

**GENERAL LICENSING AND  
REGISTRATION COMMITTEE**

**8 October 2009**

**Street Trading - Nelson Street, Consett**



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**Report of Terry Collins, Corporate Director, Neighbourhood  
Services**

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**Purpose of the Report**

- 1 To determine whether to pass a resolution to change the designation of Nelson Street, Consett, Co Durham from a consent street to a prohibited street for the purposes of street trading with effect from 30 November 2009, following the consideration of representations.

**Background**

- 2 This report follows the report to Committee on 9 July 2009, in which Members were informed that the Council has carried out refurbishment works in Middle Street, Consett and the adjacent areas of the town centre in order to create a more attractive shopping environment and provide a boost to local trading confidence. A public consultation was carried out in the summer of 2008 and the proposals were met with approval by traders and residents of Consett. Sections of paving have been replaced with high quality paving materials, new street furniture and new trees planted.
- 3 The route along Nelson Street from Albert Street car park is a key pedestrian entrance into the heart of the town and improvement of this area has been given a high priority in the redesign. A plan of the area is attached at Appendix 1. New paving, bollards and re-enforcement of the Traffic Regulation Order with new line markings and signage will be completed shortly.
- 4 In the interests of maintaining a high quality public realm the situation has been reviewed regarding the resumption of trading on Nelson Street. It is considered that the newly paved and upgraded street will not be an appropriate location for street traders which are a temporary structure with no fixed sanitation or drainage facilities and therefore not commensurate with town centre activities.

## **Legislation**

- 5 The Council has adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in order to control street trading within certain streets in Consett. This enables the Council to prohibit street trading completely in some streets and/or designate other streets where trading is only permitted under a licensing regime.

## **Consultation**

- 6 Consultation has been carried out in accordance with the statutory requirements.
- 7 Notice of the intention to pass a resolution was published in the Durham Advertiser on 8 August 2009.
- 8 The Chief Officer of Police and Highways Authority have also been consulted. No comments have been received from the Chief Officer of Police. The Highway Authority has given its consent to the intention to pass the resolution.
- 9 The Ward Councillors have been consulted regarding the proposals and agree with the need to improve the image of Nelson Street. They are satisfied that alternative locations have been offered to the one objector, Mr Park (see next section).

## **Objections to the proposal to change the designation of Nelson Street**

- 10 There has only been one objection to the proposal to change the designation of Nelson Street.
- 11 For a number of years the Council has issued a street trading consent to Mr Park who has based himself in Nelson Street. Mr Park operates the Steak House burger van.
- 12 On 12 May 2009, prior to the formal consultation process, a meeting was held with Mr Park to discuss the proposals to prohibit street trading in Nelson Street. Whilst the Council was under no obligation to consult with Mr Park at this early stage, it was considered that it was important to seek his views.
- 13 Mr Park trades in Nelson Street on a Friday and Saturday evening from 8.30pm until 3.30am. He does not leave the van on site and it is towed away at the end of business. Mr Park was asked to submit a letter detailing the effect that a prohibition on street trading in Nelson Street would have on his business. A copy of this letter is attached at Appendix 2.
- 14 In his letter, Mr Park suggested alternative places where he could trade. The location near John Street and Gibson Street is not prohibited and would be a suitable alternative. Victoria Street is a prohibited street and street trading is not permitted. The Council has suggested to Mr Park that he could trade from the car park on Nelson Street but he has confirmed that this would be unsuitable because he would not attract any passing trade.

- 15 On 28 July 2009, Mr Park was sent a copy of the public notice which was placed in the Durham Advertiser and invited to provide any further information in relation to the matter by 3 September. No further correspondence has been received from Mr Park in this regard.
- 16 Mr. Park has both a Street Trading Licence (needed pursuant to current byelaws) and a Premises Licence (needed for the sale of hot food and late night refreshment between 23:00 and 05:00). His current permitted trading hours are:
  - 16.1 Monday, Tuesday & Wednesday: 07:00 to 23:00. Whilst Mr Park's Street Trading Licence gives him permission to trade from 07:00 to midnight each day the Premises Licence only permits up to 23:00 on these days.
  - 16.2 Thursday, Friday and Saturday: 07:00 to 00:00 (midnight) only. Whilst Mr Park's Premises Licence permits sales of hot food to 03:30 his Street Trading Licence only provides to midnight when sales must finish.
  - 16.3 Sundays: no trading at all. The Street Trading Licence does not permit trading on a Sunday and the Premises Licence does not override this.

It follows that whilst Mr Park has traded until 03:30 his current Street Trading licence does not permit this and he should terminate sales at 23:00 on Mondays, Tuesdays and Wednesdays and at midnight on Thursdays, Fridays and Saturdays. Considerations with respect to enforcement and/or extending the current Street Trading Licence have been temporarily suspended pending the Committee's determination in this matter.

### **Legal Implications**

- 17 If Committee determine to pass the resolution, the resolution will be published in a local newspaper on two consecutive weeks, the first publication being not less than 28 days before the coming in to effect of the resolution.
- 18 If the Committee determine not to pass the resolution then consideration will need to be given by the relevant department to the potential enforcement of any current breaches of the Street Trading licence held by Mr. Park or the extension of hours required to ensure there is no breach. It is apparent that Mr. Park has traded to 03:30 regularly in the mistaken (not deliberate) belief that he lawfully could pursuant to his Premises Licence not realising his Street Trading Licence did not permit it.
- 19 Under the Council's Constitution there is a right of appeal to the Council's Appeals and Complaints Committee against any decision made by or on behalf of the Council.

## **Recommendations and reasons**

- 20 The General Licensing and Registration Committee must consider the representations of Mr Park, and, if they think fit, pass a resolution to change the designation of Nelson Street, Consett from a consent street to a prohibited street for the purposes of street trading with effect from 30 November 2009.

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**Contact: Clare Burrows Tel: 0191 383 4905**

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## **Appendix 1: Implications**

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### **Finance**

The change of Nelson Street from a consent street to a prohibited street will require advertising by public notice at an estimated cost of £1500. All costs associated with this change are to be paid for by Urban and Rural Renaissance Initiative funding.

### **Staffing**

None

### **Equality and Diversity**

None

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

None

### **Localities and Rurality**

None

### **Young people**

None

### **Consultation**

A consultation exercise has been carried out in accordance with the legislation as outlined in paragraphs 6 to 9 above.

### **Health**

None