

AGENDA ITEM No:

COMMITTEE:

LICENSING AND
HEALTH
ENVIRONMENT &
PLANNING SERVICES

DATE:

14TH DECEMBER 1993
25TH JANUARY 1994

DEPARTMENT:

ENVIRONMENTAL
SERVICES

SUBJECT:

STREET TRADING

WARDS AFFECTED:

ALL

1.0 INTRODUCTION

- 1.1 The council has adopted statutory provisions over the years to regulate and control street trading. Following the adoption of these provisions a policy has evolved where essentially street trading is restricted to the seafront area, selected sites in streets within the Town Centre and to mobile trading in the outer part of the Borough. Over a considerable period of time numerous resolutions have been made concerning, amongst other matters, allocation of street trading consents, restriction on trading times, eligibility of applicants, conduct of trade, fees and enforcement. It would be advantageous if the Committee reviewed, amended and consolidated its policies to produce a comprehensive document for the future on this subject.

2.0 PURPOSE OF THIS REPORT

- 2.1 To recommend a comprehensive policy for street trading for the areas of the Borough excluding the seafront.

3.0 RECOMMENDATIONS

- 3.1 The Licensing and Health Sub Committee recommend to the Environment and Planning Services Committee:
- (i) that with effect from the 31st March 1994 all previous resolutions in respect of street trading except where they relate to the designation of streets under the provisions of Section 3 to and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 be revoked.
 - (ii) that with effect from the 1st April 1994 the policy and documentation in Appendices A (policy), B (zoning) and C (approved documents and information) be adopted.

4.0 INFORMATION

- 4.1 The resolutions and practices in respect of street trading have been examined and compiled into a comprehensive logical document. Broadly the appendices for the greater part comprise past resolutions albeit some have been altered for clarity whilst still reflecting the object of the original resolution. Certain areas have been subject to further review or extension notably –

(a) it is proposed before granting applications to seek comments from interested bodies particularly in respect of new applications or variations. It is considered appropriate that the view of the local business community is formally solicited to assist determination on the type of goods already sold in the area.

(b) the Director of Environmental Services is already authorised to grant or renew consents subject to specified limitations. It is proposed that this authority be extended to variations of consents subject to the same limitations. This will enable such applications to be dealt with more speedily and obviate the need to report applications to the Sub Committee.

(c) it is proposed that mobile trading should not occur within 25m of the boundary of a school. The former provision prohibited such trading within the precincts of a school entrance only. With this limitation it has proved possible for a mobile to be positioned on a street and to trade from the vehicle to pupils still within the school grounds. Concern has been expressed by schools at such an activity and conditions may properly be imposed to prevent annoyance or nuisance caused by street trading. The proposal will prohibit this and also prevent grouping of pupils immediately outside a school. The present policy of not limiting the number of mobile traders is continued.

(d) the granting or renewing of a consent is subject to the payment of an appropriate fee. It is existing policy that no consent be issued without payment of this fee. This fee may be paid on a quarterly basis and difficulty has been met on occasion in recovering subsequent instalments. It is

proposed that the Director of Environmental Services be authorised to revoke a consent if the Trader fails to pay within fourteen days following a demand for the outstanding monies. Revocation would enable the site to be offered to applicants on the waiting list. The proposal is designed to secure greater financial control and to recover monies due to the council at the earliest opportunity without incurring substantial administrative costs.

(e) it is a statutory offence to either trade in a prohibited street or trade in a consent street without authorisation or to contravene a consent condition. It is present policy that where an authorised trader infringes a condition a verbal warning is given for a first offence, a written warning is sent for a second offence and for a third infringement the matter is placed before Committee with a view to revoking the consent. During the last six months 37 complaints were received concerning breaches of consent conditions. The police have also expressed concern with the degree of apparent illegal trading in the Town Centre and some joint investigations have been carried out. Enforcement of the legislation in respect of street trading can be difficult due to a number of factors notably the times and places of trading, identification of persons or organisations and the availability of the police to assist. It is proposed that the Director of Environmental Services be authorised to carry out an appropriate investigation and to exercise professional judgement as to whether any breach warrants proceedings being instigated provided appropriate evidence and identification can be obtained or whether the matter can be resolved by written warning to desist or regularise the activity.

(f) similar enforcement would be instigated against consent holders who in addition are required to comply with consent conditions. If a consent holder contravenes for a third time within any twelve month period any condition the Licensing and Health Sub Committee would consider the matter with a view to revocation of the consent regardless of whether legal proceedings were to be instigated or not.

(g) existing policy favours applicants with no other business interests and whose only source of income is from street trading. It is believed the original intention was to provide opportunities for unemployed people but in practice there are enforcement difficulties. It is proposed to favour those whose principal source of income will be from street trading and not to make stipulations regarding other business interests.

(h) consents are not presently granted where similar goods are being sold in the immediate vicinity by an established street trader and regard is had to the types of goods on sale in the vicinity. It is proposed to combine these areas and to give preference to applicants who wish to sell goods difficult to obtain within 100m of a pitch.

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APPENDIX A

STREET TRADING POLICY

1. Introduction

At its meeting on the 6th March 1986 the Council adopted the provisions of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and determined that for the purposes of street trading the Borough would be divided into two Zones viz. Zones A and B (Appendix B). Within these Zones streets and other places were designated as prohibited or consent streets for street trading. Subsequent to this decision the designation or redesignation of streets was delegated to the Licensing Sub Committee.

2. On 25 January 1994 the Council's Environmental and Planning Services Committee resolved to designate streets in the Borough for the purposes of street trading as set out in the following paragraphs. The Committee also resolved to adopt the policies contained in this document for the purposes of street trading.

3. Zone A - All streets, roads and other places to which the public commonly have access are designated prohibited streets except that -

- (i) Castle Street, Clarence Square, Cranbourne Street, Crown Street, Dean Street, London Road, Marlborough Street, Old Steine, Pool Valley, Queens Road, Upper Gardner Street, Western Road and Western Terrace are designated consent streets for the purposes of street trading from marked sites only.
- (ii) Grand Junction Road, Kings Road, Lower Esplanade including Fishmarket Hard, Madeira Drive and the Beach and Foreshore above low water mark are designated consent for the purposes of street trading. These areas and their day to day administration are the responsibility of the Director of Arts and Leisure Services and are excluded from the subsequent policy within this report.
- (iii) The pedestrianised areas of Duke Street, Market Street and East Street are designated consent streets for the purposes of street artists throughout the year and for the sale of hot chestnuts during the period 1st November to 10th January each year.
- (iv) Bartholomew Square is designated a consent street for the purposes of street artists throughout the year, for the sale of hot chestnuts during the period 1st November to 10th January each year and for use by Dieppe Market for one day during the Brighton Festival each year.

4. Zone B - All streets, roads and other places to which the public commonly have access are designated consent streets for the purposes of street trading from marked sites or mobile stalls/shops or vehicles except that –

(i) All parks, gardens, recreation grounds, pleasure grounds and open spaces under the management and control of the Council.

(ii) The A23 road north of Preston Circus including Beaconsfield Road
The A27 road including Old Shoreham Road west of New England Road, Upper Lewes Road and Lewes Road from its junction with Elm Grove

The A259 road, Marine Drive

Bear Road

Carden Avenue

Coldean Lane

Ditchling Road north of Viaduct Road

Dyke Road north and west of Seven Dials

Elm Grove

Falmer Road

High Street, Rottingdean

Hollingdean Road

Mill Road

Millers Road

Preston Drove

South Road

Stanford Avenue

The Green, Rottingdean

Warren Road

(iii) The Undercliff walk between Black Rock and the Borough Boundary at Saltdean are designated prohibited streets.

5. Street trading is only permitted in –

Zone A – Upper Gardner Street between the hours of 7 am and 1 pm on Saturdays only.

At other marked sites between the hours of 8 am and 6 pm Mondays to Saturdays.

Zone B - between the hours of 8 am and 9 pm Mondays to Sundays –

Provided that any stall, barrow or vehicle may only be erected or removed between the hours specified above.

6. An application for a street trading consent must be submitted to the Director of Environmental Services on the approved application form. Where the application relates to a renewal of consent the appropriate fee must accompany the application.
7. Where an application is placed on a waiting list maintained by the Director of Environmental Services the application may be made in joint names subject to a maximum of two persons. A renewal application previously granted in respect of more than two persons will continue to be granted on that basis.
8. A street trading consent will not exceed a period of twelve months and grant of such consent is subject to it expiring on 31st March following its issue.
9. No consent will be granted (or varied if the effect is to bring it within the following descriptions):
 - (i) where the applicant is under seventeen years of age;
 - (ii) where the applicant is not a fit and proper person to undertake the activity in question;
 - (iii) for a site in respect of any activity (including the use of barrows etc.) which would be likely to cause an obstruction or a hazard to either pedestrians or traffic;
 - (iv) for a site on a footway of a street unless at least 2 metres unobstructed width of footway (allowing for any barrow etc.) would remain open to the public;
 - (v) where an activity would be out of character with the area in question.
 - (vi) where an activity which by nature, location or otherwise would give rise to possible nuisance by reason of noise, litter, smell or other disturbance.
10. In determining applications further –

- (i) preference will be given to established traders at their existing sites unless there are clear reasons not to do so.
 - (ii) preference will be given to applicants living within the Borough of Brighton.
 - (iii) consent will only normally be granted to applicants whose principal source of income will be from street trading.
 - (iv) preference will be given to applicants in respect of proposals to sell goods which are difficult to buy within 100m of the pitch with the exception of Upper Gardner Street Market and comment may be sought from representatives of local businesses and associations.
 - (v) observations may be sought from other officers of the Council and representatives of statutory bodies.
11. Where sites have already been offered to applicants and accepted, unsuccessful applicants will be placed on a waiting list maintained by the Director of Environmental Services for sites and will be considered further in order of receipt of application when they become available. The Director of Environmental Services is authorised to grant, review or vary consents unless the applicant does not satisfy the policy criteria in relation to residency and other sources of income or there are any objections, adverse comment, possible grounds for refusal or a significant change in circumstances. Such applications will be determined by the Licensing and Health Sub Committee.
12. The issue of street trading consents is subject to conditions as appropriate that –
- (i) the consent may not be transferred to any other person and the Trader shall not permit any other person to exercise this consent unless that person is at least seventeen years of age, is employed by the Trader to assist in trading and the Trader is there present in the exercise of the consent.
 - (ii) with the exception of subsistence breaks the consent holder must be present on the stall in the exercise of the consent. Mobile traders may employ authorised assistants on their vehicles. Subject to agreement in writing of the Director of Environmental Services, the consent holder may allow an assistant to operate the consent in his absence for a period not exceeding four weeks within any twelve month period.
 - (iii) the Trader shall not stand or use any stall, barrow or basket or other receptacle or any mobile stall or vehicle in any street except such as are specified in the consent. Such stall, barrow etc. shall be removed

from the specified site at the end of each trading day for storage at a location that is not on the public highway. In addition where consent relates to a mobile stall or shop the Trader shall not trade at any place within 25m of a road junction or ~~within 25m of the boundary of a school or~~ / within 100m of a shop or business premise selling the same or similar commodities, food or other merchandise or any place where parking restrictions apply.

- (iv) the Trader shall not sell, expose or offer for sale any articles other than those described in the consent.
- (v) the Trader shall not sell, expose or offer for sale any articles on days or at times other than those specified in the consent.
- (vi) the Trader shall not at the place or area named in the consent exhibit any advertisement or advertising matter nor distribute and handbills. Provided that if the consent authorises the use of a mobile stall or shop or any vehicle the Trader may display the name of the shop or business, the nature of the trade or business but only in general terms and any notice or information required by Road Traffic legislation.
- (vii) the trader shall at all times whilst trading comply in all respects with all the relevant statutory legislation.
- (ix) the Trader shall at all times whilst trading provide a suitable receptacle for rubbish and litter is not to be placed in municipal litter bins. In upper Gardner Street in lieu of this condition being complied with the Council will offer a refuse collection service upon payment of an appropriate fee.
- (x) the Trader shall operate in a manner which causes no nuisance to the Council or to the general public.
- (xi) the Trader shall at all times whilst trading wear in a prominent position an identity badge provided by the Council.
- (xii) the Trader shall be insured against any claim in respect of third party liability whilst trading under consent unless the Director of Environmental Services has granted dispensation. No consent will be issued until a current policy has been produced to the Director of Environmental Services and the Trader shall produce evidence of such insurance to an authorised officer of the Council within seven days of the officer's request.
- (xiii) Where there is potential ignition source present, including cooking facilities, a 2kg dry powder extinguisher which complies with the

standards set out in BS 5423: 1987 must be provided. Where hot fat cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.

13. No consent will be issued until the appropriate fee has been received by the Director of Environmental Services.
14. In the event that a permitted site becomes temporarily unavailable for any reason beyond the control of the Council, the Director of Environmental Services may determine, following consultation with the Chair of the Licensing and Health Sub Committee and the Opposition spokesperson that:-
 - (i) the Trader be relocated to another approved site or
 - (ii) the consent be suspended upon giving a reasonable period of notice.
15. The Environment and Planning Services Committee has determined for the financial year commencing 1st April 1993 that the following fees shall be levied in granting or renewing consents:-

Within Zone A

Castle Street and Clarence Square sites:
£2970 p.a. (£742.50p. per quarter)

Western Terrace, Crown Street, Dean Street and Marlborough Street sites:
£2475 p.a. (£618.75p. per quarter)

Cranbourne Street site:
£640 p.a. (£160 per quarter) for Friday and Saturday trading only.
Additional days are chargeable pro-rata.

Upper Gardner Street sites:
£220 p.a. (£55 per quarter)
[For refuse collection service £130 p.a. (£32.50 per quarter)]

All other marked sites:
£2040 p.a. (£510 per quarter)

Newsvendors: £305 p.a. (£76.25 per quarter)

The above fees have been determined in respect of the present size and location of individual pitches.

Street artists:

£20 per month.

Other miscellaneous short term consents:

£10 or £5 depending on duration.

Within Zone B

Mobiles: £810 p.a. (£202.50 per quarter)

16. The above fees will be charged on a pro rata basis in respect of new applications from the date of issue of the consent to the next 31st March.
17. Where fees are paid in instalments the Director of Environmental Services is authorised to revoke the consent if the Trader fails to pay the monies due within fourteen days of a written demand from the Director of Environmental Services.
18. Where consent is surrendered or revoked the Council will refund the fee paid by the Trader on a pro rata basis. In the event that a Trader is unable to operate from an approved site by reason of unavoidable works the Trader will have the option of accepting an alternative vacant approved site if available or relief from the consent fee for the period of displacement.
19. The enforcement of the Council's street trading policy shall be delegated to the Director of Environmental Services who shall take all reasonable and practical steps to ensure that trading does not take place in prohibited streets or consent streets without authorisation and that consent conditions are adhered to. The Enforcing Officer shall determine the appropriate action to take in respect of any specific offence or contravention dependant upon the nature and likely recurrence of same. Any contravention by a consent holder shall be confirmed in writing to the Trader and if summary proceedings are proposed or a third warning within any twelve month period has been given to the Trader, the Director of Environmental Services shall report the matter to the Licensing and Health Sub Committee with a view to revocation of the consent.

