

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 19 October 2009

Report of: Mrs K Khan

Subject/Title: Street trading – designation as ‘prohibited street’

1.0 Report Summary

- 1.1 The report provides details in relation to the designation of streets within the former Borough of Macclesfield and the current proposal in relation to the designation of the A556 as ‘prohibited’ for the purposes of street trading.

2.0 Recommendations

- 2.1 The Licensing Committee is requested, in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:
 - 2.1.1 to designate the A556 (to its extent within the Borough), together with any adjoining streets for a distance of 50 metres, as prohibited streets for the purposes of street trading, with effect from 23rd November 2009; and
 - 2.1.2 to authorise the Borough Solicitor, or officer acting on his behalf, to publish the required notices of the resolution in 2.1.1 above.

3.0 Reasons for Recommendations

- 3.1 The function of designating streets for the purposes of street trading has been delegated to the full Licensing Committee. The background to the recommendation is provided within paragraph 11 below.

4.0 Wards Affected

- 4.1 Bucklow

5.0 Local Ward Members

- 5.1 Cllr J Macrae, Cllr A Knowles, Cllr G Walton

6.0 Policy Implications including - Climate change - Health

- 6.1 The decision to designate is in line with the Council’s existing decisions in relation to the designation of ‘A’ roads.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 If the Committee resolve to designate the streets there will be a cost associated with the publication of the requisite notices to advertise the making of the designation. It is suggested that the costs of the notices will be met within existing budgets.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 Not applicable.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provides that local authorities may, by resolution, designate any street in their district as a prohibited street. The designation of any street may not take effect less than one month from the date of the resolution.

- 9.2 Paragraph 2 further provides the process which the local authority must follow when it designates streets, and states that a resolution may not be passed unless a notice of intention has been published in a local newspaper and served on the chief officer of Police and the relevant Highways Authority. The notice must provide a period of twenty-eight days within which objections may be made. As soon as practicable after the expiry of the objection period the authority is required to consider any representations, after which they may, if they think fit, pass a resolution. If a resolution is made, notice of the resolution is required to be published in a local newspaper for two consecutive weeks.

10.0 Risk Management

- 10.1 If the process set out within Schedule 4 of the Act was not followed then the resolution may be at risk of legal challenge.

11.0 Background and Options

- 11.1 As Members will recall at the meeting on 20 July 2009 the Licensing Committee considered a report in relation to the designation of the A556 as a prohibited street. Members were advised that at the meeting of Macclesfield Borough Council's Licensing Committee on 4th November 2008, the Committee resolved to designate all 'A' and 'B' roads within the Borough (with limited exceptions) as prohibited streets together with all adjoining streets for a distance of 50 metres. As part of the consultation process in relation to this resolution Cheshire County Council were served with a notice as the Highways Authority. Members were also advised that as a 'trunk' road, the A556 is managed and maintained by the Highways Agency, an executive branch of the Department of Transport. As such the Highways Agency is the relevant Highway Authority in relation to this road rather than Cheshire East Borough Council which is the Highway Authority

in relation to the majority of 'A' roads in the Borough. It was suggested that due to the nature of the A556 and the speed and volume of traffic of all types using it, that mobile traders would cause significant risks to highway safety.

- 11.2 On 20 July 2009 the Licensing Committee resolved to approve the publication of a notice of intention in relation to the proposed designation of the A556, and adjoining streets for a distance of 50 metres, as prohibited streets for the purposes of street trading.
- 11.3 In accordance with the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 a notice was placed in the Knutsford Guardian on 9th September 2009 inviting any representations to the proposal by 7 October 2009. In addition, consultation letters were sent to the Cheshire Constabulary, the Highways Agency and the Highways Department of the Council.
- 11.4 The proposals were noted by both the Highways Department and the Police with no additional comments. The response from the Highways Agency was that of support for the resolution on the grounds of highway safety. One representation was received from a member of the public, which stated:

I have a mobile catering van and have had this business for 24 years, I have been trading on a side road on the A556 for 7 months without any problems.

I have recently been moved of this site when asked by the council. I have consistently worked within the law and would not wish to upset the borough council in any way.

I believe the council are trying for a designation order on the A556 so that no food trailers can park and trade on this site. There is a need this type of facility I offer due to the amount of lorries and trucks that attend my business on a daily basis.

In line with the governments initiate which is to stop when tired take a break and have some refreshment that is the service I offer on this road.

I understand there is no trading on any A road in the borough, and I am enquiring regarding the reasons why there is someone trading on an A road within the borough which I know is licensed by the council, it would seem a blatant case of discrimination towards myself.

- 11.5 On receipt of this representation further comments in relation to the specific site referred to were requested from the Highways Agency. The details of the response from the Highways Agency are set out below:

Regarding this specific site, the main problem is that the lane entrance is approximately 120 metres from the end of the split lane coming from the A56 roundabout and the M56 link road. Vehicles exiting the roundabout which are joining the M56 have to move into lane one and their attention tends to be

focused on merging with the flow of existing lane one vehicles. This leads to potential conflict with vehicles exiting Yarwood Heath Lane.

Vehicles entering the A556 from the M56 link road have their view of the road ahead limited by the curvature of the incoming link. Food trading often relies on impulse stopping which again increases the likelihood of road traffic collisions due to motorists indicating late when making manoeuvres. Some motorists confuse the layby just after Yarwood Heath Lane with the slip to the M56 WB. This also leads to sudden lane changes.

The fact that no serious accident has occurred over the previous seven months does not mean that the location is free from risk.

Given these observations my opinion is that this site is unsuitable as a trading location.

An annotated plan illustrating these points is attached as Appendix A.

- 11.6 In light of the information provided above, the Licensing Committee is invited to designate the A556 (to its extent within the Borough), together with any adjoining streets for a distance of 50 metres, as prohibited streets for the purposes of street trading with effect from 23 November 2009 and to authorise the publication of a notice of making.

12.0 Overview of Year One and Term One Issues

- 12.1 Not applicable.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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