

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 28 JUNE 2022
REPORT OF THE HEAD OF PUBLIC HEALTH AND PROTECTION

NEW STREET TRADING CONSENT RESOLUTION

1 Executive Summary

- 1.1 This report asks members to consider passing a resolution to adopt a new consent street in Welwyn Hatfield Borough Council (WHBC)'s area for street trading.
- 1.2 This resolution is required because the previous consent street of Stonehills, Welwyn Garden City, is no longer suitable for street trading on a permanent basis as it is now pedestrianised.

2 Recommendation(s)

- 2.1 For Members to agree which of the proposed areas would be the most suitable for a permanent street trading consent, which will replace the current location of the trader in Stonehills.

3 Explanation

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 provides the legal framework for the control of street trading in England and Wales. The legislative framework is not an automatic entitlement and councils must formally adopt the legislation if they wish to regulate street trading in their areas.
- 3.2 WHBC has resolved to make all streets within Welwyn Hatfield prohibited streets, with the exception of any streets designated as consent streets.
- 3.3 Currently there are five "pitches" in the borough made available for street trading while all other areas are designated "prohibited streets". These pitches have been renewed annually by the same traders for many years.
- 3.4 The site in Stonehills, Welwyn Garden City has had street trading in place since 1983 with the original hours being Monday to Saturday 18.00-midnight. The current trader took over the site in 1994 and since that time, the premises licence for selling hot food and drink and the street trading consent have been extended. The current hours of trading are Sunday to Wednesday 18.00-00.00 Thursday 18.00-02.00 and Friday and Saturday 18.00-02.30.
- 3.5 During the pedestrianisation works of Stonehills in 2021, the current food vendor moved to a temporary location outside a premises on the corner between Stonehills and Howardsgate. As this was not the correct location of the street trading consent, a temporary licence was granted by Hertfordshire County Council whilst the works were underway. However, this location has generated several complaints due to noise and smells which impact the residents in the flats above. The complaints and temporary nature of the current licence means that a new location is required so that a permanent solution can be found.

- 3.6 It is not practical for the van to return to the pedestrianised area on a regular basis as it will be required for other activities. In addition, there is a Traffic Restriction Order, (TRO) in place to prevent parking on paved areas in WGC and this area is now a pedestrianised zone.
- 3.7 To create a new consent street, a draft resolution must be passed by the Council. This resolution will take effect on the day specified in the resolution and must be a minimum of one month after the resolution is passed. Before a resolution can be confirmed a notice of this intention must be published in a local newspaper circulating in our area; In addition, a copy of the notice must be served on the chief officer of police for the area in which the street to be designated by the resolution is situated, and any highway authority responsible for that street; The necessary consent must be obtained if owned or maintained by a relevant corporation or highway authority.
- 3.8 The notice shall contain a draft of the resolution; and representations relating to it may be made in writing to the council within 28 days after publication of the notice, As soon as practicable after the expiry of this period the Licensing Committee shall consider any representations relating to the proposed resolution which they have received .After the Licensing Committee have considered those representations, they may, if they think fit, pass such a resolution relating to the street.
- 3.9 The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 3.10 Any resolution passed may be varied or rescinded by a subsequent resolution so passed. Therefore, Stonehills as a consent could be rescinded at the same time.
- 3.11 As Hertfordshire County Council Highways are a statutory consultee, some discussions have already taken place as to the locations that they feel would be appropriate to relocate the current licence holder. These suggestions have been shared with other departments across the Council including, Parking Services, Environmental Health, Hackney Carriage, Planning and Estates.
- 3.12 The proposed sites and any comments received on the proposed locations are detailed in Appendix 1. Pictures of these locations are in appendix 2. A photograph of the loading bay behind 'Bebos' is at Appendix 3.

Implications

4.0 Legal Implication(s)

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. The Council has resolved to make all streets within Welwyn Hatfield prohibited streets, with the exception of any streets designated as consent streets. This came into effect on 1st April 1993.
- 4.2 The council is at risk of legal challenge as the street trader is not trading in the location of his consent.

5.0 Financial Implication(s)

- 5.1 Associated costs with a legal challenge may arise if we fail to adopt a new consent street and allow the vendor to continue to trade in a prohibited street.

5.2 Advertising costs are attributable to the implementation of a new consent as three newspaper advertisements must be placed to abide by the legislation.

6.0 Risk Management Implications

The risks related to this proposal are:

6.1 Welwyn Hatfield Borough Council has five consent streets. For a new consent street to be created the Council must pass a resolution.

7.0 Security and Terrorism Implication(s)

7.1 The council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism, in the context of this report, there are no additional concerns.

8.0 Procurement Implication(s)

8.1 None arising directly from this report.

9.0 Climate Change Implication(s)

9.1 The proposal does not imply an increase in greenhouse gas emissions or water use. The proposal appears to be resilient to climate change and does not require adaptations to be made.

10.0 Communication and Engagement Implication(s)

10.1 The Council must advertise any new proposed Consent Street so the public can make representations. This has been explained in the main part of the report.

11.0 Link to Corporate Priorities

11.1 The subject of this report is linked to the Council's Corporate Priority 'Our community'.

12 Equality and Diversity

12.1 An Equality Impact Assessment (EIA) has been completed and no negative impact was identified on any of the protected groups under Equalities legislation.

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Background papers to be listed (if applicable)

- Local Government (Miscellaneous Provisions) Act 1982 [street trading provisions]

Appendices to be listed

- Appendix 1 Potential new consent streets and internal comments
- Appendix 2 Locations
- Appendix 3 Photo of loading bay behind Bebos, Stonehills