Item No.

Walsall Council

REPORT OF THE INTERIM REGULATORY MANAGER

LICENSING AND SAFETY COMMITTEE

17 APRIL 2013

STREET TRADING – WALSALL TOWN CENTRE

RE-DESIGNATION OF LICENSED SITES - CONSULTATION

1.0 Summary of report

1.1 To advise members of progress made in implementing the statutory procedure to re- designate the streets for the purposes of street trading in Walsall town centre.

2.0 Recommendations

2.1 That members consider the information contained in the report following the statutory consultation exercise.

2.2 Members may wish to indicate whether based on the evidence before the Committee, they would, in principle, wish to resolve to re-designate the streets in Walsall Town Centre as set out in the draft resolution as given in **Appendix1.**

The draft resolution cannot currently be passed for the reasons set out below.

3.0 Background information

3.1 On the 27 February 2013 the Licensing and Safety Committee resolved the following:

(i)The re-designation of all streets within Walsall town centre as licence streets.

(ii)The draft resolution attached as Appendix 1.

(iii)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.

(iv)Undertake consultation with 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.

3.2 Statutory advertisements were published in the local press on the 28 February 2013.

3.3 As well as consultation with the bodies listed in 3.1 of the report, additional draft resolution notices were displayed within Walsall town centre.

3.4 All councillors were informed of the proposal by memorandum.

3.5 Information was also displayed on the Councils licensing web page during the entire consultation period.

3.6 Formal consultation took place between the 28 February 2013 and the1 April 2013.

3.7 The statutory procedure requires that any Council wishing to designate streets, obtain the consent of 'relevant corporations' as defined within the Act. We have obtained the consent of the Highways Authority and the Homes and Communities Agency. We have however, been unable to obtain the consent of Network Rail Infrastructure Ltd, who were first contacted by us on the 20 February 2013. They have so far not fully consented. The issues for Network Rail Infrastructure Ltd are firstly to identify the streets they maintain or own in the affected area and thereafter, determine whether they wish to give their consent.

3.8 In total the licensing unit received only four written responses, these are given as **Appendix 2.**

3.9 No adverse comments on the resolution were received from telephone enquiries and where clarification was required this was given at the time the issue was raised. All such enquirers were encouraged to submit written comments on the proposal.

4.0 Resource considerations

4.1 **Financial:** The current annual fee for a licence to trade within Walsall

town centre is £2820.This fee has remained unchanged for the last 2 years due to the economic climate.

4.2 **Legal:** A district council may by resolution designate any street in their district as a licensed street, provided that it complies with **Appendix 3** and includes a requirement to publish such a resolution for two consecutive weeks in a local newspaper circulating in the area.

The Council cannot pass a resolution designating a street if it has not obtained the consent of all 'relevant corporations'. We have not obtained the consent of one of the 'relevant corporations' at this present moment.

The Council may if the draft resolution is passed, refuse a licence application if it considers:

(a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;

(b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

(a) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 for services rendered by them to him in his capacity as licence-holder;

(f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;

(g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

Any person aggrieved by the decision of the Council not to grant a licence has right of appeal to Magistrates Court.

4.3 **Staffing:** Nothing arising from this report.

5.0 Citizen impact

5.1 Nothing arising from this report.

6.0 Community safety

6.1 Nothing arising from this report.

7.0 Environmental impact

7.1 Nothing arising from this report.

8.0 Performance and risk management issues

8.1 Nothing arising from this report.

9.0 Equality implications

9.1 None arising from this report.

10.0 Consultation

10.1 As detailed within the report.

11.0 Appendices

11.1 Appendix 1 – Draft resolution.
Appendix 2 – Consultee responses.
Appendix 3 - Designation of streets criteria.

12.0 Contact Officer:

12.1 Steve Knapper, Principal Licensing Officer. 01922 653073

APPENDIX 1

Walsall Council

Local Government (Miscellaneous Provisions) Act 1982
Part III Street Trading
Walsall Town Centre

Notice is hereby given under Schedule 4 paragraph 2(3)(a) of the Local Government (Miscellaneous Provisions) Act 1982 that Walsall Council intends to pass the resolution given below at a meeting of the Licensing and Safety Committee on the 17th April 2013:-

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.

Any previous resolution passed under Schedule 4 paragraph 2 of the Local Government (Miscellaneous Provisions) Act 1982 designating a street is rescinded in so far as it relates to Walsall Town Centre as defined above.
Any representations relating to this resolution may be given in writing, or via e mail, to Mr. Steven Knapper, Principal Licensing Officer, Trading Standards and Licensing, Civic Centre, Darwall Street, Walsall, West Midlands, WS1 1TP, knappers@walsall.gov.uk. All representations must be received by the **1st April 2013.**

Dated: 28th February 2013

John Beavon
Interim Regulatory Manager
Trading Standards and Licensing
Civic Centre
Darwall Street
Walsall
WS1 1TP

APPENDIX 2

Fire Service Headquarters,
99 Vauxhall Road, Birmingham B7 4HW

Mr J Beavon
Interim Regulatory Manager
Trading Standards and Licensing
Civic Centre, Darwall Street
Walsall WS1 1TP

Date: 8 March 2013
Your Ref: Mr S Knapper
Our Ref: CP80803131/ST/JEM
Tel No: 0121 380 6310
Please ask for: Stacey Timms

Dear Sir,

Thank you for your letter dated 28th February 2013 setting out consultation proposals for licensing of street traders in Walsall Town Centre. Following consultation I am pleased to confirm that there are no issues or objections to the proposals.

If you require any further assistance or information please do not hesitate to contact me on the above contact points.

Yours faithfully,

S. Timms

S Timms
Technical and Operational Support

RECEIVED BY
TRADING STANDARDS
13 MAR 2013

Fax No: 0121 380 7004 Email: TOpSAdmin@wmfs.net

Knapper Steven

From: Pretty Steve
Sent: 11 March 2013 12:54
To: Knapper Steven
Cc: Beavon John
Subject: Local Gov Act 1982 Street Trading

Follow Up Flag: Follow up
Flag Status: Flagged

Steve,

I refer to your consultation document dated 28 February 2013 regarding the Local Government (Miscellaneous Provisions) Act 1982 re Street Trading in Walsall Town centre.

I thank you for the opportunity to comment and understand that Steve Griffiths, my traffic manager has already discussed in detail some of his concerns and reassurances required.

My formal comment is that I have no objection in principle but would seek reassurance that no licence be granted on any of the designated streets in a location where it is deemed inappropriate from a traffic management or road safety perspective and where my Traffic Management team has already expressed concern on this basis to the proposed location.

Regards

Steve Pretty

Head of Service

Engineering and Transportation

Neighbourhoods Directorate

Walsall Council

The Civic Centre

Darwall Street

Walsall WS1 1DG

Tel: 01922 654696

PrettyS@walsall.gov.uk

www.walsall.gov.uk

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Knapper Steven

From: Dean Marriott [d.marriott@west-midlands.pnn.police.uk]
Sent: 13 March 2013 14:36
To: Knapper Steven
Subject: RE:

Hi Steve,

I have spoken to Insp Payne re this application for street trading and he has not raised any objections to this application...

Kind Regards,

Dean

PC 7050 MARRIOTT
LICENSING DEPT
PARTNERSHIPS OFFICE
WALSALL POLICE STATION
GREEN LANE
WALSALL
WS2 8HL

101 7881 6995 (within West Midlands)

0345 113 5000 Ex 7881 6995

'Serving our Communities, protecting them from harm'

d.marriott@west-midlands.pnn.police.uk

From: Knapper Steven [knappers@walsall.gov.uk]
Sent: 13 March 2013 12:45
To: Dean Marriott
Subject: FW:

Hi Dean,

Attached is a copy of the letter (sent to you on the 28 February 2013), it requires the Chief Officer of Police to be notified of such proposals in order to comment if deemed necessary. Could you comment on behalf of the Chief Officer, if not can you forward it on a.s.a.p.

Any queries give me a call.

Regards

Steve Knapper
Principal Licensing Officer
Trading Standards & Licensing
Walsall Council
Civic Centre
Darwall Street
Walsall
WS1 1TP

Tel: 01922 653073
Fax: 01922 653070

Knapper Steven

From:
Sent: 29 March 2013 11:12
To: Knapper Steven
Subject: RE: Walsall Town Centre,

Hi Steve

Would like to make a comment of the proposed extra sites within the Walsall town centre . As a trader we welcome proposal for extra trade coming to Walsall but how ever I feel any extra food vendors within park st / or Bradford st will put a strain on the existing food traders . As you can appreciate traders are struggling with the difficult times already . I wouldn't like to see any new food traders to start because of they would conflict with existing businesses ie: ice cream ,doughnuts ,burgers ,jacket potatoes or Indian food and candy floss. I feel we have enough of these businesses within park st and Bradford st already. I hope my comments help the council in there decision making.

Mr

APPENDIX 3

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) A 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.