



Report No: **7/2011** Public Agenda Item: **Yes**

Title: **Street Trading Re-designations**

Wards Affected: **All**

To: **Licensing Committee** On: **27 January 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve

- 1.1** This report concerns the request by The Town Centres Company and Brixham Town Council to change the designations of streets and car parks within the three town centre areas of Torbay and within St Marychurch. These areas are within the existing or proposed Business Improvement Districts, and the changes are from Prohibited to Restricted Consent Areas.

2. Recommendation(s) for decision

- 2.1** It is recommend that:

- 2.1.1** A public notice be placed in the paper which will advise the public that Torbay Council intends to change the street trading designation for those streets in Appendix 2, from Part A of the Street Trading Schedule (Prohibited Streets) to a Part B (Consent Street – Council permission required to trade from the land).

3. Key points and reasons for recommendations

- 3.1** Under the Local Government (Miscellaneous Provisions) Act 1982, a Local Council may impose limitations on street trading within its area. Such limitations have been in place since 1983 when Torbay Council adopted Schedule 4 by way of a resolution, minute 836/10/82. This allowed the designation of Prohibition Streets and Consent areas.
- 3.2** There have been requests by The Town Centres Company and Brixham Town Council to change the designations of streets and car parks within the three town centre areas of Torbay and within St Marychurch. These areas are within

the existing or proposed Business Improvement Districts, and the changes are from Prohibited to Restricted Consent Areas.

- 3.3 It is important to note that this re-designation is a legal process to facilitate street trading but it does not mean control is lost, as this remains with Torbay Council. Torbay Council's Street Trading Policy, which placed a framework around the management of these streets, will be amended accordingly and consulted upon before being brought to a future Licensing Committee for approval.
- 3.4 The legislation to re-designate streets requires a lengthy advertising process. It is necessary to advertise the proposals by way of Public Notice, at least 28 days in advance of further consideration by the Licensing Committee. The purpose of this report is to seek the authority to place that Public Notice in an advertisement and no more.
- 3.5 The legislation also requires consultation with Devon and Cornwall Constabulary and the Highways Authority. The Town Centres Company and Brixham Town Council work closely with the Chambers of Commerce and therefore have their support.

For more detailed information on this proposal please refer to the Supporting Information.

Frances Hughes
Executive Head Community Safety

Supporting information to Report 7/2011

A1. Introduction and history

- A1.1 Under the Local Government (Miscellaneous Provisions) Act 1982, a Local Council may impose limitations on street trading within its area. Such limitations have been in place since 1983 when Torbay Council adopted Schedule 4 by way of a resolution, minute 836/10/82. This allowed the designation of Prohibition Streets and Consent areas. Torbay Council subsequently sub-divided Consent areas in to two types, consent areas and restricted consent areas. Although these may appear to be the same, from a management point of view they are different, as restricted consent areas are all Council owned land, and therefore restrictions can be and are placed upon their use.
- A1.2 The three areas covered in the Street Trading Schedule (see Appendix 1), are Prohibited Streets (Part A), where no trading can take place except from a shop. Consent areas, (Part C), where such trading can only take place with a formal consent issued by the Local Authority. Thirdly Restricted Consent areas, (Part B), where Torbay Council retains control, such as highways and open spaces. Part B will arise in relation to highways, car parks and open spaces which may be used for charitable purposes or other initiatives. Conditions can be imposed on such trading. As a general rule, street trading has in the past not normally been permitted in town centre areas and most of these streets are currently designated as Prohibited Areas. This situation however is changing.
- A1.3 In 2008 Torbay Council undertook a review of Prohibited, Restricted Consent and Consent areas which resulted in a number of amendments to the Street Trading Schedule. This resulted in a number of amendments to the designation of streets in the town centre areas, which was approved by a Licensing Committee on 4 December 2008. This had been undertaken with the support the Chambers of Commerce within the town centre areas. It was decided not to alter significantly the street designations in Torquay town centre, as the work to agree a Business Improvement District (BID) was still in its early stages and it was agreed that this area would be revisited, if or once the BID was in place.
- A1.4 There have been ongoing discussions since the BID has been in place to pass responsibility for town centre activities to the Town Centres Company. As such, this has culminated with the written request from the Town Centres Company dated 22 December 2010. This request is to alter the designation of all streets from (Part A) Prohibition Streets to (Part B) Restricted Consent Streets within the existing and proposed BID districts in Torquay, Paignton and St. Marychurch, in Torquay. I attach a copy of this letter, see Appendix 3.
- A1.5 There have also been discussions with Brixham Town Council to undertake similar changes in Brixham Town Centre. The proposal there is covered in a letter dated 6 January 2011. This is to remove all (Part A) Prohibition streets to (Part B) Restricted Consent Streets. This would allow Brixham Town Council to manage activities and events that require Street Trading Consents, in conjunction with the Town Centres Company and the Chamber of Commerce. It is anticipated this would be within the proposed BID area, though the final

decision would be covered within Torbay Council's Street Trading Policy, see paragraph A1.9 below. A copy of the letter is attached in Appendix 7.

- A1.6 The legislation to re-designate streets requires a lengthy advertising process. It is necessary to advertise the proposals by way of Public Notice at least 28 days in advance of further consideration by the Licensing Committee. The purpose of this report is to seek the authority to place that Public Notice in an advertisement.
- A1.7 The legislation also requires that, if approval is given, two more such Notices must then be advertised in successive weeks. The first to be published no later than 28 days before the re-designation is due to come into effect.
- A1.8 The legislation requires consultation with Devon and Cornwall Constabulary and the Highways Authority, however both the Town Centres Company and Brixham Town Council work closely with the Chambers of Commerce and in the case of Torquay represent the businesses with the BID. This means that the Chambers of Commerce are aware of these proposed changes.
- A1.9 On the 2 October 2008 a new Street Trading Policy was agreed, which placed a framework around the management of Restricted Consent Areas. See Appendix 8. It is proposed that this is amended to reflect the fact that the management of these areas will be undertaken by the Town Centres Company and Brixham Town Council; in consultation and agreement with Torbay Council. These amendments will be consulted upon before a draft Policy is presented to a Licensing Committee on the 17 March 2011.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

- A2.1.1 There are no significant risks with re-designation as the control will always remain with the Council, as the proposed land is owned by the Council and as a result the Council will have the final decision.
- A2.1.2 There is no risk of legal challenge as no decision has as yet been made, except to advertise the proposed hearing when any decisions on change are to be made.

A3. Options

- A3.1 The options with regard to the re-designation are:
- (i) to agree to advertise a Public Notice for those streets contained in annex 1,
 - (ii) to agree to advertise a Public Notice for an amended list of streets, or
 - (iii) not to agree to advertise a Public Notice for any streets.

A4. Summary of resource implications

- A4.1 There are no significant resource implications.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There are no significant implications for equalities, environmental sustainability and crime and disorder.

A6. Consultation and Customer Focus

A6.1 There has been consultation with the trade by the Town Centres Company and Brixham Town Council, and there will be further consultation with our Partner Agencies.

A7. Are there any implications for other Business Units?

A7.1 There should be no implications for other Business Units, as any work associated with agreeing and running events, will be undertaken by the Town Centres Company and Brixham Town Council.

Annexes

Appendix 1 Existing Street Trading street designations

Appendix 2 Proposed changes to street designations

Appendix 3 Copy of Letter from Town Centres Company dated 22 December 2010

Appendix 4 Copy of Letter from Brixham Town Council dated 6 January 2011

Appendix 5 Street Trading Policy dated 2 October 2008

Documents available in members' rooms

Minutes from the seven meetings & consultation documents

Background Papers:

The following documents/files were used to compile this report:

None