

14<sup>th</sup> January 2016



**Proposal for the re-designation of  
Framwellgate and Elvet Bridges for  
street trading; post consultation report.**

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

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

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**Purpose of the Report**

1. This is a post-consultation report on Durham Business Improvement District's (BID) proposal on changes to the designation of Framwellgate and Elvet Bridges in Durham City from 'prohibited' to 'consent streets'. This would permit street trading at these locations subject to legislation and adopted policy controls. Committee is asked to consider the request and responses to the consultation and to either reject or support the proposal.

**Background**

2. In May 2015 DCC Environment, Health and Consumer Protection (EHCP) received a request from Mr Adam Deathe, Business Engagement Manager acting on behalf of the Durham BID. This request is shown as appendix 2. The BID asked the council to remove the current designations of prohibited street for Framwellgate and Elvet Bridges in Durham City and re-designate these locations as consent streets to allow street trading to take place (subject to agreed conditions and adopted policy controls).
3. The agreed process following the receipt of requests to designate and re-designate streets within the County was that EHCP/Licensing Services would advertise the proposal to consult the public and liaise with internal and external partner organisations including Highways, Police, planning, local Members and any 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.
4. The BID's proposal was advertised in the Northern Echo on Wednesday 3<sup>rd</sup> September and the 28 day consultation period ended on the 29<sup>th</sup> September 2015. 'Internal' consultation with the Council and Police partners was also undertaken.

## **The consultation responses**

5. No responses were received from members of the general public, from City of Durham ward Members or from Planning Development Control.
6. Responses were received from the Council's Strategic Traffic Management, the City Centre Manager, the Traffic Management Officer, Cleveland and Durham Specialist Operations Unit, Training & Risk section of County Durham and Darlington Fire and Rescue Service and from Regeneration Manager – Durham City, Economic Development & Regeneration. All responses are shown in Appendix 3.
7. None of the consultees who responded have objected to the proposal in principal although respondents have made relevant comments, observations and recommendations that should be taken into consideration. The Police and Fire Service have expressed certain concerns and made it clear that due account must be given to the potential safety aspects associated with the proposed re-designations. The main issues highlighted by respondents relate to safe access, egress and the prevention of obstructions on the bridges and the safety and integrity of any structures that may be placed on the bridges.
8. NSMT and CMT were asked to consider the proposal and whether it should be supported prior to going forward for further consideration by the General Licensing and registration Committee. Both management groups have given their support to the proposal.

## **Next steps**

9. Members are now asked to consider the BID's request in light of comments and responses received. The Committee may support or reject the proposal at this stage. If relevant objections are not forthcoming or found to be persuasive at the committee stage, Members of the committee may support the proposal and order the publication of a second notice stating the intention to alter the present designation.
10. In accordance with statutory provisions, following the advertising of an intention to re-designate these locations for street trading purposes, should the proposal remain unopposed and no relevant objections received, a final advertisement would be published in the press announcing the decision and setting the date on which the new/altered designation would come into effect.

## **Street trading policy and consent conditions**

11. The adopted Street Trading Policy includes some restrictive measures described as General Presumptions. These measures were included following consultation with colleagues based on public health considerations and comments from RED in relation to the protection of historic and cultural significance of certain areas in the County.

12. 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 Auckland Food Festival, Lumiere and other trading that takes place in other consent areas for example Durham Market place.
13. The designation of a street as a 'consent street' prohibits street trading in such a street without the consent of the Council. This system of control gives the Council more extensive, discretionary powers than is the case for street trading licences. The grant of a street trading consent is a matter that falls within our discretion.
14. The consent process enables authorised street trading activities to be controlled in the interest of public safety. In contrast to the provisions of regulation the grant of licences, there are fewer limitations on the grounds on which we may refuse an application and we are entitled to have regard to matters that we consider relevant, subject only to the requirement that we must act reasonably.
15. We may attach such conditions to the street trading consent as we consider necessary and in particular, conditions designed to prevent obstruction of the street, danger to those using it, crime and disorder and nuisance or annoyance. In relation to the prevention of annoyance, conditions may address any effects of street trading on the neighbourhood that might fall short of a nuisance in law. No right of appeal to the criminal courts exists in respect of a refusal, revocation or variation of a street trading consent.

## **Conclusion**

16. The application/proposal made by the BID would, if supported, enable controlled street trading activities to take place on occasion from Framwellgate and Elvet Bridges. Should Committee reject the application based on the information it receives there will continue to be a prohibition on both bridges with trading being prohibited.

## **Recommendations**

17. That Committee considers the proposal made by the BID and the responses received from consultees as outlined in this report and either rejects or supports the proposal.
18. If Members of the committee support the proposal they should order the publication of a second notice stating the intention to alter the present designation.

## **Background Papers**

Local Government (Miscellaneous Provisions) Act 1982

Durham County Council's Street Trading Policy

Previous NSMT report

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**Contact:     Joanne Waller     Tel: 03000 260924**

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## **Appendix 1: Implications**

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### **Finance**

There are no Finance implications

### **Staffing**

There are no human resource implications.

### **Equality and Diversity**

There are no equality and diversity implications. The Policy has been subject to an Equalities and Diversity screening assessment. This is included as Appendix 3

### **Accommodation**

There are no accommodation implications.

### **Crime and disorder**

There are no crime and disorder implications

### **Human Rights**

There are no human rights implications

### **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.

### **Procurement**

There are no procurement implications

### **Disability Discrimination Act**

There are no Disability Discrimination Act 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.

Clare Pattinson in Legal and Democratic Services was originally consulted and had contributed to the draft street trading policy