

Agenda Item

Licensing and Enforcement Committee

9 June 2008

IC/JT



Resolution to designate the Esplanade and Promenade as consent streets for street trading under Schedule 4, paragraph 2(1) (c) of the Local Government (Miscellaneous Provisions) Act 1982 with effect from Monday 14 July 2008

Summary

The report explains the responses to the Council's public notice of the Committee's proposal to re-designate the Esplanade and Promenade as consent streets for street trading under Schedule 4, paragraph 2(1) (c) of the Local Government (Miscellaneous Provisions) Act 1982 with effect from Monday 14 July 2008.

Recommendation

That the Committee:

1. Considers the representations made in response to the public notice
2. Decides whether to pass the following resolution:

With effect from Monday 14 July the Esplanade and the Promenade be re-designated as Consent Streets for the purpose of Street Trading under Schedule 4, paragraph 2(1) (c) of the Local Government (Miscellaneous Provisions) Act 1982, and deleted from the Schedule of Prohibited streets which came into force on the 22 July 1983.

3. Subject to approval of resolution 2, to approve:
 - (a) The policy for the issue and enforcement of the consents
 - (b) The set of standard conditions to be attached to all Consents to Street Trade
 - (c) The fees to be charged for the issue of Consents to Street Trade on the Esplanade and Promenade

Appendix C

4. Subject to approval of resolution 2, the Head of Legal, Licensing and Democratic services be given delegated authority to
 - (i) make administrative arrangements for the issuing and management of street trading consents in line with the policy, including the issue of further street trading consents for other events in consultation with the chairman
 - (ii) update the standard conditions from time to time, in consultation with the Chairman as necessary
 - (ii) revoke street trading consents, in consultation with the Chairman, where not practicable to refer it to a Licensing sub-committee
 - (iii) review the operation of consents granted during Folk Festival, and report back to committee on the outcome

a) Reasons for Recommendation

To advise the Committee of the results of the Council's public notice of its proposal to re-designate the Esplanade and Promenade as consent streets and to seek the Committee's decision on whether to confirm that proposal.

b) Alternative Options

That the Committee decides not to re-designate the Sidmouth Esplanade and Promenade as a Consent Street meaning that this area would remain Prohibited Streets where no street trading would be permitted.

c) Risk Considerations

None

d) Policy and Budgetary Considerations

None

e) Date for Review of Decision

None

1 Background and informal consultation

- 1.1 The Licensing and Enforcement Committee is the council committee with responsibility for making the decision whether or not to allow street trading on the Esplanade and Promenade. The Executive Board has already given its views (set out below with the history for ease of reference for those members not already familiar with it).
- 1.2 Currently the Esplanade and Promenade is designated as a prohibited street for the purposes of street trading. This designation came into effect in June 1983.
- 1.3 During the period of the Sidmouth Folk Festival each year a number of traders have set up along the Promenade in contravention of this designation. This has led to a concentration of stalls and pedlars obstructing the Promenade for pedestrians and performers. The problem was particularly bad during last year's festival and prompted a number of complaints to both the Council and the Folk Festival.
- 1.4 In response to these complaints and calls for action officers of the Council have liaised informally with the Folk Festival, local Police and Sidmouth Town Council.
- 1.5 This liaison has focused on examining a number of different options for dealing with the street traders and pedlars that congregate on the Promenade. One option is to accept street trading during the period of Folk Festival and designate the Esplanade and Promenade as a consent street. This would allow the Council to sell consents for street trading within specific areas of the Esplanade and Promenade for the period of the Folk Festival. The Executive Board is supportive of this approach.
- 1.6 The traders and the pedlars on the Promenade are not an official part of the Festival and have no connection with it.
- 1.7 In response to the informal consultation one hundred and sixty one (161) responses were received and of these sixty nine percent (69%) were against street trading being permitted at any time, with 111 against and 50 in favour. It will be appreciated however that there is a very large silent majority who have not voiced their opinion.
- 1.8 Details of the responses received are set out at **Appendix A**. Those who responded were requested to provide their postcode in order to identify the numbers who live within or close to Sidmouth. As will be seen a high percentage of respondents gave post codes

within the EX10 8/9 area. All respondents were given the opportunity to provide a comment in addition to voting on their preferences.

- 1.9 Of those who supported street trading being introduced on the Esplanade and Promenade the majority did so for the Folk Festival week only. There was almost no support for extending the facility to other times of the year.
- 1.10 Included in these figures are responses from the Sidmouth Town Council and what appears to be 18 responses from Sidmouth Chamber of Commerce members:
- (a) **Sidmouth Town Council**
The Town Council responded to the initial consultation that the Council supported in principle of the introduction of a “consent street” for the Esplanade and Promenade but would await further information on how this would be implemented before making a final decision.
- (b) **Sidmouth Chamber of Commerce**
The Chamber of Commerce circulated a copy of the voting slip to its members. The Council have received 18 voting slips which indicate that they were circulated by the Chamber of Commerce however there is no guarantee that these were all from Chamber members. Of the 18 slips received 12 were against trading on the Esplanade and Promenade and 6 supported the idea.
- 1.11 Many of those against permitting street trading on the Esplanade have suggested by their comments that they do not want any form of trading in this area. Unfortunately under the existing legislation this is not possible because even if normal street trading is prohibited genuine pedlars and those providing services, for example hair braiding cannot be prohibited from operating in the area.
- 1.12 In recent years many of those “trading” on the Esplanade have claimed they were pedlars however true pedlars are required to be mobile and at least be able to move their stalls regularly. Members who have visited the Esplanade during recent Folk Festivals will be aware that this has not been the case. The pedlars’ certificates and the enforcement of them are mainly the responsibility of the police. The local police are not able to control the numbers of certificates as it doesn’t matter where they are issued because they can be used anywhere in the country. For example certificates granted by the police in Birmingham or Bristol can be used in Devon.
- 1.13 It is anticipated that if the Esplanade and Promenade became a “consent street” it will be easier to control the rogue traders and pedlars as certain sections of the seafront would be allocated to genuine traders which would have the effect of freezing out the rogues and those traders that are not compatible with the event. Other areas of the seafront would be reserved for dancers/performers and these would be heavily enforced by Council staff and the police to keep them clear of traders.
- 1.14 The local police commander, during recent consultation over these issues with the Council’s Licensing Team, has undertaken, at least for the duration of the 2008 festival, to support the enforcement of “consent street” status should Members decide to go down that avenue. This would include assistance with the enforcement of the legislation relating to pedlars.

2 Formal consultation: Consideration of representations in response to the Public Notice

- 2.1 On the 30 April 2008 the Executive Board recommended that the designation of the Sidmouth Esplanade and Promenade be changed from a “prohibited” street to a “consent” street. This was because they felt an alternative approach should be tried to try to deal with unauthorised street trading. A public advertisement

giving notice of the draft resolution was placed in the Sidmouth Herald published on the 2 May 2008. The notice stated that all responses to the notice should be made to the District Council by no later than Monday 2 June 2008.

- 2.2 The representations made by the public in relation to the public notice are set out in **Appendix B** attached to this report. An updated **Appendix B** to the 2 June 2008 will be made available before the meeting on the 9 June 2008. The Committee now needs to consider those representations and decide whether or not to pass the resolution changing the designation of the Esplanade and Promenade.

3 Further Advertisement

- 3.1 Having considered the responses to the public notice should the Committee resolve to confirm their decision to designate the Esplanade and Promenade as a consent street a further final advertisement process is required to take place. A notice must be placed in the local press for two consecutive weeks. If the Committee resolve to confirm their decision the intention would be for this process to have been completed as soon as possible and for the designation to come into force from Monday 14 July 2008.

4 Policy, Conditions and Fees

- 4.1 Attached at **Appendix C** are the proposed Policy, Conditions and Fees that will need to be adopted. A plan showing the location of the area initially proposed for licences will be available at the meeting. The policy and conditions have been drafted to reflect the specific circumstances of the Esplanade and Promenade Sidmouth and their relationship with the Folk Festival.

5 Implementation

- 5.1 It is proposed to mark out blocks of two and half metre wide pitches on the seaward side of the Esplanade leaving space between each block of pitches for performances to take place. Clear signage will be placed to show the areas to be used by the consent holders. Once the designation as a consent street is in force the pitches will be advertised as available and consents will be issued on a first come first served basis. Within the blocks individual pitches will be left vacant for pedlars to 'trade as they travel'. Genuine pedlars would be directed to use these pitches for short periods only thus providing some control on where they are operating however to comply with the legislation they would still need to move regularly from one vacant pitch to another.
- 5.2 The success of the scheme (recommended to trial for Folk Festival alone initially) will depend on the co-operation of potential traders with the scheme and in good officer/Folk Festival and police liaison in enforcing it. Changing the designation would allow the consents to be issued for other events at other times if the committee wishes to go down this route. It is suggested that any extension of consents be subject to consultation with the Chairman of the Committee.

Legal Implications

The Committee needs to consider the representations made in response to the statutory advertisement before reaching a decision whether to pass a resolution changing the designation of the street to a consent street. A street trading consent may be granted for a period not exceeding 12 months, (including for single days) but may be revoked at any time. The advertisements required are covered in the report. The Council may attach conditions to consents that are reasonably necessary. Further conditions can be added as to the location of the trading and as to the time periods involved.

Financial Implications

A small amount of revenue income will be generated from the fees which will help offset officer time and administration cost in providing consents.

Consultation on Reports to the Executive

The formal public consultation was conducted as set out within the report.

Background Papers

Copy of the Public Notice

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Senior Licensing Officer

Licensing & Enforcement Committee
9 June 2008

John Tippin ext 2787
Licensing Manger

Licensing & Enforcement Committee
9 June 2008