

THE FORM OF CONTROL

The Council resolved that this part of the Act applied to its district in the early 1980s and it became possible for the Council to designate any street in the district as either:-

- a) a prohibited street;
- b) a licence street; or
- c) a consent street.

Where there is no need for prohibition or restriction, streets may be left undesignated. Designations may be changed or more streets included later.

Designation is by resolution of the council, but must be preceded by public notice in the local press, consultations with the Police and the Highway Authority and, in the case of a proposed licence street that is maintained by the Highway Authority, the consent of the Highway Authority.

a) **Prohibited Streets**

In a prohibited street, all street trading is prohibited without exception and offenders are liable to a fine. This power could be of particular value to deal either with existing situations where some problems are being experienced from street traders (Verney Street) or where street trading is felt to be totally inappropriate (eg Princesshay etc).

b) **Consent Streets**

In a consent street, street trading is only permissible with a consent issued by the City Council. The consent is granted only if the Council think fit, and may be subject to such conditions as the Council considers reasonably necessary. Unless the consent specifies otherwise, the trading may not take place from a portable stall or from a stationary van, cart, barrow or other vehicle but if allowed, location and times of trading may be controlled.

A consent may be granted for any period up to twelve months and may be revoked at any time. A reasonable fee (currently £1159.00) may be charged for the grant or renewal of a street trading consent but no other charges may be levied.

‘Consent streets’ are mainly to control the itinerant form of trading but can also be used in conjunction with a limited number of pitches, eg Castle Street. The Licensing Committee are responsible for issuing consents to street trade and approving the fees.

c) **Licence Streets**

In a licence street, street trading is prohibited without a licence issued by the Council. The provisions relating to street trading licences are much more detailed than is the case for consents, and it will be recalled that a street may only be designated a licence street with the approval of the Highway Authority. This licensing system would appear to be mainly applicable to the street market type of situation as has been previously considered in relation to Sidwell Street, Fore Street and Princesshay.

An application in writing is required and must contain the applicant’s name and address, when, where and in what articles it is desired to trade, a description of any stall or container intended to be used in conjunction with that trading, and any other particulars reasonably required by the Council. The Council is under a duty to grant the application unless it is considered that it ought to refuse on any of the specified grounds. In addition, the decisions

of the Council are, to a large extent, subject to a right of appeal to the Magistrates Court and thence to the Crown Court.

The grounds on which an application may be refused relate to space in the street for the proposed trading, numbers or traders in these goods already in the street (including in shops on the street), any convictions of the applicant, refusal or neglect to pay street trading licence or consent fees and failure to reasonably avail himself of a previous street trading licence.

If a person were lawfully trading from a fixed position in a street immediately before it becomes a licence street, a licence may not be refused on grounds of space or numbers of traders in that street but any existing licence would have to be valid.

The licence must specify the street and the days and times when the holder is permitted to trade and the description of articles concerned.

If trading is to be confined to a particular place in the street, that must also be shown on the licence. The Council may also impose on the licence such other conditions as appear to be reasonable, including the size and type of stall or container, a requirement to display on any stall or container the licence holder's name and/or the number of his licence.

A licence should, unless revoked or surrendered, remain valid for twelve months from the date granted or for a shorter specified period. Revocation of a licence may take place on grounds relating to space in the street for that trading, suitability of the licence holder by reason of a conviction, the licence holder failing to avail himself of the licence to a reasonable extent or failure to pay fees due under the licence.

On receipt of an application, the Council must either grant the licence in the terms applied for or, in any other case, give notice to the applicant as to the manner in which it is proposed to deal with his application and the reasons therefore, and giving the opportunity for him to require that the Council permit representations to be made to it on the matter.

A breach of this part of the Act carries liability to a fine.

The provisions with regard to licence streets are to be used in situations where street trading, in the form of street markets, is to be encouraged but in a framework where detailed controls are available.

In addition to the charging of an appropriate fee for the issue of a licence, the Council may also make reasonable charges against licence holders for the collection of refuse, cleansing of streets and other services which may be rendered. This enables the Council to dictate standards of cleanliness, etc., at a cost which would be fully recoverable.

Once approval has been given to a street to be designated a 'licence street' the Markets & Halls Services are generally responsible for administering the licensing of market holders, and licence street traders. However, isolated traders operating outside of normal market hours are licensed by the Licensing Section.