

BRIDGEND COUNTY BOROUGH COUNCIL

LICENSING COMMITTEE

11 JUNE 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 report the outcome of an informal consultation exercise regarding an interim policy for the granting of street trading consents on the Esplanade Porthcawl.

2. Background

- 2.1 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. On 18 March 2009 the Committee resolved that from 1 May 2009, the orders be varied with the result that street trading is now prohibited on the Eastern Promenade Porthcawl.
- 2.2 The only street where street trading is now permitted with the Consent of the Council is the Esplanade. At their meeting on, 8 January 2009 the Committee received information that officer discussions had commenced regarding developing a street trading policy which would complement the regeneration strategy. A number of options were possible in the longer term.
- 2.3 The first would be to prohibit street trading throughout the regeneration area. Members were advised that the major disadvantage of this approach is the difficulty in enforcing such a ban in a seaside resort. It would also preclude street trading linked to any future themed events within the area. A further issue is that the current legislation relating to street scene activities is fragmented and a street trading policy would not control other activities such as pedlars, busking and some other activities common in pedestrianised and paved areas.
- 2.4 The Committee therefore noted that an informal consultation process would be carried out to seek the views of interested parties on developing an interim policy for

the remaining consent street, the Esplanade Porthcawl. The following parties were consulted:

- Porthcawl Town Council
- Porthcawl Chamber of Trade
- Current street trading consent holders
- Corporate Director Communities
- Interim Team Manager Destination and Countryside
- Property Department
- Head of Development Control
- Group Manager – Street Scene
- Council Pollution Control Section
- Council Trading Standards
- South Wales Police
- South Wales Fire and Rescue Service
- C Patrick Evans Entertainments Ltd

Responses were received from:

- C Patrick Evans Entertainments Ltd
- Group Manager – Street Scene
- Council Pollution Control Section
- Council Trading Standards
- Interim Team Manager Destination and Countryside
- Porthcawl Town Council
- Mr Phil Booth

2.5 The current policy is that for a number of years the Council has given consent to authorise trading from 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 each application is considered on merit. 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. Current situation/proposal

3.1 Consultees were invited to comment on the following proposals:

3.2 Should there be a presumption of refusal for applications for the following types of trading?

- **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**

3.2.1 Porthcawl Town Council, C Patrick Evans Entertainments Ltd, the Council's Destination and Countryside Management Section and Traffic and Town Centre Manager, responded in favour of a policy which included a presumption of refusal for applications relating to the above trading activities. The Council's Public Protection Pollution Control Section also responded in favour of the above proposal.

3.2.2 Mr Phil Booth responded in the form of a proposal. The current street trading policy affects his proposals as there is a presumption of refusal for consents involving the sale of hot food. He therefore requests that the Committee reconsider the policy. The proposal is attached at Appendix A to this report but he has been advised not to submit an application until the policy has been reviewed.

3.2.3 Information

3.2.4 Members are advised that the current presumption of refusal for consents involving the sale of hot food was introduced in response to representations received by the Council and has been in force for a number of years. Minute 420 of the Environmental and Public Protection Committee dated 29 October 1997 refers.

3.2.5 Fast food trading can have an impact on the surrounding area. Although conditions can be introduced to require traders to provide litter receptacles, enforcement, particularly once the customers are away from the stall, is extremely problematic. The original representations regarding a burger van located near the Esplanade related to its operation late night with the resulting occurrence of disturbance from generators and the nuisance and disorder from persons congregating in the vicinity.

3.2.6 However, whilst four out of five respondents were against the granting of consents for fast foods as described above, there was support for allowing consents to be granted for themed events which may include novelty or specialist foods as part of themed events as set out in paragraph 3.3 below. The current presumption of refusal for consents involving hot food would however also prevent the sale of hot food in this category.

3.2.7 In summary the options for consideration are:

Option A: retain the prohibition on granting consents involving the sale of hot food.

Option B: relax the prohibition on granting consents involving the sale of hot food providing the consent is granted to an organiser (or their agent) of a themed event or festival.

Option C: relax the prohibition on granting consents involving the sale of hot food allowing all applications to be considered.

3.3 Should there be a presumption of grant for applications linked to approved themed events selling the following goods?

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

3.3.1 Porthcawl Town Council, the Council's Destination and Countryside Management Section and Traffic and Town Centre Manager responded in favour of a policy which included a presumption of grant for applications relating to the above activities.

3.3.2 C Patrick Evans Entertainments Ltd has no view on the proposal provided that proper and timely notification is given to the company so that each application can be judged on its merits.

3.3.3 Information

The granting of consents for novelty or specialist foods is subject to consideration of paragraph 3.2.7 above

3.4 Should the Council allow ice cream vans to trade on the Esplanade? If so, should the numbers be limited?

3.4.1 Porthcawl Town Council and the Destination and Countryside Management Section responded that the Council should not grant consents to ice cream vans.

3.4.2 C Patrick Evans Entertainments Ltd responded that they do not believe that it is in the best interest of the regular town trades-people to permit occasional ice-cream vendors on the Esplanade as the town is adequately catered for by existing outlets.

3.4.3 The Council's Traffic and Town Centre manager responded that yes, ice cream vans should be allowed to trade on the Esplanade and the number of consents should be limited. There are no firm views on the number of consents to be issued and this should be left to the discretion of the licensing authority.

3.4.4 In summary the options for consideration are:

Option A: Allow the granting of consents to ice cream vans.

Option B: Introduce a presumption of refusals for consents for ice cream vans.

3.5 Should the Council continue to grant consents for ice cream tricycles? If so, should the current limit of six per year remain?

3.5.1 Porthcawl Town Council and the Council's Traffic and Town Centre Manager responded that they are in favour of continuing the above policy of granting consents to ice cream tricycles and retaining the limit of six per annum.

3.5.2 C Patrick Evans Entertainments Ltd responded that they do not believe that it is in the best interest of the regular town trades-people to permit occasional ice-cream vendors on the Esplanade as the town is adequately catered for by existing outlets.

3.5.3 The Destination and Countryside Management Section responded that although the tricycles are attractive, there is sufficient provision on the Esplanade. It suggested that consideration could be given to granting consents along the West Drive section of the consent street.

3.5.4 In summary the options for consideration are:

Option A: Retain the current policy of granting consents to ice cream tricycles with a limit of a maximum of six being issued per annum.

Option B: Adopt a policy whereby there will be a presumption of refusal for applications for street trading consents for ice cream tricycles.

3.6 Should the Council grant consents for one off traders not linked to events? Are there any other types of applications/goods not mentioned above that that should be allowed or prohibited?

3.6.1 Porthcawl Town Council, C Patrick Evans Entertainments Ltd and the Destination and Countryside Management Section were broadly in favour of examining each application on its merits.

3.6.2 The Council's Traffic and Town Centre Manager stated that whilst one off consents offer flexibility, every application would have to be assessed on merit and would have resource implications. If this approach is adopted, the fixed trading points should be considered following consultation with Transportation and the South Wales Police, which should form part of the policy.

3.6.3 The Council's Trading Standards Department submitted a general concern relating to static car sales where traders have been operating without consent. This issue has been the subject of formal investigations by the department together with education and advice initiatives. The number of traders appears to have been reduced. This is an area which will continue to be monitored by the department, particularly during the summer months. This issue is addressed within the proposed policy.

3.6.4 The Council's Public Protection Department submitted a general observation that there had been problems with problems of noise due to takeaway vans selling hot food at night, not only from generators but from people drawn to the site leading to anti-social behaviour. There are few places on the Esplanade which are not surrounded by flats or houses which would be affected by such an issue.

3.7 One respondent requested individual notification of all applications received.

3.7.1 There are few statutory guidelines for consultation following the receipt of an application for a street trading consent. However, it has been the practice (of this Council to consult the following on all applications for the Porthcawl area:

- South Wales Police
- South Wales Fire Service (not for tricycles)
- Council Public Protection Department
- Council Planning, Building Control, Mechanical & Electrical Sections (not for tricycles)
- Council Traffic Management Section
- Council Insurance Section (not for tricycles)
- Council Destination and Countryside Management Section
- Porthcawl Town Council

3.7.2 The legislation does not require applicants to give public notice of applications. The Licensing Act 2003 requires both newspaper advertising and a site notice and this measure of public notice and consultation is commensurate with the establishment or variation of permanent premises. There is a cost implication to requiring applicants, who may only be trading seasonally or from portable stalls or tricycles, to advertise applications in a local newspaper and equally there are practical difficulties with requiring site notices.

3.7.3 In the short term, it is proposed that consultation be widened to include the Porthcawl Chamber of Trade and the Council's Property Section and to place applications on the Council's website.

4. Effect upon Policy Framework & Procedure Rules

None at this stage.

5. Legal Implications

The report proposes an interim policy on the grant of street trading consents at the Esplanade Porthcawl which complies with Local Government (Miscellaneous Provisions) Act 1982.

6. Financial Implications

The income derived from street trading consents has remained constant for a number of years. The income from consents in Porthcawl in 2008/2009 was in the region of £600 and derived from an ice cream van, ice cream tricycle and consent linked to an event. Adopting a policy to refuse or grant certain types of consent may have an impact on income generated.

7. Recommendations

7.0 If the Committee is minded to retain the Esplanade as a consent street for the purposes of street trading, it is requested to consider the following:

7.1 To adopt the overriding policy that each application will be determined on its merits but that there will be a presumption of refusal on certain grounds.

7.2 To adopt a policy whereby there would be a presumption of refusal for consents involving the following activities:

- Posters
- Sports and household goods and clothing
- Fish and meat from commercial vans or stalls
- Static car sales

Reason: The potential for nuisance, obstruction and visual intrusion together with the potential for environmental impact from litter and noxious smells.

7.3 To confirm the preferred option relating to the granting of consents for the sale of hot food:

Option A: retain the prohibition on granting consents involving the sale of hot food.

Option B: relax the prohibition on granting consents involving the sale of hot food providing the consent is granted to an organiser (or their agent) of a themed event or festival.

Option C: relax the prohibition on granting consents involving the sale of hot food and allowing all applications to be considered.

7.4 To adopt a policy whereby there would be a presumption of grant for consents involving the following activities:

- Flowers/Vegetables/Fruit
- Arts/Crafts/Jewellery/Paintings etc

- Novelty or specialist foods

Providing that the applications are linked to approved themed events.

7.5 To confirm the preferred option for the grant of consents relating to ice cream vans:

Option A: Allow the granting of consents to ice cream vans.

Option B: Introduce a presumption of refusals for consents to ice cream vans.

7.6 To confirm the preferred option for the grant of consents relating to ice cream tricycles:

Option A: Retain the current policy of granting consents to ice cream tricycles with a limit of a maximum of six being issued per annum.

Option B: Adopt a policy whereby there will be a presumption of refusal for applications for street trading consents for ice cream tricycles.

7.7 To note that further officer discussions will be necessary to discuss the feasibility of fixed trading points on the Esplanade.

7.8 To approve that the consultation process be widened to include the Porthcawl Chamber of Trade and the Council's Property Section and to place applications on the Council's website.

Background documents:

Environmental Health Committee - 31 March 1993 and Council Policy and Resources Committee 19 June 1996
Minute 420 of the Environmental and Public Protection Committee dated 29 October 1997
Licensing Committee 8 January 2009 and 18 March 2009

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Lead Officer:

P A Jolley
Assistant Chief Executive Legal and Regulatory Services

Date:

5 June 2009

Dear Licensing Department

I would like to take this opportunity to submit the following proposal with a view to position a Westlers Hot Dog cart on the Promenade in Porthcawl. I am the proprietor and existing caterer to Porthcawl residents and the tourism sector through the Atlantic Hotel; a well established premises on the sea front in Porthcawl. As a high band rate player I would like the opportunity to apply for the following.

- PROPOSAL

For Bridgend County Borough Council to re-evaluate their current policy on licensing regarding the sale of hot food on the Promenade in Porthcawl. Then to be able to place a Westlers mobile hot dog cart on the Promenade, to appeal to passing pedestrians.



Measurements: **Length: 1300mm**
 Width: 1000mm
 Height: 1650mm

Westlers traditional markets include fun fairs, seaside resorts and holiday parks, but they have since expanded into cinemas, theme parks, sporting arenas, business & industry, schools, contract caterers and a range of independent food operators of all sizes.



"Westlers will continue to grow, to provide a secure future for its employees by being the first choice for high quality, value for money, specialist food products"

- **COMMERCIAL AGREEMENT**

As we are aware the Promenade is a prime location in Porthcawl. We are happy to pay the Street Trading Consent fee of £210.00 in advance. In addition we would like to donate £500 to yourselves, to invest in the Promenade, to make it more aesthetically appealing to visitors by perhaps putting it towards the removal of chewing gum off the pavements, picking up dog mess or the painting of lamp posts. Litter bins would also be provided as part of the cart, and the staff would ensure that litter from the hot dog cart and the public is disposed of.

- **OPPORTUNITIES**

The addition of services and attractions to Porthcawl's Promenade will appeal to a wider audience and encourage a higher volume of people into the town. It will help towards satisfying the ever increasing trend of 'food on the go'. Tourism will increase and local businesses will benefit from a rise in trade. Also Porthcawl's profile as a tourist destination will advance. This venture will also create two full time job opportunities for the locals. They will be fully trained on the use of the cart and food handling.

- **WESTLERS' BRAND AND PRODUCT**



Westlers is a privately owned family business based in North Yorkshire. They are dedicated to providing their customers with a quality service and product to ensure long term sustainability. A Westlers premium hot dog contains no mechanically reformed meat and is made with 87% pork. As they are based in the UK the products travel less food miles as all other rival produce is imported. Westlers have been the number one Hot Dog supplier in foodservice for over 40 years and have the highest brand recognition across the category with *94% (*2005 Hot Dog Report).



Reasons for their success include a strong recognised brand image as being synonymous with quality. They offer quality products at a reasonable price which we can translate to the passers by on the Promenade. Westlers are currently available in Cineworld cinemas, Liverpool Football Club and Adventure Island, just to name a few.

They even supply ration packs and individual ration meals for military, emergency and outdoor requirements, and have supplied the UK Ministry of Defence with pouch meals for nearly 20 years.

The cart, hot dogs, accompaniments and the staff will be fully branded by the Westlers logo. It will exhibit entirely the corporate brand of Westlers. Westlers is a well established British brand, and is renowned for quality products and service.

- HIGH STANDARDS

Westlers manufacture to the highest standards and meet a range of quality standards for both the retail and foodservice markets including EFSIS and BRC accreditations. They pride themselves in their affiliation with a number of professional bodies, where they commit to quality and high standards laid out by the following bodies:



- PERIOD OF OPERATION

With this proposal, we are looking at targeting the high season of tourism in Porthcawl, and maximising its potential. This is why we aim to have the cart open for business on Saturday 23rd May 2009 to Sunday 27th September 2009, dependent on daily weather conditions. Our preferred opening times, at this stage would be from 11am to 7pm, seven days a week.

- PRICING

Westlers hot dogs are seen as a value for money, quality food. Therefore we have decided to price our hot dogs between an affordable £2.00 to £2.50.

- OTHER INTERESTS

I have come from an event background, and organised large scale events, such as the Remax International Balloon Fiesta in Margam Park and Blizzard Funderworld in the Millennium Stadium, Cardiff. Each of these included outside catering facilities.



there will be few reservations about this but due to its small scale



I expect that proposal, and

positive outcome for the town of Porthcawl and I anticipate that these will quickly be forgotten about. Should you require more information, we would be happy to arrange a meeting with yourselves to discuss this further.

Yours Sincerely

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