



Subject:	Consideration of the Variation of Designated Commodities for Street Trading Sites – Sale of Bus Tour tickets
Date:	15th August, 2018
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	Members will recall that, at your meetings on 13th December, 2017 and 18th April, 2018 the Committee considered proposals for the variation of designated commodities to allow the sale of bus tour tickets from two street trading sites.
1.2	The Committee deferred consideration to allow for further information to be provided, which has now been obtained.
2.0	Recommendations
2.1	Based on the information presented the Committee is requested to consider each proposal in turn and to decide whether to:

	<p>1. approve the variation of the Designating Resolution for either or both sites A and B. The Designating Resolution will include the operational date and may stipulate either:</p> <ul style="list-style-type: none"> • only specified articles, things or services or classes of specified articles, things or services that may be sold or supplied; or • specified articles, things or services or classes of specified articles, things or services that are prohibited. <p>2. decide not to proceed with any or all of the proposals.</p> <p>2.2 In addition to making any Designating Resolution, Members may, having considered all comments, record any reasonable conditions that should be applied to a subsequent licence. For example, these may include hours of trade, days of trade, duration of licence, etc.</p> <p>2.3 Members are reminded that once the sites become designated you will subsequently have to consider any applications that may be received for a Street Trading Licence on any of the sites.</p> <p>2.4 At that time, you will assess the suitability and quality of the proposals and may decide to grant or refuse a licence within the requirements of the Act. Any Street Trading Licence granted may also be subject to reasonable conditions which can be used to control the commodities being sold, and potential nuisance, etc.</p>
<p>3.0</p>	<p>Main Report</p>
	<p><u>Key Issues</u></p> <p>3.1 The Designation process involved seeking comments from interested parties, including relevant statutory bodies, through public advertisement and consultation.</p> <p>3.2 The Street Trading Act (NI) 2001 requires the Council to ensure that each application is fairly and objectively assessed, that all relevant factors are considered and, in doing so, the Council must consult with the:</p> <ul style="list-style-type: none"> • PSNI, and • Department for Infrastructure - Roads. <p>3.3 The Council may also consult other persons as it considers appropriate. Such consultees may include:</p> <ul style="list-style-type: none"> • Relevant Belfast City Council Departments. • Belfast City Centre Management Company (BCCM) <p>3.4 Subsequently, the Service has received responses to the applications from a variety of interested parties and individuals.</p> <p>3.5 Members are advised that BCCM conducts its business within a determined geographical area of Belfast City Centre and is therefore responding to the proposals at locations within this boundary only.</p>

Recently Deferred Applications

- 3.6 At the meeting on 18th April, the Committee deferred consideration of the variation of the designated commodities at the street trading sites at Castle Junction and Castle Place to enable clarification to be obtained from both the Department for Communities and Visit Belfast on the sale of bus tickets at the two sites and for a written legal opinion to be provided on the specified articles, things or services or classes of specified articles, things or services that may be sold.
- 3.7 Members are reminded that neither the Council nor the Licensing Committee has any legislative authority or responsibility for the licensing of the Bus Tours.
- 3.8 A copy of the Committee report and appendices of 18th April 2018 is attached at Appendix 1.

Department for Communities Belfast Regeneration Directorate

- 3.9 The DfC has stated that its position remains that it would have no objection to the sale of tour bus tickets, as long as there was no limitation to a single operator. Its email is attached at Appendix 2.
- 3.10 DfC own the Castle Junction Kiosk which is run under licence by a private operator.

Visit Belfast

- 3.11 Visit Belfast has stated that they had suggested a six month trial, that decision was deferred by the Committee.
- 3.12 Since that deferral, there has been a recent escalation of visitor complaints regarding the visitor experience around City Tours. Visit Belfast states that they now feel that before any decision is taken by the Committee there needs to be a wider discussion/ review across the key agencies who have an involvement with Transport, Tourism and the licensing/ enforcement of Bus Tours within the City. The aim would be to address the current issues and develop an agreed action plan to improve the overall visitor experience.
- 3.13 Its email is attached at Appendix 3.

Legal Opinion

- 3.14 The Committee had previously sought advice in relation to the stipulations that can be imposed on traders who wish to sell bus tour tickets and in particular whether a trader could be required to sell tickets for all bus tour operators.
- 3.15 The Street Trading Act (NI) 2001 permits the Council to designate the type or class of articles, things or services that may be provided by a street trader. This is expressed permissively, reflecting the fact that it is for the trader to determine which articles within that type or class they wish to sell.
- 3.16 There are already traders at these locations and who possess a licence. Article 1 of Protocol 1 of the European Convention of Human Rights confers on individuals the right to peaceful enjoyment of their possessions, this would arguably include a street trading licence. The Council can therefore only impose conditions which are considered necessary, reasonable and proportionate. Legal Services has advised that such a condition may be susceptible to challenge as an unreasonable interference with a street trader's rights.

3.17	Whilst the legislation permits the Council to designate the type or class of articles which may be sold, this does not equate to the power to determine which suppliers a trader must use in the course of their business. That is a commercial decision for individual traders.
3.18	As previously advised to Committee, DfC in its capacity as a private landlord for the Castle Junction Kiosk, may be able to impose more onerous conditions in terms of how it is operated.
<p style="text-align: center;"><u>Financial and Resource Implications</u></p>	
3.19	The cost of all notices is included in current revenue budgets. The required notice to confirm the designation will cost approximately £5,000 as our policy states that it must be placed in three newspapers for two consecutive weeks.
<p style="text-align: center;"><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p>	
3.20	There are no issues associated with this report.
4.0	Documents Attached
	<p style="text-align: center;">Appendix 1 – Committee report of 18th April and appendices</p> <p style="text-align: center;">Appendix 2 – DfC Comments</p> <p style="text-align: center;">Appendix 3 – Visit Belfast Comments</p>