

Agenda Item No: 7 **Report No: 156/15**

Report Title: Street Trading In Lewes District

Report To: Licensing Committee **Date:**

Cabinet Member: Councillor Franklin

Ward(s) Affected: All

Report By: Director of Service Delivery

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Purpose of Report:

To seek the Committee's approval to begin the process of un-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') with the exception of Cliffe Bridge Lewes and the pedestrian precincts of Lewes and Newhaven.

Officers Recommendation(s):

- i. That the Committee notes the contents of the report.
- ii. That the Committee asks Officers to begin the process of un-designating streets within the District of Lewes as Consent Streets with the exception of Cliffe Bridge and Lewes and Newhaven Pedestrian Precincts.
- iii. That the Committee agrees the wording of the following draft resolution which will form a Public Notice and recommends that the Full Council authorises its publication along with details of where any comments should be sent within 28 days of such publication

'That Lewes District Council resolves that as from (date to be determined) the following streets;- Newhaven Pedestrian Precinct, Lewes Pedestrian Precincts and Cliffe Bridge within the District of Lewes shall remain designated as Consent Streets pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. All other previously designated consent streets within the District shall be undesignated.

1 Reasons for Recommendation

A Street Trading pilot scheme was undertaken in 2014 to pilot Street Trading across the whole district. Unfortunately the scheme has proven to be overly bureaucratic, unenforceable and resource intensive. This proposal sets out to make the scheme smaller in size encompassing just the precincts in Newhaven and Lewes and Cliffe Bridge which are necessary to control as they are the busiest areas.

2 Information

- 2.1 Prior to 2014 there were only three consent streets in the District - Newhaven Precinct, Lewes Precinct & Phoenix Causeway in Lewes.
- 2.2 A Policy, application processes and conditions were drafted and considered by the Licensing Committee on 24 February 2014. These were agreed and implemented on 1st May 2014. It was agreed that a pilot of a year would be undertaken on this basis and then to reassess the consent scheme. The pilot has now finished and this report outlines the results of the yearlong pilot along with recommendations.

3 Problems Encountered

- 3.1 By designating all streets and open spaces in the district as consent streets there have been a number of unforeseen consequences. These include:-
- 3.2 Open spaces: - The designation has meant that all open spaces including those under the control of town councils also now fall under consent streets. Town councils have raised concern over the level of bureaucracy required for running their own events and when they have already vetted the traders who attend such events. The current arrangements would require the town councils to either charge an entry fee for community events or complete paperwork and pay a fee for street trading. These events provide essential activities on publicly accessible land that benefits the community.
- 3.3 Enforcement issues: - There are a number of mobile food traders that undertake rounds such as ice cream vans and sandwich wagons that travel through housing and industrial estates respectively. Complaints have been received from static traders that income is being taken away from them even though they have paid a consent fee. These have taken considerable time to chase and they are reluctant to pay the fee. The time spent undertaking investigations negatively impacts on the rest of the licensing service.
- 3.4 Reputation: - A number of food operators have raised concern about the scheme as they feel it is overly bureaucratic and they are unable to pay the fee particularly at a time when there are very fine profit margins.
- 3.5 Deregulation: - In other areas of licensing, particularly in the Licensing Act 2003 there is currently an appetite for deregulation. The previous proposals were against national policy of deregulation and this proposal aims to bring street trading back into line.

4 Detail on Recommendations

- 4.1 It is recommended that the Street Trading Consent scheme be discontinued for the majority of the district due in part to the cost of administering a regime that is more time-consuming than anticipated.. It will also demonstrate that the Council is not being overly bureaucratic and is not having a consent scheme when there is little need to do so, especially when it is resisted by the trade and Town Councils. However it is recommended that a Street Trading Consent Scheme remain in place for Lewes for Newhaven Precinct & Lewes Precinct including Cliffe Bridge. These areas continue to attract a large number of traders and a Consent scheme will prevent a free for all.
- 4.2 It is projected that with these recommendations there will be an initial small reduction in income of £4000 per year – although consent fees can be adjusted as appropriate in subsequent years to ensure that the administration of the much reduced scheme is year on year cost neutral .
- 4.3 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.
- 4.4 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. 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.

5 Procedure for Consent Streets

- 5.1 The procedure for designating a street as a Consent Street is as follows:-
- 5.2 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. Notice must also be served on Sussex Police and the East Sussex Highways Authority.
- 5.3 Once the 28 day period has elapsed, the Full Council considers the representations (if any) that have been received. The Council 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.
- 5.4 The Council must then publish a further Notice in a local newspaper (over two consecutive weeks) that the resolution has been made.

6 Consultation

- 6.1 Formal consultation with Highways at East Sussex County Council and Sussex Police would be required as part of the Consent process. In addition the Licensing Team would formally consult with existing traders. A public notice would be published and comments sought on the proposals from the public and stakeholders.

7 Financial Appraisal

- 7.1 There will 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 press. The fee that is charged to each Trader will cover the costs of administration and monitoring. Any costs of enforcement against unlicensed traders will be monitored and factored in to an assessment of appropriate consent fee levels on an ongoing basis.

8 Legal Implications

- 8.1 The Legal Services Department have contributed to the compilation of this report.

9 Sustainability Implications

- 9.1 I have not completed the Sustainability Implications Questionnaire and I have identified no impact either positive or negative.

10 Risk Management Implications

- 10.1 I have completed a risk assessment and the reference is LDC49503. The following risks will arise if the recommendations are not implemented, and I propose to mitigate these risks in the following ways:
- 10.2 Financial Risk: - Continued pressure on resources in enforcing street trading. Resources will need to be carefully managed with other licensing enforcement functions.
- 10.3 Reputational Risk: - It is important that the Council is seen to operate fairly and proportionately. The Council has a duty to promote 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.

11 Equality Screening

- 11.1 All due regard has been given to equalities issues. This report is not found to have a negative impact upon equalities and there are no significant implications.

12 Background Papers

- Street Trading in Lewes District 24 February 2014
- Street Trading in Lewes District 16 April 2014

13 Appendices

13.1 None.