

**General Licensing and Registration
Committee**

11 July 2019



**Request for the re-designation of
streets in Stanley for street trading
purposes**

Ordinary Decision

**Report of Joanne Waller, Head of Environment, Health and
Consumer Protection**

**Ian Thompson, Corporate Director of Regeneration and Local
Services**

**Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Services**

Electoral division(s) affected: Stanley

Purpose of the Report

- 1 This report requests consideration of a proposal to change the designation of several streets in Stanley from 'prohibited' to 'consent streets' to allow for street trading at these locations subject to legal and policy controls.

Executive summary

- 2 Stanley Town Council have requested a change in the designation of the 'prohibited' streets in Stanley to 'consent' streets to enable street trading to take place in what are currently prohibited areas of the town.
- 3 Pre-statutory consultation has yielded general support for this proposal with certain reservations in relation to some of the streets. Relevant concerns may be addressed by the authorisation process, should the change in designation be approved by the Licensing Committee following a statutory consultation on the proposals.

Recommendation(s)

- 4 The General Licensing and Registration Committee consider the proposals from Stanley Town Council and the comments received following the consultations.
- 5 The Committee gives support to the proposals made by Stanley Town Council and make a resolution, to be advertised in the local newspaper, announcing the decision and setting the date on which the new or altered designation would come into effect. This date not to be less than one month from the date of the advertised resolution.

Background

- 6 The former District of Derwentside had adopted Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relating to street trading and had designated certain streets (or parts of streets) within Stanley as 'prohibited' streets. A full list of current street designations within the former District of Derwentside is shown in Appendix 2.
- 7 The effect of the former District Council's adoption of these designations is that trading in certain locations in the town is not permitted. Street trading in other parts of the town and the rest of the former Derwentside district is also controlled by street trading legislation. Any person found trading in the prohibited streets (except as part of the established market) will be guilty of an offence and liable on summary conviction to a fine.
- 8 In December 2011 Durham County Council resolved to adopt the powers to regulate street trading throughout the County provided by Part III Local Government (Miscellaneous Provisions) Act 1982, section 3. The purpose being to allow street trading across the County to be reviewed where necessary and harmonised, to help create a consistent approach and allow a degree of control should it be necessary.
- 9 To achieve this the Council has adopted a street trading policy that is applied to control and manage street trading activities in designated areas throughout County Durham. The aim of the policy being to aid harmonisation, to promote the Council's rationale for street trading and help to ensure consistency and uniformity of approach.
- 10 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway, beach or other area to which the public have access without payment. Street trading activities may include hot and cold food vendors, vendors of non-food products who trade on static pitches or fixed locations from any vehicle, a stall, barrow, trailer, or any other moveable construction.

- 11 As the definition of “street” includes any land to which the public have access without payment, private land to which the public has free access may also be included. Street trading law and associated policy therefore can extend to events off the highway that are conducted on private premises.

The requests and proposals

- 12 EHCP has received a request for changes to existing street trading designations in Stanley from Stanley Town Council. This request is shown in appendix 3.
- 13 Stanley Town Council has asked that the change from prohibited streets to consent streets be considered for all prohibited streets. *“The Town Council’s view is that this position is overly restrictive. Stanley Front Street is a wide pedestrianised space on which the Town Council regularly holds community events. The prohibition has meant that we are unable to offer food concessions or other stalls unless we are able to ‘piggyback’ on the current market operator’s licence, which is far from ideal. It also means we are unable to offer occasional events such as farmer’s or specialist market days, food fairs or craft fairs in Stanley to help support the retail offer in the town. Therefore, on behalf of Stanley Town Council, I am requesting that the County Council review the current status of these streets with a view to altering their designation to consent streets.” Alan Shaw, Town Clerk Stanley Town Council.*
- 14 The following areas within Stanley are currently designated as prohibited streets:
- Stanley Town Centre - Front Street, Front Street [pedestrian] Clifford Road, Ritson Street, Mary Street, Thorneyholme Terrace, Rear Front Street [the road running between Stanley Bus station and the old co-op building leading to Clifford Road].***
- The prohibited streets set out above are always prohibited except for the Sunday of every week when they are classed as consent streets, only between the hours of 6am and 6pm.*
- 13 The agreed process following the receipt of requests to designate and re-designate streets within the County is as follows:
- Liaison between Licensing Services and the applicant to establish the nature and extent of the applicant’s proposal, to ensure enough information of a satisfactory nature has been provided to enable proper consideration of the proposal. This has been conducted

- Liaison/pre-statutory consultation with several 'responsible authorities' and some DCC 'interested parties'. (This has been conducted and the responses received are reproduced in appendix 4).
- SMT report produced detailing exact nature of request together with relevant background information, requesting on behalf of applicant DCC commencement of the statutory consultation process under the adopted provisions of LG (MP) Act 1982
- Subject to senior management agreement, EHCP/Licensing Services would advertise the proposal in accordance with the Act and would formally consult and liaise with the public and both internal and external partner organisations Including Highways, police, planning, local Members and other identified interested parties. The consultation period would be 28 days allowing members of the public or relevant authorities to submit any written representations either in support of or in opposition to the proposal
- Following the end of the statutory 28-day consultation period, any objections or other supporting information received would then be reported to the General Licensing and Registration Committee. The Committee may support or reject the proposal at this stage. If no representations were received, the Council would publish another notice stating when the change to the current designation would come into effect
- If the proposal is supported, a further advertisement would be taken in the press announcing the decision and setting the date on which the new or altered designation would come into effect

- 14 Prior to the statutory consultation on the proposal it was not possible with any degree of certainty to predict whether the application would find support or opposition amongst all likely respondents.
- 15 The adopted street trading policy includes some restrictive measures described in Chapter 9.0 General Presumptions. These measures were included in the policy following consultation with colleagues based on public health considerations and comments from Regeneration and Economic Development in relation to the protection of certain areas in the County with historic and cultural significance. It is not thought that these general presumptions will be relevant to this location.
- 16 Unless directed otherwise should these streets be re-designated to allow street trading in this location there would be no general presumption (as stated in the policy) that we will normally only allow

street trading in these areas of Stanley, if the trading is part of an organised event which is supported by the County Council. Under the policy there is a general presumption that we will normally refuse street trading consents for 'individual applications for street trading consents in Durham City Centre and some market town locations on non-market days unless the trading forms part of an organised event. Such locations have special historic, cultural and public interest and the Council considers that they require a greater level of protection and control'.

- 17 As street trading can contribute to the success of events, the Policy allows for operators of events and non-established markets to submit a single application for multiple traders. The purpose of this inclusion was to simplify and speed up the application process, benefitting events such as the Bishop Seaham Carnival, Bishop Auckland Food Festival, Lumiere and other trading that takes place in other historic and culturally important consent areas for example Durham Market place.
- 18 Two responses were received following the stage one, pre-statutory consultation (see appendix 4). These were submitted by Durham Constabulary Police Traffic Management and Jackie Donnelly Principal Projects Officer.
- 19 The Police have concerns in relation to public safety and traffic management that could be addressed by traffic management and road safety measures including, where necessary, road closures.
- 20 Jackie Donnelly did not support the changes for Mary Street and Ritson Street. *"Major development is planned in this area which will increase vehicular activity in this vicinity. The rear of Front Street has recently seen an increase in vehicular activity due to the opening of the new Aldi Store and associated car parks. This area also acts as a service road for the businesses who operate from the rear of Front Street. I would therefore advise these areas remain prohibited"*. JD
- 21 The concerns raised in connection with vehicular movements might be addressed by ensuring that any authorised street trading activities are properly managed and effectively controlled as part of an event plan. This may be achieved by the consent process in conjunction with the adopted street trading policy.
- 22 **Statutory consultation** – On 18th April 2019 the statutory advert was placed in the Durham Advertiser and the proposals were advertised for the prescribed period. See copy advertisement in Appendix 5. No responses were received following the advertising of the proposals.

Options

- 23 Committee may give support to the proposals as they have been presented and agree to make a resolution to bring in the new designations – that decision would then be advertised and would take effect no earlier than one month from the date of the advertised resolution.
- 24 Committee may give support to some of the proposals and reject others. Members may modify the proposal e.g. change the list of streets to be subject to an alteration in street trading status and then agree to make a resolution to bring in the new designations – that decision would be advertised and would take effect no earlier than one month from the date of the advertised resolution.
- 25 Committee may reject the proposal in full.

Main implications

- 26 Supporting the proposals in full. This will allow the process to continue and the changes in designation to come into effect.
- 27 Supporting the process in part. This will enable some of the streets to be considered under stage two of the process and will require an explanation in connection with the less-than-full support being offered.
- 28 Rejection of the proposal. This will require an explanation of the team's decision to withhold support for the Town Council's proposals/request.

Conclusion

- 29 Following the adoption of the legislation and street trading policy, all responsible authorities and interested parties are enabled to engage with the process and help shape the future of street trading within County as a whole.
- 30 The proposals made by Stanley Town Council, if supported, would enable controlled street trading activities to take place in previously restricted locations. Should the General Licensing and Registration Committee reject the application based on the information it receives, the existing prohibition on street trading in the designated streets will continue.

Background papers

- Local Government (Miscellaneous Provisions) Act 1982
- Durham County Council's Street Trading Policy

Other useful documents

- None

Contact:	Joanne Waller	Tel: 03000 260923
	Owen Cleugh	Tel: 03000 260925
	Craig Rudman	Tel: 03000 260090

Appendix 1: Implications

Legal Implications

The adoption of street trading powers is contained in Part III LG(MP)A 1982, section 3. A district council or unitary authority may resolve that Schedule 4 to this Act shall apply to their district and, if a council does this, Schedule 4 (known as the 'street trading code') shall come into force in their district on such day as may be specified in the resolution. The statutory process for the designation of streets under this legislation includes the following steps:

(a) The intention to designate a street must be advertised for two consecutive weeks in a locally distributed newspaper. Notice published via local press and served on Police, Highways and Network Rail giving 28 days for written representations;

(b) The Council (Licensing Committee) is under a duty to consider any representations received. Consideration of any objections and formal resolution designating streets passed;

(c) If the decision is then made to designate the street, a further public notice must be published at least 28 days before the resolution takes place. Notice of resolution published via local press in two successive weeks (the first notice appearing a minimum of 28 days before resolution takes effect);

(d) Controls come into effect on the date specified in the resolution.

Legal and Democratic Services were consulted and contributed to the adopted policy

Finance

There are statutory advertising costs associated with this process

Consultation

Prior to the designation of any streets as prohibited, licence or consent, a consultation process will have to take place which could influence the final decision.

Equality and Diversity / Public Sector Equality Duty

There are no equality or diversity implications

Human Rights

There are no human rights implications

Crime and Disorder

There are no crime and disorder implications

Staffing

There are no staffing implications

Accommodation

There are no accommodation implications.

Risk

Failure to follow the statutory process could result in challenge and reputational damage.

Procurement

There are no procurement implications

Appendix 2: Former District of Derwentside Street Trading – current designations under the Local Government (Miscellaneous Provisions) Act 1982

Extract from Street Trading Application Form:

DERWENTSIDE AREA

The following streets are designated as Prohibited Streets which means Street Trading will not be permitted in these areas:

Stanley Town Centre

Front Street, Front Street [pedestrian] Clifford Road, Ritson Street, Mary Street, Thorneyholme Terrace, Rear Front Street [the road running between Stanley Bus station and the old co-op building leading to Clifford Road].

The prohibited streets set out above are prohibited at all times except for the Sunday of every week when they are classed as consent streets, only, between the hours of 6am and 6pm.

Appendix 3: Request from Stanley Town Council

From: Alan Shaw <alan.shaw@stanley-tc.gov.uk>
Sent: 23 January 2019 10:41
To: Owen Cleugh <owen.cleugh@durham.gov.uk>
Subject: Street Trading Restrictions in Stanley

Dear Owen,

I am writing to follow up from our telephone conversation yesterday, where we discussed the restrictions on street trading in force in Stanley Town Centre under the Local Government (Miscellaneous Provisions) Act 1982.

As we discussed, the present situation is that street trading is prohibited in the following locations in Stanley Town Centre:

Front St,
Clifford Rd,
Ritson Rd,
Mary St,
Thorneyholme Terrace and
the rear of Front St

The Town Council's view is that this position is overly restrictive. Stanley Front Street is a wide pedestrianised space on which the Town Council regularly holds community events. The prohibition has meant that we are unable to offer food concessions or other stalls unless we are able to 'piggyback' on the current market operator's licence, which is far from ideal. It also means we are unable to offer occasional events such as farmer's or specialist market days, food fairs or craft fairs in Stanley to help support the retail offer in the town.

Therefore, on behalf of Stanley Town Council, I am requesting that the County Council review the current status of these streets with a view to altering their designation to consent streets.

Yours sincerely

Alan

Alan Shaw
Town Clerk
Stanley Town Council

Civic Hall | Front Street | Stanley | DH9 0NA
Tel: 01207 299109

www.stanley-tc.gov.uk

**Appendix 4 Pre-statutory consultation/liaison responses received
from responsible authorities and County Councillors
representing Barnard Castle**

a. Email from Licensing Manager to Responsible Authorities and Local Councillors

From: Craig Rudman

Sent: 25 January 2019 10:56

To: Maxine Stubbs <Maxine.Stubbs@durham.pnn.police.uk>; Dave Lewin <dave.lewin@durham.gov.uk>; Laura Cloney <Laura.Cloney@durham.gov.uk>; Helen Johnson - Licensing Team Leader (N'hoods) <Helen.Johnson2@durham.gov.uk>; Yvonne Raine <Yvonne.Raine@durham.gov.uk>; Karen Robson <Karen.Robson2@durham.gov.uk>; Keith Jameson <keith.jameson@durham.gov.uk>; Wendy Benson <Wendy.Benson@durham.gov.uk>; Jackie Donnelly <Jackie.Donnelly@durham.gov.uk>; Paul Emerson <Paul.Emerson@durham.pnn.police.uk>; Dean Haythornthwaite <dean.haythornthwaite@durham.pnn.police.uk>; Stephen Ragg <Stephen.Ragg@durham.gov.uk>; Sarah Eldridge <Sarah.Eldridge@durham.gov.uk>; Cllr Lyn Boyd <Lyn.Boyd@durham.gov.uk>; Cllr Carl Marshall <carl.marshall@durham.gov.uk>

Cc: Owen Cleugh <owen.cleugh@durham.gov.uk>

Subject: Street Trading in Stanley

Dear Members, Officers and colleagues,

DCC/EHCP/Licensing Services have received a request from Alan Shaw, Town Clerk on behalf of Stanley Town Council to consider changing the current designation of the listed prohibited streets in Stanley (see email below). This request is for a re-designation from a 'prohibited street' (where no street trading is allowed) to a 'consent street' (where street trading could take place, subject to the grant of a consent from the Council). Please see email copied below. The prohibited streets in Stanley are also listed below.

The first stage of any designation or re-designation process is a pre-consultation. This will then lead on to a senior management report and, if agreed, this will be followed by an advert in the local newspaper formally inviting comments and observations from anyone in relation to the proposal/request made by the Stanley Town Council. If the process is supported by senior management, the matter would eventually be decided on by DCC Members sitting as the General Licensing and Registration Committee.

In advance of reporting to senior management and any statutory public consultation, I would be grateful if you would consider this request and if possible provide me with your opinions, any concerns or other comments on the proposal. These may be in support of or in opposition to the proposal. If you do have any adverse comments to make I would be grateful for as much information as possible so that any matters raised of e.g. of a technical nature, might be fully understood and if appropriate, addressed in some manner to try to overcome any problems identified.

Thank you in anticipation of your responses. Should you require any further information please do not hesitate to contact me. I would be grateful if you could respond within 28 days from your receipt of this email. Please feel free to forward this email on to any other DCC section or officer or to any 'responsible authority' you feel may have an interest in this matter. If you do not respond I will assume that you have no adverse comments to make in relation to this proposal.

The following streets in Stanley are designated as Prohibited Streets which means Street Trading will not be permitted in these areas:

Stanley Town Centre

Front Street, Front Street [pedestrian] Clifford Road, Ritson Street, Mary Street, Thorneyholme Terrace, Rear Front Street [the road running between Stanley Bus station and the old co-op building leading to Clifford Road].

The prohibited streets set out above are prohibited at all times except for the Sunday of every week when they are classed as consent streets, only, between the hours of 6am and 6pm.

Regards

Craig

Craig Rudman

Licensing Manager

Regeneration and Local Services

T: 03000 260090

E: craig.rudman@durham.gov.uk

Web www.durham.gov.uk

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b. Email from Maxine Stubbs Durham Constabulary Traffic Management

Dear Craig,

I have considered this from a Police Traffic Management perspective and would lend support to changes for Front Street and Clifford Road which, as indicated, are semi pedestrianised areas through the Town and Country Planning Act 1971, the 1974 Order (*The Conversion of Highways into Footpaths or Bridleways (County Durham (No 1.) Order 1974*) – although not fully pedestrianised as the Order allows exemptions for access including blue badge holders.

With regard to Ritson Road and Mary Street these roads are open to the free passage of vehicles every day. While the streets are in the main governed by parking restrictions, the footpaths are not that wide and visibility around the corners of Ritson Street and Mary Street (section of road running parallel to Clifford Road) is limited. Therefore, on road safety grounds, the locations do not lend themselves to street trading. However, if the roads were closed as part of an event footprint then no objection would be raised to street trading in these circumstances as moving vehicles would not be a feature.

With regard to Thornleyholme Terrace, again this road is open to the free passage of vehicles every day and can get quite busy with residents and town visitors looking for unrestricted parking spaces and not least as a main access route to St Patricks School. This street is well parked up most days and the footpaths are not that wide. This is a no through road with many vehicles executing turning manoeuvres in the street so that they can leave the area via the route they entered. Given this, on road safety grounds, the location does not lend itself to street trading. However, if the roads were closed as part of an event footprint then no objection would be raised to street trading in these circumstances as moving vehicles would not be a feature.

With regard to Rear Front Street, support is given to changes for that part behind the Bus Station which has been pedestrianised so long as any trading does not compromise safety for access to and from the bus station building particularly in the event any evacuation of the bus station is required. For that part of Rear Front Street which remains open to traffic movements street trading would not be supported unless as part of an event road closure.

Comments forwarded for consideration.

Yours sincerely

Maxine Stubbs

Traffic Management Officer
Cleveland and Durham Specialist Operations Unit
Durham Constabulary
Wesleyan Road
Spennymoor
Co. Durham
DL16 6FB
Tel Internal: 74 2707
Tel External: 01325 742707
Maxine.stubbs@durham.pnn.police.uk



c. Email from Jackie Donnelly Principle Projects Officer REaL

Hi Craig

With regard to the request from STC to consider changing the current designation prohibited streets in Stanley to consent streets the CED Team have the following comments for consideration;

Agree that Front Street and Clifford Road become consent streets. They form the core retail offer in the town centre and economic activity in these specific areas would have a positive economic benefit. If the request is being made to support the Town Councils town centre activities it should be noted that DCC are planning future public realm improvement works on the north end of Front Street in 2019/20 and additional proposed works on Clifford Road after that.

With regard to Mary Street and Ritson Street these are residential streets. Major development is planned in this area which will increase vehicular activity in this vicinity. The rear of Front Street has recently seen an increase in vehicular activity due to the opening of the new Aldi Store and associated car parks. This area also acts as a service road for the businesses who operate from the rear of Front Street. I would therefore advise these areas remain prohibited.

Happy to discuss further if required

Many thanks

Jackie

**Appendix 5 Statutory Advertisement – Durham Advertiser,
Thursday 18th April 2019**

PUBLIC NOTICE

**Schedule 4 paragraph (2) of the
Local Government (Miscellaneous Provisions)
Act 1982 - Durham County Council intends to
change the designation of streets in Stanley from
'prohibited streets' to 'consent streets' for street
trading control purposes.**

Notice is hereby given to inform all interested parties that Durham County Council intends to change the designation of the following streets in Stanley Town Centre: Front Street, Front Street [pedestrian] Clifford Road, Ritson Street, Mary Street, Thorneyholme Terrace, Rear Front Street [the road running between Stanley Bus station and the old co-op building leading to Clifford Road], from their current designation of Prohibited Streets to Consent Streets in accordance with the provisions of Schedule 4 paragraph (2) of the Local Government (Miscellaneous Provisions) Act 1982.

This statutory notice is published following the Regeneration and Local Services Management Team's decision on Thursday 21st February 2019 to support a request from Stanley Town Council to change the existing designation of all prohibited streets in Stanley Town Centre to Consent Streets.

Any representations for or against this intention must be made in writing to the County Council within 28 days of the publication of this notice. Any objections or support received within the 28-day representation period will be fully considered by the Council's General Licensing and Registration Committee prior to any resolution being made in respect of any re-designation of the streets detailed above.

Written representations should be sent to the Licensing Manager, Environment, Health and Consumer Protection, Durham County Council, PO Box 617, Durham DH1 9HZ within 28 days of the date of publication of this notice.

Dated 18th April 2019



**Joanne Waller
Head of Environment,
Health and Consumer Protection
Durham County Council, Annand House
John Street North, Meadowfield, Durham, DH7 8RS**