

# Swindon Borough Council

## Licensing Committee

**Monday, 1 March 2010**

Committee Room 1, Civic Offices (Anticipated meeting room)

**At 5.15 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

**Labour  
Councillors**

Maurice Fanning  
Fay Howard  
Robert Wright

**Liberal Democrat  
Councillors**

David Wood

**Independent  
Councillors**

Steve Wakefield

**Committee Officer:** Shaun Banks (Telephone: 01793 463606)

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## **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 27<sup>th</sup> October 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. Revision of Street Trading Fees (Pages 3 - 8)**

**Date of Despatch:** 18 February 2010

**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

TUESDAY, 27 OCTOBER 2009

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

Apologies for absence were received from Councillors Michael Bray.

### **21. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. Councillor Bob Wright made a non prejudicial declaration of interest in respect of Agenda Item No. 5 in his capacity as a Central Ward Councillor and his involvement in discussions with traders and other persons regarding the proposals set out in the report.

### **22. Minutes**

Resolved – That the minutes of the meeting held on 3<sup>rd</sup> July 2009, be confirmed and signed.

### **23. Public Question Time**

No public questions were received during the meeting.

### **24. Re-designation of Some Town Centre Streets for Street Trading Purposes**

The Committee considered (a) a presentation by planning officers regarding the town centre redevelopment, and (b) a report of the Council's Licensing Officer on the proposed re-designation of some town centre streets from consent streets to prohibited streets for the purpose of street trading.

Resolved – (1) That, subject to the concurrence of the Council:  
(a) Canal Walk, The Parade, all of Regent Street, Regent Circus, Edgeware 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 which are currently designated as consent streets shall be given a new designation as prohibited streets, that is streets where street trading is prohibited, with effect from 31st March 2010; and  
(b) the area known as Jubilee Square shall currently be retained as a consent street in order to enable a global street trading consent to be granted to inSwindon, which for the time being identifies Jubilee Square as an entertainment zone, solely for the purpose of regularising the sale of goods ancillary to bookings made with them under the Street Busking and Entertainment Scheme.

(2) That, further to (1)(a) above, musicians performing under the inSwindon Street Busking and Entertainment Scheme, or visual and performance artists who are officially sanctioned, shall be allowed to sell examples of their own work, ancillary to their artistic activity on the street, while being subject only to a 'light touch' interpretation of street trading authorisation requirements.

(3) That the Head of Licensing be instructed to write to Swindon's two local Members of Parliament, to seek support in equalising the street trading legislation in Swindon with the provisions of the London Local Authorities Act, in order that street promotions can be regulated on the same basis as street trading in goods.

**25. Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area**

The Committee considered a report of the Council's Licensing Manager setting out a recommendation to implement a new Designated Public Place Order covering public land at Cavendish Square, Swindon, and the surrounding area.

Resolved – (1) That, a Designated Public Place Order covering public land at Cavendish Square and the surrounding area identified on map appended to the Council's Licensing Manager's report be approved.

(2) That, further to (1) above, and subject to no responses being received during the advertisement period, Council be recommended to confirm the Designated Public Place Orders covering public land at Cavendish Square and the surrounding area.

(3) That should any objections be received they be considered by this Committee.

(4) That the proposals for signage for the Designated Public Place Order, as set out in the report of the Council's Licensing Manager, be approved.

**Revision of street trading fees in the light of the re-designation of some town centre streets, for street trading purposes**

**Licensing Committee**

**Date: 1 March 2010**

**Author: Head of Licensing**

**Wards Affected: All**

**Purpose**

- To recommend modifications to the fees charged for street trading, in the light of recent changes in the designation of some town centre streets, for the purpose of street trading.

**Recommendation**

Licensing Committee is asked : -

- To resolve that the fee changes as set out in Appendix One are put as a recommendation to full Council.

**1. Reasons**

- 1.1 This resolution stems from the decision to create new consent streets in the town centre, with effect from 31 March 2010.

**2. Detail**

- 2.1 Licensing Committee resolved on 9 December 2008 to adopt a new scale of fees for street trading. When it did so, the new pattern of consent streets in the town centre had not been considered or acted upon. Current fees do not properly reflect the new town centre locations.
- 2.2 When setting fee levels for a trading consent, local authorities are allowed to take into account “the street in which it authorises trading” and “the descriptions of articles in which the holder is permitted to trade”. This implies that factors such as pressures of space, pedestrian traffic levels and potential conflict between uses are relevant. That ought to be the case because the more complicated the situation, the greater the cost to the local authority of the administrative burden.
- 2.3 When the most recent revision of town centre trading fees was adopted, the trading pitches to which they referred were in sensitive locations in the core pedestrianised streets such as Regent Street and The Parade. At the time those were the only consent streets available. The new consent streets around the periphery are quite different in nature. The potentially contentious factors are scaled back, compared with trading pitches within the retail core. It is appropriate to apply lower fees to those streets at the margin, as regulation presents fewer challenges and will require less time.

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

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**Licensing Committee**

**Date: 1 March 2010**

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- 2.4 The annual fee now for a daily hot food trader in the town centre core is £5000. Where the trade is in general goods, fruit and vegetables etc. the fee is set at the lower level of £4300. In the suburban areas of Swindon, there is one fee for hot food traders and general traders alike, currently set at £2200.
- 2.5 It is proposed that the annual fee applied to the newly designated consent streets in the town centre (and to the existing consent streets at the margin, i.e. New Bridge Square and Wharf Green) should be set at £2200, to bring it in line with the suburban fee but that a higher fee of £3000 should apply to hot food traders in those locations, reflecting the additional regulatory burden. As an illustration of that additional burden, fast food poses greater challenges over the control of litter and neighbouring occupiers may experience smell nuisance from the cooking activity.
- 2.6 The existing fees for the core will cease to be relevant, when those streets become prohibited streets.
- 2.7 The fee scale for traditional market stalls in November 2008 was higher for the town centre and weekend trading. There is a clear logic for those differences but it is open to local authorities to moderate fees to promote community objectives, provided that the changes do not result in revenue-raising. The weekday daily rate was set at £20 in the town centre, £15 elsewhere. In each case, a premium of £5 was added for Saturdays, reflecting higher staff costs. It is proposed however that a simple, single day rate of £15 is introduced across the borough.
- 2.8 Traditional market stalls which are charged at the annual rate or its quarterly or monthly equivalent will pay around £7 a day if they trade six days a week. To bridge the gap between this and short term trading, as well as to encourage new business initiatives, it is proposed that for the first ten days that a particular trader uses a particular pitch, a daily rate of £10 will be applied.
- 2.9 In order to provide clarity over what constitutes a 'pitch' it is proposed that the above fees should relate to a notional square of side 5 metres and that for general merchandise and cold food, a 50% reduction should be made for a pitch which fits inside a square of side 2.5 metres. Small catering operations present if anything more regulatory challenges than larger, more sophisticated units, so they do not merit a 'half pitch' rate
- 2.10 There are no traders in the newly designated consent streets at the moment and only 'one off' trade in Wharf Green associated with events, so no basis for a consultation exercise with anyone directly affected.

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- 2.11 It might have been expected that the economic recession would have the effect of generating new proposals to operate market stalls. Anecdotal evidence suggests that actually the sector is shrinking nationally, rather than expanding. There are many social benefits associated with traditional street markets and it is the policy of the Council to encourage them.
- 2.12 One of the obstacles to trade is the requirement to obtain planning permission. There are many areas where market stalls would be desirable but in each case an application would be needed, at a fee cost of £335. Since it is a corporate objective to encourage traditional market stalls across Swindon, it is proposed that subject to the discretion of the Head of Regulatory Services, street trading consent fees may be waived as appropriate, subject to a ceiling of £300 and a trading period of no more than ten weeks from the first day of trading with the benefit of planning permission.
- 2.13 It is not proposed that any such discretion should be applied to fast food traders. Such traders are authorised by the Council but not in furtherance of any corporate objective.
- 2.14 It is recommended that fee levels for market traders should be kept under review in the light of the corporate aim to attract more street market trading.
- 2.15 The Local Government (Miscellaneous Provisions) Act 1982 contains the provisions for setting fees, specifically for street trading consents. The framework set out there is very similar to that found in the Provision of Services Regulations 2009, which operate across a wide range of authorisations and statutes.
- 2.16 Amongst other considerations, the Council must not set fees with the intention of deterring applications. The broad principle is cost recovery, as opposed to revenue earning. Fees were set previously within parameters which are consistent with the new regulations.

### **Risk Management**

#### *Financial and Procurement Implications*

The impact of these proposals is almost exclusively on areas where street trading could take place in the future but is not taking place at the moment. Any projections for the possible impact of these proposals on revenue would be speculative.

*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

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rights have to be balanced, one against the other. The Council has a right 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. None

### **Background Papers and Appendices**

- Appendix One. Street trading consent fee structure, amended to incorporate the changes proposed in this report.



# **Revision of street trading fees in the light of the re-designation of some town centre streets, for street trading purposes**

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## **Appendix One**

### **Street trading consent fees**

**Annual town centre fee for all consent streets, with immediate effect, other than for those central streets which lose their consent status on 31 March 2010 [which continue at their existing rates]**

Hot food /catering £3000    General merchandise / non-catering cold foods £2200

### **All other streets in Swindon, annual fee as existing**

£2200 irrespective of product range

### **Market stalls, irrespective of location, with immediate effect**

Standard daily fee £15, however the first ten days booked by a particular operator for a particular pitch will attract a discount daily fee of £10.

In each case a pitch is defined as a table, stall, trailer etc. together with any floor based display which will fit inside a notional square of side 5 metres. Any pitch (defined in the same terms) selling general merchandise or cold food which will fit within a notional square of side 2.5 metres will be counted as half a pitch and each of the fees set out above will be reduced in those cases by 50%. Stalls selling hot food do not qualify for the half pitch reduction.

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