

LICENSING COMMITTEE

31 OCTOBER 2013

Report of Corporate Director- Public Experience

A.2 Limited Re-designation of Prohibited Street Trading Streets to Street Trading Consent Streets in Clacton Town Centre

(Report prepared by Simon Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Committee to approve a resolution to allow a limited re-designation of Prohibited Street Trading Streets to Street Trading Consent Streets within Clacton Town centre and advertise that resolution and invite public consultation on it in accordance with the requirements of Section 2 paragraphs (2) to (13) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and in accordance with the area indicated on plan of this locality which is attached to this report as **Appendix 1**.

EXECUTIVE SUMMARY

- The success of the Continental Market held in the Town Square for four days in July this year has highlighted a need to re-designate the streets which encompass the Town Square locality (see Appendix 1) from prohibited streets to consent streets
- This measure would enable the Council to be able to positively promote such occasional market events in the future.
- The market attracted many additional visitors to the town and created a vibrant and colourful atmosphere for residents, visitors and businesses alike and the Council wishes to put into place the proper mechanism to allow and promote those markets that enhance the town centre.

RECOMMENDATION(S)

It is recommended that:

- a) The Committee agrees in principle to re-designate those streets detailed in the draft notice shown as Appendix 2 of this report from prohibited trading streets to street trading consent streets;**
- b) A draft notice of intent to re-designate the streets as detailed in Appendix 2 of this report is published and a consultation undertaken as per the published draft notice of intent and with the parties that are detailed under the 'CONSULTATION' heading of this report;**
- c) The results of the public notice and the consultation exercise are reported back to the Committee at the next appropriate Licensing Committee for their final decision on whether to re-designate the streets in question from prohibited street trading streets to consent street trading streets.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The re-designation of these streets will support the following priority contained in the Council's Corporate Plan for 2010-2016

Our Prosperity

- **Build a thriving local tourism industry**
- **Promote sustainable economic growth**

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There will be a cost to the licensing service in staff time and in the cost of publication of the notices in a local newspaper if the Committee wishes to proceed with this proposal. However these costs can be met from within existing budgets and resources.

Risk Management

There is a risk to the Council's reputation in potentially allowing market or street trading activities to take place in prohibited street trading streets. Re-designating these streets to consent street status will negate any such risk.

LEGAL

To allow street trading to properly take place in a prohibited street trading area the Council needs to re-designate the streets, all forecourts, roads, footways or other areas adjacent to these streets for a distance of 10 metres which the public have access to without payment as detailed in Appendix 2 of this report from their current status as prohibited street trading streets to consent street trading streets.

Part of the process of re-designation is the publication of a public notice in a local newspaper which invites representations for or against the proposed re-designation. Any representations received must be considered by the Licensing Committee before any decision to re-designate is finally taken.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

Re-designation of the streets in question would ensure that all street or market trading activities in this locality is undertaken in accordance within current legislation.

EQUALITY AND DIVERSITY

There are no equality and diversity implications which may impact upon this proposal.

AREA/WARDS AFFECTED

Pier Ward

CONSULTATION

If the Committee agrees to the proposal to re-designate the status of the roads/streets detailed in Appendix 2 of this report from prohibited street trading streets to street trading consent streets the Council's intent to re-designate this area will need to be advertised by public notice and a schedule of the streets or land to be re-designated must be determined and described in the notice.

The draft resolution of intent to re-designate from prohibited streets to consent streets must be advertised in the public notice section of a local newspaper circulating in the area and give not less than 28 days from the date of publication of the notice for representations to be made in relation to the draft resolution. Any representations must be submitted in writing to the Council. An example of the draft resolution is attached to this report as **Appendix 2**.

A copy of the notice detailing the draft resolution of intent must also be served on the Chief Officer of Police for the area.

While not necessary under the Act to do so for a designation of a consent street, nevertheless it would be prudent in terms of transparency and partnership to also serve a copy of the notice on the Highway Authority and invite any comments that they may wish to make on the proposal and report these back to the Committee.

Again while not necessary under the Act, it is however suggested to the Licensing Committee that it would also be prudent to serve a copy of the draft notice on Ward Councillors and the Clacton Chamber of Commerce and Tourism and invite any comments that they may wish to make within the 28 day representation period and also report these back to the Committee.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Street trading in Clacton on Sea is regulated and controlled by the designation of the streets shown under Appendix 3 of this report as Prohibited Street Trading Streets. **See attached as Appendix 3.**

The relevant legislation to regulate and control street trading is Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 is an adoptive piece of legislation which was adopted by this Council by the Control and Protection Committee at its meeting of the 13 July 1983.

Designating a Prohibited Street means in effect that no street trading is allowed in that location and anyone doing so could be committing an offence which they could be prosecuted for.

The interpretation of 'street' in the Act includes 'any road, footway, beach or other area to which the public have access to without payment'.

Street trading consent streets are generally more suitable to cover infrequent types of trading such as the occasional continental market for example and therefore provides a Council with a more flexible system of regulation and control.

There is an alternative to a consent street which is called a Licence Street but this system of licensing is more appropriate for the control of formalised or regular markets or street trading where the strict control of a limited amount of space is required.

CURRENT POSITION AND PROPOSAL

The success of the Continental Market held in the Town Square for four days in July which attracted many additional visitors to the town and created a vibrant and colourful atmosphere for residents, visitors and businesses alike has introduced a need to re-designate the streets in question which encompass the Town Square locality from prohibited streets to consent streets in order for the Council to positively promote such occasional market events in the future in accordance with the relevant legislation.

Any re-designation to street trading consent streets would still totally maintain the Council's control of street trading in this locality and the decision on whether to grant or not to grant a street trading consent would solely rest within the Council's remit.

This would mean re-designating from the junction of Jackson Road/Rosemary Road to the junction of Rosemary Road/Station Road to the junction of Station Road/West Avenue to the junction of West Avenue/Jackson Road to the junction of Jackson Road/Rosemary Road and the remainder of Pier Avenue up to the junction of Marine Parade Clacton on Sea and all forecourts, roads, footways or other areas adjacent to these streets for a distance of 10 metres which the public have access to without payment from their current status as Prohibited Street Trading streets to Consent Street Trading streets. **A plan of this locality is attached to this report as Appendix 1.**

The full process to re-designate from prohibited street status to consent street status is detailed under the 'CONSULTATION' heading of this report shown above.

Following the advertisement of the draft resolution and the 28 day representation period prescribed in the notice, the Licensing Committee must further determine and consider any written representations received in respect of the proposal. Any written representations received will be brought back for the Committee's consideration at the next appropriate meeting.

If it is the Committee's wish at that point to pass a formal and final resolution to re-designate the localities detailed in Appendix 2 of this report from prohibited streets to consent streets, the Council must publish a further notice to that effect in a local newspaper circulating in its area for two consecutive weeks. The first of which must not be later than 28 days before the date given in the resolution for the re-designation to come into force.

If the Council passes such a final resolution, the re-designation of the streets concerned will take effect on the day specified in the resolution (which must not be before the expiry of the period of one month beginning with the day on which the resolution is passed).

It is therefore proposed to Members of the Licensing Committee that they agree the process to re-designate the streets as detailed in Appendix 2 of this report and in the manner prescribed in the 'CONSULTATION' segment of this report.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

- 1) Plan of the locality for proposed re-designation from prohibited street trading streets to street trading consent streets.**
- 2) Draft resolution for publication in a local newspaper of proposal to re-designate.**
- 3) Schedule of current prohibited street trading streets and street trading consent streets within Tendring District Council area.**