

BRIDGEND COUNTY BOROUGH COUNCIL

LICENSING COMMITTEE

8 JANUARY 2009

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
CONTROL OF STREET TRADING
PORTHCAWL

1. Purpose of Report

- 1.1 To seek approval to change the designation of the Eastern Promenade, Porthcawl from a consent street to a prohibited street for the purposes of street trading and to carry out a consultation on an interim street trading policy for Porthcawl.

2. Background

- 2.1 The regeneration of Porthcawl has been identified as a Council priority and approved Supplementary Planning Guidance is in place to provide a framework for the future development of the Waterfront area. It is hoped that by the end of 2008 a developer will have been selected to take forward the development of Phase 1 and work is ongoing to secure this progress. In addition, the development of an action plan for the whole town is proposed and work has commenced to take this forward in liaison with the local community and stakeholders.
- 2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in order to control street trading within certain streets in Porthcawl. This enables the Council to prohibit street trading completely in some streets and/or designate other streets as streets where trading is only permitted under a licensing regime. On 31 March 1993 and 19 June 1996 the statutory processes (orders) to designate certain streets in Porthcawl as prohibited or consent streets were completed.

3. Current situation – Street trading in Porthcawl

- 3.1 For a number of years the Council has issued a number of street trading consents for ice cream tricycles and other fixed and itinerant traders. The current policy limits the number of tricycles to six at any one time, and prohibits the sale of hot food, but otherwise there are few controls on the type of trader to whom consent will be given. In 2008, consents were issued to one

ice cream tricycle and one ice cream van together with a one-off consent for stalls linked to a local festival.

- 3.2 Officer discussions have commenced regarding developing a street trading policy that will complement the regeneration strategy. The current consent streets are The Eastern Promenade, The Esplanade and West Drive.
- 3.3 A number of options are possible in the longer term. The first is to prohibit street trading throughout the regeneration area. The major disadvantage of this approach is the difficulty in enforcing such a ban in a seaside resort. It would also preclude all street trading linked to any future themed events within the area.
- 3.4 It is considered premature to prepare a street trading policy for the whole area given the need for the physical regeneration to be completed.
- 3.5 The current proposal is to change the Eastern Promenade from a consent to a prohibited street. This would prohibit street trading completely. The area defined as Eastern Promenade would stretch from the roundabout with New Road to the junction with the Portway but not including Cosy Corner. As in previous resolutions the extent of a street is defined as including all forecourts, roads, footways or other areas adjacent to the street in all directions for a distance of thirty metres. A draft plan is attached at Appendix A.
- 3.6 It is anticipated that this option would best be progressed as an interim measure pending the development of a Regeneration Action Plan for the whole town. The Group Manager-Highways has indicated that this would provide a means of control while regeneration proposals move forward and would also address future highway safety and flood defence issues. It is anticipated that the Portway diversion works and Promenade makeover will occur from January 2010 for two years. This approach would therefore, aid the management of public access through the construction phase and would be included in the CDM safety plan for the project.
- 3.7 For the period until 2010, a degree of certainty regarding the street trading policy is required during the period when regeneration is in the formative physical stages.
- 3.8 It should be noted that current legislation governing street scene activities is fragmented and a street trading policy cannot control other street activities such as pedlars, buskers and some other activities in pedestrianised or paved areas.
- 3.9 Street trading is generally regarded as an acceptable activity in resorts, provided that it is selectively located and can make a positive contribution to the vitality and viability of the locality. Without regulation, it can give rise to problems associated with crime, disorder or nuisance. For example,

some street trading has been linked to counterfeit or substandard goods or unregulated food stalls. In addition, trading can exacerbate problems faced by those with mobility and visual impairment difficulties because of unnecessary obstructions in paved spaces. Such activity has also been seen as detracting from the use and enjoyment of paved spaces by causing congestion, obstruction and visual intrusion. In addition to this, concerns have been raised that goods for sale may duplicate and therefore conflict or compete with the trade of established businesses.

3.10 To address the above issues many Councils have adopted street trading policies which specify activities or goods for which consent would not normally be given. For example, items such as posters and fast foods such as burgers have been prohibited on the grounds of litter or environmental impact. In addition, consideration has been given to safety issues and consents not granted where the activity would obstruct the free flow of traffic movement, cause congestion and impinge on areas required for servicing and deliveries and emergency access.

3.11 If the proposal to change the Eastern Promenade is accepted, consideration should be given to the effect on the remaining consent street to include the introduction of an interim policy for the Esplanade and West Drive for the period 2009 to 2010 or until such time as the full assessment referred to in 3.6 above is completed. The views of interested parties would be sought on an interim policy for these streets which would propose a presumption of refusal for consents to trade in goods which would adversely affect environmental impact, nuisance, litter obstruction and congestion as follows:

- Posters
- Fast foods such as burgers, hot dogs, fish and chips or other similar foods likely to produce similar odour and/or litter
- Sports and household goods and clothing
- Fish and meat from commercial vans or stalls
- Static car sales

In contrast views would be sought on a policy favouring the grant of consents linked to themed events only for the following goods:

- Flowers/Vegetables/Fruit
- Arts/Crafts/Jewellery/Paintings
- Novelty or specialist foods

In addition views would be sought on the existing policy regarding the grant of consents for ice cream tricycles and ice cream vans.

4. Effect upon Policy Framework & Procedure Rules

None at this stage.

5. Legal Implications

- 5.1 The power to resolve to change the designation of a street and a street trading policy rests with the Licensing Committee. The consideration of any representations will be referred to the Appeals Panel.
- 5.2 Changes to the designation of streets for the purposes of street trading will require the following steps:
 - 5.2.1 The publication (in a local newspaper) of the intention to pass a resolution to vary the original resolutions (passed by the Council's Environmental Health Committee on 31 March 1993 and Council Policy and Resources Committee on 19 June 1996) to change the designation of Eastern Promenade from a consent to a prohibited street for the purposes of street trading including all forecourts, roads, footways or other areas adjacent to the street in all directions for a distance of thirty metres;
 - 5.2.2 A statutory Consultation with Chief Officer of Police and highway authority
 - 5.2.3 Consideration of any representations or objections to the resolution by the Appeals Panel.
 - 5.2.4 The passing of a further resolution by the Licensing Committee to change the designation of the street if appropriate.
 - 5.2.5 The publication of the resolution in a local newspaper on two consecutive weeks, the first publication being not less than 28 days before the coming into effect of the resolution.

6. Financial Implications

- 6.1 The change of Eastern Promenade from consent street to prohibited street on the current Street Trading Order will require advertising by Public Notice at an estimated cost of £1100 and all costs associated with this change are to be paid for from Porthcawl regeneration budget allocations.

7. Recommendations

Committee is recommended to:

- 7.1 Make a decision on whether to give Notice of the intention to pass a resolution to vary the original resolutions passed by the Council's Environmental Health

Committee on 31 March 1993 and Council Policy and Resources Committee on 19 June 1996 that the designation of Eastern Promenade be changed from a consent to a prohibited street including all forecourts, roads, footways or other areas adjacent to the street in all directions for a distance of thirty metres for the purposes of street trading;

- 7.2 Note that a further report will be presented on a proposed street trading policy for the Esplanade, and West Drive Porthcawl following a short consultation with interested parties.

Background documents:	Environmental Health Committee - 31 March 1993 and Council Policy and Resources Committee 19 June 1996
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