

Appendix 3: A selection of written consultation responses

From: Scott, Rachel
Sent: 24 February 2011 10:38
To: Davies, Alissa
Cc: 'Stephens, Paul'
Subject: Consultation on a proposed new council-wide street trading scheme

Dear Alissa and Kate

Thank you for the time you gave last week to discuss the issues around traders on our respective networks in Wiltshire. Specifically for the Highways Agency this encompasses the A303 and the A36. We would like it to be noted that there are no suitable laybys for trading on the A303 that meet the Department for Transport's guidance. The A36 is already covered by a Clearway Order and no trading is permitted from any layby on this route. The one exception is the Eastclyffe layby situated on the south side of the trunk road at Eastclyffe, east of Steeple Langford approximately 570 meters west of Southington Farm access. It is our opinion that although these routes may be outside the Local Government Miscellaneous Provisions 1982 Schedule 4, Wiltshire County Council could consider these routes as exempt under the Highways Act 1980 section 115 (E) and subsequently enforce on our behalf.

I look forward to receiving your response.

Kind regards

Rachel Scott, Area 2

Highways Agency | Temple Quay House | 2 The Square, Temple Quay | Bristol | BS1 6HA
Tel: +44 (0) 117 3728298 | **Fax:** + 44 (0) 117 3728838
Web: <http://www.highways.gov.uk>

I have been trading in Trowbridge town centre for 12 years, and I feel that the Wiltshire Council proposals are fair. I sell hot food in the evenings and have experienced a dramatic decrease in trade over the past 2 years. It is harder today to continue making a living by trading in the evenings, as a result of the drop in the pub and club trade. The midweek trade has dropped by a third, and it is only the weekend trade (Friday night and Saturday night) which sufficiently enables my business to keep afloat and support me, my 4 children and wife. I am certain that if the trading hours were to be reduced late at night especially on Friday night and Saturday night, my business would fail, and I would not be able to support myself and my family. I will always be indebted to the Council, who helped me end my unemployment 12 years ago and gave me the opportunity to set up my business and become self-employed, supporting myself and my family all these years. Thank you. A current Consent Holder in the West.

The Council should be doing all in its powers to reduce, possibly even stop altogether, any street trading at except in established markets, farmers' markets or at fetes and carnivals organised by town and parish councils. Street trading looks shabby, encourages the fencing of stolen goods, is often undertaken without the full knowledge of the Inland Revenue, encourages poor hygiene and work practices and undermines the businesses of rate paying shop owners. Please do not encourage this menace on to our streets. A member of the public

Many towns over the past few years along with the Institute of the National Market Traders Federation (NMTF) through Government have been trying to rid towns of street trading due to the many unsocial issues it raises, even when legalised. If introduced it will attract all types of illegal trading as it is

impossible to control it completely unless you have permanent officer overseeing it on the days it would be legally allowed to set up stalls due to the local Charter. At present we do not have a big problem as street trading is illegal. Should street trading is introduced at any level I foresee nothing but trouble for the future of Salisbury and the local business people. As the saying goes protect what you have or open the gates at your peril .A town/parish Council.

The Council should actively encourage street trading and set up help schemes for young entrepreneurs. Get young people into business and help them do so. Don't be stand in the way with high charges and over-regulation. Give them a free hand let them learn of their mistakes but also give them some friendly encouraging guidance. A local business.

There is no need for harmonisation of prices, only procedures. WC has no business at all dealing with trading licences on any land other than its own - other than enforcement as a planning authority. A town/parish council.

Mere Parish Council

Parish Clerk - Mrs. L. C. Wood



Alissa Davies
National Management Trainee
Public Protection Services

Wiltshire Council

Alissa.davies@wiltshire.gov.uk

Duchy Manor,
Springfield Road,
Mere
Warminster,
Wiltshire
BA12 6EW
Phone: 01747 860701

e-mail: lindseywood@merewilts.org
www.merewilts.org

27th January 2011

Dear Ms. Davies,

Re: Street Trading Consultation

It has been brought to our attention, via our Wiltshire Councillor, that Wiltshire Council is currently consulting on a proposed Street Trading Scheme (consultation open until 17th March). The Parish Council has asked me to respond to the Street Trading Consultation accordingly:

Whilst the Parish Council understands the desire of Wiltshire Council to promote fairness and consistency across the county with a county wide street trading policy, we are concerned that this will

result in excessive regulation that will hinder, obstruct and deter the fund-raising activities and community vitality in rural towns and villages such as Mere.

On page 5 of Mere's Parish Plan¹, under the heading 'Community Vitality' it states that '*Many of these activities are provided and managed on a voluntary basis and there is a need for new volunteers in existing and new areas. There are a number of possible explanations for the lack of willingness on the part of potential volunteers who may be unable to make regular long-term commitments and unwilling to cope with the ever-present and ever-increasing red tape, bureaucracy and regulations.*' The need for self-sufficient fundraising for all these voluntary organizations is also escalating due to the weakened economy, spending cut backs and less grant aid. Furthermore, during the current public spending cuts, there is an expectation for more services to be volunteer led. Let's not make it more difficult for them!

The Parish Council anticipates that the Street Trading Policy would apply to a number of events that occur in Mere:

- Annual Mere May Fayre – a number of stalls (2nd-hand book stall, plant sales, cake stalls etc) in and around the town centre, pub car parks, clock tower island (owned by the Parish Council) in aid of Cancer Research.
- Annual Mere Carnival – carnival procession through town with burger/hot dog sellers, balloon sellers on the night & raffle ticket sales throughout the week in town centre. Proceeds of carnival go to local charities and organisations.
- Annual Church Fete – held in churchyard with stalls (raffles, 2nd-hand books, plants, jumble, bric-a-brac etc).
- Throughout the year – Parish Council gives permission for local organizations and charities to hold cake stalls in the clock tower. Other one-off fund-raising events might be held for local sports organizations in the Recreation Ground or Sports Field.

I am afraid that, even after reading all the documentation provided, the definition of a Street and the definition of a Town Centre is not exactly clear. Is Mere regarded as a Town Centre or does that just apply to larger towns?

From reading your 'Draft Guidelines – January 2011' it would appear that these events would fall under the Block Street Trading Consents scheme and that Wiltshire Council will not charge for a Block Street Trading Consent if the proceeds from both the street trading activity and the event as a whole will go to a registered charity or will not be used for private gain. However, there seems to be some further regulations to comply with in order to meet this criteria. For example, a large number of our organizations are not Registered Charities (Swimming Pool Committee, Football Clubs, Cricket Club, Friends of Mere School etc.) and would therefore be unable to produce a Charity Registration document and, we suspect, would find it difficult to produce a letter from the Inland Revenue confirming that the organization is recognized as a charity for income tax purposes. Furthermore, we doubt whether many of the organizations who wanted to hold a fund-raising cake stall would want to register with the Wiltshire Council Food Safety Team and we doubt whether some of these organizations would be able to afford £5 million public liability insurance.

The Executive Summary of the Proposed Street Trading Scheme states that you will "*offer Block Street Trading Consent for organizers of large street trading events, where the event organizer is responsible*

¹ http://www.merewilts.org/Mere_parish_plan/Mere_Parish_Plan_2005.pdf

for all street traders at the event. For example farmers markets, car boot sales, fetes, carnivals and static structures on Town and Parish Council [sic] (???) – I assume the word ‘land’ is missing), such as kiosks in parks leased out by the Town or Parish Council.” We fear that this paragraph is a little ambiguous. Not all these events would be ‘large’, some may be very small. The term Town and Parish Council land is somewhat vague – is it land that the Parish Council owns, leases and/or maintains. Mere Parish Council may shortly be responsible for the management of our car parks – will they be encompassed within this scheme?

The procedure for determining applications for Street Trading Consents also seems to be somewhat lengthy and time-consuming. We note that there are 14 bodies for consultation, including the appropriate Town or Parish Council. How long will the consultation period take? At present we are offered 21 days consultation on planning applications and I am aware that many Parish & Town Councils find this difficult and restrictive and find it necessary to call extra parish council meetings in order to discuss the planning applications within the consultation period.

The Minister of State for Decentralisation states, in his foreword to the Localism Bill: *“We have already begun to pass power back to where it belongs. We are cutting central targets on councils, easing the burden of inspection, and reducing red tape. We are breaking down the barriers that stop councils, local charities, social enterprises and voluntary groups getting things done for themselves.”* It would appear that Wiltshire Council’s proposed Street Trading Scheme will be increasing the burden of consultation, inspection and red tape and increasing the barriers that stop councils, local charities, social enterprises and voluntary groups getting things done for themselves.

Mere Parish Council would suggest that the proposed scheme will do much harm to our community vitality and would indeed cause damage to the local environment and be insensitive to the needs and concerns of residents (the exact opposite of two of the purposes you identify in the Draft Guidelines). We would like to suggest that you might offer a Block Street Trading Consent to all Parish & Town Councils to authorize (not organize, because a lot of these events are organized by the respective group or charity) local fund-raising events e.g. farmers markets, car boot sales, fetes, carnivals, cake stalls etc., to be held on land owned, leased or managed by the Parish or Town Council. We would be happy for you to include a maximum number of events (say 15 per year). Furthermore, this Consent should be renewed automatically each year.

Please regard this letter as our formal consultation response as we find that the on-line consultation document (multiple choice questionnaire) is ambiguous and does not permit us to give such an informed and detailed response.

Yours sincerely,

Mrs. Lindsey Wood,
Parish Clerk.

Copies to:

Wiltshire Councillor Mrs. Bridget Wayman, Chairman, South West Wiltshire Area Board
Wiltshire Councillor George Jeans

Dr. Andrew Murrison, MP

From: Jeanssdc@aol.com

Sent: 10 February 2011 14:35

To: Wayman, Bridget; Munro, Richard; Beattie, Richard; Green, Jose; Deane, Tony

Cc: Davies, Alissa; lindseywood@merewilts.org; Hawker, Russell; James, Tom; Wheeler, Stuart; Groom, Mollie

Subject: George Jeans, Mere

All,

The South West Area Board passed a motion last night 9/2/2011, to the effect Street Licences are not required for registered charities or non profit making organisations. Lindsey Woods from Mere PC who was present, noticed that if this is done, which indeed I hope it is, it will be required to remove the request that for a free licence (from this one would assume exempt as a non licence would be free), a letter from HMRC or prove of being a registered charity should be removed, as a letter to this effect from HMRC would be very difficult to get addressed to a person or body, all you would get easily is general advice. The removal of this requirement from a block licence would also be required for the same reason, very difficult to obtain such a letter.

It is for the individual or body to decide where to apply or ask advice as to where a licence is required. If a person or body request the wrong type of licence or chose not to apply, it is up to them, if they take the wrong action they could be enforced against, which is the deterrent.

Alissa there is real concern in this area regarding this type of licence which I was aware would be when people came to understand the possible implications. It is unfortunate you could not attend The South West Area Board last night to see for yourself, can you give me an update on where your guidance stands at present.

I accept a licence is preferable for street traders who are businesses possibly without paying rates. Note a Street Trader I understand can trade near their premises and not require a licence they would have a non domestic rate value presumably, which in the case of a charity shop is non payable. In this case will they require an exception certificate or like? Again it is for the applicant to decide. Nothing, is truly yes or no and this requirement to get an HMRC letter is too onerous.

Regards,

George

Street Trading

Amesbury Town Council wishes to make the following observations on the proposed Street Trading Scheme:

Firstly, the Council is concerned about the definition of 'a street', which includes private land. Whilst indoor shopping centres are exempted from this, it would appear to include Village Halls, Sports Pavilions, Community Centres, Churches etc. and the land surrounding them.

Town and Parish Councils often own and manage Parks and Recreation Grounds. It is not clear from the documentation if these are considered to be private land. Amesbury Town Council would object most strongly if this were the case.

Whilst it is acknowledged that many traditional events such as Fetes, Carnivals, Car Boot Sales and other small fundraising activities may be exempt a fee, the criteria (either a copy of a charity registration or a letter from the Inland Revenue confirming charity status) may be very difficult for the organisers to

obtain. These events are traditional to the way of life of many small towns and villages, and such measures would destroy them, to the detriment of communities.

It is noted that Wiltshire Council does not include sales of gas, electricity or other domestic Services or subscriptions to motor breakdown services. These activities are all for profit and if these measures are bought in they should be included.

The application time scales for Annual and Daily Street Trading are very prescriptive, especially that for Christmas trading, being almost three and a half months ahead of the traditional festive trading period. In noting that Block Trading Consents can be submitted at any time it is not clear how long it would take a licence to be considered. However, considering the number of official bodies to be consulted, it is envisaged it would take months, given the time consultees have to respond. This is far too long for many of the organisations mentioned above.

The required documentation etc under the heading of "how to make an application" is considered excessive for many organisations, especially perhaps the organisers of an annual village fete or even a town carnival. The organisers would almost certainly be put off even starting the documentation process, resulting in the cancellation of the event.

Many of the standard conditions can be best described as draconian - e.g. third party and public liability insurance of up to £5 million, costing a Church Fete in the region of £300. The use of generators is quite commonplace to provide stall lighting. Trading area locations would make events such a Christmas Market almost impossible to stage in small towns.

Amesbury Town Council finds the proposed measures to be bureaucratic and unworkable, totally against the Government's stated aim to reduce bureaucracy. The Council considers the extent of the proposals to be unworkable and would further question how it is to be policed. The Council feels that if such measures were to be put in place it would seriously harm communities, as events would simply not be held.

It may be prudent to reconsider these measures in the light of the recently published Localism Bill before trying to enforce them.

Please consider this as the Amesbury Town Council's response to the consultation as the online consultation does not give opportunity to respond to many aspects of the proposal.

Trowbridge Town Council

NOTES

Question 1 & 12.

Whilst it is desirable to have a Wiltshire wide policy, this does not mean that the same rules should apply in all towns. There are local issues and differences which need to be accounted for. It is not necessary to have the same policy applicable everywhere. There may be good reasons why certain streets in town centres should have NO street trading. There may be good reasons why particular trading activities should not be allowed in certain towns, but would be allowed in others.

Area Boards or Town and Parish Councils should be able to develop a policy within a framework laid down by Wiltshire Council.

Question 3.

Question 13.

It is unclear what is meant by 'permanently sited'. As many mobile food traders cause issues of anti social behaviour including lack of toilet facilities then this issue needs to be addressed. If this refers only to buildings such as a kiosk in a park then as long as toilet facilities are available in the park and open at the same times then this would be satisfactory.

Question 14.

Wiltshire Council need to explain the proposed criteria for determining an application, what do they mean, very subjective, compared to the 200m competing goods rule currently applied, although this in itself is pretty worthless. Will the rules allow the local community or representatives to consider the appropriateness of a particular proposed trading activity for a particular location and time? If not what is the point of having any rules?

The Town needs a system which allows street trading to be controlled for the benefit of the town, not one which in effect gives a green light to any street trading activity.

Question 15

Environmental conditions, including noise from generators and engines, litter resulting from

From: Ian [mailto:]
Sent: 27 January 2011 11:19
To: Davies, Alissa
Cc: 'Steve Hannath'; 'Ron Champion'; 'David Law'
Subject: Street Trading Consultation

Alissa

Locally, this element of the new licensing proposals is attractive to Laverstock village, as we have an Ice Cream van which stops and trades outside the schools campus on Church Road and adds to the traffic problem and dangers.

It therefore fails this section:

“trading from a motorised ice-cream van and keep moving from street to street not stopping in one place for longer than 15 minutes and do not trade within 500 metres of a school”

Can you ensure this point is input to the consultation please?

Thanks

Ian

Cllr Ian M^eLennan
Laverstock, Ford & Old Sarum Division
Wiltshire Council
01722 332233

From: William Hall [mailto:]
Sent: 29 January 2011 14:35
To: Davies, Alissa
Subject: jan 29 11 Street Trading

Alissa

Street Trading Licensing

My company are the owners of the Martingate Centre in Corsham and an important private landowner in the town. We are extremely concerned over these proposals and would strongly oppose any further extension of the existing "consent" area to cover land in our private ownership.

Because NWDC previously sought to prevent a flower barrow in the centre (common enough in shopping centres) for anti competitive reasons we took counsel's opinion and I believe the present blanket proposal is unlawful and subject to legal challenge. Furthermore there is a substantive judgment that councils can only recover their costs in the charging for licences and the rates proposed are extortionate. For example the Yilmaz kebab van who trades in our car park pays rent of only £1,200 to us, and full business rates on top of that. To be asked to pay a further £2,800 is unreasonable and can hardly reflect the cost of issuing his licence.

Under the freedom of information act can I now formally request the costs incurred over the last year by Wilts Council in running the Street Trading Licensing?

I would also ask you to confirm that the covered area of the Martingate mall walkway (designated as an indoor area under building regulations) is treated as an indoor area of the shopping centre and not subject to licensing?

It would perhaps be helpful if we could arrange a meeting with the senior council officer in charge of street trading and perhaps the new head of legal services (I gather Jacky Tilley who was always helpful has now left?)

Bill Hall
Martingate Centre

PS. I have completed the consultation on the internet in my personal name which you might like to refer to?

From: William Hall [mailto:]
Sent: 03 February 2011 18:04
To: Davies, Alissa

Cc: Ian Storey; 'Fairbrass Georgina'
Subject: feb 3 11 Street Trading

Thank you and Kate for the time and courtesy extended at our meeting today - much appreciated.

Street Trading Licensing

The points I made fall into two categories - specifics relating to the Martingate Centre, and macro concerns.

Specifics:

1. You advised the covered space in the Martingate Centre walkway is designated indoor space and exempt from street trading control. You will confirm in writing that Martingate may licence street trading in this area without the requirement of a further licence requirement from WC.
2. Martingate opposes the designation of further areas in the centre (notably the old graveyard amenity area) as "consent streets" without a specific consultation relative to the particular circumstance.
3. Martingate is concerned at the level of charging for street trading licences in the centre. In particular the presumed "town centre" rate of £2,800 pa on the Yilmaz burger van. Yilmaz has a licence from Martingate costing £1,200 pa and the van is rated at £1,000 with rates payable of about £470. The proposed fee of £2,800 is disproportionate and unreasonable (being some six fold of the rates) and will likely put the van out of business.

I mention that Martingate has no current plans to extend street trading in the centre. Rather we are anxious control buskers and other vendors who are exempt from current legislation.

General Concerns

1. The proposal to extend council powers over all privately owned land throughout the county to which there is free public access, is an unwarranted derogation of private property rights and may well be illegal. The nature and uses of such land differs widely including for example, private gardens used for church fetes where no entrance fee is charged, national trust land with free access, woodlands, land with public rights to roam, parts of military training areas, to name but a few. The right to designate private land as "consent streets" should continue to be subject to individual consultation with proper rights of representation.
2. The proposals will withdraw the right of appeal to the designation of a particular space as a "consent street" once the blanket scheme is approved, and crucially there will be no provision for private land not to be designated as a "consent street"- all private land will be so designated regardless. At present there are rights of appeal both to proposals to designate and to proposals to remove designations. The removal of any right of appeal against the state is probably unconstitutional? This is a different point to the right to appeal the refusal of an application. Interestingly the land owner is not amongst those noted to be consulted on applications for licences?
3. It would appear that trading in lay-byes throughout the county will be prohibited. I wonder if it is beyond the authority of the council to impose this on the arterial routes owned and managed by the Highways Agency - for example the A303?

4. It seems it is not lawful for WC to impose licence fees at a level above that required to recover the costs of administering the scheme . The proposed rates would appear to be in excess of this cost. The fees must also be reasonable and everything in the public interest. The fee for Yilmaz is clearly unreasonable and I would suggest it is also not reasonable to just have two rate bands - town centre and other. There is a difference in a trading pitch in the centre of Corsham and say town centre Swindon or Salisbury. Furthermore street traders are not all the same. The 2006 judgement **R. v. Manchester CC ex p.King (1991) 89 LGR 696** by Mr Justice Roch is clear on this issue although I appreciate there may be further subsequent legal precedent (could I have details of any more recent judgements?). I do not accept that it is proper legal justification that other councils have already imposed blanket controls. Such actions may be challenged in the courts when the full implications become clear.

5. There is widespread misrepresentation (largely by ill informed councillors) that street traders do not pay rates, and this is reflected in the executive summary that a central principle of the scheme is promote "fair trading". This is inaccurate and any attempt to use control of street trading in restraint of trade and against free competition is an abuse of the clear intent of the legislation.

6. I have suggested that WC, while only seeking to recover their costs, might consider setting charges in proportion to ratable values where rates are payable. The VO is at least independent. Consideration should also be given to the impact of charges on open market rental values, the basis of RV's on which business rates are calculated. Substantial licence fees will surely lead to rating appeals and if RV's are reduced this will lead to a fall in business rates recovery.

Martingate believes these proposals need to very carefully considered if the "law of unintended consequences" is to be avoided!

Thanks

Bill Hall

Response from Old George Mall Shopping Centre To Wiltshire Council Street Trading Consultation.

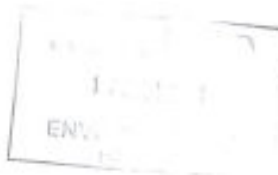
The harmonising of consent for street trading is to be welcomed. The various unlicensed street traders that visit the city compete with existing retailers, cause congestion at pedestrian intersections and deflect footfall away from shop fronts and shopping areas. We would like to make the following comments on the consultation paper:

- Street trading should include the sale of domestic services and subscription to services as these often cause annoyance to retailers and customers in the City.
- Applications only being considered four times a year will be restrictive to many street traders. Applications should be considered any time of the year.
- The time period for consents of a minimum of 90 days is ridiculously long; and this would be restrictive to many street traders. With planning applications only taking 8 weeks it is hard to understand why such a long period is required for street trading licences. Salisbury City Council and City Centre Management used to process applications in 2 week !
- The time period for Christmas trading, that being that the application must be in by 1st September, is again restrictive. This is impractical as many traders will not have made a decision until late October/early November
- The fee of £2,800 per annum is high. The fee should reflect the position of the "pitch" and type of street trader.
- In areas of the City Centre such as the Old George Mall, Cross Keys and Maltings shopping centres there is a wide range of tenant mix and high footfall, particularly at seasonal periods.

The **General Conditions** should include the additional protection that where there is adequate shopping provision then consent should not be granted within the agreed boundaries of these areas without the prior approval of the owners of the shopping centres.

- The application process could be greatly simplified by having “Approved Traders” and “Approved Pitches” and “Approved Fees” Any applications could then be processed in a matter of hours .
- It should be made explicit that the process does not apply to “ Café Seating Licences”

Wiltshire Council Licensing Team
Monkton Park
Chippenham
Wiltshire
SN15 1ER



10th February 2011

The Shires, Court Street
Trowbridge, BA14 8AT

tel: 01225 762029

email: j.polledri@talktalk.net

Dear Sir

I am writing as representation of the Trowbridge County Town Initiative in regards to your street trading license consultation.

We have filled in the questionnaire however we wish to expand on some of the views which we have listed below.

- i. The street trading license fee for the town centre is far too low. In the Shires, trading space is £200 per day or £550 per week. Our view is that the cost should be £100 per day or £350 per week in line with footfall and location.
- ii. The location of the street trading needs to be part of the assessment so it does not conflict with current retailers.
- iii. Food traders need to be assessed by the EHO especially businesses that operate at night.

We would like to express that our aim is to increase the vitality and vibrancy of the town centre and the above will encourage that issue. We also wish to be invited to any consultation meeting planned to discuss the subject further.

Yours faithfully

Tino Polledri
Chairman

Cc – Jane Scott