

Public Document Pack



Environment and Sustainability Committee

Thursday, 7 March 2024 at 7.30 pm

Council Chamber - Civic Centre

Supplementary Agenda

	<u>Page</u>
9. Street trading consent application and the future of The Broadway, New Haw as the Council's sole consent street	2 - 12

Report title	Street trading consent application and the future of The Broadway, New Haw as the Council's sole consent street
Report author	Andrew Finch
Department	Democratic Services
Exempt?	No
Exemption type	N/A
Reasons for exemption	N/A

Purpose of report:

- To resolve

Synopsis of report:

The Broadway, New Haw, is the only consent street in the borough and allows street traders to apply to trade at the location. An application has been received for a stall selling hot gourmet food up to seven days a week between the hours of midday – midnight.

However, during a recent street trading application it was clear that any application to trade at The Broadway was highly likely to result in refusal due to concerns from various bodies around parking, litter, noise, antisocial behaviour, and impact on local businesses. Officers would therefore suggest that Broadway's designation as a consent street be reviewed and considered to be change to a prohibited street, which would mean there were no longer any consent streets in the borough.

Recommendation(s):

1 - That Environment & Sustainability Committee refuse the street trading application for the following reason:-

The noise and nuisance which is anticipated would result from hot food trading at this particular location would be detrimental to the peace and quiet enjoyment of residents in the vicinity, have a detrimental impact on other businesses in the area and increase the prospect of antisocial behaviour.

2 - That Officers present a report to the next meeting of this Committee in order for this committee to consider and recommend to full council that:-

The Corporate Head of Law and Governance be authorised to review the designation of consent streets in the borough pursuant to its powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and proceed with public consultation to re-designate The Broadway, New Haw from a consent street to a prohibited street.

1. Context and background of report

- 1.1 The Council has one location in the borough designated a consent street for street traders, which is The Broadway, New Haw, at the eastern service road adjacent to the street, from the northern boundary of the Black Prince Public House for a distance of 15 metres in a northerly direction (see map at Appendix A).
- 1.2 An application has been received to trade at the location for up to seven days a week between the hours of noon – midnight, although the trader has indicated a willingness to start later and conclude earlier. The applicant is a trader in hot gourmet street food.
- 1.3 Democratic Services receive a handful of enquiries each year around street trading, but very few applications. At the Environment and Sustainability Committee in September 2023 an application was received from a trader specialising in Romanian street food. This was the first application since January 2017 and during the consultation process it became apparent that any form of street trading at The Broadway would trigger objections by those consulted, particularly the police, the highways authority and local councillors.
- 1.4 Consequently, there is very little value in the Council operating a consent street where any application is highly likely to be turned down.
- 1.5 In addition to turning down the application for the reasons set out in the recommendations, the Committee are asked to require Officers to present a report to reconsider the designation of The Broadway in a view to recommend to full council to begin the process of removing The Broadway as its sole consent street.

2. Report and, where applicable, options considered and recommended

- 2.1 The control of street trading outside of London has traditionally been regarded as a local issue appropriately regulated by the relevant local authority. However, as various practices developed throughout the country, there was little uniformity between authorities. The Local Government (Miscellaneous Provisions) Act 1982 introduced a new street trading code. The code is adoptive legislation rather than compulsory, and the provisions of the Act dealing with street trading do not come into operation unless the local authority passes an appropriate resolution.
- 2.2 For the purposes of the Act, a “street” includes any road, footway, beach or other area to which the public have access without payment. Councils can designate streets as prohibited, license or consent streets. No trading is permitted on prohibited streets.
- 2.3 During the 1990s Runnymede had a number of consent streets. However, wherever in the borough those consent streets were located various problems were often reported to the Council about noise and odour, whilst the police would often receive reports of antisocial behaviour from customers of traders.
- 2.4 Subsequently, in 2013 the Council reduced the number of consent streets in the borough to just one – a small section of The Broadway, New Haw. However, since then all application received have been refused due to various concerns by the bodies consulted.

- 2.5 In February 2024, having completed the full statutory process, Full Council unanimously voted to add a section of Guildford Road, Chertsey to its list of license streets, taking the total number of license streets in the borough to three (High Street, Egham and Station Road, Egham being the others). A license street enables a market to be held. The removal of The Broadway as a consent street would have no impact on the licence streets in the borough, and nor would it prevent the application of a road closure in the borough under the Town Police Clauses Act that facilitates community events such as fayres, parades and street parties to take place.

Application for Street Trading Consent

- 2.6 An application was received in February 2024 for a trader to operate at The Broadway, selling gourmet street food. Details of the application are below:
- **Days on which you wish to trade:** Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday
 - **Hours between which you wish to trade:** 07:00 -24:00 Monday to Saturday 12:00 - 24:00 Sunday
 - **Articles in which you wish to trade:** Gourmet street food
 - **Area you intend to trade from:** Stall
 - **Dimension of stall:** 4m x 2m
 - **Dimensions of area required for trading:** 4.5m x 3m
 - **Have you previously held any Street Trading consents/licences?:** No
- 2.7 Following the previous application in September 2023 it had been officers' intention to ask this Committee to reconsider the designation of The Broadway, New Haw as a consent street as it had been abundantly clear that future applications were almost guaranteed to result in refusal. The applicant was made aware of the council's intentions but requested that their application was processed regardless, which they are perfectly entitled to do.
- 2.8 As with the previous application for a street trading license in September 2023, the following organisations were consulted on the application:
- Surrey Police
 - Surrey County Council as highways authority
 - Runnymede Borough Council's Environmental Health
 - Local Councillors (The Broadway dissects the wards of [1] New Haw and [2] Woodham and Rowtown. All six Runnymede Borough Councillors representing those wards were contacted).
- 2.9 Responses have been received from the police (Appendix B), Environmental Health (Appendix C), two of the six Councillors contacted (Appendix D) and Surrey County Council (Appendix E), reaffirming that their previous objections still stand, particularly in relation to concerns about waste, extra traffic and antisocial behaviour. The impact on existing businesses in the area was also highlighted.
- 2.10 Some of those who responded in para 2.9 have already indicated that they would be supportive of redesignating The Broadway from a consent street to a prohibited street.

3. Policy framework implications

- 3.1 Council Policy has been to give due consideration to the suitability of all applications to trade in its consent street and to prohibit trading in all streets where it will be detrimental to road safety and where evidence of detriment to public amenity exists.

4 Resource implications/Value for Money

- 4.1 Street Trading consents run from 1 April to 31 March. The basic annual fee is £1,100 per year plus an additional annual charge of £253 for each day of the week the trader is licensed to operate. The maximum fee for a trader operating seven days a week for a year is therefore £2,871, and this is intended to cover any administrative costs rather than be a source of income generation.
- 4.2 The removal of The Broadway as a consent street would require the publication of an advertisement in a local newspaper circulating in the area. A modest, three-figure fee would be required for this that would be covered by existing budgets.

5. Legal implications

- 5.1 RBC adopted the Local Government (Miscellaneous Provisions) Act 1982 (the "Act") in September 1982 and designated streets as soon as January 1983. Schedule 4 of the Act gives Local Authorities discretion when issuing consents. Schedule 4 does not specify any particular grounds on which such decisions may, or may not, be made but while the Committee is able to refuse a consent it must do so for sound and valid reasons and has a duty to act reasonably at all times bearing in mind the consequences to the trader. While a trader has no right of appeal under Schedule 4 they are at liberty to take other legal action if the Council is seen to act unfairly or unreasonably or has reached its decision without due consideration of all material facts.
- 5.2 Under Section 17 of the Crime and Disorder Act 1998, the Council has a duty to do all that it reasonably can to prevent crime and disorder in its area. Street trading in certain areas, particularly after dark, can lead to problems of disturbance and disorder.
- 5.3 The European Convention on Human Rights secures certain fundamental human rights. The Human Rights Act 1998, which came into force on 2 October 2000, makes it unlawful for a local authority to act in a way which is incompatible with a convention right.
- 5.4 A refusal of consent to street trading at this location may constitute an interference with the right under Article 1 of the First Protocol to the peaceful enjoyment of possessions. Such interference is permissible if it is in accordance with the law and in the public interest. Such action could also interfere with the right under Article 8 of the Convention, to respect for private and family life and the home. Unjustified failure to take action could also interfere with this right. Interference is permissible provided that it is in accordance with the law and is necessary in the interests of protecting the rights and freedoms of others in the Community. The Council's response to the application and any perceived problems must be proportionate.
- 5.5 It must be remembered that local residents as well as prospective traders enjoy Convention Rights. Clearly, when considering whether or not a consent should be granted the Council should seek to balance the interests of the person seeking to trade against those of any objectors. The power to attach conditions to any consent, and to restrict hours of trading to levels which are considered to be appropriate, may enable the Council to achieve a balance between the opposing interests.

- 5.6 This report is proposing to start the process of re-designating The Broadway, New Haw from a consent street to a prohibited street, which is clearly defined in the legislation.
- 5.7 The legal process for the next stage of action will be based on firstly the Environment and Sustainability Committee and Full Council agreeing to the proposal to commence a consultation.

6. Equality implications

- 6.1 There are no equalities implications for the application.
- 6.2 In the event that Environment & Sustainability Committee and Full Council both agree to a consultation to reconsider the designation of The Broadway, an equalities screening assessment would be completed as part of the process.

7. Environmental/Sustainability/Biodiversity implications

- 7.1 Runnymede Borough Council's Environmental Health consider that granting the application may give rise to noise and odour nuisance and complaints from residents in close proximity to the trading location. The street is currently a mixed commercial/residential area and evening street trading of the nature proposed would result in members of the public gathering on the street in the vicinity of the vehicle (leading to disturbances) and eating on the street (which may create waste issues and encourage pests). Cooking fumes, smoke and odours are best dispersed at, or above, building eaves levels.

8. Risk Implications

- 8.1 Maintaining the status quo and not removing The Broadway as the Council's sole consent street is a reputational risk for the Council on the basis that any subsequent refusal of an application could be seen as pre-determining the outcome of an application, whilst evidence would suggest that the location is no longer suitable to be a consent street.

9. Other implications

- 9.1 Subject to the Committee's approval to begin the process of removing The Broadway as a consent street, the Council's website would be updated to advise any potential applicants that street trading applications would be paused until further notice.

10. Timetable for Implementation

- 10.1 Subject to the approval of Environment and Sustainability Committee, the removal of The Broadway as a consent street would require full council approval to begin the consultation process.
- 10.2 Subject to subsequent full council approval, authority would be granted to publish a Notice in a local newspaper consulting on the Council's intention to amend the existing resolution to remove The Broadway as a consent street.
- 10.3 The Notice must appear in a local newspaper for two consecutive weeks and explain that the public has 28 days to submit representations about the proposal to remove The Broadway as a consent street.

- 10.4 A copy of the Notice must be served on the Police and Highway Authority at the same time as it is published.
- 10.5 At the expiry of 28 days a further report must go to Environment and Sustainability Committee and Full Council in which any representations are considered and if appropriate the necessary resolution to turn The Broadway into a prohibited street is contained.
- 10.6 If the resolution is passed, then the designation only comes into effect on a day not earlier than one month after the day on which the resolution is passed. i.e. if the resolution is passed on 18 July 2024, then the street can only become a prohibited street no earlier than 18 August 2024.

11. Conclusions

- 11.1 The Committee is asked to decline the street trading application and request officers to submit a report to this committee, to recommend to full council to begin the process of removing The Broadway as a consent street.

12. Background papers

- Street trading application report that went to Environment & Sustainability Committee on 13 September 2023.
[Link to Environment & Sustainability Committee Agenda September 2023](#)
- Designation of street trading consent streets in the borough report that went to Environment & Sustainability Committee on 21 March 2013
- Chertsey Town Centre Street Licensing report that went to Environment & Sustainability Committee on 11 January 2024.
[Link to Environment & Sustainability Committee Agenda January 2024](#)

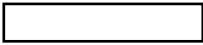
13. Appendices

- Appendix A – Map of location
- Appendix B – Response from Surrey Police
- Appendix C – Response from Runnymede Borough Council environmental health
- Appendix D – Response from ward councillors
- Appendix E – Response from Surrey County Council

LOCATION PLAN

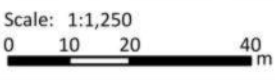
Street Trading - Consent Area:
The Broadway, New Haw

Runnymede Borough Council
Runnymede Civic Centre
Station Road
Addlestone
Surrey KT15 2AH



Key

 Trading Area



© Crown copyright and database rights 2014 Ordnance Survey 100006086

Appendix B



Inspector Ian Nash
Runnymede Borough
Commander
27th February 2024

Dear Mr Finch,

I have reviewed this application for Street Trading and considered the potential impact on road safety and anti-social behaviour in the area.

In relation to road safety, I have concerns about the impact on parking availability in the area and the narrowing of an already narrow service road. Parking is limited in the area and the addition of the trailer and associated towing vehicle would compound any parking issues. The footway may also become congested with customers, impacting residents' ability to pass.

I am also concerned about the location in question and the impact on anti-social behaviour. The trailer would be set-up in very close proximity to residential properties, directly outside the window of some. This would naturally lead to an increase in gathering outside these properties and an increase in noise and littering. In my view this could be detrimental to the quality of life of residents in these properties.

The area itself has an abundance of food outlets and as such I do not see that the area, persons in the area, or those visiting would be negatively affected by the refusal of this proposal.

Based on these concerns I am unable to support this proposal and I would request that The Broadway, New Haw as a whole is removed as a consent street due to the layout and immediate surrounding area.

Yours sincerely

Ian Nash
Runnymede Borough Commander

Appendix C – Response from Runnymede Borough Council Environmental Health

For this application based on the description that it will be hot food and the times applied for then Environmental Health consider that granting the application may give rise to noise and odour nuisance and complaints from residents in close proximity to the trading location. The street is currently a mixed commercial/residential area and evening street trading of the nature proposed would result in members of the public gathering on the street in the vicinity of the vehicle (leading to disturbances) and eating on the street (which may create waste issues and encourage pests). Cooking fumes, smoke and odours are best dispersed at, or above, building eaves levels.

With regards to the future status of the street of consent the above comments would likely be repeated on applications to trade hot food in evening hours. We may take a different approach to daytime trade or to trade involving other food which does not involve any significant cooking.

Appendix D – Response from Runnymede Borough Council Ward Members

Ward Member 1:

Same objection as previously. It's not appropriate. Puts at risk current business, opens up to more as well as there will be one already if we agree.

We then have the waste, extra traffic. Losing existing shops leads to anti social behaviour etc.

I don't support this at all.

Ward Member 2:

I remain opposed to any application of this kind, for the same reasons as I gave previously and would fully support the move towards removing the street trading consent altogether at the earliest possible opportunity.

ENDS

[Comments by ward members in relation to the September 2023 application can be found [here](#)].

Appendix E – Response from Surrey County Council as highways agency

SCC raise the same objections as we did in response to the previous application (in September 2023). For clarity, these are listed below:

- The proposed trading site is currently well used as a parking area. Parking is at a premium in the Broadway and demand often exceeds availability which can result in illegal parking taking place. Removing any of the existing available parking is only likely to increase occurrences of illegal/dangerous parking.
- Due to the high level of demand for parking, there are likely to be occasions where other vehicles are parked in the proposed site preventing access for the trader. There is no mechanism for reserving the site specifically for the use of the trader. (It should be noted that it would not be acceptable for the stall to be left at the site permanently).
- In the absence of any parking restrictions on the eastern side of the service road, the existing informal parking often extends right up to the access to the pub car park. However, Surrey County Council could not condone such parking which already causes partial obstruction of visibility for vehicles exiting the car park and contravenes advice in the Highway code. Allowing a stall to be placed at the proposed location would further restrict visibility for vehicles exiting the car park.
- The service road where the applicant is proposing to trade is relatively narrow. Having a stall (which is wider than the average width car) located at the side of the road could therefore potentially create difficulties for passing vehicles.