



<u>Committee and Date</u>
Strategic Licensing Committee
29 September 2010

<u>Item</u>
7
Public

STREET TRADING – AMENDMENT TO CONSENT STREETS IN OSWESTRY

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Summary

On 1st April 2009 Shropshire Council took on the street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982 that had been adopted by the five former District/Borough Councils. Previously Oswestry Borough Council resolved that Bailey Street and New Street Oswestry should be consent streets and have issued up to ten consents for trading in these streets.

Oswestry Town Council has requested that Shropshire Council no longer grants consents for Bailey Street and New Street Oswestry as they consider that street trading in these streets constitute a rival market in direct conflict with the town market and the Town Council's Market Charter.

Recommendations

That the Committee:

- A. Pursuant to Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 approve a policy that no consents for Bailey Street and New Street, Oswestry are issued, other than consent may be given for the following in accordance with delegated powers, and for such other exceptional purposes as may be considered appropriate:
- Oswestry Food And Drink Festival
 - Charitable or similar non-profit making associations

REPORT

1. The powers to control street trading are adoptive by the District, Borough or Unitary Councils for their particular areas. Where a local authority has adopted those powers, it can then determine which streets if any, within its area are to be designated as consent, licence or prohibited streets.

2. It is illegal to trade in those streets designated as prohibited streets, without a consent (from the local authority) in those streets designated as consent streets, or without a licence (from the local authority) in those streets designated as licence streets.
3. As of 1st April 2009, Shropshire Council automatically took on the street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982 that had been adopted by Oswestry Borough Council. The consent streets in Oswestry are specified in Appendix 1.
4. Previously Oswestry Borough Council entered into an agreement with Oswestry Town Council to trial up to ten street trading pitches on Bailey Street and New Street Oswestry in an attempt to extend the attractiveness of the Town Market held at Bailey Head.
5. Oswestry Town Council has reached the view that the trial has not been successful and is in fact detracting from the Town Market. In addition as the Town Council is no longer promoting or operating these pitches they consider that the concourse of sellers that has been created on Bailey Street and New Street is operating in direct conflict with the Town Market and the Town Council's Market Rights. As a result the Town Council has requested that street trading on Bailey Street and New Street ceases.
6. Bailey Street and New Street are consent streets and Shropshire Council regulates 10 pitches. Of these street trading consents are currently granted for seven. Shropshire Council has no duty to grant consent and there is no automatic right of appeal. There remains however the opportunity for complaint to the ombudsman or judicial review. Therefore it is appropriate that Shropshire Council follow due process in making any changes.
7. A number of the street traders previously traded at the Town Market, moved onto Bailey Street for the trial and have remained. They pay a fee to Shropshire Council for the consent which meets the administrative costs involved. The fee for a pitch at the Town Market is slightly more than for street trading but in return market traders receive free car parking, refuse collection and promotions.
8. The Town Council wish the street traders to relocate onto the Town Market and to facilitate and encourage this is willing to enter into an arrangement with any street trader for an introductory rent period. They can also offer stalls for traders use.
9. Consideration has been given to amending the Oswestry resolution to make Bailey Street and New Street prohibited streets where trading is not permitted, however the Town Council still wishes the streets to be used for special occasions such as Oswestry Food and Drink Festival and therefore resolving not to issue consents except for specific or exceptional purposes is considered an appropriate way forward subject to consultation.

10. Following the decision of the Strategic Licensing Committee on 16 June 2010 a consultation exercise has been undertaken with businesses, including market stalls, on Bailey Street, Bailey Head and New Street, together with other potentially interested parties such as Oswestry Town Council, the Chamber of Trade and Shropshire Fire and Rescue Service.
11. A total of 37 responses were received, of which 24 were in the form of standard letters that had been signed by various market stall holders. Four were supportive, or broadly supportive of the consent pitches continuing as at present, although the Chamber of Commerce suggested that they should be involved in selecting the types of businesses that should be allowed to trade from these pitches. The remaining 33 were against the continuation of the current approach, with one against the use of the consent pitches for any purpose.
12. Many of the responses suggested that there had been a reduction in 'footfall' in Bailey Head since stalls were located on the consent pitches, with a conclusion being drawn that the stalls were not acting as a conduit to the established market. Particular reference was made to some consent stalls selling the same, or similar goods, to established market traders and the detrimental effect that this had.
13. All 37 representations are located in the Members Library for the perusal of the Committee.
14. The clear majority view of the businesses that responded to the consultation exercise was that trader use of the consent pitches should be restricted to special events.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Local Government (Miscellaneous Provisions) Act 1982 s. 3 and Schedule 4;

Human Rights Act Appraisal

The recommendations contained in this report are compatible with the provisions of the Human Rights act 1998.

Environmental Appraisal N/A

Risk Management Appraisal

Failure to address this issue may lead to legal proceedings being taken by Oswestry Town Council for infringement of their market rights.

Removing street trading on Bailey Street and New Street will displace seven traders who unless accommodated elsewhere may go out of business. This could be mitigated by the Town Councils wish to accommodate the traders on the Town Market.

Community / Consultations Appraisal

This Report results from a specific request, from Oswestry Town Council to cease granting consents for street trading on Bailey Street and New Street.

A consultation exercise was undertaken in early September 2010 whereby traders on Bailey Street, New Street and Bailey Head, and other potentially interested parties, were contacted by letter and asked for their views.

Cabinet Member: Cllr Mike Owen

Local Members: Cllr Martin Bennett, Cllr Bill Benyon, Cllr Vince Hunt, Cllr Keith Barrow.

Appendix 1. Consent Streets In Oswestry.

Appendix 1

CONSENT STREETS IN OSWESTRY.

- i) The car park and lay-by adjacent to Offas Dyke on the B4579 at Craignant.
- ii) The lay-by and access road running parallel with the B5070 adjacent to Tradsfield House, Nefod Lane and the Glerid roundabout on the A5.
- iii) All areas of land, including designated car parks forming part of the North and South commons at the Old Oswestry Racecourse, off the B4580.
- iv) The lay-by and access road running parallel with the A495 between the Green, The Elms and its junction with Drenewydd.
- v) The area known as The Cliffe within the Borough of Oswestry at Ruyton-X1-Towns.
- vi) The two lay-bys on the North and South sides respectively of the B4396 between its junction with the B4397 and Knockin Hall.
- vii) The whole of the lay-by on the Crew Green to Molverley road immediately to the north-east of the River Severn crossing.
- viii) The following roads and streets within the borough of Oswestry:-
 - All A and B class roads (including trunk roads).
 - All streets within the specified area of the Town of Oswestry.
- ix) The area within 100 metres of a school premises is a consent street.