

**EXETER CITY COUNCIL**

**SCRUTINY COMMITTEE - COMMUNITY  
15 JANUARY 2008**

**LICENSING COMMITTEE  
29 JANUARY 2008**

**COUNCIL  
19 FEBRUARY 2008**

**REVIEW OF STREET TRADING CONTROLS IN EXETER**

**1 PURPOSE OF THE REPORT**

- 1.1 Members have requested a review of the current controls on street trading in the City together with recommendations as to any necessary changes. The report also examines whether there is a need for a local act to allow tighter controls over traders purporting to be pedlars.

**2 BACKGROUND**

- 2.1 The Local Government (Miscellaneous Provisions) Act 1982 contains adoptive powers which enables the City Council to exercise control over street trading. The term 'street' is very widely drawn, and includes pedestrianised areas. The current controlled streets are listed in Appendix I.
- 2.2 Street trading is itself defined as the selling or exposing or offering for sale any article (including a living thing) in a street. There is a considerable list of activities which are not to be regarded as street trading for these purposes, the most relevant of which are anything done in a market or fair held by virtue of a grant or enactment (eg the Farmers' Market) trading as a news vendor, or by virtue of a Pedlars Certificate.
- 2.3 Prior to adopting these powers, street trading in Exeter was controlled by local legislation. This was not adequate to prevent the unsightly proliferation of stalls, principally in the High Street. Adoption of the national legislation in 1986 enabled the Council to remove traders from High Street, which was designated a Prohibited Street, along with other specific areas of the City Centre.
- 2.4 At the same time it was recognised that the displaced traders should have an opportunity to trade from an alternative location and the decision was made to designate part of Sidwell Street as a Licence Street. This enabled the relocation of stalls to Sidwell Street and provided suitable controls to deal with the more formal trading conditions presented by this type of trading.
- 2.5 Other locations, most notably Castle Street, Bedford Square and the trading estates were designated as Consent Streets, to permit less formal types of trading to exist, (eg a lower number of traders and/or less frequent use).

- 2.6 Since then there have been changes to the list of ‘designated streets’, responding to concerns at the time, and introducing controls where necessary to deal with associated issues such as antisocial behaviour, etc (eg from patrons of late night establishments congregating around itinerant food traders in the early hours of the morning in large raucous groups).
- 2.7 The designation of streets and the application of specific controls can be seen as a dynamic process reflecting shifting opinion and responding to various pressures, (notably in Sidwell Street and Fore Street/South Street where parts of streets have different designations). Although complex this situation does not generally create significant problems. Details of the form of controls are set out in Appendix II.
- 2.8 The steps to be followed by the Council in designating controls over a street involve advertising notice of intention, considering any representations from interested parties, making a resolution and publicising the designations.
- 2.9 Members have requested a review of the locations of the designated streets within the City. In addition the new Princesshay development has radically changed the City Centre and resulted in “new” streets being developed.
- 2.10 Members will be aware of the problems with illegal street traders and in particular pedlars. These problems include obstruction of the footpath, particularly at areas of high pedestrian footfall; the disadvantaging of shops and licensed street traders who bear additional costs and sale of goods sometimes of poor quality with little or no redress for customers. The control of street traders established by virtue of the Local Government (Miscellaneous Provisions) Act 1982 does not deal effectively with pedlars who are specifically exempt. The report to the 30 January 2007 meeting of the Licensing Committee set out the background to this problem. Someone may apply for a Pedlars Certificate from the police and then trade anywhere in the country as a pedlar, as defined in the Pedlars Act 1871.
- 2.11 Officers explored the possibility of introducing a local act to deal with this, but in view of the significant cost it was decided to await the outcome of the passage of a Private Members Bill, which if successful would have promised national measures to keep pedlars from town centre locations where this was a problem. Unfortunately despite early promise the Bill fell at its second reading stage at the end of October 2007. This matter will be pursued through a Presentation Bill which may yet introduce effective national controls.
- 2.12 Illegal street traders and sham pedlars are actively dealt with by the Council’s licensing team. In November 2007, a more robust approach was taken in conjunction with the police and CCTV control centre to identify and deal with sham pedlars in regulated streets such as the High Street. This has proved to be effective in deterring and reducing the number of sham pedlars appearing in the City Centre. Clear guidance has been jointly developed with the police, and is now issued to those who wish to sell or expose goods for sale in a regulated street (Appendix III).
- 2.13 There remains an option for the Council to seek a local act to control pedlars, at an estimated cost of £40,000, and within a 12 month timescale. However, in light of the recent success of a more robust approach to sham pedlars, and the possibility that the Presentation Bill may succeed, the need for a local act appears less immediately pressing. It will be important to keep this situation under close review, and to remain in contact

with other local authorities contemplating a Local Act of Parliament on this matter, as it would be beneficial to act in concert with them in pursuing such action.

- 2.14 In order to obtain as much information as possible a wide range of interested parties were given the opportunity to comment on street trading controls and the need, if any, for amendment. Those consulted included Members, the Highways Authority, the Police, existing traders, the City Centre Manager, the Exeter Business Forum and officers of the Council. The full responses to the consultation process will be made available in the Members' Room and on the intranet.

### **3 PROPOSALS**

- 3.1 The City and County Councils have invested some £4-£5 million in streetscape enhancements over the last five years, removing clutter and installing quality paving and street furniture. The redevelopment of Princesshay has followed this pattern. The result is that maximum space is left for pedestrians to move around in comfort, for pavement cafes to be created and for one-off events and entertainment to be arranged. The bulk of Bedford Street and all of what was Post Office Street are now pedestrianised 24 hours a day. The western end of Bedford Street is a service access from 18:00 to 10:00hrs every day and then pedestrianised for the rest of the time. Vehicular access outside these times would break the pedestrianised order. Although Princesshay and Bampfylde Lane are not public highways (they are private), public access is governed by a Walkways Agreement.

- 3.2 In order to maintain the enhanced street scene achieved in Princesshay and to safeguard the pedestrianised area, it is appropriate to designate the following as prohibited streets:

- Blue Boy Square
- Blue Boy Lane
- Princesshay Lane
- Bampfylde Lane
- Eastgate
- Roman Walk
- Bedford Street
- Princesshay Square
- Egypt Lane
- Catherine Square
- Chapel Street
- Princesshay Arcade
- Castle Street (northern part, between Bailey Street and the Castle)

- 3.3 Currently Castle Street is a Consent Street, permitting four established traders (three in the day and one at night in the lower part only). Licensing Committee have recently reviewed the position of these traders and have consented for their approval to trade to be renewed. At this time it is appropriate for the southern part of Castle Street between Bailey Street and High Street to remain a Consent Street. The northern portion of Castle Street above Bailey Street is narrow and not conducive to street trading, and as such this portion should be re-designated a Prohibited Street.

- 3.4 In order to exert control over street trading taking place in Yeoford Way and Matford Park Road, it is appropriate to designate Yeoford Way as a Consent Street, and Matford Park Road as a Prohibited Street.
- 3.5 The whole of Sidwell Street, with the exception of that portion on the southern side between Paris Street and Cheeke Street, is not suitable for street trading because of potential safety issues for pedestrians and road users, and therefore should be re-designated from a Consent Street to a Prohibited Street. The Continental Market which is staged on both sides of Sidwell Street organised by Exeter City Council under the terms of the appropriate markets legislation will be exempt from the street trading controls.
- 3.6 The whole of Fore Street (Exeter) with the exception of the portion on the south side between Market Street and South Street, should be re-designated from a Consent Street to a Prohibited Street.
- 3.7 As the sensitive location of West Street regularly attracts objections to applications for street trading and no applications have been approved, it is appropriate to designate West Street as a Prohibited Street.
- 3.8 It is appropriate for the whole of Cheeke Street to be designated a Prohibited Street.

#### **4 RECOMMENDED**

- 1) that Scrutiny Committee - Community support and Licensing Committee recommend that Council authorises the Head of Environmental Health Services in conjunction with the Head of Legal Services to proceed with seeking the street trading designations detailed in paragraphs 3.2, 3.4, 3.5, 3.6, 3.7 and 3.8 of this report, in accordance with the procedures laid down in the Local Government (Miscellaneous Provisions) Act 1982.
- 2) that the Head of Environmental Health Services reports back to Scrutiny Committee - Community and Licensing Committee in September 2008, with a review of the effectiveness of current enforcement controls in respect of sham pedlars, and the need for any further controls.

#### HEAD OF ENVIRONMENTAL HEALTH SERVICES

S:PA/LP/ Committee/108SCC5 V6  
3.1.08

COMMUNITY & ENVIRONMENT DIRECTORATE

**Local Government (Access to Information) Act 1985 (as amended)**  
**Background papers used in compiling this report:**