

Swindon Borough Council

Licensing Committee

Tuesday, 27 October 2009

Committee Room 6, Civic Offices (Anticipated meeting room)

At 6.00 p.m.

**Conservative
Councillors**

Eric Shaw (Chair)
Andrew Bennett
(Vice-Chair)
Andy Albinson
Rex Barnett
Michael Bray
Doreen Dart
Michael Dickinson
Nick Martin
Kevin Parry
Vera Tomlinson
Steve Wakefield

**Labour
Councillors**

Maurice Fanning
Fay Howard
Robert Wright

**Liberal Democrat
Councillors**

David Wood

**Independent
Councillors**

Committee Officer: Shaun Banks (Telephone: 01793 463606)

sbanks@swindon.gov.uk

Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH
(Telephone 01793 445500)

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

3. Minutes (Pages 1 - 2)

To receive the minutes of the meeting held on 3rd July 2009.

4. Public Question Time

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

**5. Re-designation of Some Town Centre Streets for Street Trading Purposes
(Pages 3 - 18)**

6. Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area (Pages 19 - 28)

Date of Despatch: 16 October 2009

Public Question Time - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

Access Arrangements – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

LICENSING COMMITTEE

FRIDAY, 3 JULY 2009

PRESENT:- Councillors Eric Shaw (Chair), Andrew Bennett (Vice-Chair), Andy Albinson, Rex Barnett, Michael Bray, Doreen Dart, Michael Dickinson, Maurice Fanning, Nick Martin, Kevin Parry, Vera Tomlinson, Steve Wakefield and Robert Wright.

Apologies for absence were received from Councillors Fay Howard and David Wood.

15. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

16. Minutes

Resolved – That, subject to Councillor Vera Tomlinson being added to the list of attendees on 15th June 2009, the minutes of the meetings held on 22nd May, 8th June and 15th June 2009, be confirmed and signed as a correct record.

17. Public Question Time

Ms Debra Selby referred to the written submission she had made to the Committee. She expressed her desire to continue trading in the Parade, indicating that she was willing to work with the Council, and asked if any decision on these consents had been made?

The Chair responded that no decision had been made and that Street Trading in this area was to be discussed later in the meeting.

18. Re-designation of Some Town Centre streets for Street Trading Purposes

The Committee considered a report of the Head of Licensing recommending changes to the designation of some town centre streets from consent to prohibited status for the purposes of street trading.

Resolved – That consideration of this report be deferred to allow officers to provide additional information on issues raised by Members of the Committee.

19. Proposals for Reserved Use of Some Town Centre Consent Streets for Street Trading Purposes

Consideration of this report was deferred to allow officers to provide additional information on issues raised by Members of the Committee.

20. Revision of Street Trading Fees in the light of the Re-designation of some Town Centre Streets, for Street Trading Purposes

Consideration of this report was deferred to allow officers to provide additional information on issues raised by Members of the Committee.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

Author: Head of Licensing

Wards Affected: Central and Eastcott

Purpose

- To recommend changing the designation of some town centre streets from consent to prohibited status, for the purpose of street trading.
- To resolve that 'light touch' street trading authorisations should be granted to musicians who are performing under the terms of the inSwindon Street Busking and Entertainment scheme or to approved visual or performance artists, to allow them to sell examples of their own work, ancillary to their performance or their artistic activity on the street.
- To resolve that, to that end, global street trading consents should be made available to inSwindon, at no cost, to regularise sales ancillary to bookings made under the inSwindon Street Busking and Entertainment scheme, for the use of Jubilee Square.

Recommendation

Licensing Committee is asked : -

- To resolve that a policy resolution is put to full Council, as follows ~

"That the streets in the Borough of Swindon listed below, currently designated as Consent streets shall be given a new designation as Prohibited streets, that is streets where street trading is prohibited.

New Prohibited Streets

[Leaving aside the area to be known as Jubilee Square, consisting of the rectangular space at the intersection of Regent Street, The Parade, Bridge Street and Canal Walk and an area extending by three metres into Bridge Street] Canal Walk, The Parade, all of Regent Street, Regent Circus, Edgware Road, that part of Bridge Street further than three metres from the junction with Canal Walk, down as far as the junction with Fleet Street. The changes in designation to come into effect on 31st March 2009, being a date after the expiration of one month, beginning with the day after this resolution was passed"

1. Reasons

- 1.1 This proposal follows a resolution to consult on the motion printed above, agreed by Licensing Committee on 26 February 2009.

2. Detail

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

- 2.1 Licensing Committee decided on 26 February 2009 to consult on two proposals for changing the designation of town centre streets. The first of these was to create new consent streets in a ring around the core town centre shopping area. The second was to convert some existing consent streets to prohibited streets. This report is about the second of these proposals. The new consent streets came into being on 9 June 2009.
- 2.2 The draft resolution set out above has been published in a local newspaper and the statutory consultation period has expired. Established town centre traders were advised in writing of both proposals originally and some put forward written responses. Those letters were considered at a meeting of the Licensing Committee on 15 June 2009. Street traders have been notified in writing that today's meeting is taking place.
- 2.3 No decision was taken at the 15 June meeting and the matter was carried over to this meeting, to enable a further discussion.
- 2.4 We are legally required to publish a public notice before any resolution of this kind is passed. The wording of the original resolution allowed for the possibility of a new date for implementation, so the expense of a further notice has been avoided.
- 2.5 Formal notice must be given before a resolution takes effect, again by publishing in a newspaper. A final decision is for full Council. For these reasons, the 1 November 2009 date of implementation proposed in the June report has been changed to 31 March 2010. This precedes the season for ice cream trading, coincides with the end of the financial year and acknowledges that major works will start in Regent Street in early 2010.
- 2.6 Live music adds to the vitality of the street scene and in Swindon has introduced a new quality scheme to manage busking. The zone set aside for live performance is Jubilee Square and the top end of Bridge Street. With the removal of the clock, the reliance on the upper part of Bridge Street is removed. It is very common for performers to sell CDs of their own work and many rely on being able to do so, to make their visit viable. An exemption from street trading controls applies where sales are wholly applied to a charitable purpose. Provided that they are only selling their own work and are providing a spectator attraction, there is strong case for a national exemption from street trading laws. They should be treated like any other market trader if they are just selling goods.
- 2.7 Swindon Borough Council has established a very good reputation for the promotion of live music. Leaving Jubilee Square as a consent street would avoid any unintended conflict with the Street Busking and Entertainment scheme. Doing so could be allied with a policy that the discretion to provide consents in Jubilee Square should only be applied to performing artists

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

selling their own work, irrespective of the type of media involved, provided that any such sales are ancillary to their public performance in that area on that day.

- 2.8 For one week, an artist from Poland produced pictures and sold them, near the former post office in Fleming Way. He works with spray paints onto canvas. The attached photograph shows the street display. The activity was authorised through a standard street-trading permit, at normal commercial rates. The activity brightened that corner and generated a lot of interest from passers by. It seemed also to deter some of the anti-social behaviour which is a feature of that location. The experiment could be extended, developing that corner into a cultural attraction, until it is needed for regeneration.
- 2.9 Outside of London, 'street trading' means trading in goods from a moveable stall. In London, a more consistent and logical law includes the likes of NPower, Sky and the AA in the definition of street trading. In Swindon, these businesses are exempt because they are selling services, not goods.
- 2.10 Street trading controls apply to any area of land in the open air, including those not obviously "on a street" but either off the street or on land which looks like a street. The special meaning of 'street' means somewhere where members of the public are free to wander without being charged entry. It does not matter at all whether the land is privately or publicly owned. Nevertheless, the inside of e.g. a park or a car boot sale counts as a distinct, consciously entered 'place' in its own right and trading there is not 'street trading'.
- 2.11 A kiosk sited permanently on a street is classed as a shop and street trading laws do not apply. Shops sometimes have tables set up outside, as an extension of their inside sales area. They often need various permissions to do that but they do not need any form of street trading consent. Since kiosks are also shops, they can have outside displays without having to obtain a street trading consent.
- 2.12 Street trading offers no real security, so it does not provide a sound basis for investment. This is simply in the nature of street trading and is not something which can be fixed by policy resolution of the Council. An attraction of street trading is that it can provide a stepping-stone to something more permanent but a disadvantage is that it cannot be relied upon in the long term, unless it is based in a formal market setting.
- 2.13 Market stalls in a market hall or kiosks in the streets are not always offered on long term contract but at least they can be. Street trading consents are always for twelve months or less, by law.

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

- 2.14 From December 2009, a new law forbids any action whatever by a local authority which gives an advantage or preference to established traders, over new traders. For the present, it is still lawful to treat existing town centre traders as a special case but the options for doing so are effectively already closed. The implementation date originally proposed for the designation changes would have allowed preferential treatment but the new date does not.
- 2.15 As street trading consents expire, in 2010 and beyond, if there are twenty applications for one pitch the applications will have to go into a draw. Even if a trader had been on the same pitch for thirty years, they will get no 'first option' on it. For this reason alone, the relative stability which town centre traders enjoyed for around ten years will not be seen again. By law, all applicants will be offered exactly the same opportunities, whether they are established or new. Decisions will be made only on merit.
- 2.16 An application for street trading cannot be submitted unless there is planning permission for the pitch. If the planning permission will run out less than twelve months ahead, the street trading consent is cut back to the same extent.
- 2.17 All but two of the planning consents for town centre pitches expire on 31 December 2010 or earlier. Of these two, one is on private land which the owner wishes to see vacated and the other is ear-marked for imminent redevelopment. More than half of the permissions created for the now abandoned town centre kiosk project have already expired. The future of street trading in the town centre will be dictated as much by Planning policy as by any policy decisions taken by this committee.
- 2.18 With town centre regeneration a priority, new planning applications for street trading in the town centre are now judged against tougher criteria than applied in 2001. Without the grant of fresh planning consents, street trading will cease. The distinction between a 'consent' street and a 'prohibited' street means nothing in practice, if there is no planning permission for street trading.
- 2.19 Local authorities are forbidden to fix consent fees for conventional street trading at a commercial 'going rate'. The degree of control which can be exercised through the consent approach is quite limited.
- 2.20 By contrast, kiosks are normally let at market rates and lease agreements can be used to give detailed control over presentation, product offer and conduct. That is why the kiosk model is the one preferred by our major retail and development partners.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

- 2.21 The 2006 Cabinet report on kiosks in the town centre advocated a very large number of kiosks, paid for by the Council and largely destined to provide new accommodation for some existing street traders. With hindsight that scheme was far too ambitious and might have put competing small shops out of business.
- 2.22 It is unlikely that there are many places in the town centre where kiosks would be an asset. If there are going to be kiosks, it cannot be assumed that the Council will provide them, although that cannot be ruled out. There are no guarantees that if kiosks are installed anywhere, existing street traders will be offered them. In particular, kiosks are not best suited to businesses which rely on the preparation of fast food, as proper washing facilities and ventilation are not easy to install in such units.
- 2.23 There have been references to the fact that some street traders have been in the town centre for around eleven years. They were not there before that because street trading was banned. The ban was only lifted after a rash of illegal trading in the town centre from ice cream and burger vans. Had parking enforcement been a Council function then, the ban would probably still be in place today.
- 2.24 Large businesses with current and planned investments in the town centre in the order of hundreds of millions of pounds have expressed their dissatisfaction with the current street trader offer, especially the trade in hot food. Large retail multiples have expressed similar concerns but have done so through inSwindon and the New Swindon Company rather than publicly.
- 2.25 The future of large-scale retail in the town centre is not guaranteed and the health of that sector is very dependent on having the right policies in place.
- 2.26 As far as those matters within the control of the Council are concerned, car parking charges are the most important concern of town centre retailers. Street trading is a lesser issue but nevertheless an important one. It is essential for Swindon that Council policies promote business confidence in the town centre. Street traders rely on the fixed retail sector in the town centre, to draw in their customers.
- 2.27 The next area of major regeneration is set to be Union Square, encompassing the Fleming Way post office site, Carfax Street etc.
- 2.28 There are no plans to clear or redevelop either Canal Walk or Regent Street but an upgrade of those streets has been secured. The work in Canal Walk has continued through the summer of 2009 and the work in Regent Street is scheduled to start in March / April 2010. In each case, paved surfaces will be improved and accumulated street clutter will be removed. New art works

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

and decorative features will be installed and shop frontages will be transformed.

- 2.29 A brochure outlining the plans, produced by New Swindon Company, is attached as Appendix One.
- 2.30 The refurbishment of Regent Street will severely limit access, during works. When the improved, smarter Regent Street emerges, retail or promotional activity in that street will be judged against a new backdrop.
- 2.31 Planning permission for the flower seller and seasonal ice cream seller in Regent Street expires in a few days time and all remaining street trading in Regent Street itself will cease then. The planning consent for Edgeware Road lasts until 31 December 2010 but the unit there will be disrupted by the street improvements.
- 2.32 The Parade is a special case, as far as town centre pitches are concerned. It looks like an ordinary street but the area bounded by Debenhams, Toni and Guy, Peacocks etc. is private property, as shown in the map attached as Appendix Two. It is an adopted highway but that only gives the Council a limited say in the management of the area.
- 2.33 Ignis, the agent for the freeholder of The Parade, objected very strongly in writing following the recent allocation of a pitch to a doughnut stall and demanded the removal of that unit.
- 2.34 They have now expanded on their views and in particular have requested that the whole area of The Parade be re-designated as a prohibited street, as proposed by this report. They have indicated their strong support for the location of a florist's kiosk near Debenhams, replacing the existing flower stall. They have also made it known that they intend improvements to the street scene and would wish to see a coffee kiosk and street café, in the same area. Their letter is attached as Appendix Three.
- 2.35 Kiosk trading is not affected in any way by street trading policy. Planning permission already exists for the construction of two kiosks under the canopy in the area in front of Debenhams.
- 2.36 Ignis wish the doughnut seller and the ice cream vendor to leave The Parade and they have the right to require that, irrespective of any decisions of this committee. There is no mechanism for moving consents from one site to another and the EU Services Directive forbids any special arrangements to facilitate a move. If there is to be any relocation of the two traders affected, that will in general be a matter for Planning to decide. The only places with short term planning consent and consent status are New

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

Bridge Square and Wharf Green. Use of either for those particular purposes would be highly contentious

- 2.37 Responsibility for street trading legislation rests with the Licensing Committee and cannot be given to Cabinet to oversee but Cabinet can make decisions about kiosks.
- 2.38 Licensing Committee can only influence a part of the overall picture. Some of the business options for existing traders would not involve street trading at all.
- 2.39 The 2001 Order which created consent streets and prohibited streets throughout the Council area was worded in such a way that all of the surface car parks in the town centre are currently classified as consent streets rather than prohibited streets. The resolution before this committee would not change their status to prohibited streets. The way in which consent streets were defined was broad brush, whereas the prohibited streets were precisely defined. What this means is that there are more options for street trading in the town centre than were identified in previous reports to this committee.
- 2.40 Use of a surface car park space would require the usual parking payments, unless spaces were removed from the scope of the parking Orders. Doing that would not be simple. The centrally located short term car parks have a punitive charge of £38 for vehicles which are parked long term and with that as a benchmark, street trading there would be uneconomic. In practice, the average yield from a car parking space is much less than the £38 because very few people use them for long stays. Even with routine full occupancy of the car park, a parking fee based scheme could allow a mobile trader to use a single space for about the same as the current street trading consent fee, provided that the street trading fee itself was reduced to zero to compensate.
- 2.41 A new map showing the full range of consent streets which would remain if the resolution at the top of this report is adopted is attached as Appendix Four.

Risk Management

Financial and Procurement Implications

The immediate cost arising is that of placing two public advertisements in a newspaper, if a resolution is carried, to notify the re-designation of town centre streets, for street trading purposes. A figure of £400 should be set aside for that, which will be taken from an existing budget for such purposes. In the course of a full year, the

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Re-designation of some town centre streets, for street trading purposes

Licensing Committee

Date: 27 October 2009

consent fees associated with the four annual pitches and the one seasonal pitch which would be removed by this process amount to a total of £21,467. Take up of pitches created in the newly created consent streets, either by displaced traders or by new traders can be expected to balance that to some degree but it is not possible at this stage to say to what extent those opportunities will be taken up.

For 2009/10 it is anticipated that any shortfall in net income which might result from this move will be managed within the framework of the existing Licensing budget.

Legal / Human Rights Implications All of the participants in any given context have human rights. Some of those are absolute, as in the right to life but more generally rights have to be balanced, one against the other. Traders have a right to be consulted about changes which affect them and a right to protection against arbitrary interference with their business. They do not have a right to trade in perpetuity, since that would negate the right of the Council to make appropriate strategic decisions on behalf of the wider community or residents and businesses.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

This proposal relates to the 2010 Promise 35 that we will take all necessary steps to secure the regeneration of the town centre.

Consultees

- Consultees. Existing town centre street traders have been consulted on the proposal and a public notice was published in a local newspaper.

Background Papers and Appendices

- Appendix One. New Swindon Company brochure.
- Appendix Two. Map of ownership at The Parade.
- Appendix Three. Letter from Ignis, concerning the future of The Parade.
- Appendix Four. Consent streets as they would appear if the resolution is carried.



Union Square



- MUSE developments Ltd chosen as the 'selected' developer for the circa 18 acre site
- 160,000 sq m quality development including:
 - 55,000 sq m of office space
 - 450 residential units
 - Retail and leisure up to 250,000 sq m
 - 15,000 sq m hotel
- Imaginative and high quality public realm

For more information visit:
www.newswindon.co.uk/unionsquare

The Hub



- 60,000 sq m development
- Retail and leisure with a broader range of shops
- New homes over retail
- Improved public spaces, pedestrian routes and parking facilities

For more information visit:
www.newswindon.co.uk/thehub

North Star



- 85,000 sq m development
- 750 new homes - eco-friendly with excellent local amenities
- Potential for educational and leisure uses

For more information visit:
www.newswindon.co.uk/northstar



Swindon Central



- 50,000 sq m development
- Attractive new station entrance, with improved parking facilities
- Up to 400 new homes
- New and improved crossings to give better access across the town
- 15,000 sq m offices with leisure and retail interspersed through the area

For more information visit:
www.newswindon.co.uk/swindoncentral



The Campus



- 50,000 sq m development with 8,000 sq m existing industrial unit
- Potential for offices and other residential uses

For more information visit:
www.newswindon.co.uk/thecampus



The Promenade



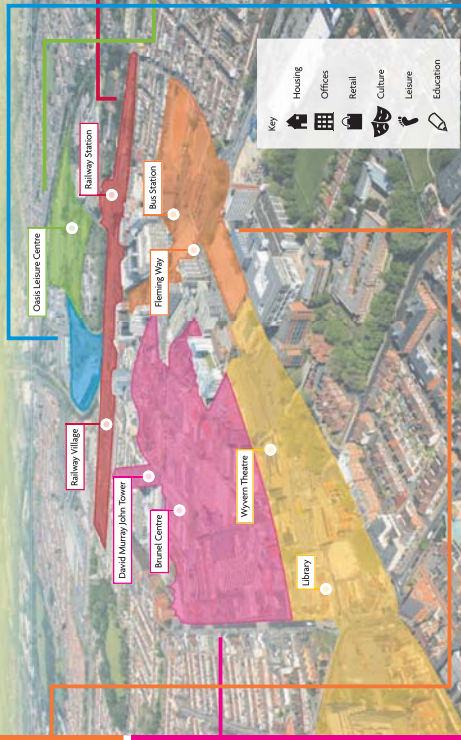
- 60,000 sq m development
- A new culture complex which includes a theatre, performance rehearsal and exhibition facilities
- New Library (completed 2008), museum and art gallery
- Complementary workspaces for new enterprise
- A diverse mix of cafés, restaurants and shops
- Ashfield Land Patridge are developing Regent Circus, a quality mixed-use scheme with a range of leisure and retail uses on the old Swindon college site

For more information visit:
www.newswindon.co.uk/thepromenade



Swindon's Brighter Future

From industrial revolution to economic hub - Swindon is building on many years as a successful business location to stay one step ahead in an ever-changing world to ensure a brighter future for itself



Public Realm

The streets, squares, parks and gardens of Swindon should reflect its ambitions to be a successful twenty-first century town and become a better place in which to live, work and spend leisure time.

Seven key areas have been identified where maximum effect can be made for the benefit that already been achieved for the town. Further improvements are planned for Canal Walk, Regent Street, The Parade, Bridge Street, Hawdock, Terrace and Wellington Street.



Wharf Green



Swindon Central



- Linking back into the past to bring life back to the railway area.

North Star



- A vibrant residential, leisure and educational area within easy reach of the town centre.

The Campus



- High quality, urban contemporary architecture for businesses and residential uses.

Changing the face of Swindon

The New Swindon Company, one of a limited number of Urban Regeneration Companies (URCs), has worked as a creative catalyst with strategic partners to drive and co-ordinate the physical, economic, social and cultural regeneration of central Swindon as a key component to achieving sustainable economic growth.

A dynamic force for change, driving and coordinating major projects, harnessing public sector powers and resources to assist the private sector in delivery and attracting new investment to the town. Committed to actively promoting the vision for a new Swindon and raising the profile of the town as an attractive destination for businesses and investment.

Regenerating the heart of Swindon

With significant investment in the regeneration of Central Swindon, The New Swindon Company and its partners will deliver a town centre which people are proud to live in, work in and visit.

The plans will deliver new premium office space, better shopping experience, greatly improved leisure facilities with a new theatre, cinema, restaurants, bars and cafes; we aim to attract a broader range of people to Swindon, all of whom will contribute to the town's development.

Contact



Peter James,
Chief Executive
pjames@newswindon.co.uk



Chris Hitchings,
Director of Development
chitchings@newswindon.co.uk



Carol Heneghan,
Director of Marketing
cheneghan@newswindon.co.uk



Nick Conder,
Project Manager
nconder@newswindon.co.uk

For more information

If you would like to know more about the Regeneration Framework, inward investment and development opportunities in Swindon then take a look at:

www.newswindon.co.uk

Or contact: The New Swindon Company, Wilshire Court, Farnaby Street, Swindon SN1 1AH
Tel: 0793 492550



Swindon's Brighter Future



June 2009

Union Square



- An exciting and vibrant business district.

The Hub

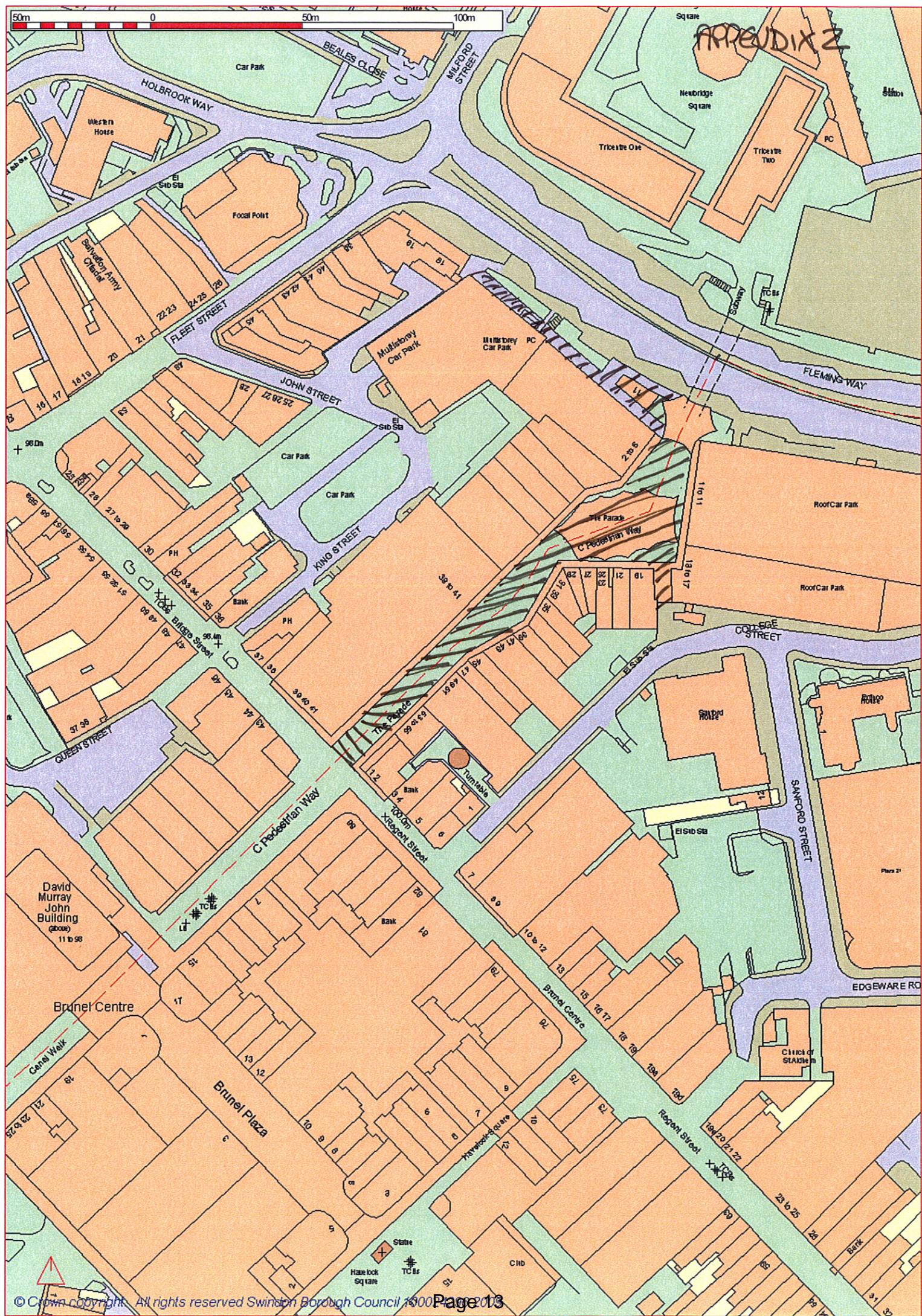


- Transforming the retail area into a lively shopping destination.

The Promenade



- Providing a new cultural quarter for Swindon.



APPENDIX 2

This page is intentionally left blank



10th September 2009

Lionel Starling
Head of Licensing
Environment, Regeneration & Community
Swindon Borough Council
Premier House
Station Road
Swindon SN1 1TZ

Dear Mr Starling,

The Parade, Swindon – Street Trading

I refer to recent discussion and communications regarding the above matter. You have advised that Swindon Borough Council's policy on street trading is under review and have sought our views in so far as the matter impacts on The Parade which is owned by our client, UK Commercial Property Trust Limited Partnership (UKCPT).

As a major investor in Swindon and ultimate owner of the land in question, we believe it is appropriate that our views and those of our tenants are considered and weighed up with those of the street traders themselves.

As you are aware, UKCPT will shortly commence a programme of substantial investment in Swindon with the redevelopment of BHS to provide a new anchor store together with six new retail units. The development will considerably improve the depth and quality of retail offer in the town centre. UKCPT have further aspirations to improve the retail environment of The Parade which is of crucial importance in terms of attracting and retaining shoppers and retailers alike.

We are encouraged that the Council Licensing Committee is considering proposals to change the street trading status of The Parade. We confirm that we are supportive of the proposal to have The Parade classified as a Prohibited Street under the Local Government (Miscellaneous Provisions) Act 1982.

As previously advised in a letter to Councillor Philip Young dated 1st May 2009, we remain extremely unhappy about the presence of the doughnut seller who has been relocated by the Council from Havelock Square.

Our view, which is shared by a good number of our retail tenants, is that the doughnut seller and ice cream trailer create a nuisance. They attract gangs of youths which hang around The Parade creating an atmosphere of tension and hostility. As a result we have had reports of retail staff and shoppers feeling intimidated in The Parade which is simply not acceptable. In addition, the visual impact of these operations creates a negative and downmarket impression which is completely at odds with the status of The Parade as one of the town's prime shopping pitches.

For these reasons, we insist that the Council take the appropriate action to remove these street traders from The Parade for the benefit of the wider community.

Telephone calls may be monitored and/or recorded for the purposes of security, internal training, accurate account operation, internal customer monitoring and to improve the quality of service.

50 Bothwell Street Glasgow G2 6HR T 0141 222 8000 F 0141 222 8300 www.ignisasset.com

Ignis Asset Management Limited, Registered in Scotland No. SC200801. Registered Office: As above. Ignis Asset Management is the trading name of the Ignis Asset Management Limited group of companies which includes the following subsidiary companies also registered in Scotland: Ignis Investment Services Limited* Reg No. SC101825, Ignis Fund Management Limited* Reg No. SC85610. *Authorised and Regulated by the Financial Services Authority. F70.10.08

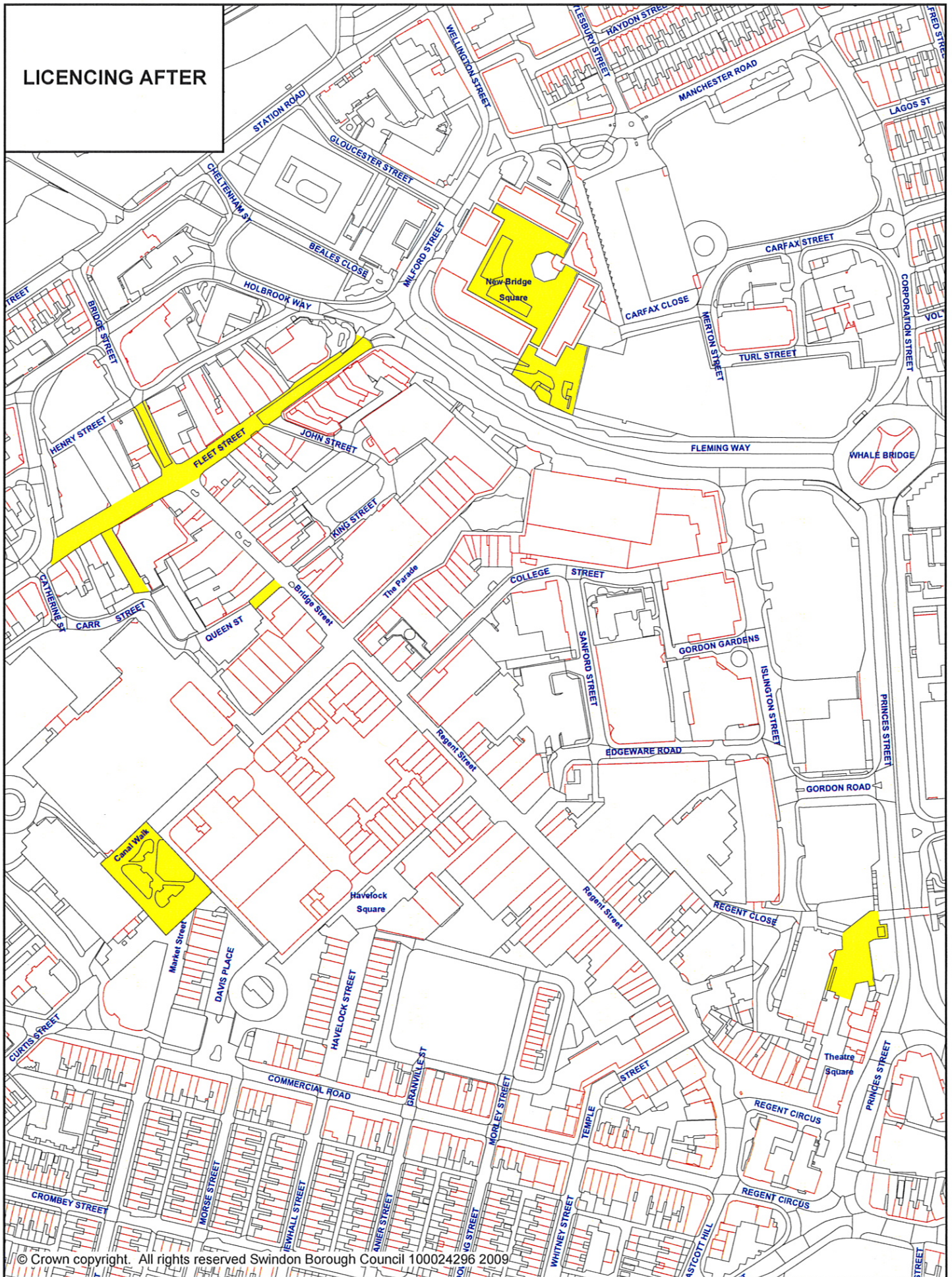
It is understood that trading from fixed kiosks and the promotion of services (media, vehicle breakdown, energy, etc) has nothing whatsoever to do with street trading and that these activities are entirely unaffected by the ongoing street trading policy discussions. UKCPT wish to see The Parade utilised in a way that will make a positive contribution to the vitality of the town centre and to that end would like to engage with the Council with the aim of introducing an aspirational coffee shop with outdoor seating. Andrew Howes' flower operation provides welcome colour and activity and we are supportive of retaining the flower offer in the form of a kiosk which we understand is not governed by the street trading legislation.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sheila Miller". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sheila Miller
Asset Manager – UKCPT

cc: Shehnaz Dolasa, Maples Teesdale
Councillor Philip Young, Swindon Borough Council
Simon Jackson, InSwindon
Chris Hitchings, New Swindon Company



This page is intentionally left blank

Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area
Licensing Committee **Date: 27 October 2009**

Author: Head of Licensing

Wards Affected: Parks

Purpose

- To consider a recommendation to implement a new Designated Public Place Order, covering land around Cavendish Square, with a proposed implementation date of 1st February 2010.

Recommendation

Licensing Committee is asked : -

- To agree that a new Designated Public Place is created, covering the areas shown on the map in Appendix One.
- To agree that signage is provided in the manner set out in the report.

1. Reasons

- 1.1 The Services to the Community Overview and Scrutiny Commission reviewed the Designated Public Place in the town centre, in November 2004. It found limitations in what such schemes are able deliver but tangible benefits overall. The police have highlighted that Cavendish Square has become a focal point for adult street drinkers who are causing problems there. Their view is that the enhanced powers made available to them by making an Order would be beneficial.

2. Detail

- 2.1 Sections 12-16 of the Police and Criminal Justice Act 2001 enable the declaration of Designated Public Places. This can be done only where the consumption of alcohol on the street and in other public places has been shown to be causing recent problems. Designation cannot be used pre-emptively. Its effect is to give police officers extra powers, in particular, to confiscate and pour away alcohol. It is not a blanket ban on alcohol consumption in public and no new offence of drinking alcohol in public is created. The police can however arrest and prosecute someone who refuses to co-operate when instructed by them to stop drinking. The arrest and prosecution sanction is of little value but confiscation has been shown to be effective and efficient.
- 2.2 There is an unhelpful and incorrect public perception, often promulgated by the media, that designation means an 'alcohol ban'. In reality, designation only addresses alcohol consumption where it is a problem. It does not ban

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area
Licensing Committee **Date: 27 October 2009**

picnics or offer a mechanism for opposition to the consumption of alcohol from a principled or religious perspective.

- 2.3 The additional police powers cannot be used to prevent families having some wine with a picnic or to intervene if customers gather outside a pub with their pints of beer, to watch a carnival procession pass. The powers are to remedy anti-social behaviour, often where the drinker has an alcohol dependency.
- 2.4 Designated Public Places are irrelevant when young people are drinking in public. If someone under 18 years of age is consuming alcohol in a public place, the 'extra' police powers are already universally available. The whole of Swindon is effectively a 'designated area' as far as under-aged drinkers are concerned.
- 2.5 The universal powers go further than that. If a group of drinkers anywhere includes people under 18, alcohol can be seized from those over 18 provided there is a reasonable presumption that those under 18 will be able to access the alcohol.
- 2.6 Designated Public Place Orders do not remove the need for effective social, medical and counselling facilities for street drinkers.
- 2.7 The attached letter from the Police (attached as Appendix One) summarises their argument for enforcement powers in the Cavendish Square area.
- 2.8 Designation is permissible for any public place where a local authority is "satisfied that a). nuisance or annoyance to the public or a section of the public or b). disorder have been associated with the consumption of alcohol in that place". [Section 13, Criminal Justice and Police Act 2001.]
- 2.9 The letter from the Police appears to bear out the qualification requirements. The evidence points to adult drinkers creating problems for the community.
- 2.10 Unfortunately, the signage associated with an Order adds to street clutter and tends to stigmatise, rather than reducing feelings of insecurity. No quantity of signage, however large, could ever provide a watertight assurance that 'enough' has been done. This is despite the fact that no signage at all is displayed, where children are subject to arrest using identical powers.
- 2.11 Confiscation is carried out by a Police Officer or a Police Community Support Officer and they will explain their powers when doing so. Signage only underlines the message.
- 2.12 A letter from the Home Office sent at the launch of the legislation in 2001 expressed views on the use and implementation of Designated Public

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area
Licensing Committee **Date: 27 October 2009**

Places. The letter was not a Circular and its advice is not binding. Since then, the more substantial Dispersal Order powers have been brought in, without any significant signage requirement.

- 2.13 Inexpensive signage is quickly degraded by vandalism and the weather and starts to look untidy. It is also noticed less. It is proposed that a few, high quality signs only should be made available and that these should convey a positive message of reassurance rather than sounding a note of alarm. Initial purchase costs will be contained, although there will be ongoing maintenance costs.
- 2.14 Implementation of a Designated Public Place would require prior consultation with the holders in that area of licences for the sale of alcohol. Owners or occupiers of land within the proposed designated area also have a right to comment on the proposal. The statutory consultation period is 28 days. A public notice setting out the plan and its effect must be published in a local newspaper at the start of the process and a further public notice must be published after the decision to designate has been made but before the designation comes into effect.
- 2.15 The Police have proposed an area for designation, based on their experience. A copy of that plan is attached as Appendix Two.
- 2.16 It is proposed that if there are no adverse comments on this proposal, the final resolution will be put directly to the next available meeting of full Council. If adverse representations are received, a further meeting of the Licensing Committee would be convened to consider them.
- 2.17 The Licensing Committee has previously said that as the additional powers are a proportionate response to anti-social behaviour, they should either apply universally or local authorities should have the option to apply them to the whole of their borough. This view has been put to government but has been rejected. The government position on this matter is stated in the letter dated 15 January 2008 at Appendix Three.
- 2.18 Community perceptions can create practical problems for the Police. Many people in the community want and expect a 'drinking ban'. There is a mismatch between their expectation and the purpose of the legislation, so the Police are liable to be criticised for not going far enough, when they are in fact acting quite properly.

<p>Risk Management</p> <p><i>Financial and Procurement Implications</i></p> <p>The creation of a new Designated Public Place would have various financial</p>
--

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area
Licensing Committee **Date: 27 October 2009**

consequences. The necessary public consultation entails writing letters or sending e-mails to two public bodies and around six traders. The costs of consultation, advertising and signage can be contained within the cash limited budget for the service area. Community Safety Partnership funds have been identified for the provision of and fixing of signage, within the existing budget.

Legal / Human Rights Implications Provided that police officers exercise their additional powers only in situations where the drinking of alcohol in public is making others feel uncomfortable or where public order is put at risk, the powers available are reasonable and proportionate. If police officers were to interpret the powers as a 'drinking ban' it might be necessary to review the designation.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

The designation of Designated Public Places relates particularly to the LAA outcome of reducing crime and the fear of crime.

Consultees

- It is proposed that active consultation (other than by the public notice in a newspaper) is limited to the statutory consultees.

Background Papers and Appendices

- Services to the Community Overview and Scrutiny Commission: Alcohol Designated Zone Review November 2004.
- Appendix One. Letter from the police concerning the Cavendish Square area.
- Appendix Two. Plan of the proposed designated area.
- Appendix Three. Letter from Vernon Coaker MP Parliamentary Under Secretary of State at the Home Office.

For the attention of:-

Cheri WRIGHT
ASB Team
Swindon Borough Council
Swindon
Wiltshire

Swindon Police Station
Gablecross
Shrivenham Road
South Marston
Swindon
Wiltshire SN3 4RB
Telephone: 0845 408 7000
Ext:
Direct Dial:
Facsimile: 01793 507892
DX: 132780

Date 27/08/2009

Your ref

Our ref

Reply contact name is **PC 1529 Matt BARNETT, Parks and Walcot NPT, Swindon**

Dear Cheri

SUBJECT:- DPPO for Cavendish Square, Park South And St Johns Church Park North, Swindon

Overview and Incidents

Parks and Walcot NPT have identified that there are concerning Anti Social Behaviour issues around the area of Cavendish Square and the car park area of St Johns Church, Park North which is situated opposite.

We have identified along with our community partners and local residents and shop keepers that the main cause of the anti social behaviour seems to be fuelled by a rise in the on street consumption of alcohol.

At present persons can sit directly in the main shopping area and drink alcohol and the Police have no powers to remove the alcohol unless they are under the age of eighteen years old.

In recent months we have seen a rise in street drinkers coming in from the town centre area of Swindon where there are already a number of successful DPPO's in place.

In the last three months we have had at least 12 police logs that relate to street drinking and they have included reports of hoax telephone calls, intimidating youths, persons with aggressive dogs making threats, alcohol related thefts and general swearing and shouting.

We have increased foot patrols in the area but without the power to remove alcohol from the offending persons we are not currently having the required impact on the area.



INVESTOR IN PEOPLE

Community Impact

Cavendish Square is situated within a residential area and is immediately surrounded by a new housing development, a church and a local primary school.

Recently Cavendish Square has been subjected to a major redevelopment scheme and has seen significant investment in the area. This has led to a new shopping centre and housing estate being developed alongside each other. This has been a huge benefit for the local community and has made the area a much more desirable place to visit as a result. However the street drinkers have remained and are bringing the new development down as a result. More significantly they are having an impact on the developer's attempts to bring in new business to try and fill the last remaining unit.

If the street drinkers are not removed from the area then it is highly likely that the last unit will not be developed and this will leave the area looking tatty and unfinished. The centre will descend back into the old cycle of petit anti social behaviour and all the local businesses will suffer as a result of this.

As well as this Cavendish Square has one of the main bus routes into the area and some of the only phone boxes in the immediate area as well. Unfortunately this is exactly where the drinkers choose to congregate, this makes for an extremely intimidating atmosphere for anyone coming into the area by bus or anyone wishing to use the phone box.

We have had it reported to us that the drinkers are a problem through community meetings, being stopped in the street by local residents and through conversations with local shops. The problem has been getting people to come forward and give us the information as they have stated to us that they are scared of the drinkers.

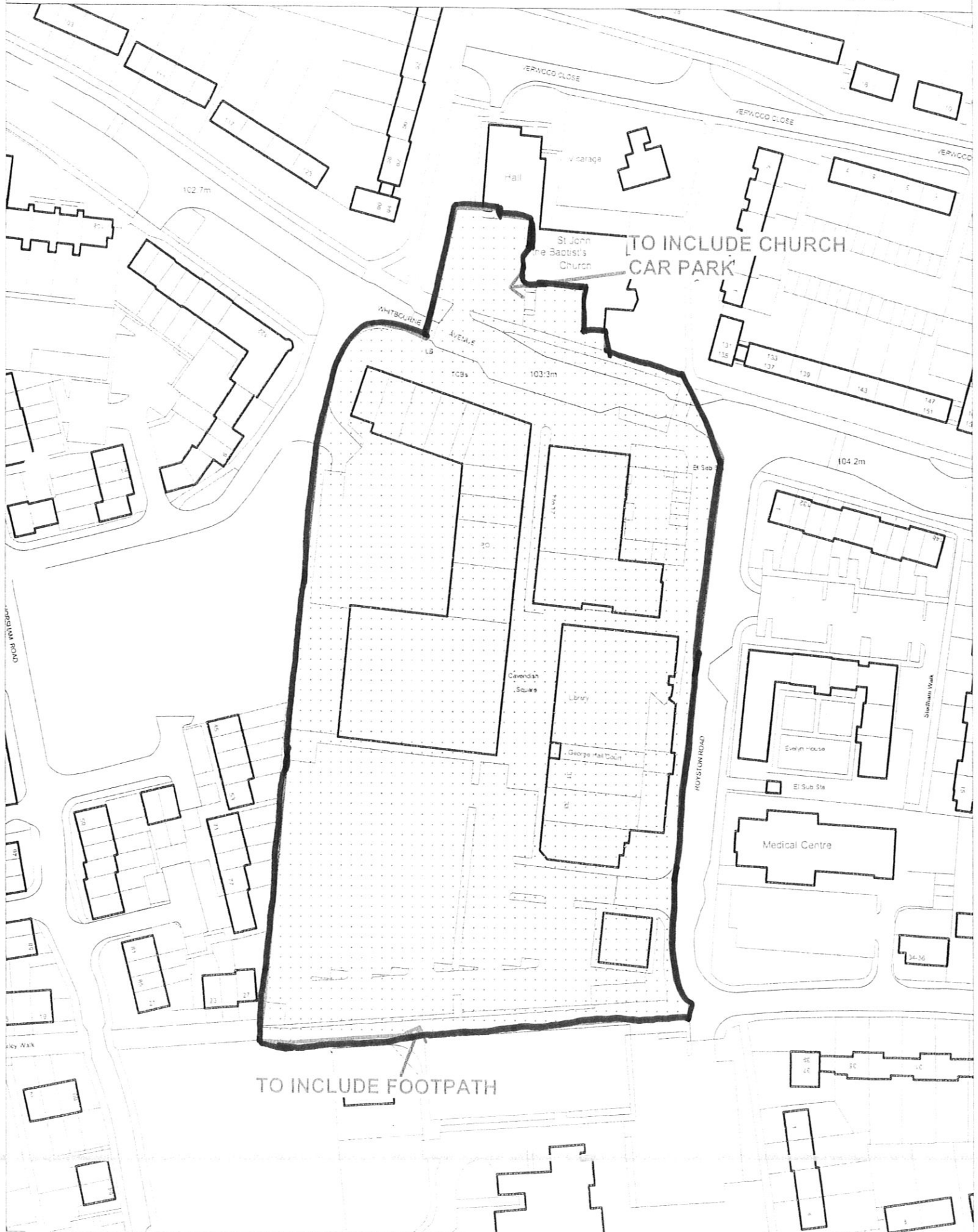
What also needs to be taken in to account is the car park area of the church opposite which is also regularly used by the street drinkers due to its low wall. A lot of the time if the drinkers are moved on they will cross the road and sit on this wall and continue drinking. The church is a regular meeting point for a number of local community groups and only adds to the fact that this area is a major central hub of the community.

In the last three months we are getting on average 4 -5 reports a month directly related to street drinking, again because of the fact a lot of the community are intimidated by the drinkers I believe there are a lot of incidents going unreported at this time.

We have increased foot patrols in this area and tried to make ourselves more visible by locating ourselves in a local charity shop as a makeshift police point however our ability to patrol the area is limited by staffing and does not solve the problem long term. We need to send the message out that this will not be tolerated and in order to do this we need the power to remove alcohol from people in the area that are causing problems for the local residents.

Solution

Please find attached a map covering the area where we would like the DPPO to cover.



This page is intentionally left blank



RECEIVED 17 JAN 2008

APPENDIX 3

Vernon Coaker MP
PARLIAMENTARY UNDER SECRETARY OF STATE
2 Marsham Street, London SW1P 4DF
www.homeoffice.gov.uk

Anne Snelgrove MP
House of Commons
London
SW1A 0AA

15 JAN 2008

Our reference: M317/8
Your reference: SJB/STAR01009/0108004

Dear Anne,

Thank you for your letter of 4 January 2008 on behalf of Mr Lionel Starling, Licensing Manager at Swindon Borough Council, Premier House, Station Rd, Swindon SN1 1TZ about Designated Public Places. Mr Starling also wrote to Michael Wills MP on the same issue and a response was sent to him on the 7th January.

Let me say first of all that the Government have no plans to amend the legislation in the way Mr Starling suggests. Whilst there are undoubtedly individuals who cause problems for their community, the vast majority of people consume alcohol responsibly.

Designated Public Place Orders (DPPOs) were introduced in order to provide local authorities with the power to designate a public area that has experienced alcohol-related disorder or nuisance. These are sometimes referred to incorrectly as 'alcohol free zones'. In order for an area to be designated with a DPPO, the local authority has to be satisfied that nuisance or annoyance to members of the public has been associated with consumption of alcohol in this place (Section 13 (2) of the Criminal Justice and Police Act 2001). This is a necessary step as in the absence of alcohol related anti-social behaviour/disorder it would be disproportionate to introduce a DPPO.

Within a DPPO area it is not an offence to consume alcohol. The offence is committed when a person, without reasonable excuse, fails to comply with a

requirement of a police constable to refrain from consuming alcohol (Section 12 (4) of the Criminal Justice and Police Act 2001). Once an area has been designated as a DPPO area then the police do have absolute discretion to request that any person (regardless of behaviour) desists from consuming alcohol.

The creation of designated areas may well lead to anti-social drinking or nuisance being displaced into areas that have not been designated for this purpose. Prior to making an area designated, local authorities should make assessment of all the areas to where they reasonably believe that the nuisance or disorder will be displaced, ensuring that all those affected by the designation are appropriately consulted.

With regards to Mr Starling's comments about signage, signage is necessary to inform the public in that place the effect of the order. The number of signs required is for the local authority to decide based on the situation in their particular area. I appreciate that it is often challenging to estimate how many signs would be 'reasonable' or 'sufficient', but each local authority needs to make this decision based on factors for example; the size of the area designated.

The police and local authorities have a wide range of tools and powers to address disorder. These can range from individual interventions such as Acceptable Behaviour Contracts and Anti-social Behaviour Orders, or area based interventions to stop disorder occurring in specific locations, including Dispersal Orders. At the lower level, the police can deal with offences by using penalty notices for disorder. These can be used for public order offences – such as behaviour likely to cause harassment, alarm or distress or disorderly behaviour including offences of drunkenness in public.

Yours ever,

Vernon

VERNON COAKER