

# **Report concerning proposals for reserved use of some town centre consent streets, for street trading purposes**

**Licensing Committee**

**Date: 7 July 2009**

**Author: Head of Licensing**

**Wards Affected: Central and Eastcott**

## **Purpose**

- To recommend a modification of the policy for street trading in the town centre, to limit the scope of authorised street trading uses in some areas.

## **Recommendation**

Licensing Committee is asked : -

- To resolve that Wharf Green is reserved for a 'farmers' markets' (stalls directly linked to regional growers and producers, to distribute their farm produce); b. 'continental markets (travelling markets which act as outlets for products characteristic of a particular country and sourced there); c. stalls of whatever description which are present as part of an event (e.g. the Christmas lights switch on or Wimbledon fortnight).
- To resolve that those parts of the existing street trading policy which seek to restrict fast food /hot food businesses in the town centre should be set aside in the case of the old post office site at Fleming Way.

## **1. Reasons**

- 1.1 The existing street trading policy makes specific mention of the town centre but was agreed at a time when consent streets were concentrated in a very small area, with little differentiation. The new and emerging pattern of consent streets includes a more diverse range of locations, each with a different character. Rather than having a uniform 'town centre policy' it makes sense to refine the policy so that it reflects some of those differences.

## **2. Detail**

- 2.1 New consent streets came into being on 9 June 2009 and since the existing street trading policy refers generically to the 'town centre' those areas are at the moment still subject to those parts of the policy.
- 2.2 There are two town centre consent streets which have distinct features and which merit their own particular use policy. These are Wharf Green and Fleming Way.

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- 2.3 Setting aside town and city centre sites for particular purposes is common practice. Gloucester and Oxford specify particular uses for city centre trading pitches.
- 2.4 Planning permission is needed before an application for street trading can be made. For an applicant, this means a non-refundable outlay of around £400. It is undesirable that a trader should make such a financial commitment, if they are unlikely to obtain a street trading consent for their particular proposal. Any location specific considerations should be made explicit.
- 2.5 Wharf Green has been substantially remodelled, at a cost of £2.5 million. It received a Green Flag commendation for environmental improvement. It functions as something of a show-case for Swindon and in Swindon are the first point of contact with the invited commercial users. A formalisation of the street trading policy for Wharf Green would bring that policy into line with the expectations for the use of that space.
- 2.6 The land in front of the old post office site in Fleming Way adjoins an area which has been cleared in anticipation of major redevelopment works. It enjoys a temporary 'vacant' status and does not suffer from conflicts of use. Short-term use of that space is desirable and street trading could fill that void. The only other development in the vicinity is the Tri-Centre. Fast food trading may not be the ideal use for the site but the area has been plagued by drug dealers and street drinkers in the past and a strategically located fast food van could help to prevent their return. There are good reasons for rejecting hot food trading in the core of the town centre but this location offers a possible alternative location for use of that kind.
- 2.7 Street trading consents cannot be issued for more than twelve months at a time, so flexibility can be maintained, in the light of any development plans.
- 2.8 The UK draft regulations for the implementation of the EU Services Directive set out the considerations which can be applied when deciding which of potential traders should be allocated a consent. The Act regulating street trading is cast in very general terms and gives local authorities a wide discretion. For the first time, the Services Regulations will give some statutory shape to the exercise of that discretion.
- 2.9 When deciding which applicant should be granted a consent, a local authority can take into account a). considerations of public health, b). social policy objectives, c). the health and safety of employees or self-employed persons, d). the protection of the environment, e). the preservation of cultural heritage, f). other overriding reasons relating to the public interest.
- 2.10 The limitations proposed above are compatible with these principles.

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2.11 No specific policy changes are proposed for Fleet Street, Queen Street, the alley alongside the Mailcoach, Fleming Way, Theatre Square, the section of Bridge Street alongside Walkabout or for New Bridge Square.

2.12 All existing town centre street traders have been consulted on the proposals set out in this report.

### **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 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.

*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 street traders were consulted and a public notice was published in a local newspaper.

### **Background Papers and Appendices**

- Appendix One. Prohibited streets as proposed (New Bridge Square and Wharf Green are unaffected by this proposal and it is intended that they should continue as consent streets).
- Appendix Two. Comments from Mr & Mrs Carchedi.

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- Appendix Three. Comments from Mr & Mrs Brett.