

**Agenda Item No:** 9 **Report No:** 137/13  
**Report Title:** Street Trading in Lewes District  
**Report to:** Licensing Committee **Date:** 30 August 2013  
**Lead Councillor:** Cllr Nicolson  
**Ward(s) Affected:** All  
**Report By:** Director Planning and Environmental Services  
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### **Purpose of Report:**

- 1 To seek the Committee's approval to begin the process of designating all streets in the District of Lewes as Consent Streets in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act').

### **Officer's Recommendations:**

- 1 That the Committee notes the feedback from the Nexus Board (as summarised within this report).
- 2 That the Committee authorises Officers to begin the process of designating all streets within the District of Lewes as Consent Streets.
- 3 That the Committee agrees the wording of the following draft resolution which will be included within the Public Notices that the Council must publish:-

*'That the Licensing Committee of the Lewes District Council resolves that as from (a date to be determined) all streets within the District of Lewes shall be designated as Consent Streets pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.'*

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## **1 Information**

- 1.1 At the current time Lewes District Council has three Consent Street areas in the District which were designated to control Street Trading. These Consent Street areas are:-
  - Lewes Pedestrian Precinct from the Junction of Friars Walk and Eastgate Street to Cliffe Bridge on Cliffe High Street;
  - Newhaven Pedestrian Precinct in the High Street; and
  - Phoenix Causeway Lewes.

- 1.2** In 2011 the Council established a Street Trading Prohibition Zone, which covered a one mile radius of the Amex Stadium in Falmer. The purpose of the Zone was to prevent unauthorised street traders from causing annoyance and/or an obstruction to residents in Falmer. The Prohibition Zone has been effective and no complaints of annoyance or obstruction have been received.
- 1.3** The remainder of the District is currently uncontrolled and persons can set up a stall when and where they wish, provided that they comply with 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.
- 1.4** Over the past 2 – 3 years demand for Street Trading in the Lewes Pedestrian Precinct has increased significantly and Street Trading Consents are regularly issued to traders who operate stalls in the latter part of the week (Wednesday – Saturday).
- 1.5** Currently only 3 – 4 pitches are granted each day for the Precinct, generally for positions outside empty shops to prevent obstruction to existing premises and to ensure safe access to emergency vehicles.
- 1.6** Along with the increased number of Street Trading enquiries, which the Council receives, Officers have also noticed an increase in the number of complaints about traders who are operating outside of the Consent Street areas, or who are operating in a Consent Street without obtaining Consent. The demand for pitches far exceeds the current availability and, where traders have operated without consent, enforcement action has been conducted exposing further demand for pitches.
- 1.7** These issues were highlighted in a report to the Nexus Board in July 2012 when Officers were given permission by the Board to explore the extent of the problem and formulate options for dealing with it.
- 1.8** A further report was taken to the Nexus Board in November 2012. The Board decided that the Council should designate all streets as Consent Streets within the District and that approval should be sought from the portfolio holder for Environmental Health and Licensing. Approval was subsequently obtained from Cllr Robertson in March 2013.
- 1.9** It was the decision of the Nexus Board that with the Council’s principle of One District, One Council, the whole District should fall within the Consent Street regime. Other options included increasing the size of the current Consent Street areas, but this option was dismissed because of the need to refer the matter back to the Licensing Committee for approval each time an area increased in size or other streets required designation.

## **2 Consent Streets**

- 2.1** Schedule 4 of the Act enables the Council to designate streets within its area as Consent Streets where Street Trading is prohibited without the Consent of the District Council. The Council may charge a reasonable fee to cover its administration costs when granting such Consent. The Consent may specify the size and type of stall, its designated location and any other conditions the Council thinks necessary.
- 2.2** 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, beach or other area to which the public have access, with or without payment.
- 2.3** The Council may alternatively designate streets within its area as Prohibited Streets where Street Trading would not be permitted. Street Trading in a Prohibited Streets carries a maximum fine of £1,000.

## **3 Procedure for Consent Streets**

- 3.1** The procedure for designating a street as a Consent Street is as follows:-
  - i. The Council publishes a Notice (in a local newspaper) of its intention to resolve that the street in question should become a Consent 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 reconvenes 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.

## **4 Consultation**

- 4.1** Discussions have been held with the Highways Authority at East Sussex County Council and initial indications are that they would not oppose the designation of Consent Streets. They have suggested that conditions would need to be attached to any Consent granted to ensure public safety and to minimise obstructions to pedestrians and vehicular traffic.
- 4.2** Formal consultation with Highways at East Sussex County Council and Sussex Police would be required as part of the Consent process.
- 4.3** Local businesses in Lewes Precinct have been surveyed and 81% see Street Traders as a positive attribute. In addition, when surveyed, 95% thought the Consent area should be extended.

## **5 Policy**

- 5.1** Should Members be minded to designate all streets within the District as Consent Streets there will be a need to produce a comprehensive Street Trading Policy to look at how this new regime will be implemented across the District.

## **6 Financial Appraisal**

- 6.1** There would be an initial outlay for setting up the Consent system; then ongoing costs for granting Consents to Traders and enforcing against unlicensed Traders. The initial costs will include a sum in the region of £500 for the publication of the requisite Notices in the Sussex Express. The fee that is charged to each Trader will cover the costs of administration and monitoring, but not the costs of enforcement. Recent case law has established that License fees, in general, should not include any element of the costs of enforcement against unlicensed Traders.

## **7 Environmental Implications**

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

## **8 Equality Implications**

- 8.1** 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. Form AF29199.

## **9 Risk Management Implications**

- 9.1** Financial Risk: The financial risk has been covered earlier in the report.
- 9.2** 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 Lewes District. It is paramount that the Council is seen to be addressing the issue in order to retain a good reputation with the public and businesses. Failure to consider the impacts of Street Trading upon the community appropriately may adversely affect the reputation of the Council.
- 9.3** 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.

## **10 Background Papers**

- 10.1** There are no background papers to this report.

## **11 Appendices**

- 11.1** There are no Appendices to this report.