

## **REPORT OF GENERAL PURPOSES AND LICENSING COMMITTEE**

(Meeting held on 23 February 2004)

### **1. STREET TRADING – PROPOSALS FOR TRADING IN STATION ROAD, NEW MILTON (REPORT A) (MINUTE 51)**

New Milton Town Council desires to establish a weekly “street market” on Wednesdays on the eastern side of Station Road, New Milton, between Bath Travel’s premises and the junction with Spencer Road. A plan showing the area concerned is attached at Appendix 1 to this report.

To enable lawful trading to take place on a particular highway, the relevant District Council must first designate the highway, or part of it, as either a “consent street” or a “licence street” under the street trading provisions in the Local Government (Miscellaneous Provisions) Act 1982.

In order to support the Town Council in its aspirations, in December 2003 the Committee decided that a “notice of intention” to designate part of Station Road as a consent street should be published in the local press and the public invited to make representations. This is a statutory requirement before a formal decision can be made on whether to designate a street as a consent street.

Public representations were received during January 2004, and these were considered by the Committee on 23 February 2004. Members noted that the representations appeared to indicate a level of both support for, and opposition to, the proposals. On balance, members were satisfied that some of the concerns could be addressed by good management of the market, if necessary by writing conditions into the relevant agreements with the Town Council and/or market operator. Concerns about possible adverse effects on the town’s economy were noted, as were Ringwood Town Council’s assertions that their weekly market was a key economic factor in the town’s success. The Committee considered that if it enabled weekly markets to at least be introduced, this would enable evidence about the effect of the market to be gathered during an initial trial period before a long-term decision was made.

The Committee has therefore decided, under its delegated powers, to designate the relevant part of Station Road as a “consent street”. This means that, subject to further newspaper notices appearing and a 28 day period elapsing, trading can be carried on in that area lawfully by individuals to whom consent to trade is granted, so long as they comply with any conditions attached to the consent. (If a designation were not made and consents were not granted, traders would be open to prosecution under the Highways Act for causing an obstruction to the highway without lawful authority).

To enable trading to take place on the highway, officers in Technical Services are in the process of making an experimental Traffic Regulation Order closing the east side of Station Road between its junctions with Ashley Road and Spencer Road on Wednesdays, to permit traffic to travel in a northerly direction only. There have been no objections from statutory consultees, and it is hoped that the Order will be made during March 2004 to come into effect in April 2004 for an experimental period.

This Council has no budget, or spare resources, to carry out the day to day tasks involved in ensuring a weekly market operates properly. New Milton Town Council has confirmed that it is prepared to take on these tasks. It is therefore proposed that the District Council enters into an agreement with the Town Council under which it delegates its functions relating to the issue and revocation of street trading consents to the Town Council, on specified conditions which would be included in a written agreement between the two Councils.

Any decision to delegate the District Council's functions to the Town Council is for the full Council to take.

The Town Council hopes that the first weekly market can take place in mid-April 2004. The proposal is that any delegation to the Town Council subsists for an initial period of about 6 months only, so that the success or otherwise of the market and any problems it engenders can be considered before either the Town or District Council commits itself to a long-term arrangement. In response to publication of the notice of intention, representations were made to the effect that existing businesses in New Milton, and the current Wednesday market in Ringwood, would suffer if a Wednesday market were to be established in New Milton. Holding a market for an initial trial period would enable any evidence of such adverse effects to be assessed before the Council decides whether or not to agree to a weekly market in Station Road on a long term basis.

Once any delegation to the Town Council comes into force, the Town Council is expected to enter into a formal written agreement with its chosen market operator setting out the detail of how the market will operate. While the District Council will not be a party to this agreement, it would be inadvisable for the District Council to delegate its functions to the Town Council without satisfying itself that the market will be run properly and that there are mechanisms for ensuring that any problems or complaints will be addressed. Officers in the Legal and Democratic Services section of the District Council, in consultation with officers in environmental health and highways, will therefore be helping to draft an agreement between the Town Council and its chosen market operator, together with a standard set of conditions to which traders will be required to adhere, to ensure that this is the case. As in the case of the agreement between the District and Town Councils, it is proposed that this agreement also is for a trial period of about 6 months, after which it may be extended only if both parties agree.

It is hoped that the consent street designation will also mean that occasional Hampshire Farmers' Markets (perhaps two a year) can be held in Station Road, generally on Sundays or Bank Holidays. The Council's powers to grant consent to traders for these events have been delegated to the Economic Development Officer.

Street trading will not be permitted in Station Road other than at the weekly market promoted by the Town Council, or at Hampshire Farmers' Markets. Officers in Environmental Health have been authorised to refuse any applications for consent to trade that are not connected with these events.

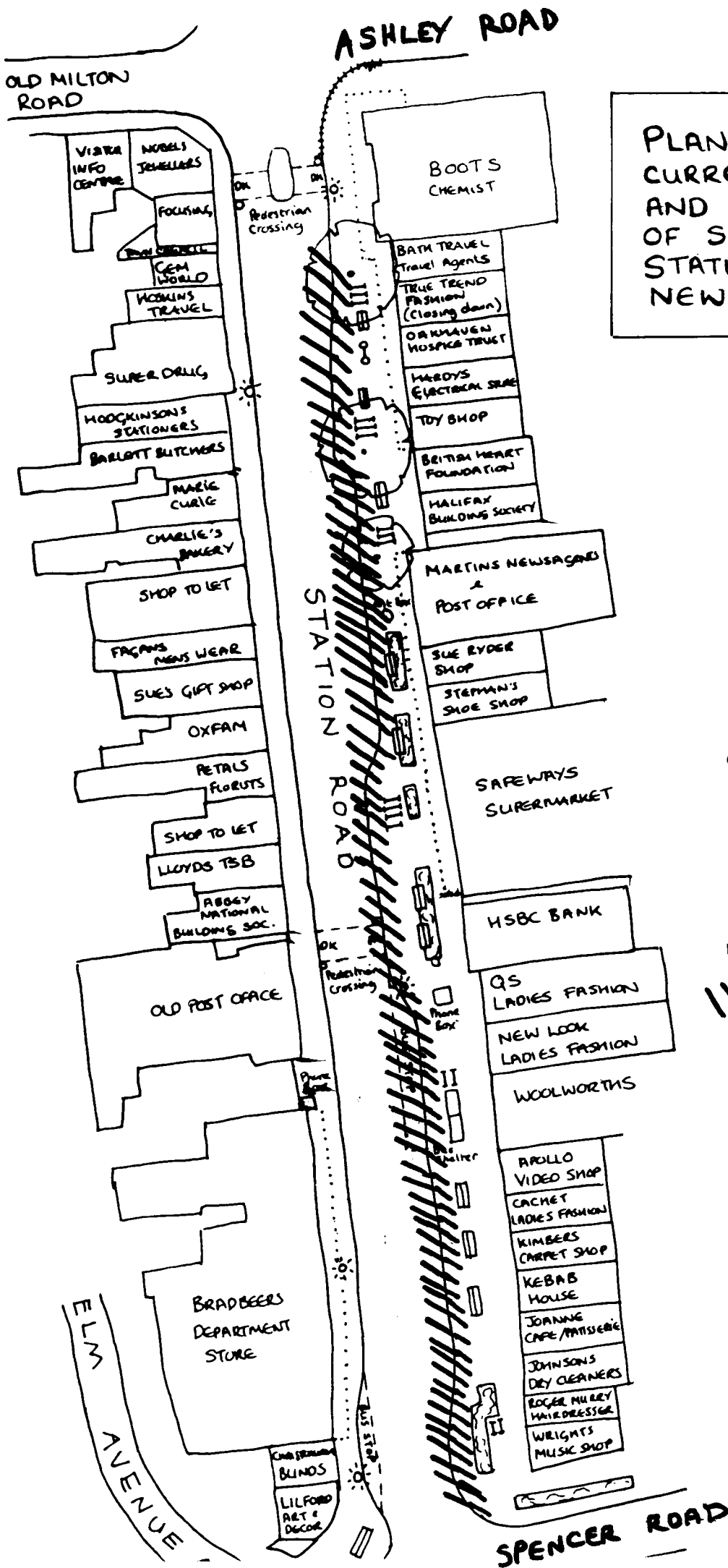
**RECOMMENDED:**

- (a) That, subject to an agreement being entered into under recommendation (b) below and the making of an experimental Traffic Regulation Order, all the Council's functions under paragraphs 7 and 9 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (street trading consents) in respect of the proposed weekly street**

**market in Station Road New Milton be delegated to New Milton Town Council until 26 October 2004;**

- (b) That the Head of Legal and Democratic Services be authorized to enter into a written agreement with New Milton Town Council concerning the terms on which the Town Council is to exercise this delegation, the wording of such agreement to be agreed between the Head of Legal and Democratic Services and the Town Council but to include the requirements set out in Appendices 2 and 3 to this report; and**
- (c) That the Chief Executive, in consultation with the appropriate Head of Service and the Chairman of the General Purposes and Licensing Committee, be authorized to exercise the District Council's powers under the terms of the agreement referred to in (b) above.**

**CLLR W H DOW  
CHAIRMAN**



PLAN SHOWING CURRENT LAYOUT AND SHOPPING MIX OF SOUTH PART OF STATION ROAD, NEW MILTON

**KEY**

- LIGHTING COLUMN
- MATURE TREE
- CYCLE RACK
- BENCH SEAT
- NOTICE BOARD
- CANOPY OVERHANG
- RAISED STONE PLANTERS
- DROPPED KERB

**PROPOSED STREET MARKET**



SCALE:  
PRESUMED 1:500  
NOT CONFIRMED

DRAWN BY:  
ALISON TALBOT  
20.5.03

**Terms to be included in the agreement between the District Council and the Town Council**

1. Consents to trade to include such conditions as the District Council may require (the Town Council may impose further conditions as it sees fit).
2. Town Council to comply with District Council's request to revoke any particular consent.
3. Town Council to monitor market operator's compliance with the agreement between them, and compliance by traders with consent conditions (apart from compliance with food safety and health and safety legislation which remains a function of the District Council).
4. Town Council to deal with any complaints about the market.
5. Barriers separating the consent area from the remainder of the highway, and adequate signing, to be erected to the highway authority's satisfaction.
6. Indemnity and public liability insurance arrangements to be to the satisfaction of the Head of Legal and Democratic Services.
7. Either party able to terminate the agreement for any reason on giving 4 weeks notice.
8. District Council able to terminate the agreement without notice if there is a breach by the Town Council which is not remedied within 7 days.

**Terms the District Council requires to be included in the agreement between the Town Council and the market operator**

Regular market to take place on Wednesdays only (subject to Town Council's right to make special arrangements for Christmas and unforeseen events), unless District Council agrees otherwise.

Traders' vehicles not to be allowed in market area except for one hour before trading starts and one hour after it ends. No loading, unloading or obstruction to be permitted on the carriageway that will remain open.

Traders' vehicles not to be parked in a public car park.

Bins etc to be provided during trading.

All rubbish to be removed from the area after trading to the District Council's satisfaction.

Adequate arrangements for public liability insurance.

**Conditions to be included in consents to traders issued under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982**

A trader may only trade when allocated a stall by the market operator.

Consent does not imply any permission that may be required under other legislation.

Traders must not contravene food safety or health and safety at work legislation.

No unreasonable noise to be made - in particular, no means of amplifying sound.

Traders must hold current satisfactory public liability insurance.