



Walsall Council

REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

7 JUNE 2023

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 4, PARAGRAPH 2

STREET TRADING REVIEW – CHANGE OF DESIGNATION TO CONSENT STREETS

1.0 Summary of Report

- 1.1 This report is to inform members of the committee that it is the intention of the licensing service to change the designations of the streets in the borough to consent streets.
- 1.2 Currently, streets in Walsall are designated as prohibited streets, licensed streets and consent streets. **Appendix 1** is a list of the streets under the different designations.

2.0 Recommendations

- 2.1 That in pursuance in pursuance of the powers conferred upon it by virtue of Section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the Licensing and Safety Committee authorises the commencement of the procedure under Schedule 4 paragraph 2 of the Local Government (Miscellaneous Provisions) Act 1982 that all streets in the controlled borough of Walsall be designated as consent streets, such designation coming into force on a date determined by Council; and that the Head of Community Safety and Enforcement be authorised to make the necessary statutory advertisements undertake the necessary consultations.
- 2.2 That, in re-designating the streets from licence and prohibited to consent, for existing licence holders, no changes to existing permits be made until the next renewal as set out in paragraph 4.4
- 2.3 That a further report be submitted following the consultation.

3.0 Background information

- 3.1 **Appendix 2** is a breakdown of the number of consents and licences that have been issued by the council.
- 3.2 **Appendix 3** is a map showing locations of all static street trading licences & consents that have been issued for the borough.
- 3.3 **Appendix 4** is a map showing the licences that are in place for Walsall town centre.

4.0 Resource Considerations

- 4.1 **Financial:** The Licensing Service is fully funded through the income it receives from the licensing of street trading. The Service sets the fees for such applications based on relevant guidance.
There is not a huge turnover of these applications, however the change to consent may bring more enquiries. The change of designation must be advertised in a newspaper and cost will be met from current fees.
- 4.2 **Legal:** The Local Government (Miscellaneous Provisions) Act 1982 enables a District Council to control street trading by resolution to “designate any street in their district as a prohibited, licensed street or a consent street”.
- 4.3 Schedule 4 Paragraph 2 specifies several steps to designate or re-designate a street as prohibited, licensed or consent:
- Publish a prescribed notice of intention to pass a resolution designating a particular street in a local newspaper for two weeks. The notice must contain a draft of the resolution to be passed.
 - Serve a copy on the chief officer of police and any responsible highway Authority, or, where relevant the British Railway Board and some other Statutory bodies.
 - At least 28 days must elapse before the resolution can be passed Confirming the proposed designation.
 - The Council shall consider representations before resolution is passed
- 4.4 The intention of the recommendation therefore is to enable progress whilst providing a degree of protection for existing traders. It is proposed that for existing licence holders that their licenses are not converted into street trading consents and that the current licence holders will be required to apply for a consent prior to the expiry on their licence. In the absence of some exceptional circumstances and/or a change of policy by either the Council or the Licensing Committee that this will remain the case. For the avoidance of doubt this does not in any way bind the Council in perpetuity to the existing scheme.
Any challenge of the Licensing Authority's Statement of Principles is by way of Judicial Review.

- 4.5 The main difference between licence and consent is the level of control that the council may exert. A summary of the differences is tabled below:

Licence	Consent
1. District council obliged to grant a licence unless the application ought to be refused on one or more of the grounds specified in the Act.	District council under no duty to grant a street trading consent and need not specify statutory grounds for refusal.
2. District council may only revoke or refuse to renew a licence on the statutory grounds.	No statutory limitation on a district council's power to revoke or refuse to renew a street trading consent.
3. Statutory grounds of appeal against the refusal, revocation or variation of a principal term of a street trading licence are contained in the Act.	There is no similar right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.

- 4.6 Designating all streets in the borough as consent streets will encourage entrepreneurs to come and test their trade in the borough and then won't be too onerous and would be more appealing due to the cost involved.
- 4.6 Covid has had a big impact on the borough with businesses shutting down, empty shops, street traders not able to continue financially.
- 4.7 Having prohibited streets in the borough restricts the options available to businesses to set up their trade. The current designation of streets took place upon the implementation of the act and is now out of date.
- 4.8 The licensing authority has received numerous enquiries from members of the public looking to set up trading in Walsall but have been unsuccessful as the Street is prohibited or the cost to set up with a licence is too much for them.
- 4.9 The licensing authority have spoken to the Highways department who are consulted on each application. Therefore as a statutory responsible authority under the act, if Highways and West Midlands Police are consulted on each application, it would make sense to designate all streets in the borough to a consent street.

- 5.3 **Staffing issues:** None arising from this report.

6.0 Citizen Impact

- 6.1 None arising from this report

7.0 Community Safety

- 7.1 None arising from this report

8.0 Environmental Impact

8.1 Nothing arising from this report.

9.0 Performance and Risk Management Issues

9.1 Nothing arising from this report.

10.0 Equality Implications

10.1 The Street Trading Review will be the subject of an Equality Impact Assessment

11.0 Consultation

11.1 Section 349(3) of the Act states that the following must be consulted:

- a. The Chief Officer of Police
- b. Highway Authority
- c. Existing Licence & Consent holders

12.0 Associated Papers

12.1 Appendix 1 - List of current street designation
Appendix 2 – List of current Licences and Consents issued
Appendix 3 – Map of current static consents & Licences
Appendix 4 – Map of licensed street traders in the Town centre

13.0 Contact Officer

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