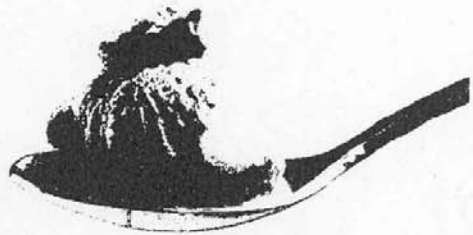
Mr and Mrs Hall spent a great deal of time researching Ice cream manufactures as they want to ensure that they offered their customers both quality and value. This is an extremely important part of their business as they appreciate the benefits of regular custom.

In the three years we have been working with them we have seen their business go through rapid growth, this has enabled them to employ more people which has the obvious benefits to the local community. With the application for St James's square this will again involve employing more people in a sustainable business offering both full time and part time work.

TEL. 01494 563980

Old House Farm North Dean High Wycombe Buckinghamshire HP14 4NL

FAX. 01494 564505 www.beechdean.co.uk





Food Hygiene has been very high on their agenda. They have been on the relevant courses and have a better than average knowledge of food hygiene. Mr Hall has Level 3 Certificate for Food Hygiene and Mrs Hall has a level 3 Certificate for Food Hygiene. They insist on smart and clean uniforms and offer comprehensive staff training.

As their business has been so successful they have decided to reinvest their money into a classic Ice Cream van. As it is a classic van I am sure it will be very much in keeping with the area. They have regular customers who drive to Cowes just for an Ice Cream which has other benefits to other outlets in Cowes. I am sure that the same will happen in Newport again to the benefit to the other shops close by.

Beechdean Ice Cream is made fresh on the farm from our pedigree Jersey herd. The ice cream is totally natural, GMO free, Gluten Free, suitable to vegetarians there are no artificial additives or colourings. We supply Buckingham palace, Windsor Castle, The Royal Albert Hall, Blenheim Palace, Mayflower Theatre as well as many other outlets thorough out the UK. We are a small family business and our aim is to be a niche provider of high quality ice cream offering value for money to retailers and consumers

I understand that Mr and Mrs Hall's intention is only to sell scooped Ice Cream and not coke, water, sweets etc so as not to interfere with any existing outlets.

I hope you will fully support their application as they will bring quality products offering good value with excellent customer service to St James Square.

Yours Faithfully

A solid black rectangular box used to redact the signature of James Gawthorpe.

James Gawthorpe

TEL. 01494 563980

Old House Farm North Dean High Wycombe Buckinghamshire HP14 4NL

FAX. 01494 564505 www.beechdean.co.uk

