

GENERAL PURPOSES AND LICENSING COMMITTEE – 16 MARCH 2007**NEW MILTON STREET MARKET – POSSIBLE RELOCATION****1. BACKGROUND**

- 1.1 The Committee will recall that in February 2004 it recommended to Council that part of the east side of Station Road (South), New Milton, be designated a consent street under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA), for the purpose of enabling lawful trading to take place in that area. Council accepted the recommendation, and the first “New Milton Wednesday market” took place on 21 April 2004. Weekly markets have continued ever since.
- 1.2 This Council’s functions in relation to the issue of consents to trade and the day to day running of the market are delegated to New Milton Town Council, who have entered into a formal written agreement with their chosen market operator.
- 1.3 Extracts from the first of two reports brought to this Committee on the original proposals for a “street market” in New Milton (dated 15 December 2003) explain in detail the effect of street trading legislation, and are attached for information as Appendix 1 to this report.

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2. PURPOSE OF REPORT

- 2.1 Works to carry out the special maintenance scheme B3058 Station Road South are due to start in July 2007, with substantial completion scheduled for November 2007. While these works are underway, it will not be possible for the market to continue in its present position. If the market is suspended throughout the construction period, it is feared that it would be difficult to re-establish it after the works are complete. The preferred solution is for the market to be temporarily relocated to the eastern side of the northern part of Station Road, between the junctions with Ashley Road and Osborne Road. The County Council Highways Manager for the area supports this. A plan showing the proposed temporary relocation site is attached to this report.
- 2.2 The northern part of Station Road is not at present designated a “consent street” for the purposes of street trading. Unless and until the District Council so designates it, any trading that takes place in Station Road north will be unlawful. This report therefore asks the Committee to take the first of several statutory steps necessary before the area can be designated under the LGMPA – that is, to give notice of intention by newspaper advertisement and allow a period for representations.
- 2.3 The Committee will need to consider any representations made in response to the notice of intention before making a firm recommendation to Council on whether the north part of Station Road should be designated. Highways officers will also need to be satisfied that any traffic/road safety issues are satisfactorily resolved.

3. PROPOSED TIMETABLE – FUTURE ACTION

- 3.1 If members agree at this meeting to take the first of the steps necessary for temporarily relocating the New Milton Wednesday market, the following timetable for the process would apply.

16 March 2007 – General Purposes and Licensing Committee agrees to publish notice of intention to designate northern part of Station Road New Milton as a “consent street”.

Late March/early April 2007 – notice of intention appears in local newspaper. Representation period (minimum 28 days) follows.

April/May 2007 – discussions between relevant officers of the Town, District and County Councils and the market operator should clarify how the proposed relocated market will operate in terms of traffic implications etc, to the satisfaction of the highways authority.

(While this report does not address these issues, information on this aspect will be included in the next report to the Committee, when the situation should be clear. Please see paragraph 3.2 below).

15 June 2007 - General Purposes and Licensing Committee consider any representations and recommend to Council meeting on 25 June whether to designate northern part of Station Road New Milton as a “consent street”.

25 June 2007 – subject to Council’s approval, notice of designation appears in local newspaper. 28 days must elapse before the designation comes into force.

- 3.2 As was the case in 2004, it is appreciated that the Committee is being asked to pass an initial resolution before full details of precisely how the market will operate on the alternative temporary site have been resolved. However, if the Town Council’s aspiration to hold lawful markets at the alternative site from July 2007 is to be realised, this initial decision must be taken now.
- 3.3 As previously stated, the relocation of the market is intended to be temporary only. Following completion of the works to Station Road South, it will be open to this Council to rescind the designation of the northern area of Station Road as a consent street, should it wish to do so.

4. OPERATION OF MARKET FOLLOWING POSSIBLE RELOCATION

- 4.1 New Milton Town Council have been delegated authority to undertake all this Council’s statutory functions relating to the issue of consents to trade, under the terms of an agreement entered into between the two Councils in 2004. There is no reason why the same agreement could not continue to apply after relocation, subject only to such minor amendment as is necessary to cater for the fact of the temporary relocation.
- 4.2 As stated previously, the Council would need to be satisfied that any highways considerations relating to the alternative site were properly addressed. This, however, is not a matter for this Committee at this time.

5. FINANCIAL IMPLICATIONS

- 5.1 New Milton Town Council will be expected to refund costs incurred by the District Council by way of officer time and newspaper advertisements.

6. ENVIRONMENTAL AND CRIME AND DISORDER IMPLICATIONS

- 6.1 None arise directly from this report. However, the public and other consultees will be able to make representations on these issues during the statutory consultation process that will follow the placing of the "notice of intention", should the Committee accept the recommendation in this report. Any such representations will be reported back to the Committee.

7. EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 None arise directly from this report. However, the Council will address any impact the temporary relocation of the market might have, on the Council's residents, customers and employees by reference to their disability, age, gender, religion and beliefs, sexuality and race.

8. RECOMMENDATION

- 8.1 That, in accordance with Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, notice be published in a local newspaper of the Council's intention to pass the following draft resolution on 25 June 2007:

"That the area of Station Road, New Milton, north of the junction with Ashley Road and south of the junction with Osborne Road/Whitefield Road, be designated a consent street within the meaning of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, and that this designation come into force on 25 July 2007".

Further information

Grainne O'Rourke
Head of Legal and Democratic Services
Tel: 023 8028 5285
e-mail: grainne.o'rourke@nfdc.gov.uk

Background papers

File E9/4/6

EXTRACTS FROM REPORT TO:

GENERAL PURPOSES AND LICENSING COMMITTEE – 15 DECEMBER 2003

STREET TRADING – INTENTION TO DESIGNATE PART OF STATION ROAD, NEW MILTON AS A “CONSENT STREET”

- 1.1 In order to support the Town Council in its aspirations, this Council needs to take various decisions under the street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982. If these decisions are not taken, traders will be open to prosecution under section 137 of the Highways Act 1980 because the market would cause an obstruction to the highway without lawful authority.
- 1.2 Legislation requires that these decisions must be taken in two distinct stages. the first decision is a “notice of intention to pass a resolution”. This intention will then be published in a local newspaper. A minimum 28 day period in which the public may make representations will follow. The police and County Council must also be consulted. A further report will then be brought to this Committee requesting that it considers any representations received, and takes further decisions.

EFFECT OF STREET TRADING LEGISLATION

- 2.1 Throughout this report, to aid understanding, the term “street market” is used in relation to the proposals for Station Road. However, members should be aware that the trading to be carried out in Station Road will not constitute a street market within the true legal definition of the term. A street market in the strict legal sense can only be established under Royal Prerogative (historical “charter markets”) or under statute. (The Saturday Lymington market is, for example, a true “charter market”). The activity in Station Road will, in law, comprise a number of individual traders who have each been granted consent under street trading legislation to ply their wares in the street on that particular day. However, as stated above, the expression “street market” is used as this is probably the most easily understood terminology to describe this type of activity.
- 2.2 The legislation states that a District Council may resolve that the street trading provisions in the Local Government (Miscellaneous Provisions) Act shall apply to their District. This Council has already made that decision, on 29 July 1985.
- 2.3 Having decided that the street trading provisions apply in the District, the Council may go on to designate any street in the District as a “consent street”, a “licence street”, or a “prohibited street”. To date the Council has only made use of the “prohibited street” designation, on the A31 and in certain streets in central Lymington. Neither the “consent street” nor the “licence street” provisions have been used.

- 2.4 The proposal now is to designate the relevant part of Station Road as a “consent street”. The alternative route of designating it as a “licence street” is much more onerous and is not recommended in this report.
- 2.5 If the Council wishes to designate a consent street, it has to give notice of its intention by newspaper advertisement and allow a minimum period of 28 days during which representations about the proposals may be made. Once the period for representations has expired, the Council has to consider the representations and pass another resolution formally designating the street as a consent street (should it still wish to do so after considering the representations). This latter resolution must again be advertised for a minimum of 28 days before the designation comes into force.

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4. MEANING OF “CONSENT STREET”

- 4.1 Designating a street as a consent street means that any trader obstructing the highway will not be committing an offence under the Highways Act (see paragraph 1.1 above) so long as he or she complies with the terms of any consent granted to him or her. It is up to individual traders to apply for consent. Broadly speaking, the holding of a valid consent makes the obstruction lawful. Breaching certain conditions included in a consent is itself a criminal offence.

5. REGULATING TRADING IN A CONSENT STREET

- 5.1 It is illegal to trade in a consent street without having been granted consent to do so under the relevant provisions of the Act. Briefly, individual prospective traders need to apply for a street trading consent. If consent is granted, conditions may be attached to it. Fees may also be charged for granting consents.