

Report of: The Environmental Health Business Manager
To: General Purposes Licensing Committee

Date: 4th January 2007 **Item No:**

Title of Report : Street Trading – Redevelopment of Bonn Square

Summary and Recommendations

Purpose of report: To seek a decision regarding relocation, retention or deletion of three street trading pitches affected by the Bonn Square redevelopment.

Decision: **No**

Portfolio Holder: Councillor Jean Fooks

Scrutiny Responsibility:

Area(s) affected: Carfax

Report Approved by: Environmental Health Business Manager
 Legal Services – Jeremy Franklin
 Finance – Andy Collett

Policy Framework: None

Recommendation(s): General Purposes Licensing Committee is recommended to determine:-

Whether or not to renew consents for some or all of the three Bonn Square street trading sites and if so minded to agree a period for which the consents should be issued.

Whether to retain some or all of the sites in the redeveloped Square.

Whether to relocate some or all of the traders to other sites away from Bonn Square and if so minded to authorise the Environmental Health Business Manager to initiate a formal consultation process to achieve this aim.

Introduction

1. Oxford City Council introduced a Street Trading Consent Scheme in 1986

to regulate trading in the city centre and its suburbs following complaints of unauthorised trading and the problems this activity caused.

2. The Street Trading Consent Scheme requires anyone selling items to hold a Street Trading Consent issued by the City Council's Environmental Health Business Unit. The consent allows that trader to trade from a fixed site and is granted under the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
3. The proposed redevelopment of Bonn Square does not at the moment include provision for any street traders either during the works or on completion. In view of this, it is therefore now necessary to determine what approach should be taken with regard to the traders that will be affected by the redevelopment.

Legal Issues

4. Legal opinion has been sought with regard to removing the street traders and it was advised that a consent is not regarded as a possession under the European Convention on Human Rights and a consent holder cannot have a legitimate expectation that a consent will be indefinitely renewed. It was also advised that a street trader cannot be said to enjoy security of tenure and there is no requirement for the Council to give compensation for the loss of any consent (other than any refund of consent fees paid in advance).
5. However, any decision to terminate street trading consents may be subject to a judicial review and therefore the Council was advised to consult the existing traders before deciding on the plans. Although the Bonn Square traders were consulted when the planning application was determined and one trader spoke at the subsequent meeting where the application was determined, it was held that the issue of street trading was not a material planning consideration. Therefore this issue remains apparently unresolved.

Current Position

6. There are currently three street trading sites in Bonn Square which will be affected by proposals to redevelop the Square.
 - A pavement site for daytime sales of food (currently crepes). The consent for this site is annually renewable and has been held by the same trader for many years.
 - A road side site for evening sales of food (currently kebabs, burgers etc). The consent for this site is annually renewable and has been held by the same trader for 3 years.
 - A pavement daytime weekly let site which has been in existence for 2 years and has a rota of 12 traders selling jewellery, clothing and other craft / tourist goods.
7. A report to the Executive Board on 11th July 2005 resolved to request Central, South and West Area Committee and Licensing Committee to review the existing street trading sites in the vicinity of Bonn Square. This followed the selection of the winning design for Bonn Square. However, at this time, no

formal planning permission had been granted for the scheme to go ahead so it was not felt appropriate to bring the matter to the committee at this time.

8. When planning permission was granted on 13th June 2006 by Central & South West Area Committee no resolution was made to support the continuation of the existing street trading sites.
9. There has been regular liaison between the Environmental Health & Planning Business Units on this issue and Planning Officers have just confirmed that funding is now available and work on the redevelopment of Bonn Square is due to commence on 1st May 2007.

Options for the Council

10. There are three options to resolve this issue:-
 - Accommodate some, or all, of the existing traders in the redeveloped Square.
 - Extinguish some or all of the existing sites completely,
 - Relocate the existing traders to alternative locations,

Accommodate the Traders in the Redeveloped Square

11. Both of the traders with annual consents have expressed the wish to continue trading in the redeveloped square on several occasions since the proposals were first announced.
12. The evening hot food business is operated by a couple who have this business as their only employment and source of income. These traders spoke at the meeting of Central, South & West Area Committee of their need to continue trading to provide an income for their family.
13. The daytime food trader has operated from this area for approximately 25 years and also wishes to continue to trade. It is understood that this trader has had negotiations with the Planning Business Unit and has offered to redesign his stall to blend aesthetically with the redesigned square and is willing to discuss relocation to a less intrusive part of the Square following the redevelopment.
14. At the time of writing, the 12 traders who occupy the weekly let site on a rota basis have yet to be consulted about these proposals.

Extinguish the Sites

15. From discussions with the two annual consent holders it is clear that they want to continue trading to earn their income and consequently they are opposed to the loss of the sites.
16. The annual consents under which two of the sites operate are due for renewal on 1st April 2007. The weekly let sites have consents issued approximately one month prior to their trading dates.

17. The two annual traders in Bonn Square were written to in August 2005 to make them aware that the Council may not renew their consents to trade owing to the proposed redevelopment work.
18. Although a local authority can choose not to renew a consent or to revoke a consent at any time, it is possible that such action may be challenged by the consent holder as it may result in the loss of their livelihood (see section on legal issues).
19. There is also the consideration that the loss of these three street trading sites will result in a loss of £14,000 per annum income to the Council. If this option is taken it will require a budgetary correction to offset this income loss.

Relocation

20. In theory, the traders could be relocated. However, congestion within the city centre is such that there is unlikely to be any real prospect of finding suitable comparable sites to accommodate these traders. When the two weekly let sites (the most recent street trading sites) were established it was felt that these were the only two new locations which could accommodate any traders.
21. Owing to the use of Queen St as a main bus stopping area there is no other suitable location to relocate the evening hot food trader further along this road. Castle St already has a hot food trader and New Rd also has bus stops on both sides of the road.
22. There are no other obvious pavement locations nearby to relocate the two daytime pavement sites. The area in front of the Westgate centre already accommodates traders who may also require relocating when the Westgate Centre undergoes redevelopment. Cornmarket is always mentioned by traders as being a very desirable location but the apparent necessity to maintain vehicular access throughout the daytime causes potential problems.
23. A formal consultation process would need to be initiated with the Highways Authority, Thames Valley Police and other interested parties to determine whether there were any possible alternative sites into which the Bonn square Traders could be relocated.

Recommendation

General Purposes Licensing Committee is recommended to determine:-

1. Whether or not to renew consents for some or all of the three Bonn Square street trading sites and if so minded to agree a period for which the consents should be issued.
2. Whether to retain some or all of the sites in the redeveloped Square.
3. Whether to relocate some or all of the traders to other sites away from Bonn Square and if so minded to authorise the Environmental Health

Business Manager to initiate a formal consultation process to achieve this aim.

Name and contact details of author: Neil Bacon
Food Safety Team Manager
Oxford 252480

Background papers: None

