

GENERAL PURPOSES AND LICENSING COMMITTEE – 11 MARCH 2011

STREET TRADING – PROPOSALS FOR WEEKLY MARKET OFF SALISBURY ROAD, TOTTON

1. Reason for Report

- 1.1 Totton and Eling Town Council desires to establish a weekly “street market” on Wednesdays, on the slip road off Salisbury Road north of the junction with Water Lane, shown on the plan attached to this report. The proposal is that stalls would be positioned in the areas marked A and B on the plan. When the market was run previously in a car park near the Civic Centre it was found to encourage trade within the town and provided a service to the public. The Town Council believes that restarting the market in a street situation will be good for the viability of the town and increase the footfall on Wednesdays. In order to support the Town Council in its aspirations, the District Council needs to take various decisions under the street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982. The Committee undertook a similar process during 2003/04 to enable the weekly street market in Station Road, New Milton, to be established.
- 1.2 Legislation requires the Committee’s decisions to be taken in two stages. This report seeks approval for taking the first decision, which 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 as highway authority must also be consulted. A further report will then be brought to the next meeting of this Committee requesting that it considers any representations received, and takes further decisions.
- 1.3 The consent of any charter market situated within 6 2/3 miles should also be gained, to prevent the possibility of legal action if the charter market considers its business would be or was being affected. It is understood however that there are no currently operating charter markets within that radius.
- 1.4 It is appreciated that the Committee is being asked to pass an initial resolution before full details of how the market will operate have been resolved. However, if the Town Council’s aspiration to start holding markets in the summer of 2011 is to be realised, this initial decision must be taken now. By the time the report is prepared for the Committee meeting in June 2011, it is confidently expected that all details will have been resolved. Publishing a notice of intention does not oblige the Committee to approve the consent street designation at its next meeting.
- 1.5. In addition to the statutory notices the legislation requires to be placed in newspapers, Totton and Eling Town Council are consulting with local traders, residents and statutory authorities, and the comments they receive will be submitted to the Committee in June.

2. Street Trading Legislation

- 2.1 Throughout this report, to aid understanding, the term “street market” is used in relation to the proposals. However, members should be aware that the proposed trading to be carried out on Wednesdays 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 proposed activity will, in law, comprise a number of individual traders, administered by a market operator engaged by the Town Council, 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 made use of the “prohibited street” designation only on the A31 and in certain streets in central Lymington, and the “consent street” designation only in Station Road, New Milton.
- 2.4 The proposal now is also to designate the slip road off Salisbury Road as a consent street. The alternative route of designating it as a licence street is much more onerous and is not recommended.
- 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 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.
- 2.6 Discussions on various aspects of the proposals have already taken place between the interested parties, and will continue over the coming weeks. Co-operation and close working between all parties concerned is essential if all outstanding matters are to be satisfactorily resolved in time for final decisions to be taken in June.

3. Highways Issues

- 3.1 The proposals will need the slip road to be closed to traffic on Wednesdays. This is not a matter within the terms of reference of this Committee. The normal procedure for making Road Closure Orders will be followed and will be undertaken by the District Council’s Transportation section. Discussions have already taken place between the Town Council, highway authority and other interested parties over issues such as access for emergency services.

4. Market Operation and Delegation to the Town Council

- 4.1 If and when the Committee decides to designate the slip road off Salisbury Road as a consent street, the intention is for the District Council formally to delegate to Totton and Eling Town Council its power to issue consents to traders. This would entail the District and Town Councils entering into a formal agreement. The Town Council would be responsible for issuing consents, monitoring compliance, overseeing the market operator etc etc. The formal agreement between the District and Town Councils would cover any conditions the District Council wished to insist on – for example public liability insurance requirements, ensuring litter clearance on market days, complying with any road signing conditions required by the highway authority.
- 4.2 It is understood that the Town Council intends to enter in an agreement with an experienced market operator to run the market.

5. Financial Implications

- 5.1 So long as powers to issue consents, and monitoring compliance of conditions contained in those consents, is delegated to Totton and Eling Town Council, the financial implications to this Council of designating the road in question as a consent street will be minimal and can be contained within existing budgets.
- 5.2 The Town Council will be required to bear the costs of making the road closure Order, and of the three public notices that are required to be placed in local newspapers consequent on this Committee's decisions.

6. Environmental and Crime and Disorder Implications

- 6.1 A properly regulated market can improve a town's economic vitality, countering the perceived attraction of "out-of-town" retail stores. The conditions connected to any consents issued should ensure that the street is left in an acceptable state of cleanliness at the end of market day.

7. Equality and Diversity Implications

- 7.1 None arising directly from this report.

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 as soon as possible of the Committee's intention to pass the following draft resolution on 10 June 2011:

“That Salisbury Road Service Road (west side) north of Water Lane junction, Totton, be designated a consent street within the meaning of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, and that this designation comes into force on 13 July 2011”; and

- 8.2 That a report setting out responses to the public notice, and giving information on other unresolved aspects, be brought to the 10 June 2011 meeting of this Committee.

Further Information

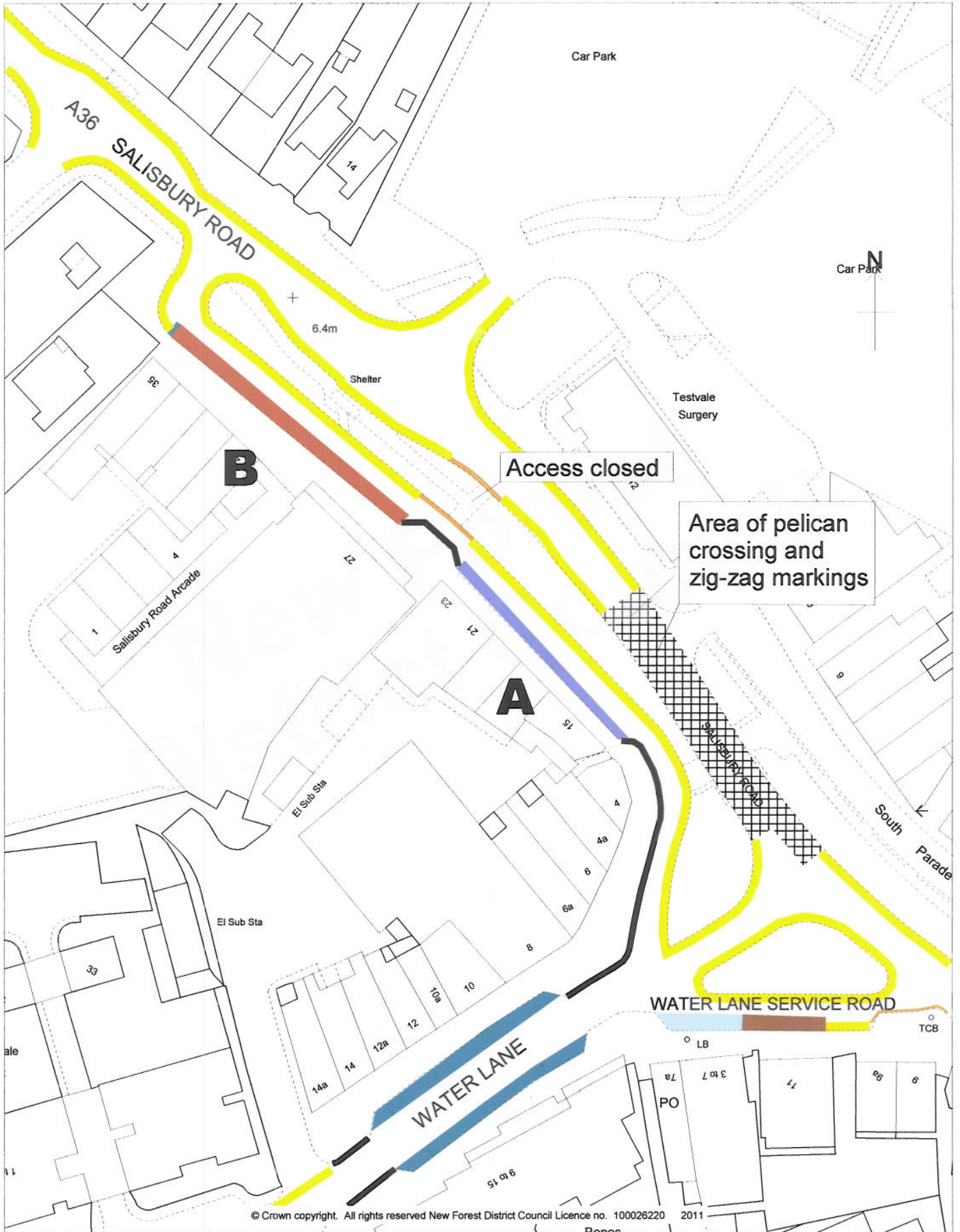
Grainne O'Rourke
Head of Legal and Democratic Services
Tel: 023 8028 5285
e-mail: grainne.o'rourke@nfdc.gov.uk

Background papers

Correspondence with Totton and
Eling Town Council

OR

Lynne Battersby
Democratic Services
Tel: 023 8028 5380
e-mail: lynne.battersby@nfdc.gov.uk



New Forest District Council
 Appletree Court
 Lyndhurst
 SO43 7PA

Tel: 023 8028 5000
www.newforest.gov.uk