

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 7 July 2009

Author: Head of Licensing

Wards Affected: Central and Eastcott

Purpose

- To recommend changing the designation of some town centre streets from consent to prohibited status, for the purpose of street trading.

Recommendation

Licensing Committee is asked : -

- To resolve that a policy resolution is put to full Council, as follows ~

“That the streets in the Borough of Swindon listed below, currently designated as Consent streets shall be given a new designation as Prohibited streets, that is streets where street trading is prohibited.

New Prohibited Streets

Canal Walk, The Parade, all of Regent Street, Regent Circus, Edgeware Road, Bridge Street from the junction with Canal Walk down as far as the junction with Fleet Street. The changes in designation will come into effect on 1st November 2009 [or such later date as the Council shall determine], being a date after the expiration of one month, beginning with the day after this resolution was passed”

1. Reasons

- 1.1 This resolution follows the decision to consult on the proposal, agreed by Licensing Committee on 26 February 2009.

2. Detail

- 2.1 Licensing Committee decided on 26 February 2009 to consult on two proposals for changing the designation of town centre streets. The first of those was to create new consent streets in a ring around the core town centre shopping area. The second was to convert some existing consent streets to prohibited streets. This report is about the second of these proposals. The new consent streets came into being on 9 June 2009.
- 2.2 The draft resolution set out above has been published in a local newspaper and the statutory consultation period has expired. Established town centre traders were advised in writing of both proposals originally and some have responded. Further letters have advised them that this meeting is taking place.

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

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- 2.3 The comments from traders refer both to the creation of new consent streets and to the re-designation of some consent streets as prohibited streets but their comments relate primarily to the content of this report.
- 2.4 Comments from Mr & Mrs Carchedi are attached as Appendix Two.
- 2.5 Comments from Mr P Bretti are attached as Appendix Three.
- 2.6 Comments from Mr & Mrs B Mazzotta are attached as Appendix Four.
- 2.7 The essence of the traders' opposition to the removal of existing consent streets is that they offer the best commercial prospects. Locations with the highest footfall will almost always be favoured from a narrow commercial viewpoint. Unfortunately that is where street trading is likely to be most intrusive, precisely because those are busy areas, surrounded by shops.
- 2.8 The views of the New Swindon Company and of CIT plc (owner of the Brunel Shopping Centre) have also been sought.
- 2.9 CIT plc have responded, expressing themselves in support of the proposals but emphasising that the presentation of stalls is an especially important matter. Their letter is attached as Appendix Five.
- 2.10 The New Swindon Company has responded, expressing support for the proposals contained in this report. Their letter is attached as Appendix Six.
- 2.11 The history of street trading in the town centre has a bearing on this decision. For many years, there was a ban on street trading in the central pedestrianised area. The flower seller outside Mclroys in Regent Street and the toilet roll seller who appeared periodically at the crossroads may be remembered. They were illegal traders.
- 2.12 Pressures on this long-standing restriction mounted when ice cream and burger van traders began to challenge it by parking in side streets next to the pedestrianised area. They were continually moved by the police but drove round the block and started trading again. That placed a substantial enforcement burden on the police and in response, it was resolved in 1998 to open up the pedestrianised area to street trading, including trading in ice cream and fast food. Street trading in that area is therefore a comparatively recent phenomenon and was not permitted in pursuance of any strategic objective.
- 2.13 What is proposed is to a large extent a return to the pre-1998 situation. With the advent of decriminalised parking controls, similar challenges from illegal traders would be much easier to deal with today.

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- 2.14 If the resolution is adopted and is ratified by full Council, it is proposed that the change should come into effect on 1st November 2009. A further two public notices would be required to be published in advance of that date, in a local newspaper, advising of the impact of the resolution.
- 2.15 The effect of adopting this resolution would be to deny street trading at their existing pitches to several established traders. Those annual traders affected would be the fast food operator in Edgware Road (Mr P Bretti), the flower seller in Edgware Road (Mr P Jones), the flower seller at The Parade (Mr A Howes) and the doughnut seller at The Parade (Mr B Mazzotta).
- 2.16 There are in addition two seasonal traders who have consents which expire on 31st October 2009. They are the ice cream traders in The Parade (Mr M Bretti) and in Regent Street (Mrs B Mazzotta). The certain effect on them would be that they would not be invited to apply for the same pitches in 2010 and beyond. That consideration is however substantially diluted by the fact that the EU Services Directive takes effect before the 2010 season and seems to decree that consents (which are not renewable) cannot be preferentially offered to incumbent traders but must instead be opened up to competition (randomly chosen from those meeting the standard, not determined by a bidding process). This is a major departure from the status quo and is set to alter current practices radically, irrespective of any Council policy.
- 2.17 Even if the existing prime town centre pitches were allowed to remain, competition would likely be vigorous and there is no certainty that any established trader would have any of the existing pitches (let alone their habitual pitch) allocated to them in 2010.
- 2.18 It should be noted that while Mr Bretti has the benefit of an open ended planning permission, Mrs Mazzotta's planning permission expires on 31st October 2009. Without renewal of that consent, it would not be open to her – or anybody else - to make a further application for street trading at that pitch.
- 2.19 During the course of this year, it is still open to the Council to give some priority to existing traders, when allocating trading pitches in the newly created consent streets. There is no statutory obligation to do so and the balance is between any perceived moral obligation and the argument that we should adopt the spirit of the new Directive, before it becomes law.
- 2.20 Designating prohibited streets has no impact on businesses which are operated by fixed kiosks, neither does it have any effect on shops which use their frontages to trade, provided that the business on the frontage or pavement is the same as the one operated from the shop.

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2.21 Funfair rides, leafleting and the promotion of services such as energy and satellite TV are similarly unaffected either way by the designation of a street for street trading purposes.

Risk Management

Financial and Procurement Implications

The immediate cost arising is that of placing two public advertisements in a newspaper, if a resolution is carried, to notify the re-designation of town centre streets, for street trading purposes. A figure of £400 should be set aside for that, which will be taken from an existing budget for such purposes. In the course of a full year, the consent fees associated with the four annual pitches and the one seasonal pitch which would be removed by this process amount to a total of £21,467. Take up of pitches created in the newly created consent streets, either by displaced traders or by new traders can be expected to balance that to some degree but it is not possible at this stage to say to what extent those opportunities will be taken up.

For 2009/10 it is anticipated that any shortfall in net income which might result from this move will be managed within the framework of the existing Licensing budget.

Legal / Human Rights Implications All of the participants in any given context have human rights. Some of those are absolute, as in the right to life but more generally rights have to be balanced, one against the other. Traders have a right to be consulted about changes which affect them and a right to protection against arbitrary interference with their business. They do not have a right to trade in perpetuity, since that would negate the right of the Council to make appropriate strategic decisions on behalf of the wider community or residents and businesses.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

This proposal relates to the 2010 Promise 35 that we will take all necessary steps to secure the regeneration of the town centre.

Consultees

- Consultees. Existing street traders were consulted and a public notice was published in a local newspaper.

Background Papers and Appendices

- Appendix One. Prohibited streets as proposed (New Bridge Square and Wharf Green are unaffected by this proposal and it is intended that they should continue as consent streets).

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- Appendix Two. Comments from Mr & Mrs Carchedi.
- Appendix Three. Comments from Mr & Mrs Brett.
- Appendix Four. Comments from Mr & Mrs B Mazzotta.
- Appendix Five. Comments from CIT plc
- Appendix Six. Comments from New Swindon Company.

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