



Walsall Council

REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

18 SEPTEMBER 2024

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 following consultation.
- 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.
- 1.3 Consultation took place between 22/07/2024 - 30/08/2024
- 1.4 An email was sent to all Councillors and existing Street traders on 22/07/2024 with a link to the online consultation and the information page relating to the consultation.

2.0 Recommendations

- 2.1 That, having regard to the consultation responses set out at 3.7 of this report and attached as appendix 6 the licensing and safety committee recommends Council as follows:

That the Council, in pursuance of the powers conferred upon it by virtue of Section 3 and schedule 4 paragraph 2 of the Local Government (Miscellaneous Provisions) Act 1982, authorises the designation of all streets in the controlled borough of Walsall as consent streets with effect from 1 December 2024; and that the prescribed statutory notice of intention be published accordingly.

- 2) To note that the relevant changes to permits for existing licence holders will be made at the renewal stage in April 2025.

3.0 Background information

- 3.1 An email was sent to the Chief Officer of Police and Highway Authority on the 22/07/2024 informing them of the consultation. A copy of the Notice is attached as Appendix 2.
- 3.2 An email was sent to all Councillors and existing Street traders on the 22/07/2024 with a link to the online consultation and the information page relating to the consultation.
- 3.3 A copy of the notice was advertised in the Express and Star on the 22 July 2024 as per 3(a) Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. A copy of the advertisement can be found attached as Appendix 3.
- 3.3 To help with getting the consultation out to as many people as possible, Licensing liaised with Print & Design to create 50 posters to be displayed in local authority buildings and libraries. 5,000 leaflets were also made and left at these premises for members of the public.
A further 160 waterproof (external) signs were created and displayed on all the streets that are currently designated as prohibited. The signs were put up on the prohibited streets (Appendix 1) by the 26/07/2024. All the posters and signs were created with a QR code which takes members of the public straight to the consultation page. A copy of the posters, and notices are attached as Appendix 4.
- 3.4 A list of the buildings where posters were displayed, and leaflets left can be found at Appendix 5.
- 3.5 Text messages with a link to the consultation was sent out to all the existing licence/consent holders in August 2024. This was followed up by a visit to all street traders (with a fixed location) on the 21 August 2024 handing out leaflets and ensuring that they have had site of the consultation and been able to respond to the consultation.
- 3.6 The consultation ended on the 30 August 2024. A total of 66 respondents completed the consultation.
- 3.7 Below is a brief summary of the consultation responses:

Licensed streets to be designated as consent streets:

Agreed – 37

Disagree – 21

Don't Know – 12

Prohibited streets to be redesignated as consent streets:

Agree – 33

Disagree – 26

Don't know – 7

Should the council attract and encourage safe, legal, compliant and high quality streets traders:

Agree – 49

Disagree – 16
Don't know – 1

A copy of the full consultation report can be found attached as Appendix 6. The consultation also include comments from members of the public that also needs to be taken into consideration.

- 3.8 Currently 4 Local Authorities within the West Midlands have all their streets designated as consent streets. One Local Authority within West Midlands have consent and licensed streets and 2 (Walsall Council being one) have Prohibited, Licensed and Consents streets in the borough.
- 3.9 Following the consultation and upon the decision made by members, the concerns raised by members of the public will be reviewed and the service will be looking to amend the council's conditions and policy.

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.
- 4.7 Covid has had a big impact on the borough with businesses shutting down, empty shops, street traders not able to continue financially.
- 4.8 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.
- 4.9 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.
- 4.10 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 An Equality Impact assessment is not required.

11.0 Consultation

11.1 Paragraph 3.7 of the report and Appendix 6 sets out a summary of the consultation responses.

12.0 Associated Papers

- 12.1 Appendix 1 - List of current street designation
- Appendix 2 - Copy of Notice to Chief Officer of Police and Highways
- Appendix 3 - Copy of the Newspaper Advert
- Appendix 4 - Copy of Posters, leaflets and signs
- Appendix 5 - List of Council premises and Libraries
- Appendix 6 - Copy of Consultation Response

13.0 Contact Officer

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