

WAVERLEY BOROUGH COUNCIL
LICENSING & REGULATORY COMMITTEE
19 MARCH 2015

Title:

WAVERLEY BOROUGH COUNCIL – DESIGNATED STREETS REVIEW

[Portfolio Holder: Donal O’Neill]
[Wards Affected: All]

Summary and purpose:

As part of last autumn’s Street Trading Policy consultation, views were sought on whether the existing street designations should be amended in any way. At the Licensing & Regulatory Committee of 18 September these responses were reviewed and officers were requested to instigate a separate process (as the determination of designated streets is not part of the Policy review process).

Two main designation issues arose and at the Committee’s meeting of 29 January 2015 recommendations to Council were made. The Council meeting of 17 February 2015 accepted the recommendation regarding designations in Cranleigh and asked that the Bridge Street, Godalming situation be reviewed in light of further information. This Committee is asked to consider the request for review and determine whether there is a need for change.

How this report relates to the Council’s Corporate Priorities:

Environment - Protecting and enhancing Waverley's unique mix of rural and urban communities is supported by the proposal, which continues to allow community-run events access to local streets previously prohibited by Street Trading designations.

Understanding our Residents’ Needs - Improving the quality of life for all, particularly the more vulnerable within our society. Gains anticipated here are based upon the increased diversity of locally run events and improved access to specialised products not otherwise locally available and therefore otherwise difficult to access by some vulnerable groups.

Leisure and Lives – The increased access to community-run events in people’s local areas will improve and support opportunities for all in recreational and cultural activities.

Value for money – The tiered fee system, according to event size, helps to cover costs involved in maintaining the Street Trading regime without making a surplus. The Council may opt to set fees at a level lower than cost recovery, as is currently the case in Waverley - minimizing impacts on businesses and encouraging variety.

Financial Implications:

Income from licensing and regulation should not, as a general rule, generate a surplus. It is normal practice for administering authorities to cover the costs of providing a licensing and registration service by means of set fees which are periodically reviewed. The reviewed street trading policy contains a sliding scale for these fees, designed to reflect the burden according to resources required. Costs incurred through consultation and in the publication of legal notices, if any, will be one-off payments met from existing budgets.

Legal Implications:

Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allow a local authority to control street trading by designating streets within its area as 'prohibited', 'consent' or 'licence' streets. In order to exercise such control, a local authority must resolve to adopt these legislative powers. The Council adopted these powers on 22 October 1991 (Council Minute 44 – 22/10/91), and at the same meeting designated a number of streets in the Borough under the above designations. Those designations have since been amended.

Paragraph 2 of Schedule 4 of the 1982 Act sets out the process for passing a resolution designating the Borough's streets, which needs to be followed throughout any review. Failure to follow the correct procedure could lead to a challenge by way of Judicial Review. The process is contained in this report at paragraphs 18 and 19.

There is no statutory right of appeal against council decisions on designation, except for any Judicial Review application referred to above. If the correct procedure were followed the risk of such an application would be low.

Introduction

1. Street Trading is defined as the selling or exposing or offering for sale of any article (or living thing) in a street. Such activity may cause nuisance and may be controlled by local authorities. In 1991, Waverley Borough Council adopted powers under the Local Government (Miscellaneous Provisions) Act 1982, to control Street Trading by the designation of 'prohibited', 'licensed' and 'consent' streets.
2. A 'Prohibited' street means a street in which street trading is prohibited. A 'Licensed' street means a street in which street trading is prohibited unless a licence has been granted by the Council. A 'Consent' street means a street in which street trading is prohibited unless the Council has given consent.
3. A licensed street designation is appropriate for the more formalised, market type of trading in a street where the strict control of a limited amount of space is required. Currently there are no licensed street designations in Waverley - only Prohibited Streets and Consent Streets.
4. On 18 September 2014, the Licensing & Regulatory Committee agreed that the designation of streets be kept as a separate issue in order that

amendments could be made at any time without the need to go through a policy amendment procedure.

5. The 'Consent' designation of a street covers a more infrequent type of trading and is appropriate where it is necessary to limit: the numbers and types of traders, their location along a street, their hours of operation and the measures they employ to remove their waste. These can all be specified as conditions to the Consent in a location.
6. A number of community-led locally organised events benefit from the existing regime – there are no proposals to alter this. For example, since 2009, Consents have been granted for events in Castle Street, Farnham, in High Street and Church Street, Godalming, in High Street and West Street, Haslemere and on The Common, Cranleigh.
7. Individuals may also apply for Consents, either for specific occasions or on an annual basis. There is currently one Consent granted in Waverley to a sole-trader.
8. Godalming Town Council has requested that Bridge Street, Godalming be designated as a Consent Street (their submitted plan at [Annexe 1](#)). High Street, Godalming is currently a Consent street and is used for monthly events, including a farmers' market. To improve the street scene and allow a reduction in the number of road closures, the Town Council submitted the following comments for further consideration:
 - At present Farmers markets and Community festival events are held in the High Street and/or Church Street which mean we close the High Street 12 times a year (with Church Street being closed 4 times out of the 12). However, 8 of the events are relatively small scale farmers Markets (13 Stalls max) which whilst beneficial do cause disruption to the Town centre residents and those who use the bus service. Although only a small scale event, the nature of the High Street does mean that the road has to be closed to buses to ensure public safety
 - As such Godalming Town Council (GTC) looked at possible alternative solutions, one being holding the 8 farmers markets in Bridge Street, as such GTC asked the Bridge Street Traders if they would support an application to WBC to make Bridge Street into a consent street, all traders supported this move.
 - However, it is fully appreciated that it would not be possible to hold an event in Bridge Street that required a road closure due to the inability to the movement of vehicles from Kings Mews or Queens Street as they are unable to turn into the High Street to exit the town, and to go round the Wharf Street roundabout would force a vehicle past the no entry point. Therefore the plan would be to only hold those events that could be held in Bridge Street without the requirement to close the road.

- On assessing this possibility GTC have identified that 13 3mtr x 3 mtr stalls could be located on the pavement in Bridge Street and leave sufficient pavement for pedestrians to circulate without a risk of forcing them into the road. This area is predominantly located opposite and either side of the Borough Hall. As with all events organised by GTC, Bridge Street events would be managed by GTC staff to ensure they operate in a safe manner.
 - A suggestion might be to conduct a trial to determine whether the Farmers Market can be held in Bridge Street whilst the road remains open to traffic, which GTC believe is possible and safe, prior to granting full consent.
 - As previously said the events that we would envisage being held in Bridge Street are the Farmers Markets, which would fit nicely into Bridge Street, and are held 8 times a year. If we could hold them (or some of them) in Bridge Street, this would then save closing the whole of the High Street as often. If the Farmers Markets proved to work in Bridge Street then The High Street Closures would then be reduced to the main festivals which are held 4 times a year.
9. The Town Council have given considerable thought to their proposals. In fact, the Street Trading regime ensures that where applications are made for a Consent, a consultation process (which includes the Police and Fire & Rescue Services) is undertaken and any issues of concern arising are brought before this Committee before the application is determined.
10. Should the Council resolve to designate a street (or change the designation of an existing designated street) a public consultation process, by way of published notices, takes place. For the benefit of clarity, the following steps must be followed:
- prior to any resolution to designate a street, a public notice stating the intention to pass such a resolution must be published in a local newspaper, giving a minimum period of 28 days for representations to be made
 - the Council must also copy the notice to the police and highways authorities
 - any representations received must be considered and the resolution can then be passed if it is thought fit to do so. The resolution would specify the date the designation of the street(s) would take effect.
 - If the resolution is passed, a further notice must be published for two consecutive weeks in a local newspaper; the first publication being at least 28 days before the designation comes into force
11. If the Committee determines that no changes to the current designation of streets are required, the above steps will not be needed. If, for example, Bridge Street, Godalming is to be designated as a Consent Street, the steps are required.
-

Recommendation

That the Licensing & Regulatory Committee considers the submissions made and resolves to recommend to Council:

1. that the designation of streets remains unaltered; or
2. the publication of a notice of intention to pass a resolution to designate Bridge Street, Godalming as a Consent Street

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICERS:

Name: Colin Giddings

Telephone: 01483 523435

E-mail: colin.giddings@waverley.gov.uk