

Agenda Item No: 8 **Report No:** 166/16
Report Title: Street Trading In Lewes District
Report To: Licensing Committee **Date:** 8 December 2016
Cabinet Member: Councillor Franklin
Ward(s) Affected: All
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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 with the exception of those named below in paragraph 1 of officers recommendations in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act').

Officers Recommendation(s):

It is recommended that –

1. That the Committee authorises the Service Manager (Environmental Health) to begin the process of un-designating streets within the District of Lewes as Consent Streets with the exception of the following streets:-

Lewes Town:- Cliffe Bridge, Lewes Pedestrian Precinct, High Street, Cliffe High Street, School Hill, Lansdown Place, Eastgate Street, Friars Walk

Newhaven Town:- Newhaven Pedestrian Precinct in Newhaven Town

Seaford Town:- Station Approach, Clinton Place, Sutton Road, Broad Street, Church Street, Church Lane, High Street, Place Lane, South Street, Saxon Lane, Marine Parade, The Esplanade, and all streets 50 metres inland from Marine parade and the Esplanade.

2. 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 Lewes District Council resolves that as from (a date to be determined) the following streets:-

Lewes Town:- Cliffe Bridge, Lewes Pedestrian Precinct, High Street, Cliffe High Street, School Hill, Lansdown Place, Eastgate Street, Friars Walk

Newhaven Town:- Newhaven Pedestrian Precinct in Newhaven Town

Seaford Town:- Station Approach, Clinton Place, Sutton Road, Broad Street, Church Street, Church Lane, High Street, Place Lane, South Street, Saxon Lane, Marine Parade, The Esplanade, and all streets 50 metres inland from Marine parade and the Esplanade

within the District of Lewes which shall continue to be designated as Consent Streets pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. All other previously designated streets shall be undesignated.

1 Reasons for Recommendation

A Street Trading pilot scheme was undertaken for street trading across the whole district. The scheme has proven to be overly bureaucratic, unenforceable and resource intensive. This proposal sets out to make the scheme smaller in size by encompassing just the streets where street trading is increasingly popular and therefore controls are required to remain.

2 Background 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. Following the consultation process the Licensing Committee on 16 April 2014 decided to implement the process and it was implemented on 1st May 2014. It was agreed this was to be a pilot and a report was brought back to committee on 26 November 2015 but this was deferred following concerns that the proposals did not address the needs of Seaford Town Council. Discussions have taken place with Seaford Town Council and following a report to the Licensing Committee, Full Council has agreed that Street Trading within Seaford shall be subject to a delegation to Seaford Town Council.

3 Problems Encountered in the pilot.

- 3.1 By designating all streets 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 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. It is noted that 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. 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 pursue 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 mobile 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 where there are very tight profit margins.
- 3.5 Deregulation: - In other areas of licensing, particularly in the Licensing Act 2003 there is currently an appetite for deregulation. This proposal aims to bring street trading back into line.

4 Procedure to make changes

- 4.1 The procedure for designating a street as Consent Street is as follows:-

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.

- 4.2 Once the 28 day period has elapsed and as soon as possible the Licensing Committee will reconvene and consider the representations (if any) that have been received. The Committee may then, if it thinks fit, recommend to Full Council a resolution designating the streets as Consent Streets and set a date when the designation will come into force. That date cannot be earlier than one month from the date when the resolution is made by Full Council.
- 4.3 The Council must then publish a further Notice in a local newspaper (in two consecutive weeks) that the resolution has been made.
- 4.4 The current Street Trading Policy will be amended by Officers in line with the resolution.

5 Consultation

- 5.1 Formal consultation with Highways at East Sussex County Council and Sussex Police would be required. In addition the Licensing Team would formally consult with existing traders. A Public Notice as above would be published and comments sought on the proposals from the public and stakeholders.

6 Legal Implications

- 6.1 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 recover 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.
- 6.2 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.

7 Risk Management Implications

- 7.1 I have completed a risk assessment and the reference is LDC64680. The following risks will arise if the recommendations are not implemented.
- 7.2 Financial Risk: - Street trading consent fees should not exceed the costs of the procedures and formalities involved in administering applications. If the reducing the extent of street trading is agreed, there will be no significant impact on this Council’s budget.
- 7.3 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.

8 Equality Screening

- 8.1 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.

9 Background Papers

- Street Trading in Lewes District 24 February 2014
- Street Trading in Lewes District 16 April 2014
- Street Trading in Lewes District 26 November 2015
- Lewes District Council Street Trading Policy

10 Appendices

- 13.1 Maps of proposed areas.

Newhaven



Seaford

