

Report of: Assistant Director – Public Protection and Development Management

Meeting of	Date	Agenda Item	Ward(s)
Licensing Regulatory Committee	5 December 2007	B1	Junction

Delete as appropriate		Non-exempt
-----------------------	--	------------

Subject: APPLICATION TO DESIGNATE PART OF THE STREET FOR STREET TRADING PURPOSES

Premises: CARRIAGEWAY IN ST JOHN’S GROVE AND THE PAVEMENT AREA BETWEEN NOS. 619 – 625 HOLLOWAY ROAD

Applicant: STREET TRADING SECTION – PUBLIC PROTECTION AND DEVELOPMENT MANAGEMENT DIVISION

Statute: SECTION 24 – LONDON LOCAL AUTHORITIES ACT 1990 – 2004 (AS AMENDED)

1 Synopsis

- 1.1 To determine this application to designate for street trading purposes, the following areas, as outlined below:
- 1.1.1 St John’s Grove, in the carriageway within the Pay and Display bays located outside of the Church, every Saturday from 9am until 6pm.
 - 1.1.2 Holloway Road, on the Footway outside Nos. 619 – 639, every Thursday from 12pm to 6pm, and every Saturday from 9am until 6pm.

2 Recommendations

- 2.1 To pass a resolution in the terms of the draft resolution contained in the Public Notice dated 4 October 2007, **(Appendix A)**. The draft resolution is:

“To designate for street trading purposes,

St John’s Grove, in the carriageway within the Pay and Display bays, located outside the Church, every Saturday from 9am to 6pm, and

Holloway Road, on the Footway, outside Nos 619 – 639, every Thursday from 12pm to 6pm, and every Saturday from 9am until 6pm”.

3 Background

- 3.1 In September 2006 Ms Stephanie Smith submitted an application to the Street Trading Team for a licence to trade on the Archway Mall, an area of land which is privately owned and situated between the Post Office and the Abbey Bank, adjacent to Junction Road N19.
- 3.2 A temporary Private Land Licence was issued to Ms Smith, which allowed her to set up a market on the Archway Mall every Saturday. This became known as the Archway Market and would have up to 30 traders trading on any given day.
- 3.3 At the time of renewing the Temporary Licence in February 2007, Ms Smith requested a variation to the existing licence, to allow trading from Wednesday to Sunday inclusive. This was granted however they chose to operate on Thursday and Saturday only.
- 3.4 The Archway Market was unexpectedly given notice by the land owner to quit in July, with trading due to cease on the week ending the 19th August. The Council were committed to continuing what is a valued local asset and Street Trading was assigned to try to relocate the market within the area.
- 3.5 The following locations were visited to investigate them as a location :-
Archway Gyrotory System
Giesbach Road
Elthorne Road
Outside Archway Library
St John's Grove
- 3.6 All the above locations were considered unsuitable, apart from St John's Grove.
- 3.7 On 21st August 2007 (**Appendix B**) a letter was hand delivered to Residents and Businesses within approx 75 meters of the proposed site. Then letter stated that the Council had taken steps to allow the immediate use of the specific area in St John's Grove for use by those traders who were no longer to trade on Archway Mall. Street Trading have worked with the market from this date to assess if it could be a long term location.
- 3.8 Street Trading believe it is viable and therefore a letter dated 12th October 2007 (**Appendix C**), together with a copy of the Public Notice (**Appendix A**), was delivered to approximately 1300 Residents and Businesses within the vicinity of St John's Grove, as part of the necessary consultation process.
- 3.9 In response to the consultation, a large number of written representations were received, including 2 petitions. There were 18 letters in support of the proposal (**Appendix D**) as well as a petition containing approximately 500 signatures in support of the proposal, handed in by Ms Smith (**Appendix E**). **The original petition will be available on the day of the Committee hearing.**

4 Objections

- 4.1 **4.1 The Council received 9 letters objecting to the proposal (Appendix F). A petition containing approximately 60 signatures against the proposal was handed in by a local resident Ms J Tucker (Appendix G). The original petition will be available on the day of the Committee hearing.**

5 Conditions of approval

- 5.1 In all cases, a person initially applying for a licence, whether for an existing pitch or a newly designated pitch, is issued with a temporary licence, which normally lasts for a period of no more than 6 months. After this period has expired, a decision must be made to issue a full licence or reject the application.
- 5.2 If the resolution to designate the area for street trading purposes is agreed, Ms Smith will be issued with a temporary licence to trade within the designated area. She will have sole responsibility for organising the traders and their trading activities, in accordance with the Street Trading Conditions and procedures.

6 Officers Observations

- 6.1 All the necessary statutory bodies have been notified and have not made any representation to this proposal.

7 Implications

7.1 Financial Implications

The Street Trading Account is a ring-fenced account and all expenditure (including staff costs) and income (including fees) must be contained within the account.

The fees for licences granted would help offset the additional costs incurred by the Council in connection with the street cleansing, administration and enforcement of Part III of the provisions of the London Local Authorities Act 1990 (as amended).

7.2 Legal Implications

Section 24, of the London Local Authorities Act 1990 (as amended) sets out the procedure to be applied for a Local Authority to designate a Street or part of a Street, for street trading purposes.

If the Borough Council passes a designating resolution, the designation of the Street shall take effect on the day specified in the resolution. This must not be before the expiration of the period of one month beginning with the day on which the resolution is passed. (Section 24, (3)).

The Borough Council shall publish a Public Notice of the passing of such a resolution in the local Newspaper circulating in their area on two consecutive weeks. The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation. (Section 24 (10)).

In determining each case, the Council should act reasonably taking into account all relevant factors and ignoring all irrelevant factors.

Human rights Act 1998 makes it unlawful for the Council to act in a manner incompatible with Convention Rights. Convention Rights include the right to peaceful enjoyment of possessions (a licence has been held to be a person's possession). The Licensee has a right to a fair hearing within a reasonable time by an independent and impartial tribunal.

7.3 Equality impact assessment

Applicants are advised that the provisions of the Disability Discrimination Act 1995 apply to them as providers of a service, i.e. facilities for entertainment recreation or refreshment (as defined by Section 19 of the said Act). In particular that Section 21 of the Act places them under a duty to make arrangements to ensure the Service is accessible to disable persons.

8 Conclusion and reasons for recommendations

The London Local Authorities Act 1990 (as amended) allows for designation of a street or a part of the street for street trading purposes. Applications of this nature are considered on their merits. If granted, income generated from the rental of the site is credited to the street trading account.

Background papers:

(Insert details here)

Final Report Clearance

Signed by

Assistance Director, Public Protection and
Development Management

Date

Received by

Head of Democratic Services

Date

Report author: Paul Richards

Tel: 020 7527 3220

Fax: 020 7527 3165

E-mail: paul.richards@islington.gov.uk