

**To:** General Purposes Licensing Committee

**Date:** 15 June 2011 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Designation of Streets for Street Trading

## Summary and Recommendations

**Purpose of report:** To amend the Street Trading Policy in relation to the designation of streets in Oxford City.

**Report Approved by:**

**Finance:** Paul Swaffield (Approved)

**Legal:** Daniel Smith (Approved)

**Policy Framework:** Vibrant, sustainable economy

**Recommendations:**

**Committee is recommended to:**

- (a) resolve to recommend that Council retains the current designation of Prohibited and Consent Streets and designates the remainder of the streets within the Oxford City Council boundary as Consent Streets for the purposes of the Street Trading Scheme, OR
- (b) resolve to recommend that Council designates all streets within the Oxford City Council boundary as Consent Streets for the purposes of the Street Trading Scheme,
- (c) remove the designation of the Covered Market Walkways, the Clarendon Centre Walkways and the Westgate Centre Walkways,
- (d) authorise the Head of Environmental Development to carry out the required consultation as set out in paragraph 13 of this report, and
- (e) receive a further report to consider responses to the consultation before making the recommendation to Council.

## Introduction

1. Oxford City Council introduced a Street Trading Consent Scheme in 1986 to regulate trading in the City centre and its suburbs. Under the scheme streets have been designated as either “Prohibited Streets” where street trading is prohibited altogether or “Consent Streets” where street trading is prohibited without the consent of the Council. "Street" includes any road, footway, beach, or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980 and also includes any part of a street. The number and location of pitches is regulated by the number of consents granted and each consent specifies the particular location within a street where trading is permitted.
2. Details of the current street designations are appended. All other streets in Oxford are undesignated. Undesignated streets could therefore potentially have lawful street trading without requiring the consent of the Council, the Council having no powers to control this activity. The trader may be committing other offences under the Highways Act 1980 by doing so, however.
3. The initial scheme regulated street trading primarily in the City centre. Over time the scheme has been extended beyond the City centre by designating streets in the Cowley Road and St Clements Street areas. In addition, Dawson Street, Little Clarendon Street, part of London Road and part of Banbury Road have been redesignated as Consent Streets.
4. The Street Trading Scheme was reviewed in 2010 by Committee which, resulted in the Council adopting the current Street Trading Policy following consultation. At the same time, Committee looked at the designation of streets and resolved;

*“to change in principle, the Street Trading designation of streets in the City, and request a further report be submitted to the Committee outlining the proposed changes.”*

## Issues

5. There are some inconsistencies in the designation of streets under the current scheme which require resolving;
  - There are streets within the City centre area of designation that are not designated. For example Brewer Street is not designated, whereas Pembroke Street is a Prohibited Street. Similarly, Rose Lane is within the area but not designated.
  - The Westgate Centre and Clarendon Centre walkways and the Covered Market are Prohibited Streets although they are actively managed enclosed shopping locations where street trading has not been enforced.
  - Banbury Road (to junction of Bevington Road) is a Prohibited Street and Banbury Road (service road on Western side at Summertown) is a

Consent Street. This means that Street Trading would not be unlawful in the remainder of Banbury Road which is undesignated.

6. The unregulated sale of second hand cars by traders on public highways has become a problem in parts of the City. The so called “nuisance parking” is causing issues for local residents. The Clean Neighbourhoods and Environment Act 2005, which aims to deal with car dealers using the highway for business purposes has proved ineffective in dealing with this issue. Gaining evidence to prove that an offence is being committed by car dealers is very time consuming and ineffectual. As the vehicles take up no more room than a parked vehicle they are not considered to be causing an unnecessary obstruction contrary to the Highways Act 1980. The vehicles are usually advertised for sale where there is no waiting or loading restriction. Therefore neither the County Council nor the Police are willing to bring a prosecution for obstruction.

### **Proposals**

7. It is proposed that the Council designates all streets in Oxford under the Street Trading Scheme. By bringing the whole City within the scheme, it will enable the Council to regulate all street trading. Two options are put forward:
8. **Option 1.** To retain the designation of Prohibited and Consent Streets and designate the remainder of the streets in Oxford as Consent Streets.

#### Pros

- Extends control of street trading to all streets in Oxford. The adopted Street Trading Policy makes it clear that there is a process of consultation to adhere to, before any new pitches are approved. The Policy also contains the criteria for deciding applications for Street Trading Consents.
- Maintains prohibition in streets where street trading of all kinds is considered inappropriate in all circumstances.
- Deals with the inconsistencies outlined in paragraph 5.
- Enables the regulation of the sale of second hand cars in all streets by making it unlawful without a Street Trading Consent.

#### Cons

- If the current distinctions are maintained this may create an expectation that all applications for street trading consents in Consent Streets are likely to be successful.
- Does not give the flexibility in allowing street trading to take place during special events in streets that may previously have been prohibited.

9. **Option 2.** To designate all streets in Oxford (including the City centre) as Consent Streets.

#### Pros

- Extends the control of street trading to all streets in Oxford. The adopted Street Trading Policy makes it clear that there is a process of consultation to adhere to, before any new pitches are approved. The Policy also contains the criteria for deciding applications for Street Trading Consents.
- There will be no time-consuming process to establish the classification for different streets or parts of streets as has previously occurred when the scheme has been modified.
- This gives flexibility in allowing street trading to take place during special events in streets that may previously have been prohibited.
- Deals with the inconsistencies outlined in paragraph 5.
- Enables the regulation of the sale of second hand cars on public highways by making it unlawful in any street without a Street Trading Consent.

#### Cons

- Does not allow for complete prohibition in all circumstances in certain streets. This approach may give rise to public disquiet that street trading may be approved at some point in the future.

#### **Other Matters**

10. Existing traders on privately owned land such as the hot food vans at Wickes Car Park, Botley Road and the John Allen Centre Car Park, Between Towns Road currently do not require a street trading licence to trade. If all streets become Consent Streets then these traders will require a street trading consent or they will be deemed to be illegally street trading.

#### **Legal Implications**

11. In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'Consent Streets', 'Licence Streets' or 'Prohibited Streets'.
12. Should the Council decide to designate or change the designation of streets within its area, it must follow the procedure laid down in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
13. The procedure to be followed before the Council can formally change the designation of streets is as follows;

- The publication of a notice of intention to pass the resolution in a local newspaper and serve copies on the Chief Officer of Police and on the County Council as Highway Authority.
- A period of 28 days must elapse from the time of the initial publication of the notice to the time the Council passes the resolution confirming the proposed designation. This is to allow objections to be made, which must be considered before a resolution is passed.
- Once the resolution is passed, the Council must publish notice of the fact on 2 consecutive weeks in a local newspaper. The first publication date must be no later than 28 days before the date specified in the resolution as the date on which the designation comes into force.

### **Financial Implications**

14. The Council collects licence fees for the Street Trading function. Fees are reviewed annually prior to the Council setting its budget. Predicted income from licence fees is included in the Council's budget.

### **Recommendations**

15. Committee is recommended to:

(a) resolve to recommend that Council retains the current designation of Prohibited and Consent Streets and designates the remainder of the streets within the Oxford City Council boundary as Consent Streets for the purposes of the Street Trading Scheme, **OR**

(b) resolve to recommend that Council designates all streets within the Oxford City Council boundary as Consent Streets for the purposes of the Street Trading Scheme,

(c) remove the designation of the Covered Market Walkways, the Clarendon Centre Walkways and the Westgate Centre Walkways,

(d) authorise the Head of Environmental Development to carry out the required consultation as set out in paragraph 13 of this report, and

(e) receive a further report to consider responses to the consultation before making the recommendation to Council.

### **Name and contact details of author:**

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### **Background papers:**

**Version number:**

**CURRENT Prohibited Streets within Oxford**

No street trading of any form is allowed in the following streets.

Adelaide St  
 Alfred St  
 Alma Place  
 Banbury Rd (*to junction with Bevington Rd*)  
 Bartlemas Close  
 Bartlemas Rd  
 Bath St  
 Bear Lane  
 Beaumont St  
 Beckett St  
 Belvedere Rd  
 Bevington Rd  
 Blackhall Rd  
 Blue Boar St  
 Boulter St  
 Brasenose Lane  
 Brookside  
 Bullingdon Rd  
 Cardigan St  
 Caroline St  
 Cave St  
 Chain Alley  
 Chapel St  
 Cheney Lane  
 Cherwell St  
 Circus St  
 Cleveland Drive  
 Clive Rd  
 Cowley Place  
 Cranham St  
 Crown St  
 Divinity Rd  
 East Avenue  
 Edmund Rd  
 Frewin Court  
 Friars Entry  
 George St Mews  
 Gypsy Lane  
 Glebe St  
 Gloucester St  
 Grays Rd  
 Great Clarendon St  
 Havelock Rd

Headington Rd  
 Hendred St  
 Hollybush Row  
 Holywell St  
 Hythe Bridge St  
 Iffley Rd (*from The Plain to Circus St*)  
 James St  
 Jeune St  
 Jowett Walk  
 Juxon St  
 Keble Rd  
 Kenilworth Avenue  
 Kybald St  
 Leopold St  
 Little Clarendon St  
 Littlehay Rd  
 Logic Lane  
 London Place  
 Longwall St  
 Magdalen Rd  
 Magdalen St  
 Magdalen St East  
 Magpie Lane  
 Manor Place  
 Manor Rd  
 Mansfield Rd  
 Marston Rd  
 Marston St  
 Merton St  
 Morrell Avenue  
 Museum Rd  
 New College Lane  
 Observatory St  
 Oriel St  
 Osney Lane  
 Oxford Rd (*from Swan PH to Marsh Rd incl service road to Temple Court Flats at 103/105 Oxford Rd*)  
 Park End Place  
 Park End St  
 Parks Rd (*the south part up to Museum Rd*)  
 Pembroke St  
 Pensons Gardens  
 Princes St

Pullens Lane  
 Pusey St  
 Queens Lane  
 Radcliffe Square  
 Randolph St  
 Rectory Rd  
 Red Lion Square  
 Rewley Rd  
 Richmond Rd  
 Savile Rd  
 Ship St  
 Shoe Lane  
 South Parks  
 Southfield Rd  
 St Bernard's Rd  
 St Clement's St (*from The Plain to Dawson St*)  
 St Clements St (*between Dawson St and London Place*)  
 St Cross Rd  
 St John's St  
 St Thomas St  
 Stockmore St  
 Temple St  
 The Clarendon Centre Walkways  
 The Covered Market  
 The Plain  
 The Westgate Centre Walkways  
 Tidmarsh Lane  
 Turl St  
 Tyndale Rd  
 Union St  
 Upper Fisher Row  
 Valentia Rd  
 Walton Crescent  
 Walton St (*throughout its length*)  
 Wellington Square  
 Worcester Place  
 Worcester St  
 York Place

## **CURRENT Consent Streets within Oxford**

Banbury Road (*service road on Western side at Summertown*)  
Bonn Square  
Broad Street  
Castle Street  
Catte Street  
Cornmarket Street  
Cowley Rd (*from The Plain to Howard St*)  
Cripsey Road (*junction with Botley Road*)  
Dawson Street  
George Street  
High Street  
King Edward Street  
London Road, Headington (*layby 69-77*)  
Magdalen Bridge  
Manzil Way  
Market Street  
New Inn Hall Street  
New Road  
Oriel Square  
Oxpens Road  
Pennyfarthing Place  
Pembroke Square  
Queen Street  
St Aldates  
St Ebbes Street  
St Giles  
St Michael's Street  
Woodstock Road (*from St Giles to junction with Bevington Road and St Bernard's Road*)

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