



Report No: **67/2011** Public Agenda Item: **Yes**

Title: **Street Trading Re-designations**

Wards Affected: **All**

To: **Licensing Committee** On: **17 March 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:

- (i) The street trading designation for those streets included in annex 1 be re-designated from Part A of the Street Trading Schedule (Prohibited Streets) to a Part B (Consent Street – Council permission required to occupy the land).
- (ii) That the draft Street Trading Policy be approved.

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 required Public Notice was placed in the local paper on the 3rd February 2011. No representations were received.
- 3.5 Devon and Cornwall Constabulary and Torbay Council Highways have been consulted and no representations have been received.

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

**Frances Hughes
Executive Head Community Safety**

Supporting information to Report 67/2011

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.
- 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 4th December 2008. This had been undertaken with the support of 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 in 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 2.
- 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 is covered within Torbay Council's

Street Trading Policy, see paragraph A1.9 below. A copy of the letter is attached in Appendix 3.

A1.6 At the Licensing Committee meeting on 27 January 2011 permission was given to advertise the proposed changes to street designations in Torbay as detailed Appendix 4. The details of the proposed changes are included in Appendix 5.

A1.7 The legislation 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 requirements to consult with Devon and Cornwall Constabulary and the Highways Authority have been undertaken, and no responses have been received. Additionally both the Town Centres Company and Brixham Town Council who work closely with the Chambers of Commerce and in the case of Torquay represent the businesses with the BID have consulted those they represent. This ensures that the Chambers of Commerce are aware of these proposed changes. No representations have been received.

A1.9 The existing Street Trading Policy, which placed a framework around the management of Restricted Consent Areas, has been 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 have been consulted upon and they are included in the draft Street Trading Policy. All amendments to the existing policy agreed in October 2008 have been highlighted. See Appendix 6.

A1.10 The Business Improvement District Maps are included as Appendix 7a, b c and d.

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 significant risk of legal challenge as the correct procedures have been followed regarding the re-designations and the policy is an internal document giving a framework to how land is used.

A3. Options

A3.1 The options with regard to the re-designation are:

- (i) to agree to re-designate those streets contained in appendix 2,
- (ii) to agree to re-designate an amended list of streets, or
- (iii) to refuse to re-designate any streets.

A3.2 The options with regard to the Draft Street Trading Policy are:

- (i) to agree the policy
- (ii) to amend the policy
- (iii) to refuse the policy

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. There has been a public notice advertised and no representations received.

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 Copy of Letter from Town Centres Company dated 22 December 2010

Appendix 3 Copy of Letter from Brixham Town Council dated 6 January 2011

Appendix 4 Copy of public notice advertised on the 3 February 2011

Appendix 5 Proposed changes to street designations

Appendix 6 Draft Street Trading Policy

Appendix 7 Business Improvement District (BID) Maps

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