

GENERAL PURPOSES AND LICENSING COMMITTEE – 10 JUNE 2011**STREET TRADING – PROPOSALS FOR WEEKLY MARKET
OFF SALISBURY ROAD, TOTTON****1. Introduction**

- 1.1 District Councils have the power to designate streets in their District as “consent streets” for the purposes of street trading legislation. Before a designation is made, notice of the intention must be advertised in a local newspaper and the public invited to make representations. If, after considering any representations, the Council decides to designate a street, prospective traders may then apply for consent to trade in that street. Their applications may be granted (with appropriate conditions) or refused. Put simply, once a street is designated, trading may be carried out on that street lawfully by those to whom consent is granted, and the conditions under which it takes place may be regulated.

2. Previous Consideration by Committee

- 2.1 Totton and Eling Town Council wish to establish a weekly “street market” on Wednesdays in the Salisbury Road Service Road (west side) north of Water Lane junction, Totton. The Committee will recall that on 11 March 2011 it considered the preliminary question of whether to advertise notice of intention to designate this road as a consent street under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. (For the benefit of newly appointed Committee members, a copy of that report and the relevant minute are attached at Appendix 1 to this report).

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- 2.2 The required notice was placed in the Southern Daily Echo on 18 March 2011 and public representations were invited by 13 May 2011.

- 2.3 If the market is to go ahead, a Traffic Regulation Order closing the road to traffic during market times will also need to be made. This is not a matter for this Committee – see paragraph 4.1 below.

3. Response to Consultation

- 3.1 No responses have been received to the newspaper notice.

- 3.2 In addition to publication of the newspaper notice, the Town Clerk has written individually to all surrounding businesses that would be affected by a road closure or market. A copy of the letter is attached at Appendix 2 to this report. Only one response was received, from a local butchery business which stated that, while they had no objection to the market, they had concerns about butchery stalls being placed directly outside their shop, and would like confirmation that if the market went ahead this would not happen.

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- 3.3 The County Council is a statutory consultee as highway authority. Both local County Councillors (who are also members of the Town Council and declared a personal and prejudicial interest in the matter), support the proposals.

4. Highways Issues

- 4.1 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 District Council's Transportation Section is currently consulting on a proposed Traffic Regulation Order. It should be possible for the Order to be made and come into operation in the near future if no objections to it are received. However, even if this Committee decides to designate the slip road as a consent street, no trading on the road will be permitted unless and until a Traffic Regulation Order is made and comes into force.

5. How the Proposed Market will Operate

- 5.1 Once a road is designated as a consent street District Councils have powers to issue consents to traders to trade in that street. The District Council may delegate those powers, should it choose to do so. Conditions may be placed on any delegation granted.
- 5.2 The District Council has no budget, or spare resources, to carry out the day to day tasks involved in ensuring a weekly market operates properly. The Town Council however is able and willing to do so. If the Committee decides to designate the slip road, and if and when a Traffic Regulation Order comes into operation, the intention is therefore for the District Council formally to delegate to the Town Council its powers to issue consent to traders. (This is the arrangement that currently applies in relation to the weekly street market in Station Road, New Milton). The District and Town Councils would enter into a formal agreement, which would include any conditions the District Council wished to insist on. As a minimum, these would cover public liability insurance, litter clearance, and compliance with the instructions of the highways authority over the mechanics of the road closure and diversion signing. There would also be a clause giving the District Council power to serve formal notice on the Town Council to rectify any breaches of the agreement, and to terminate the agreement if the breaches continued.
- 5.3 The Town Council intends to appoint an experienced market operator to run the market. A formal agreement would also be entered into between the Town Council and the operator.
- 5.4 One or both agreements could include a provision that stalls were not to be placed directly outside permanent businesses that offered the same goods or services (see comment at paragraph 3.2).
- 5.5 Only full Council can delegate to Totton and Eling Town Council its powers to exercise its functions under Schedule 4 to the Local Government (Miscellaneous Provisions) Act.

6. Financial Implications

- 6.1 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.

6.2 The Town Council will be required to bear the costs of making the Traffic Regulation Order, and of the public notices that are required to be placed in a local newspaper consequent on this Committee's decisions.

7. Environmental and Crime and Disorder Implications

7.1 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.

8. Equality and Diversity Implications

8.1 None arising directly from this report.

9. Recommendation

9.1 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

9.2 That, subject to the above recommendation being approved, the following recommendations be made to Council:

9.2.1 That, subject to an agreement being entered into under recommendation 9.2.2 below, and the making of a Traffic Regulation Order, all the Council's functions under paragraphs 7 and 9 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be delegated to Totton and Eling Town Council;

9.2.2 That the Head of Legal and Democratic Services be authorised to enter into a written agreement with Totton and Eling Town Council concerning the terms on which the Town Council is to exercise this delegation; and

9.2.3 That the Chief Executive, in consultation with the appropriate Head of Service and the Chairman of the General Purposes and Licensing Committee, be authorised to exercise the Council's powers under the terms of the agreement referred to in 9.2.2 above.

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

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

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Eling Town Council

OR

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

EXTRACT FROM MINUTES OF GENERAL PURPOSES AND LICENSING COMMITTEE MEETING – 11 MARCH 2011

43. STREET TRADING – PROPOSALS FOR WEEKLY MARKET OFF SALISBURY ROAD, TOTTON (REPORT A).

Cllr Scrivens declared a personal and prejudicial interest in this item as a member of the Totton and Eling Town Council. He withdrew from the meeting and remained absent during the consideration and voting.

The Committee considered Totton and Eling Town Council's request to establish a weekly "street market" on Wednesdays on the slip road off Salisbury Road north of the junction with Water Lane. It was noted that the request before the Committee was the first stage in the process of obtaining authorisation for the street market, and was a request for the Committee to agree a "notice of intention to pass a resolution". This decision would be published, consultations undertaken and a further report brought to the next meeting to consider any representations received. It was noted that, in addition to the statutory notices that had to be published, Totton and Eling Town Council was consulting local traders, residents and statutory authorities. Comments received would be submitted to the Committee in June.

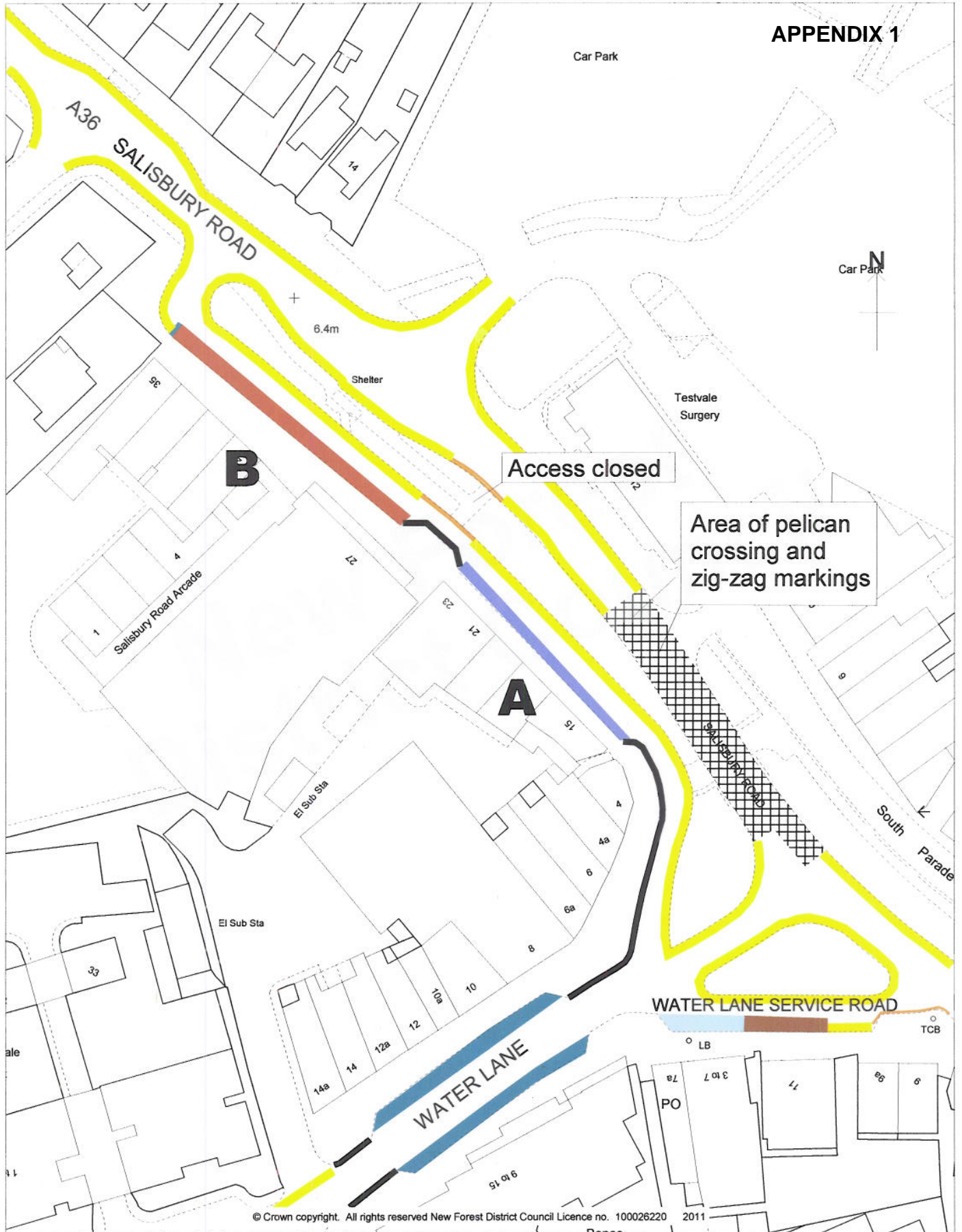
Members support the recommendation.

RESOLVED:

- (a) 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

- (b) 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.



New Forest District Council
 Appletree Court
 Lyndhurst
 SO43 7PA

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

Totton and Eling Town Council

Civic Centre, Totton, Hampshire SO40 3AP Tel: (023) 8086 3138

Fax: (023) 8066 6876

Email: info@totton-and-eling-tc.gov.uk

www.totton-and-eling-tc.gov.uk



Town Clerk: D. I. BIGGS D.M.A.

APPENDIX 2

The Proprietor

19th April 2011

Dear Proprietor,

New Town Market in slip road off Salisbury Road.

The Town Council has decided that it would be good for the town to try to restart the Town Market, but in a more accessible location in the Town Centre. The Council is at present applying to New Forest District Council for a road closure order on the section of road shown on the attached plan and also for street trading approvals.

The Council is required to consult with local people in the area and traders to identify if they have any objections to the proposal and as to what any objection might be.

The market would run from 9am – 3pm on Wednesdays but would involve the closure of the slip road from 6am – 5pm. Emergency access would be maintained in the slip road at all times.

I should be grateful if you would let me know if you have any objection to the above proposals by Wednesday 4th May 2011.

Yours sincerely

Derek Biggs
TOWN CLERK