

Consideration of Designating Resolutions for Street Trading Sites

The Committee considered the undernoted report:

“1 Relevant Background Information

- 1.1 An important feature of the licensing provisions in the Street Trading Act (NI) 2001 is the power of a district council to designate specific streets or parts of streets as being suitable for street trading. The Act also allows a council to vary a previous designating resolution in relation to the commodities or services to be supplied in specific streets.
- 1.2 If a street or commodity to be offered has not been designated under the Act, the Council cannot issue a licence for street trading from a stationary position in that street.
- 1.3 The process of considering and reviewing the designation of streets is therefore an essential part of the legal framework within which the Council is enabled to regulate street trading in the City.
- 1.4 The Act sets down the procedures which must be followed in considering a designating resolution or reviewing such resolution in relation to any street, including the types of trading which may or may not take place in that street. The main steps the Council must undertake may be summarised as follows:
 - a) give public notice of the proposed resolution;
 - b) consult with the Police and the Department of Regional Development and other persons it considers appropriate;
 - c) consider any representations relating to the proposed resolution which it has received;
 - d) after the Council has considered those representations it may, if it thinks fit, pass the designating resolution;
 - e) publish notice of the outcome for 2 consecutive weeks in 2 or more newspapers, giving not less than 28 days between the date of the publication and the date set out by the Council when the resolution will come into effect.
- 1.5 The Committee has previously considered a number of locations and determined their appropriateness for designation. There are

currently 60 streets or parts of streets designated as being suitable for stationary street trading in Belfast.

2 Key Issues

2.1 New Streets or Part Thereof

Designation applications or expressions of interest have been received for the creation of new designated sites at streets at various locations throughout the City as listed below.

2.2

	Location	Commodity
1	Ormeau Avenue outside Ormeau Baths (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities.
2	Hillview Road; site situated on the left hand side of the road approximately 70m from the Hillview retail park entrance heading in the direction of the Oldpark Road (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities.
3	Cliftonville Road in lay-by opposite numbers 95 to 99 (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities

2.3 The Committee is reminded that it previously agreed not to designate the Ormeau Avenue site at Ormeau Baths as suitable for street trading purposes at your meetings of 9th December, 2008 and 22nd January, 2014.

2.4 Officers are not aware of any change in circumstances to the Ormeau Avenue site at Ormeau Baths since the Committee made its decision and Officers have advised the applicants of the previous Committee decisions, however, the application was still submitted.

2.5 The Committee should consider if you wish to include 1 (above) in the proposed designation.

2.6 Variation of Commodities and Services to be Provided

The Act allows the Council to vary a Designating Resolution in relation to the part of the street where trading is permitted, this includes consideration of the commodities or services which can be offered at that location. The procedures that must be followed for varying a Designating Resolution are the same as those for making the Designation in the first place.

Two licensed street traders have asked for the Council to consider the variation of the commodities and services which are allowed to be offered at the sites where they are already licensed.

	Location	Current Commodity	Proposed Variation
1	Lombard Street at junction with Rosemary Street beside flower planter	Commodity to be determined but excluding food and beverage products of any nature	Varied to allow for ice cream, crepes and hot and cold non alcoholic beverages.
2	Castle Junction Kiosk	Hot and cold non alcoholic beverages, confectionery, ice cream and cold food or similar commodities including the sale of theatre and event tickets	Varied to allow for bus tour tickets.

2.8 The Committee is reminded that it considered a variation to the commodities for the Castle Junction Kiosk at your meeting of 18th February, 2012 and had agreed to the sale of theatre and event tickets on condition that no bus tour tickets were offered for sale.

2.9 The Committee is further reminded that at your meeting of 16th April, 2014, when considering a similar request to allow for the sale of bus tour tickets for Castle Place (opposite Donegall Arcade), you agreed to defer consideration of the application pending the outcome of a review which had been commissioned by the Development Department into sightseeing coach provision in the City.

2.10 Rescinding of Designation

2.11 The Committee is reminded that at its meeting on 16th April 2014, you also considered varying the commodities at the previously designated site at Donegall Square North (at front of City Hall close to its junction with Donegall Square West). Following the comments which were received during the consultation and also due to the fact that the site was unlicensed since November 2013, Members asked that consideration should be given to rescinding the Designating Resolution for this site. Committee are therefore asked to include the commencement of the process to rescind the designation of this site.

2.12 Process

2.13 Permission is sought to allow the publication of the statutory 28-day notice of the proposed resolution and to commence consultation with statutory bodies and other persons who may have an interest in the proposal.

2.14 The Committee should consider if you wish to include the previously refused designations in the proposed resolution, namely:

- Ormeau Avenue at Ormeau Baths for night time trade
- Castle Junction Kiosk variation of commodities.

Members are advised that there is no right of appeal in the Act should you decide not to proceed with the designation process in respect of these two sites; other than by way of Judicial Review. Both sites were properly considered previously by the Council and officers are not aware of any changes in circumstances at either location.

In respect of the other sites, none of which have been proposed before, legal advice previously has been that the Council should consider them after undertaking consultation with statutory bodies and other persons who may have an interest in the proposals, before making a decision on whether to designate them or refuse the designation.

Further reports will be brought to the Committee at a later date detailing the outcome of the process of consultation. At that stage, Members will be able to decide on the variation of designating resolutions or the designation of the streets along with any

restriction on the commodity to be sold and any recommendations about the restriction on the times of trading.

3 Resource Implications

3.1 Financial

The cost of the legal notices is included in current revenue budgets.

3.2 Human Resources

Administration of Street Trading Designation applications and the process of consultation are included in current budgetary estimates.

3.3 Asset and Other Implications

None

4 Equality and Good Relations Considerations

4.1 There are no equality or good relations issues.

5 Recommendation

5.1 The Committee is requested to approve and authorise the list of streets or parts thereof including any amendments for publication and the commencement of consultation with statutory bodies and other persons who may have an interest in the proposals.”

After discussion, the Committee:

- i. granted approval to initiate a designation process in relation to those parts of the Cliftonville and Hillview Roads, as identified within paragraph 2.2 of the report, together with the list of proposed commodities;
- ii. granted approval to initiate a process to vary the Designating Resolution for the site in Lombard Street, at its junction with Rosemary Street, to allow for the sale of ice cream, crepes and hot and cold non-alcoholic beverages;
- iii. granted approval to initiate a process to rescind the Designating Resolution for the site in Donegall Square North, at the front of the City Hall, close to its junction with Donegall Square West;

- iv. agreed to defer consideration of the application to vary the Designating Resolution for the Castle Junction Kiosk, pending the outcome of the review which had been commissioned by the Development Department into sightseeing coach provision in the City;
- v. agreed to refuse the application for the designation of the site in Ormeau Avenue, outside the Ormeau Baths, on the grounds that the circumstances which had led to it being refused by the Committee on 9th December, 2008 and 22nd January, 2014 had remained unchanged; and
- vi. agreed that discussions take place with the Council's Legal Services Section to identify, if appropriate, a suitable length of time which must expire before an application can be submitted for the designation of a site where the circumstances which had led to it being refused previously by the Committee had remained unchanged.

The Committee noted that the process referred to at points i) to iii) above would involve the publication of a statutory twenty-eight day notice and consultation with Statutory Bodies and other interested parties and that it would, in due course, receive an update on the outcome of that process.