

Agenda Item No: 6 **Report No:** 127/11
Report Title: Street Trading near Amex Stadium Falmer
Report to: Licensing Committee **Date:** 2 August 2011
Lead Councillor: Cllr. Andy Smith
Ward(s) Affected: Kingston and Falmer
Report By: Director Planning and Environmental Services
Contact Officer(s)-
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Purpose of Report:

- 1. To seek the Committee's views on the need to regulate street trading in the vicinity of the new Amex Community Stadium in Falmer and to ask the Committee to decide on the most appropriate option for regulating street trading if this is the Committee's will.**

Officers' Recommendations:

1. That the Committee notes the options for regulating street trading (as set out in paragraph 6 of the Report).
2. That the Committee makes a preliminary decision as to whether the streets (within the area hatched red on the Plan at Appendix A) should become consent streets or prohibited streets or be regulated by Byelaw 13 of the Byelaws for Good Rule and Government of Lewes District.
3. That the Committee authorises officers to advertise/publicise the Committee's intentions in accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

1. Information

- 1.1 Planning permission was granted by Brighton & Hove City Council following involvement by the Secretary of State for the construction of the football stadium which lies completely within the boundary of Brighton & Hove City Council. When the football stadium opens its capacity will be 22,500. To the north-east of the stadium is a car park which straddles the boundary with Lewes District.
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- 1.2 When the stadium opens it is likely that street traders will want to operate in the vicinity of the stadium and Falmer village and this may have an adverse impact upon the

residents and businesses of Falmer village. Street trading may comprise the provision of food/drinks, the selling of football club memorabilia and other associated trading.

- 1.3 The stadium is situated south of the B2123, with the village of Falmer situated immediately north of this road. Falmer village is divided by the A27. North of the dual carriageway are a few houses and a public house, with a footbridge linking the southern part of the village, where a large pond is encircled by cottages and the parish church; there is also a farm shop. The two halves of the village are also linked by a road bridge. A map of the location (showing the area which requires regulation), is attached to this report at Appendix A.
- 1.4 East Sussex County Council has already established Parking Control Zones in the centres of both Falmer North and South to prevent access by vehicles on match days. These will be marshalled by stewards to stop cars entering the residential areas.

2 Existing Controls

- 2.1 Lewes District Council currently has Byelaw 13 of the Byelaws for Good Rule and Government of Lewes District Council which states: "No person shall in any street or public place for the purpose of selling or advertising any article or obtaining custom, tout or importune to the annoyance or obstruction of passengers." This byelaw can be enforced by the Environmental Health Department, the Clean Green Team or the Police and carries a maximum fine of £500.

3 Consent and Prohibited Streets

- 3.1 Schedule 4 of Local Government (Miscellaneous Provisions) Act 1982 permits the Council to designate streets within its area as consent streets where street trading would be prohibited without consent from the District Council. The Council can charge a reasonable fee when granting such a consent. The consent may specify the size and type of stall, its designated location and any other conditions the Council thinks necessary.
- 3.2 Street trading is defined as: "the selling or exposing or offering for sale of any article in a street." Street means any road or footway.
- 3.3 The Council may alternatively designate streets within its area as prohibited streets where street trading would not be permitted. Street trading in a prohibited street carries a maximum fine of £1000.
- 3.4 Brighton and Hove City Council have already designated all their streets within 1 mile from the new Falmer Community Stadium as prohibited streets.

4 Procedure for Consent and Prohibited Streets

- 4.1 The procedure for designating a street as a consent street or prohibited street is as follows:-
 - i. The Council publishes notice (in a local newspaper) of its intention to resolve that the street in question (or part of the street) should become a consent or prohibited street. The Notice must invite representations from the public within a period of 28 days.
 - ii. Notice must also be served on Sussex Police and the East Sussex Highways Authority.
 - iii. Once the 28 day period has elapsed the Licensing Committee re-convenes and considers the representations (if any) that have been received. The Committee may then, if it thinks fit, pass the resolution designating the street or streets in question as consent or prohibited streets and sets a date when the designation shall come into

force. That date cannot be earlier than one month from the date when the resolution is made.

iv. The Council must then publish a further notice in a local newspaper (over two consecutive weeks) that the resolution has been made.

5 Local Opinion

- 5.1 Brighton and Hove Football Club have advised that they are committed to minimising any negative impact upon local communities. They are committed to providing the necessary food and merchandising outlets wholly within the stadium, and believe that uncontrolled sales of food and merchandise outside the stadium on neighbouring streets carries a risk of litter and nuisance to the neighbourhood. A letter sent by email is attached in Appendix B from Richard Hebbard, Head of Operations at the Stadium.
- 5.2 The Ward Councillor for Kingston (which includes the village of Falmer) has expressed her concern about street trading and the potential negative impact upon village life. She is aware of similar concerns from her constituents and the impact street trading may have on Falmer Village.

6.0 Options Appraisal

Option 1 – Maintain Status Quo with Byelaw 13

The Council currently has a Byelaw in place that prevents street traders from causing annoyance or obstruction whilst touting or importuning. The Council and Police are able to enforce this Byelaw. Option 1 allows the current situation to be maintained until the extent of any street trading is known. Enforcement against problem traders would require officers to demonstrate that the street traders are causing annoyance or obstruction and in the long term this may become more problematic and difficult to enforce.

Option 2 – Consent Streets

The Council designates the streets shown in Plan A as consent streets which means that traders are unable to operate within the designated area without a consent from the Council. Officers may need to determine the precise location of any pitches within the designated area and also impose limits on the number and type of street trading consents that are issued. The Council may charge such fees as it considers reasonable for the grant or renewal of a street trading consent. Officers would also need to carry out regular inspections of the designated area in order to ensure that any street trading conditions were being complied with and that no nuisance and/or annoyance was being caused.

Option 3 – Prohibited Streets

The Council designates the streets shown in Plan A as prohibited streets where no street trading is permitted. Councillors will note from the Plan that the designated area does not extend to the university site as this is private land and cannot be designated.

7 Financial Appraisal

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- 7.1 **Option 1** – No initial outlay cost. Enforcement shared between Environmental Health, Clean & Green Team and Sussex Police. Impact more substantial if traders cause

annoyance and obstruction to flow of vehicular and pedestrian traffic. Resources required for ongoing enforcement.

- 7.2 **Option 2** – There would be initial outlay for setting up the consent system then ongoing costs for licensing traders and enforcement for unlicensed traders. There would be limited revenue from issuing consents and this should cover the administration of the consent scheme.
- 7.3 **Option 3** – There would be initial outlay for setting up the prohibition system then enforcement costs for prosecuting unlicensed traders. It is anticipated that enforcement costs will tail off once street traders become aware of the prohibition that exists.

8 Environmental Implications

- 8.1 I have completed the Environmental Implications Questionnaire and there are no significant effects as a result of these recommendations.

9 Equality Implications

- 9.1 An Equality Impact Assessment screening exercise has been undertaken and all due regard has been given to equalities issues. This report is not found to have a negative impact upon equalities.

10 Risk Management Implications

- 10.1 Financial Risk. For a financial appraisal of the 3 options see 7.
- 10.2 Reputation Risk. It is important that the Council is seen to consider the regulation of street traders in an open and transparent process. The Council has a duty to protect residents going about their daily activities in the locality and promoting the economic wellbeing of existing businesses in the village of Falmer. Brighton & Hove City Council has already considered street trading to be a potential problem and established a prohibited streets zone within the vicinity of the stadium. It is paramount that the Council is seen to be addressing the issue in order to retain a good reputation with residents and maintain existing working relationships with both the City Council and the stadium. Failure to consider the impacts of street trading upon the community appropriately may adversely affect the reputation of the Council.
- 10.3 Health and Safety. Street traders may create an obstruction to both pedestrian and vehicular traffic. Allowing street trading to be unregulated may lead to significant disruption and puts pedestrians and drivers at risk of injury.

11 Background Papers

None

12 Appendices

Appendix A Location map showing Falmer and Stadium

Appendix B Letter Richard Hebbard, Head of Operations at the Stadium.

Appendix A - Falmer Location Map



Appendix B – Letter Richard Hebbard, Head of Operations at the Stadium.

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29th March 2011

Dear Me Hele

American Express Community Stadium – Street Trading

Thank you for your letter of 15th March.

We have committed to minimising any negative impact of the stadium on the local communities around the stadium. To do this we have worked with our neighbours and local councils on various traffic and noise initiatives. We have also sought to minimise the number of external food or merchandising outlets by committing that the Club will provide both within the stadium only.

We believe that permitting unfettered sales of food and merchandise within the immediate environs of the stadium runs a heavy risk of forcing litter and unwanted smells on the neighbourhood.

Brighton and Hove City Council have recognised this risk and identified a one mile zone around the stadium within which street trading is not permitted.

We would urge Lewes District Council to enact a similar provision within their area.

Yours sincerely

Richard Hebbard
Head of Operations