



## Local Government (Miscellaneous Provisions) Act 1982 – Schedule 4

### Changes to Street Trading Controls

#### Report by the Interim Director for Communities

#### 1. Summary

- 1.1 Members are requested to consider changing the street trading designation under the above act of a number of streets in the borough that are currently designated 'prohibited' streets for street trading purposes. This report seeks to start the process of changing their designation to that of 'consent' street, allowing the provision of occasional street markets and the holding of events that include pop-up vendors, subject to the required permissions.

#### 2. Background

- 2.1 Street Trading means the selling, or exposing, or offering for sale, of any article in a street. A street for the purposes of this definition includes any road, highway, footway, beach or other area to which the public have free access without payment.
- 2.2 In 1988 Worthing Borough Council first adopted controls under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the act) to control street trading in certain areas of the town centre and further afield where complaints had been received regarding the conduct of some street traders. Over the years other areas have been added to the list of streets in which street trading is regulated.
- 2.3 Worthing has two types of area with Street Trading Controls in place:
- Prohibited Areas
  - Consent Areas

Whilst traders are welcome to street trade in undesignated areas it is illegal to trade in the 'prohibited' areas. In addition, without the relevant permit it is illegal to trade in the 'consent' areas. These prohibited and controlled areas are vigorously patrolled and breaches to the Local Government (Misc. Provisions) Act are enforced. Each offence is liable to a fine of up to a £1,000 per incident on conviction.

- 2.4 Most of Worthing's main roads, coast roads and town centre are designated 'prohibited' for street trading. No street trading of any description is allowed in these 'prohibited' streets and the council under this act, has no power to make any exception whilst the designation is in place.

A list of controlled streets can be found at **Appendix A**

- 2.5 Some areas are designated 'consent areas' for street trading. The pedestrianised part of Montague Street, Montague Place, South Street Square, Portland Road and Bath Place have been designated 'consent' streets under the act for many years. In these areas street trading may be permitted upon successful application to the Council.
- 2.6 The Council allows markets organised by Worthing Town Centre Initiative (WTCI), special events and a limited number of street trading stalls in these 'consent' streets subject to the trader holding a permit but has a strict policy that 'permanent' vendors are not competing with local shops in the vicinity directly, not selling fast food, not operating from a van or trailer and are adding colour to the town. Specific conditions placed on the Consent streets Portland Road and Bath Place by this committee strictly limits trading to organised markets only.
- 2.7 Marine Crescent & Marine Drive in Goring are also designated 'consent' streets to control the number of ice cream vans operating in the area and stop hot food catering vans trading there. This was as a result of complaints from residents that the area was being saturated with mobile traders and that fast food vendors in particular were causing a nuisance with regard to litter, cooking odours and other issues. The Council limits the number of 'consent permits' in this area to ten and specifically excludes hot food vendors.
- 2.8 Adur & Worthing Councils also issue 'Concessions to Trade' on land owned by the Councils. Concession areas include Worthing's beaches and promenade, Adur's beaches in Shoreham, Lancing and Southwick and A&W's parks and open spaces. Concessions are let to local businesses following approval by the Concessions Working Group Panel, which includes relevant Officers of the Councils. A street trading permit is not required to trade under a concession as the land is not classed as highway land.

### **3. Proposal**

- 3.1 As a response to the Covid-19 pandemic, HM Government has encouraged businesses to trade outside where the risk of transmission is significantly reduced. The Business & Planning Act 2020 is temporary legislation that has been introduced to relax Planning and Licensing Legislation to facilitate this and the new fast track Pavement Licence regime, the act introduces, allows the use of public pavements by

food & hospitality businesses to trade outside their premises on the pavement. Despite the gradual lifting of the Covid-19 restrictions the government's advice will continue to be to meet & trade outside wherever possible and the temporary legislation will continue in force until September 2022.

- 3.2 A&W Councils considers many of its areas including its parks, gardens, beaches and the promenade as suitable to allow food & drink concessions and other vendors to operate. These concessions have proved particularly successful during the Covid-19 pandemic because of the relative safety of being outside. For instance, there are a number of concessions operating on the promenade that have proven to be particularly popular.
- 3.3 The Council would like to facilitate further opening up of the economy in a safe manner and to do this needs to amend the current street designations to allow controlled street trading in a number of areas that have been identified as being suitable. This would allow the staging of occasional outdoor markets, speciality markets and public events to stimulate economic activity in a safe outdoor environment.
- 3.4 However, the current designation of the identified streets as 'prohibited' does not currently allow such activity to go ahead.
- 3.5 Members are asked to consider whether the current street trading designations in the areas outlined in this report should be amended.
- 3.6 If the committee decides that changes could be made it is asked to determine in which areas the controls can be amended and give authority to officers to take the necessary steps under the Local Government (Miscellaneous Provisions) Act 1982 to achieve this. This would include the publishing of its intention and the consultation of the relevant authorities, stakeholders, interested parties and the public.
- 3.7 The streets identified as areas in which changes could be made to the street designation are:

**Broadwater Street West (South of Ardsheal Road)**

**South Street**

**Liverpool Terrace & Gardens**

**Plans - Appendix B**

- 3.8 The changing of these streets from 'prohibited' to 'consent' will then allow the council's licensing unit to administer and issue permits to trade in these streets as part of any organised street markets or public event.
- 3.9 If the committee is of a mind to change the designation it is suggested that the following principles are utilised by officers to consider applications and are placed as conditions on any permission to trade granted in these areas:

*Applications for markets & events will be considered on individual merit but are only likely to be given consent:*

- a. If the market or event and proposed activities will add colour and interest to the local environment.*
- b. The proposed trading will be on an occasional basis as part of an organised market or organised public event.*
- c. The trading shall take place on the days and between the times specified in the consent.*
- d. Except if special permission has been received from the Council, no trader will utilise petrol or diesel generators or gas heaters. Only solar or battery power will normally be permitted.*
- e. The trading shall not take place otherwise than at the location specified in the consent.*
- f. There will be no trading of any articles other than those specified in the consent.*
- g. The market or event organiser shall keep the consent so that it can be immediately produced for inspection by an authorised Officer of Worthing Borough Council or Sussex Police.*
- h. The permit holder shall hold public liability insurance cover in the sum of £10,000,000 to cover injuries or loss to members of the public.*
- i. If supplying food & drink the individual traders must hold a current food hygiene standard rating of 3 or above. It is the permit holder's responsibility to check and record the provided documentation.*
- j. The permit holder shall ensure removal of all litter from the site at the end of each period of trading;*
- k. The permit holder shall ensure no trader causes obstruction in the street or danger to persons using it;*
- l. The permit holder shall ensure no trader causes any nuisance or annoyance to any person (whether using the street or otherwise).*
- m. The permit holder shall ensure that all required licences are in place, for instance a valid Temporary Event Notice to allow alcohol sales.*

3.10 Consents will not be granted where:-

- *The proposed trading would compete directly with shops and businesses in the vicinity to their detriment.*

- *The proposed trading would have an undesirable effect on the character of the area, create excessive obstruction, lead to an increase in litter or over-use of the area.*

#### **4. Consultation & Representations**

- 4.1 If the Licensing & Control Committee, authorises the publishing of a 'notice of intention' to pass a resolution designating the above 'prohibited' streets as 'consent' streets for the purposes of street trading then a public notice will be published advertising the public's right to make representation and, in accordance with the legislative requirements, Sussex Police and WSCC Highway Authority will be consulted. In addition WTCI, the A&W Environmental Protection Team and WSCC Fire & Rescue Service will also be consulted.

#### **Draft Notice of Intention - Appendix C**

- 4.2 If no representations are received objecting to the re-designation, it is proposed that the Committee's intention will automatically be published as its resolution. If, however, any representations from the public or authorities are received they will be produced at a subsequent hearing and this Committee must consider them before passing any resolution.
- 4.3 In accordance with legislative requirements the date any resolution comes into effect must be not less than one month from the date the resolution is made. If this Committee passes a resolution the Council must publish in a local newspaper a further public notice on two consecutive weeks, the first publication to be not less than 28 days before the day specified for the resolution to come into force.

#### **5. Consideration**

- 5.1 Members must take into consideration the following when determining this matter:
- The suggested conditions at 3.9 and 3.10 of this report.
- 5.2 When considering this matter the following options are available to the Committee:
- Grant the change in designation as requested.
  - Grant the change in designation as requested, with additional or alternative conditions imposed appropriate to safeguarding the area.
  - Reject the whole or part of the proposal.
- 5.3 If members decide to grant the change in designation their decision/intention will be advertised by public notice and the authorities listed at 4.1 consulted. If any representations are received from the public or authorities the matter will be referred back to this committee to consider.
- 5.4 Members are required to give reasons for their decision.

## **6. Legal Implications**

- 6.1 In determining this matter the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses given due weight.
- 6.2 Members must consider each licensing matter on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Local Government (Miscellaneous Provisions) Act 1982. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 6.3 All licensing matters, before the Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 6.4 In accordance with Section 17 of the Crime & Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from interested parties and the responsible authorities particularly the Police.

## **7. Other Implications**

- 7.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account.
- 7.2 There are no significant direct race relations, crime & disorder, equal opportunities or financial implications arising from this report. Crime & disorder and environmental implications have been considered.

## **8. Recommendation**

- 8.1 **Members are requested to pass a draft resolution declaring its intention to re-designate:**

**Broadwater Street West (south of Ardsheal Road)**

**South Street**

**Liverpool Terrace**

**as consent streets for the purposes of street trading in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982 and start the required consultation.**

- 8.2 If the Committee passes the draft resolution declaring its intention to re-designate, authorise officers to publish the resolution and complete the process if no relevant objections are received from the public and authorities.**
- 8.3 If relevant representations are received refer the matter back to this committee for consideration.**

**Tina Favier**

**Interim Director for Communities**

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**Background Papers:**

- Local Government (Miscellaneous Provisions) act 1982 – Schedule 4  
<http://www.legislation.gov.uk/ukpga/1982/30/contents>
- Adur & Worthing Councils' Guide to Street Trading  
<http://www.adur-worthing.gov.uk/licensing-and-permits/streets-highways-towns/>

**Appendices:**

- Appendix A – List of streets currently controlled for street trading.
- Appendix B – Plans
- Appendix C - Copy of proposed Public Notice

Portland House, Worthing

Ref: SJ/Lic.U/Street Trading

Date: 14 June 2021.

## Appendix A

### List of Streets designated prohibited or consent under the Local Government (Miscellaneous Provisions) Act 1982

Street trading means the selling, or exposing, or offering for sale, of any article (including a motor vehicle) in a street. A street for the purposes of this definition includes any road, highway, footway, beach or other area to which the public have free access without payment.

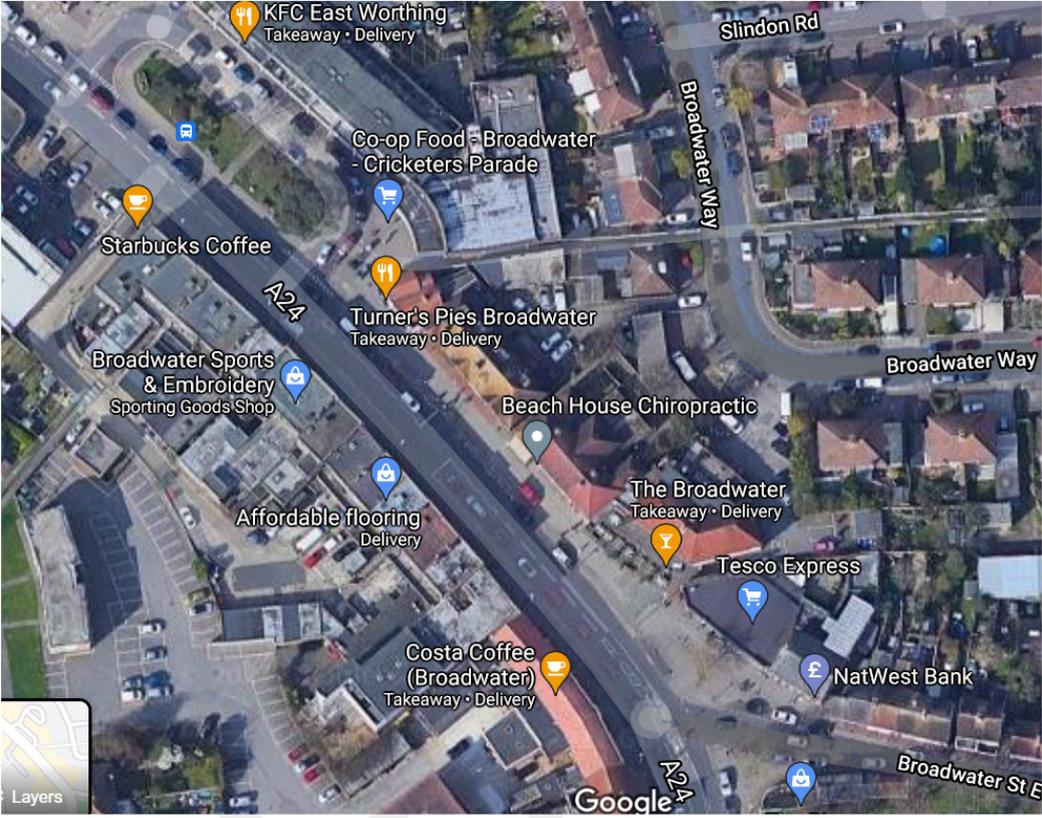
To trade in the following roads requires a permit from Worthing Borough Council. It is an offence (punishable with a fine of up to £1,000) for a person to trade without a permit.

- Montague Street & Montague Place
- South Street Square
- Bath Place
- Portland Road
- Marine Crescent & Marine Drive

No street trading of any description, including the sale of motor vehicles, is allowed in the following streets and the Council under this act has no power to make exceptions. It is an offence (punishable with a fine of up to £1,000) for any person to trade in the streets listed below.

Ann Street	Marine Parade
Anscombe Road	Marine Place
Ardsheal Road	Mulberry Lane
Bedford Row	New Street
Bernard Road	Offington Lane
Boulevard (North of Nelson Road)	Oxford Road
Broadwater Street West	Prospect Place
Brighton Road	Railway Approach
Buckingham Road	Rectory Road
Chapel Road	Sompting Road
Chatsworth Road	South Farm Road (north of Ardsheal)
Columbia Drive	South Street
Crescent Road	South Street Tarring
Cross Street	Steyne
Dominion Road	Teville Gate
Findon Road	Teville Place
George V Avenue	Teville Road
Goring Way	Union Place
Graham Road	Victoria Road
Ham Road	Wallace Avenue
High Street	Warwick Street
Liverpool Road	West Buildings
Liverpool Terrace	West Parade

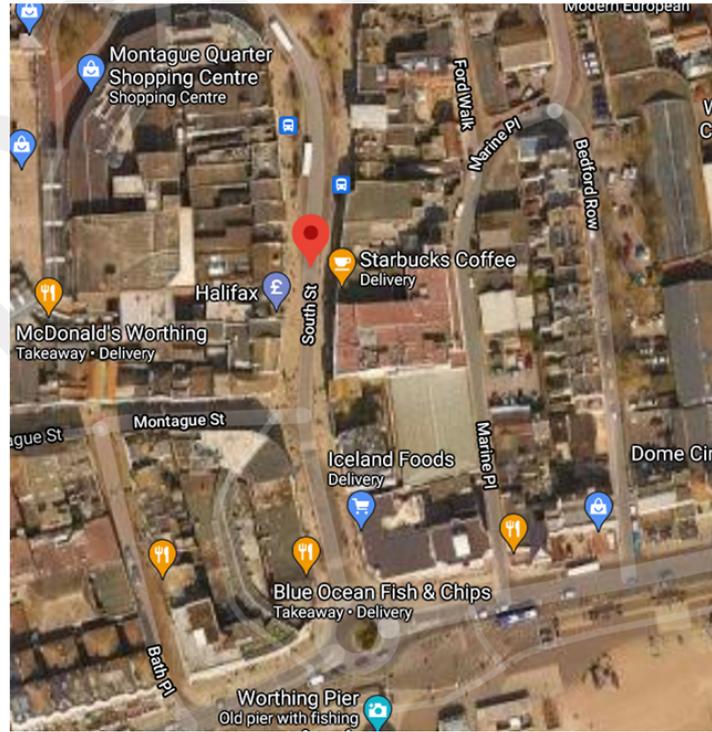
Plans  
Broadwater Street West



# Liverpool Terrace



## South Street



Copy of Public Notice

## **PUBLIC NOTICE**

**WORTHING BOROUGH COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

### **STREET TRADING**

The Council hereby gives notice of intention to pass the following resolution in accordance with the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

**Draft Resolution: The Council hereby changes the designation of the following 'prohibited streets' to 'consent streets' for the purposes of street trading:**

**Broadwater Street West (South of Ardsheal Road)**

**South Street**

**Liverpool Terrace**

**To allow street trading, subject to the required permit, on an occasional basis as part of an organised market or authorised public event only.**

**Any representations regarding this proposal should be submitted in writing within 28 days of this notice to the:**

**Licensing Unit, Health, Public Health & Regulation,**

**Adur & Worthing Councils,**

**Portland House, Richmond Road, Worthing, BN11 1HS**

**Or Email: [licensing.unit@adur-worthing.gov.uk](mailto:licensing.unit@adur-worthing.gov.uk)**