

LICENSING AND REGULATION COMMITTEE

28 March 2011

STREET TRADING – DESIGNATION OF STREETS

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848 552

RECENT REFERENCES:

[CAB 2100](#) - Management of Winchester Market – 9 February 2011

[LR356](#) – Street Trading – 16 February 2011

EXECUTIVE SUMMARY:

At its meeting of 16 February 2011, the Committee adopted Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 for the control of street trading, and also resolved to give notice of its intention to pass a resolution designating various streets as Consent Streets for the purposes of the legislation (LR356 refers).

Public notice of the proposals has been given, and copies of the notice served on the Police and the County Council as required. Representatives of disabled groups have also been consulted, as have existing holders of street trading licences.

This report gives details of the results of this consultation process, and recommends the designation of streets. It also deals with the delegation of authority required to officers to implement the scheme.

At the time of writing this report, two representations have been received, both from existing street traders. Any further representations received will be the subject of an oral report.

RECOMMENDATIONS:

- 1 That the streets set out in Appendix 1 to the Report be designated as consent streets under Paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 with effect from 1 May 2011.
- 2 That the Head of Estates be authorised to determine applications for street trading consents under paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in respect of stalls and pitches forming part of the Winchester Market (including any speciality markets operated by the Council) within a consent street.
- 3 That the Head of Legal Services, in consultation with the Head of Estates, be authorised to determine the application process, set fees and determine the conditions to be attached to street trading consents.
- 4 That the Head of Legal Services be authorised to determine applications for street trading consents under paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in respect of any consent street in the District.

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DETAIL:

1 Introduction

1.1 At its meeting of 16 February 2011, the Committee adopted the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in place of the Hampshire Act, to control street trading. It also resolved to give public notice of an intention to pass resolutions designating various streets in the District as Consent Streets under the Act, and consider a report on any representations made as a result of the public notice.

1.2 This report gives details of the representation which has been submitted at the time of writing this report, and goes on to make recommendations in respect of policy and delegated authority to allow the new controls to be implemented and managed.

2 Background

2.1 Members will recall that the report followed a report to Cabinet on the management of Winchester Market ([CAB 2100](#) refers). In summary, the Cabinet report, which was accepted by Members, proposed:-

- a) The continued operation of a weekly market on Wednesdays, Thursdays, Fridays and Saturdays in Middle Brook Street (the current location);
- b) The extension of this weekly market, on the same days, into the High Street between Middle Brook Street and Upper Brook Street (from Laura Ashley to Marks and Spencer);
- c) Operate specialist Sunday markets in these same areas of Middle Brook Street and High Street (as above) and/or in High Street between Middle Brook Street and Cross Keys Passage

2.2 New gazebo-type stalls will be purchased by the Council for use by stallholders to unify the market and produce a vibrant and attractive setting for the operation of the market.

2.3 Members agreed at their last meeting to give notice of intention to designate various streets (as set out in Appendix 1 to this report) as Consent Streets for

street trading purposes. This would allow the Council to have the same controls as previously operated under the Hampshire Act provisions, whilst giving flexibility to operate the market in a more appropriate manner.

3 Consultation

- 3.1 Public notice of the proposed resolution was given in the Mid-Hants Observer on 23 February 2011. In addition, the Police and Hampshire County Council were consulted in accordance with the statutory requirements. The last day for representations to be made is 25 March 2011.
- 3.2 In addition to the statutory publicity, copies of the notice were sent to the existing traders who operate in Winchester and Alresford. The proposals were explained in outline, and the traders were informed they would be able to apply for a licence under the new provisions to operate in the market.
- 3.3 The notice was also sent to various representatives of disabled groups, as requested by Members.
- 3.4 To date, two representations have been received, from existing street traders.
- 3.5 The first representation does not object to the designation proposed, but does object to the withdrawal of the street trading licence. Given the change in legislation which is being used to control street trading, the existing licence will no longer be applicable, and the licence holder (and any other existing traders holding licences under the Hampshire Act) will have to apply for a licence to trade under the new provisions.
- 3.6 The representation states that the licence holder wishes to remain in her existing location (outside St. Maurice's Covert), having traded there for 30 years. It also points out that the market trades on 3 days a week, whereas the licence holder operates on 5 or 6 days per week. The representation refers to the fact that loss of the licence would affect three employees.
- 3.7 It is not possible to allow a commercial trading stall to operate within St. Maurice's covert itself, due to covenants on the title of this land. However, the Head of Estates has advised that it should be possible to allow a stall to continue to operate at (but outside) St. Maurice's Covert, whilst still allowing access for emergency vehicles, and the local Fire Officer has confirmed that the width which would be available here would be sufficient for the Fire and Rescue Authority's purposes.
- 3.8 The other representation is from a licence holder who usually only trades on weekends and around events such as Easter, Mother's Day, etc. Again, it is thought that provision could still be made for this licence holder to trade in or around their current location.
- 3.9 Delegated authority is sought for officers to deal with all applications for street trading consents, and applications from these existing licence holders will be considered as part of the implementation of the new licensing arrangements.

- 3.10 Any further representations which are received will be orally reported to the Committee. Subject to that, in view of the above, it is recommended that the designation of the streets listed in Appendix 1 as Consent Streets be approved.

4 Operation of Street Trading Controls

- 4.1 Historically, street trading has been limited to those traders who had been operating prior to the Hampshire Act coming into operation (two flower sellers, the Hampshire Chronicle and the Big Issue in Winchester, and a food trader in Alresford). In addition, licences have been granted for events such as the Hat Fair and other promotional events. Applications for street trading from other individuals have not been permitted.
- 4.2 The extended market in the High Street will be a properly managed and organised operation, and it is considered that this will be in keeping with the objectives of ensuring a vibrant and well-managed attraction for shoppers. Subject to it being possible to accommodate the two existing traders referred to in Section 3 above, it is considered that the appropriate policy to adopt is for street traders to be accommodated in the formal managed market only, with the exception of these two traders and special events such as those mentioned in 4.1 above.
- 4.3 As set out in [CAB 2100](#), the management of the Market is to be contracted to a specialist market management company. Street trading consents under the 1982 Act will be issued to individual traders to operate within the market. It is therefore recommended that delegated authority be given to the Head of Legal Services, in consultation with the Head of Estates to set fees, determine the conditions of street trading consents, and determine the application process. It is suggested that delegated authority should be given to the Head of Estates to deal with applications for consents connected to the operation of the market, and to the Head of Legal Services to deal with applications for street trading consents in any of the designated streets.

5 Traffic Issues

- 5.1 At the last meeting, Members raised concerns about the possible traffic issues arising from the market proposals.
- 5.2 An order under the Town Police Clauses Act 1847 prevents vehicular traffic through the market area when the market is operating. This order has effect until December 2011. Discussions are ongoing with the Head of Access and Infrastructure to consider what measures should be put in place after December, although safeguarding public safety will be paramount at all times.
- 5.3 In terms of the possible loss of opportunity for disabled drivers who use the loading bay area in the High Street (between Middle Brook Street and Cross Keys Passage) no response from disabled organisations has been received, although the Head of Access and Infrastructure points out that there are other bays in the vicinity (e.g. outside "Alfie's") which are designated as being

available for disabled drivers only. The loading bay in the High Street are likely to only be affected on Sundays when the specialist market is operating.

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS
(RELEVANCE TO):

- 6.1 The matters in this report will assist in achieving the objective of a vibrant local economy in Winchester, promoting the Town for visitors and shoppers.

7 RESOURCE IMPLICATIONS:

- 7.1 The detailed resource implications arising from the operation of the Market are set out in [CAB 2100](#).

8 RISK MANAGEMENT ISSUES

- 8.1 The appropriate legal steps to adopt the legislation and designate streets have been followed.

BACKGROUND DOCUMENTS:

Letters of representation.

APPENDICES:

Appendix 1 – Streets to be designated as Consent Streets.

Appendix 1 – List of Streets to be designated as Consent Streets

WINCHESTER

Middle Brook Street between High Street to North Walls

High Street between Westgate and City Bridge (including “The Broadway”)

Market Street

Market Lane

Paternoster Row

The Square

Simonds Street

St Swithuns Street between Simonds Street and Kingsgate Street

College Street

Great Minster Street

Parchment Street for a distance of 137 metres (150 yards) from High Street

All other roads joining High Street for a distance of 46 metres (50 yards) from High Street

Friarsgate from junction with Eastgate Street to its junction with Upper Brook Street

Upper Brook Street from its junction with High Street to its junction with North Walls

St Georges Street from its junction with Middle Brook Street to its junction with Jewry Street

Tanner Street and Silver Hill

Jewry Street

Little Minster Street

ALRESFORD

East Street,

West Street,

Ladywell Lane,

The Dean,

Station Road,

Station Car Park,

Station Approach,

Jacklyns Lane (between West Street and the Railway Arch),

Pound Hill,

Winchester Road,

Mill Hill and

The Soke.