



Walsall Council

LICENSING AND SAFETY COMMITTEE

27 February 2013

REPORT OF INTERIM HEAD OF REGULATORY SERVICES

STREET TRADING REVIEW

1.0 PURPOSE OF REPORT

- 1.1 The street trading regime in the Walsall Town Centre has been in place since the 1990s. It is by design inflexible, and does not readily respond to the needs of the town centre when new ideas are being explored to support economic regeneration.
- 1.2 In 1992 the Council designated all streets in the Town Centre as prohibited save for eight sites which were designated as licence streets. One of those sites is unavailable to traders because its location is now a loading bay. A prohibited street means a street in which street trading is prohibited.
- 1.3 In order to move a trader or increase the number of sites the Council is required to re-designate the street. This is a cumbersome and inflexible process wholly unsuited to regulating street trading. It is suggested all the streets in the Town Centre be re-designated as licence streets and that no streets are prohibited.
- 1.4 A licence street means a street in which street trading is prohibited without a licence granted by the Council. However, subject to the criteria for the granting of a licence under Schedule 4 and the Council's standard conditions, there are no restraints on sites. There will be no requirement to re-designate the Town Centre again simply to facilitate a new site or to move a trader.
- 1.5 This will allow increased flexibility and allow for current traders to be more favourably located or supplemented with business that brings opportunities to the Borough.
- 1.6 The report had been produced to suggest a more streamlined and flexible approach to street trading whilst complying with the requirements of the existing legislation.

2.0 RECOMMENDATION

- 2.1 Licensing and Safety Committee are asked to consider the report, make any suggested amendments, and approve:-
1. The redesignation of all streets within Walsall town centre as licence streets.
 2. The draft resolution attached as Appendix 1.
 3. The authorisation of the Regulatory manager to publish a prescribed notice of intention to pass the draft resolution and to implement the procedure under paragraph 2 "Designation of Streets" of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 including serving a copy of the notice and seeking consent as required.
 4. Undertake consultation as outlined in paragraph 8.2 below.

3.0 FINANCIAL IMPLICATIONS

3.1 Current licence fees are published on the Council's website.

4.0 POLICY IMPLICATIONS

4.1 This policy change will allow Walsall Council to decide on the best position for Street Traders to enhance the regeneration of the town centre.

4.2 To enable this change to happen Regeneration Services, and other services as deemed necessary, will be responsible for determining the most appropriate position and nature of street traders in the town subject to legal constraints and conditions attached to the licence. The Licensing Service will deal with the administration and issue the licences and enforcement of conditions and legal compliance.

4.3 Any lessons learnt can be applied as necessary to district centres.

5.0 LEGAL IMPLICATIONS

5.1 Legal Services have been consulted.

5.2 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, licence street or a consent street".

5.3 Schedule 4 paragraph 2 of the Act specifies several steps to designate a street as prohibited, licence or consent, and is attached to the report as Appendix 2.

6.0 EQUAL OPPORTUNITIES IMPLICATIONS

6.1 None.

7.0 WARDS AFFECTED

7.1 St. Matthews, however, this process may be applied at a later date to district centres as required.

8.0 CONSULTEES

8.1 Consultation will be undertaken with the statutory consultees as outlined in the attached appendix, relevant businesses and public through the notification in the newspaper. In addition, the consultation process will be promoted through the Council's social media channels, and website.

8.2 In determining these proposals the Council will consult with in particular the following:-

- Area Partnership
- Town Centre Business Partnership
- Chamber of Commerce
- West Midlands Fire Service
- West Midlands Police
- Internal services including Planning, Highways, Legal and Street Pride
- Existing street traders and those who have registered an interest.

9.0 BACKGROUND

- 9.1** The current street designation within the town centre is rigid and outdated. It gives no flexibility for services such as regeneration to implement ideas to improve the street scene and allow for innovation. The regime also frustrates traders who may benefit from the ability to apply to move location in order to sustain their business. These proposed changes aim to create a street trading environment that complements the surrounding area and retail offer and adds value to the economic prosperity of the borough to meet customer needs
- 9.2** In 2008 consultation with residents was carried out regarding any scope to accommodate more street traders and any different style of street traders. Although responses were low in numbers the majority were in favour of changes.
- 9.3** We have a list of people who have requested sites for street trading that cannot at the moment be accommodated under our current regime. Implementation of this change will allow for some flexibility to facilitate new businesses in starting up within Walsall and contributes to our corporate priority around employment and economic wellbeing.
- 9.4** If such occasions arise where there are competing businesses for a particular site each will be assessed and those deemed unsuccessful may be offered an alternative site or encouraged to trade at one of Walsall Council's Markets and be given a portfolio of opportunities to utilise a number of vacant units within the borough.
- 9.5** Reports in 2000 and 2001 were received by various Committees dealing with street activities. Since then there have been many changes to the economy, the street scene and the structure and role of the Council and it is appropriate to review the position again.
- 9.6** The current conditions attached to licences are attached as Appendix 3.

10.0 CONTACT OFFICER

John Beavon – Interim Regulatory Services Manager ext 3083 .

Appendix 1

Resolution

That in pursuance of the powers conferred upon it by virtue of section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 the Council hereby makes the following designation, such designation to take effect on the 31st May 2013 and that the Regulatory Services Manager be authorised to make the necessary statutory advertisements.

The streets within Walsall Town Centre are designated licence streets.
Walsall Town Centre is defined as an area including and edged by the following streets:

Blue Lane West from the junction of Wolverhampton Street to Green Lane;
The line of the Ring Road from the Blue Lane/Green Lane junction to Littleton Street West/Wisemore junction;
Littleton Street West from Wisemore to Hatherton Street;
Littleton Street East from Hatherton Street to Lichfield Street;
The line of the Church Hill Ring Road from the Littleton Street East/Lichfield Street junction to the Ward Street/Walhouse Road junction;
Lower Rushall Street from Walhouse Road to Ablewell Street;
Upper Rushall Street from Ablewell Street to High Street;
The line of the Church Hill Ring Road adjoining Peal Street and Dudley Street from High Street to Caldmore Road;
Vicarage Place from Caldmore Road to Bradford Street;
A line from the Vicarage Place/ Bradford Street junction to Long Street/Bridgeman Street junction;
Navigation Street and Upper Navigation Street from Bridgman Street to the Canal Arm;
A line along the Canal Arm and through the old Public Works Depot to the Wolverhampton Street/Blue Lane West junction.

APPENDIX 2

STREET TRADING

1

(1) In this Schedule--

"consent street" means a street in which street trading is prohibited without the consent of the district council;

"licence street" means a street in which street trading is prohibited without a licence granted by the district council;

"prohibited street" means a street in which street trading is prohibited;

"street" includes--

- (a) any road, footway, beach or other area to which the public have access without payment; and
- (b) a service area as defined in section 329 of the Highways Act 1980,

and also includes any part of a street.

"street trading" means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and

Designation of streets

2

(1) A district council may by resolution designate any street in their district as--

- (a) a prohibited street;
- (b) a licence street; or
- (c) a consent street.

(2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(3) A council shall not pass such a resolution unless--

- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;
- (b) they have served a copy of the notice--
 - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
 - (ii) on any highway authority responsible for that street; and

(c) where sub-paragraph (4) below applies, they have obtained the necessary consent.

(4) This sub-paragraph applies--

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority;

and in sub-paragraph (3) above "necessary consent" means--

(i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(5) The following are relevant corporations for the purposes of this paragraph--

(a) the British Railways Board;

(b) the [new towns residuary body];

[(ba) a Mayoral development corporation;]

(c) a development corporation for a new town; [and]

(d) an urban development corporation established under the Local Government, Planning and Land Act 1980; . . .

(e)

(6) The notice referred to in sub-paragraph (3) above--

(a) shall contain a draft of the resolution; and

(b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

(7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.

(9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.

(10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

Appendix 3

Conditions with Regard to Street Trading Licences & Consents

Local Government (Miscellaneous Provisions) Act, 1982 (the Act)

A. Definitions

1. Operator means the holder of a street trading licence or consent and all his employees or agents.
2. Licence – includes a street trading consent.
3. Vehicle – includes any stall, barrow, cart etc, used in connection with trading.
4. Trading – the offering for sale of any goods or items including food.
5. Street – shall include any area to which the public has free access without payment.
6. Any other term not defined in these conditions shall have the same meaning as in the act.

B. General

1. The operator must make his licence available at all times to any authorised officer of the council or police officer.
2. The licence/consent disc provided by the council shall be displayed at all times in a visible place on the vehicle.
3. The operators licence must be forwarded to the local authority before 31st March each year for renewal.
4. The times and areas defined on the licence must be strictly adhered to.
5. Any granting by the local authority of a licence/consent does NOT imply any permission whatsoever with regard to planning permission under the Town & Country Planning Acts.
6. The granting of a licence/consent does not give any authority to infringe any byelaws, regulations or statutes whatsoever and the same must be strictly observed.
7. The operator shall comply with all reasonable requests made by authorised officers of the council and police officers.

C Regulatory Services

1. The operator (where trading in food) shall at all times observe the provisions of all relevant food hygiene and safety regulations
2. The operator shall not cause a nuisance of any kind. If such a nuisance is being caused the permitted site can be changed.
3. The operator shall ensure that no refuse waste is dropped from the vehicle and shall ensure that any litter deposited near the vehicle shall be removed at regular intervals and in particular at the close of trading.
4. The operator shall at all times comply with the reasonable instructions of officers from Environmental Health.
5. All premises within the borough used for the storage of food must be registered with Environmental Health.
6. No waste water is to be discharged from the vehicle.
7. The vehicle shall be available at any reasonable time for inspection by officers from Environmental Health.
8. Suitable food storage premises should be provided and shall be to the satisfaction of officers from Environmental Health. Domestic accommodation is not suitable.
9. The operator shall comply with all legislation which applies to their business and the goods in which they trade. This includes but is not limited to pricing, safety, weights and measures, descriptions, and consumers' rights
10. The operator shall not trade in goods or services for which additional licences are needed without the appropriate licence.

D. Planning & Transportation

1. The granting of a street trading licence does not give any permission (express or implied) for the operator to infringe any Traffic Regulation Order.
2. All parking restrictions in any street must be strictly adhered to by the operator.
3. The operator of the vehicle must not obstruct the free flow of pedestrians at any time.
4. The operator must not park or site their vehicle within 200 metres of any school entrance.

5. The operator must not trade from a point within 200 metre of an existing trader of a similar nature.

(Note: this condition does not apply in respect of sites in Walsall Town Centre. A full consultation exercise will be undertaken before an approval is given to the scale of any commodity to be sold from street trading sites in Walsall Town Centre.)

6. The operator must not park or site their vehicle on a classified road or prohibited area at any time.

7. The operator must comply with all reasonable instructions given by officers from Planning & Transportation services regarding the initial location and relocation of sites and other such related matters.

8. The type and appearance of units by licence holders (static traders only) to be approved by officers from Planning & Transportation services.

(N.B. The criteria for determining compliance with the above condition is detailed below);-

(a) mobile units only to be used (i.e all units must be on wheels so that they can be moved quickly in an emergency);

(b) all units must be free standing;

(c) stands which are to be assembled on site are not to be used;

(d) The appearance of all units must not be detrimental to the existing properties in the area in which the units are located.

9. The following condition will be applied at the discretion of Planning & Transportation Services:

A licensed vehicle must not be parked or sited within 20 metres of any road junction.

E. Public Liability Insurance

All street traders are required to provide original documentary evidence to confirm that public liability insurance has been arranged in the sum of £5 million.

F. Environmental Health Conditions on Chimes & Loudspeakers

The following conditions apply to ice cream vans and any other vehicle from which food will be sold using a chime or loudspeaker.

1. The loudspeaker should only be operated between 12:00 pm till 19:00.

2. The loudspeaker is fixed to a vehicle used for the conveyance or sale of perishable food.

3. The loudspeaker is used solely for informing members of the public that goods are for sale.

4. The loudspeaker is not operated in a way as to give rise to annoyance to persons in the vicinity.

5. The volume of the chime or music must be carefully adjusted so as to avoid distortion of the sound.

6. The noise level from a loudspeaker should not exceed 80 dB(A) in any direction.

7. The chime must not last more than 4 seconds.

8. The chimes must be played only once on the approach to each stopping place, never when the van is stationary, and never at intervals of less than 3 minutes.

9. The chimes should not be played when in sight of another van which is also in operation.

10. The chimes should not be played within 50 metres of any hospital.

11. Chimes should not be played within 50 metres of a school during school hours.

12. The chimes should not be played within 50 metres of a place of worship on a recognised day of worship.