



## Meeting Agenda

**Public Protection Committee**  
**Town Hall, St Annes**  
**29 March 2010, 2:00p.m.**

# **PUBLIC PROTECTION COMMITTEE**

## **MEMBERSHIP**

CHAIRMAN - Councillor Angela Jacques  
VICE-CHAIRMAN – Councillor Dawn Prestwich

### **Councillors**

Christine Akeroyd	Elizabeth Clarkson
Barbara Douglas	David Eaves
John Davies	Kiran Mulholland
Keith Beckett	Ken Hopwood
Barbara Pagett	

Contact: Annie Womack, St. Annes (01253) 658423,  
Email: [anniew@fylde.gov.uk](mailto:anniew@fylde.gov.uk)



## **Our Vision**

*To establish Fylde Borough Council as a high performing local authority*

## **Our Corporate Objectives**

To improve the economic, social and environmental well-being of our communities through:

- The promotion and enhancement of the natural built environment
- Increasing the availability and access to good quality housing for all
- Maintaining healthy and safe communities to reduce the fear of crime
- Supporting and sustaining a strong and diverse Fylde coast economy to further enhance employment prospects

## **We will achieve this by:**

Focusing on customer requirements  
Clear community and organisational leadership  
Delivering high quality, cost-effective services  
Partnership working



## A G E N D A

### PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
<b>1. DECLARATIONS OF INTEREST:</b> <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (For the assistance of Members an extract from the Councils Code of Conduct is attached).</i>	<b>4</b>
<b>2. CONFIRMATION OF MINUTES:</b> <i>To confirm as a correct record the Minutes of the Public Protection Committee held on 19 January 2010.</i>	<b>4</b>
<b>3. SUBSTITUTE MEMBERS:</b> <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	<b>4</b>
<b>4. BANK LANE CARAVAN PARK, WARTON</b>	<b>7-10</b>
<b>5. DESIGNATED PUBLIC PLACE ORDERS (DPPO'S) AS AMENDED</b>	<b>11-22</b>
<b>6. STREET TRADING POLICY</b>	<b>23-26</b>
<b>7. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - DB</b>	<b>27-29</b>

**Personal interests**

**8.—**(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
  - (ii) any person or body who employs or has appointed you;
  - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (vii) any land in your authority's area in which you have a beneficial interest;
  - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

**Disclosure of personal interests**

- 9.—**(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

#### **Prejudicial interest generally**

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

#### **Prejudicial interests arising in relation to overview and scrutiny committees**

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

#### **Effect of prejudicial interests on participation**

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES	PUBLIC PROTECTION COMMITTEE	29 <sup>TH</sup> MARCH 2010	4

## BANK LANE CARAVAN PARK, WARTON

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

To enable Members to consider an application to:

- a) vary the licence conditions to increase of the total number of caravans from 200 to 230
- b) remove of condition 2b) of the site licence so as to allow full time holiday occupancy of touring caravans during the season.

### Recommendations

The Committee are asked to consider the report and determine the application.

### Executive brief

The item falls within the following Cabinet Portfolio:

Social Wellbeing

Councillor Cheryl Little

### Report

1. At the previous Public Protection Committee Meeting held on 19<sup>th</sup> January 2010, the committee debated the matter relating to the increase of the total numbers of touring caravans from 200 to 230. Furthermore, to remove condition 2b of the site licence to allow for full time occupancy of the touring caravans, with the exemption of 8<sup>th</sup> January and 28<sup>th</sup> February in each year. After a recorded vote the Committee RESOLVED:

To defer the matter until

- (a) legal advice could be sought; and
- (b) a site visit for members could be arranged

2. The request for legal advice centred around information submitted by the applicants representative Charles F. Jones during the hearing. Mr. Bond of Charles F. Jones, stated that by imposing conditions such as a limit on the length of stay of a touring caravan was not within the remit either of licensing or planning, and would restrict the applicant's ability to trade. He also argued that planning consent did not set a limit on numbers, save that 10% of the site should be reserved for touring caravans. He advised that the site had more than enough space to accommodate 230 tourers'.
3. Mr. Bond also stated that, the site owner would accept an additional condition which would requires him to prepare a register of the permanent addresses of the site users.
4. The following legal advice has been sought from the Councils Head of Governance:

*The council may impose on a site licence "such conditions as the authority may think it necessary or desirable to impose on the occupier of the land in the interests of persons dwelling thereon in caravans, or of any other class of persons, or of the public at large"<sup>1</sup>. This may appear to be quite a broad power. However, the ambit of the conditions that can be imposed has been clarified by the courts in a number of cases.*

*The case law establishes that the power to impose conditions cannot be exercised to impose conditions for purely planning reasons. The reasons for imposing a condition must relate to "the nature of the use of the site as a caravan site".<sup>2</sup> More specifically, a restriction on the numbers of caravans to be stationed on a site can only be imposed if it is required for a purpose connected with the living conditions (for example, public health or safety) of persons occupying the site. It will normally not be permissible to use a condition to restrict the numbers of caravans on a site to less than the number allowed under the relevant planning permission unless it is necessary to do so to conform to the model standards referred to below. Putting it another way, where a site operator applies to increase the number of caravans allowed on a site, the application will have to be allowed unless it is not possible to comply with the model conditions with the increased number of caravans.*

*In terms of the particular application, I understand that the only justification put forward for restricting the number of caravans to less than the number applied for relate, broadly speaking, to the impact of such an increase on the amenities and/or infrastructure of the local area. These are planning considerations, and the case law says that they cannot be taken into account in deciding on conditions in the site licence. I understand further that the officers accept that such an increased number can be accommodated without infringing the model standards. It therefore appears that the application to increase the numbers of caravans on the site must be granted.*

*So far as the application to remove condition 2b of the site licence to allow for full time occupancy of the touring caravans is concerned, the position is that the council could not require the condition to remain as at present, since there is no justification*

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<sup>1</sup> Caravan Sites and Control of Development Act 1960, section 5(1)

<sup>2</sup> Babbage v North Norfolk District Council



*(other than a planning justification) for requiring the length of stay of a particular touring caravan to be restricted. However, the council could (if satisfied that it is appropriate to do so) impose a condition restricting continuous occupation of any of the touring caravans by any one individual or group to a maximum period of weeks. It could do this if (and only if) it was satisfied that the conditions of living for those occupying a touring caravan would be such that it was inappropriate for them to be used other than for short-term holiday lets. I do not know whether this is the case or not, and the committee would need to receive advice from its officers on that point.*

5. In terms of the request to increase the total numbers of touring caravans from 200 to 230 consideration has been given to The Model Standards for Touring Caravan Sites 1983, which details the spacing and density requirements for touring sites. Application of these standards to Bank Lane Caravan Park, reveals that there is adequate space and density to accommodate the increase in numbers.
6. On the 5<sup>th</sup> February 2010 Members attended a site visit of Bank Lane Caravan Park, Bank Lane, Warton.
7. The Parish Council of Bryning with Warton have been consulted with regards to the application and have commented,

*Bryning-with-Warton Parish Council discussed the proposed increase in the total number of caravans on Bank Lane Caravan Park and wish the following comments to be noted:*

*"The Parish Council are concerned that this will be an over intensive use of the site and the spacing between caravans may not allow for the increase. There are also concerns that there will be an increase of traffic, and this will become a very congested area that already has had previous anti social behaviour issues."*

8. The Committee are therefore requested to consider the report and determine the applications.

IMPLICATIONS	
Finance	There are no implications arising directly from this report.
Legal	As indicated within the report.
Community Safety	There are no implications arising directly from this report.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There are no implications arising directly from this report.

Report Author	Tel	Date	Doc ID
Michael Duck	(01253) 658620	10 <sup>th</sup> March 2010	

List of Background Papers		
Name of document	<b>PREMISES FILE RE: BANK LANE CARAVAN PARK</b>	<b>COUNCIL OFFICE</b>

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES	PUBLIC PROTECTION COMMITTEE	29 <sup>TH</sup> MARCH 2010	5

## DESIGNATED PUBLIC PLACE ORDERS (DPPO'S) AS AMENDED

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

To report to the Public Protection Committee the results of the consultation exercise concerning the establishment of a Designated Public Place Order extending along Lytham Green and the Lancashire Coastal Path between the old Land Registry Building and Fairhaven Lake.

### Recommendations

To consider the report and approve the Designated Public Place Order.

### Report

1. Members may recall that at a meeting of the Public Protection Committee held on the 19<sup>th</sup> January 2010 a report was considered regarding the establishment of a Designated Public Place Order (DPPO) for Lytham. It was reported that the Criminal Justice and Police Act 2001 (CJPA) gives the local authority power to designate any public place in its area if it is satisfied that nuisance or annoyance to members of the public or a section of the public, or disorder has been associated with the consumption of intoxicating liquor in that place. Once an order is made the police are able to require a person not to consume intoxicating liquor and to surrender any alcohol in his/her possession other than in a sealed container. Failure to comply with these requirements is an offence. It should be noted that a Designated Public Place Order is not a ban on the consumption of alcohol but a tool to deal with issues caused by nuisance or annoyance associated with alcohol.

2. The Committee duly considered the report and resolved *“To authorise Officers to commence a consultation process and report back to committee in due course.”*
3. That process has now been undertaken, interested parties have been consulted with and a Public Notice placed in the Lytham St Annes Express on the 28<sup>th</sup> January 2010. There have been six responses to the consultation, all supportive, as detailed on the appended Schedule of Responses (appendix 1).

4. The proposed designation covered the following areas:

*“That area of land commonly known as Lytham Green and Triangle situated to the south of the A584, to the west of the Government offices located on Preston Road, Lytham to extend to Fairhaven Lake, Fairhaven including Lancashire Coastal Way and Inner Promenade between Ansdell Road South and Marine Drive, Fairhaven”*

5. However, as a result of the consultation it is requested that the order is extended to the mean low water mark to prevent persons simply stepping through the fence and onto the beach out of the designated area.
6. As such, the proposed area may be re-defined as follows:

*“That area of land commonly known as Lytham Green and Triangle situated to the south of the A584, to the west of the Government offices located on Preston Road, Lytham to extend to the mean low water mark, beyond Fairhaven Lake, Fairhaven including Lancashire Coastal Way and Inner Promenade between Ansdell Road South and Marine Drive, Fairhaven”*

A plan showing the area of proposed designation is attached at appendix 2.

7. The legislation requires the council to be satisfied that the area to be designated has suffered from alcohol-related nuisance, annoyance or disorder. Photographs previously shown to the Committee demonstrating litter and graffiti in the area are appended at appendix 3 and the Police are able to confirm that at least years Club Day event 17 persons were arrested and two young persons required the attendance of the ambulance service following the amount of alcohol they had consumed.
8. The Guidance on Designated Public Place Orders issued by the Home Office comments that Local Authorities “should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers.” There is a concern that without introducing this order, instances of annoyance and nuisance will continue. Furthermore, the Police are concerned that on Club Day this year there is a real possibility that the England football team may be playing in the knock out stages of the World Cup. The establishment of a DPPO will assist the Police and Authorities in planning for this specific combination of events and future events upon the Green.

IMPLICATIONS	
Finance	For any advertising and signage costs should the DPPO be approved, the cost will be met from existing budgets.
Legal	As indicated in the report.

Community Safety	The designation of public places in the Borough will increase the Police's powers to deal with crime and disorder and anti-social behaviour arising out of the consumption of alcohol in the streets. This will benefit community safety by providing a quick and effective way of reducing any problems relating to alcohol consumption in public places.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There is a risk of legal challenge if it was considered that the evidence of public nuisance, annoyance or disorder was insufficient to justify an area being designated as a designated public place.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	9 <sup>th</sup> March 2010	

List of Background Papers		
Name of document		Where available for inspection
Document name		Council office or website address

Attached:

- App 1 – Schedule of Responses
- App 2 – Area of proposed Designation
- App 3 – Photographs of nuisance.

**FYLDE BOROUGH COUNCIL  
DESIGNATED PUBLIC PLACES ORDER  
LYTHAM GREEN**

**CONSULTATION**

**REPRESENTATIONS and RESPONSES RECIEVED**

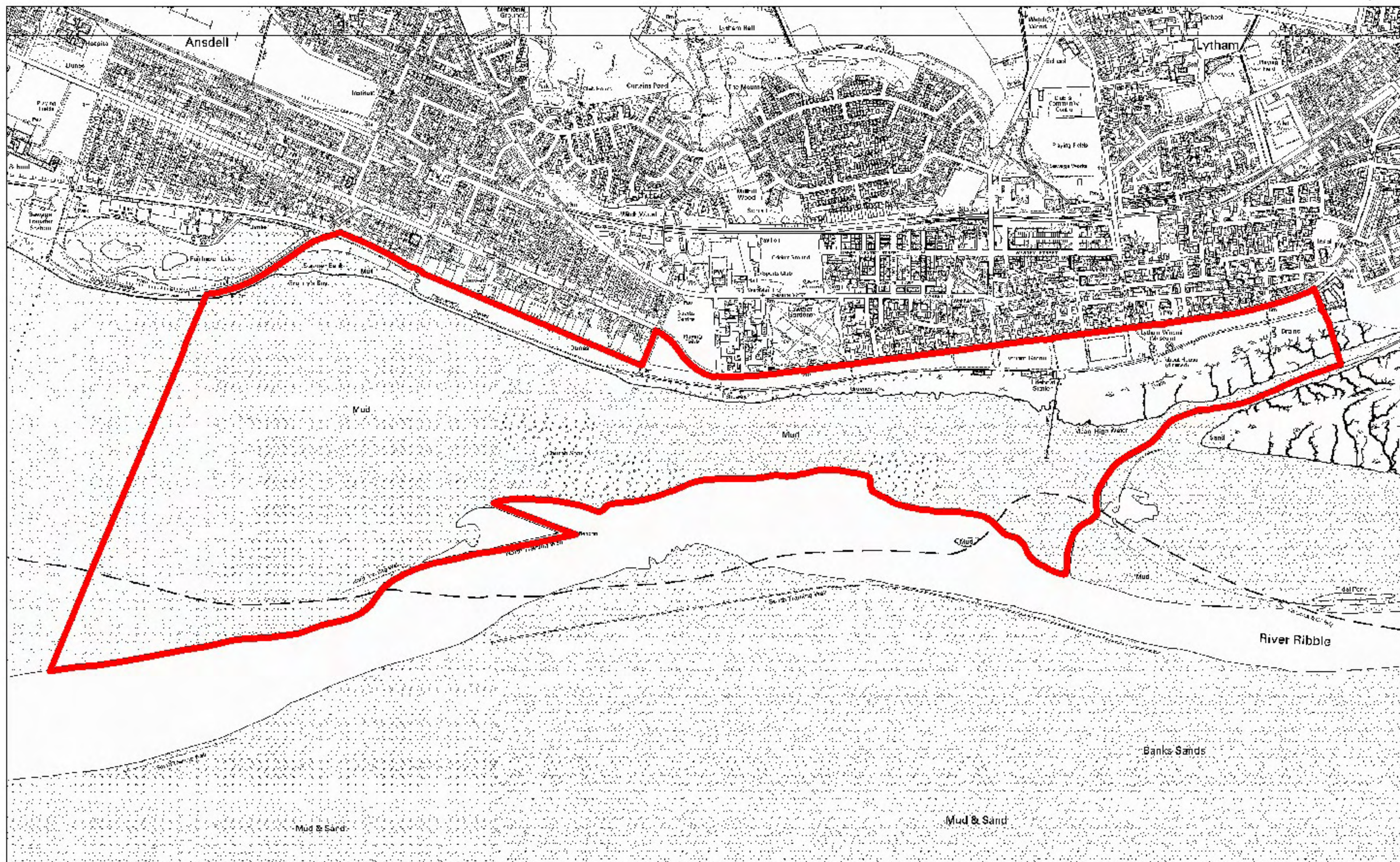
**Consultation Period: 1<sup>st</sup> February 2010 to 3<sup>rd</sup> March 2010**

## SCHEDULE OF RESPONSES

Respondent	Comments	Assessment of Comments	Action
Cllr B Ackers	"Fully agree"	Supportive of proposal	No action proposed.
Cllr K Buckley	"I write in support of the proposal for a DPPO in Lytham. I think this is a proportionate response to the problems of excessive drinking on the green, especially on Lytham Club Day."	Supportive of proposal	No action proposed.
Jim and Meg Green Friends of Lytham Estuary	<p>The Group are in agreement to the order as presented. It seems to be a sensible approach which does not affect the enjoyment and freedom of the majority, whilst offering a means of restricting and controlling the drunken and unruly minority.</p> <p>Suggest that the area covered by the proposed DPPO should be extended to the mean low water mark and grassed area at Granny's Bay.</p>	Supportive of the proposal and make a valid suggestion regarding extending the order to avoid persons simply moving onto the beach and out of the area.	Update area covered by the proposed order from the Promenade walkways to the mean low water mark.
Inspector Laura Lawler Fylde Geographic Inspector, Lancashire Constabulary	Approve the introduction of the Order as it will greatly assist the Police in dealing with the annual Club Day problems.	Supportive of the Policy	No action proposed.
PS R Rushforth Local Authority Liaison Officer Lancashire Constabulary	<p>On behalf of Fylde Crime and Disorder Reduction Partnership expresses full support for the proposal.</p> <p>Stresses that the order will not make it a criminal offence to consume alcohol within the order but an offence is committed if an individual refuses to comply with a request from a Constable to stop drinking.</p> <p>Comments regarding the Lytham Club Day Policing difficulties where last year 17 persons were arrested and</p>	Supportive of the Policy and make a valid suggestion.	Update area covered by the proposed order from the Promenade walkways to the mean low water mark.

	<p>at least two young persons required ambulances due to the amount of alcohol they had consumed.</p> <p>The establishment of an Order would provide the ability to define an area in which the consumption of alcohol could be tolerated and more effectively policed and allow more effective use of both Police and Council resources. A defined area would also allow for effective litter picking and collection which would keep the area tidy but also assist in minimising the chances of empty bottles being picked up and used as a weapon.</p> <p>Requests that the order is extended to include the beach to the mean low water mark so as to ensure that simple displacement does not make the order ineffective by persons simply stepping through the fence onto the beach out of the designated area.</p>		
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Scale 1:16000

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# REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES	PUBLIC PROTECTION COMMITTEE	29 <sup>TH</sup> MARCH 2010	6

## STREET TRADING POLICY

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

To present to the Committee details of suggested policy guidelines to be applied when considering applications for street trading consents in the recently re-designated areas of:

Inner Promenade between Ansdell Road South and St Pauls Ave

Lowther Gardens and Car Park

East Beach, Central Beach and West Beach, Lytham

Wood St and Wood Street Car Park, St Annes

Ashton Gardens, St Annes

### Recommendations

To approve the Policy to be applied to all applications for consent for the above mentioned areas.

## **Report**

1. The Committee at their meeting held on the 19<sup>th</sup> January 2010 considered an item regarding the re-designation of area of the Borough for the purposes of street trading and resolved:

*To approve the re-designation of all the named streets in the report to consent streets, and that the resolution should come into effect from 1 March 2010;*

*and that a policy should be prepared by officers to give effect to the conditions as proposed by Cllr Davies, to be brought back to committee for approval, and that until such time as the policy was approved, no permissions to trade on the designated street should be granted.*

2. Officers have now met with the Portofolio Holder for Community and Social Wellbeing, the Chair of the Public and Protection Committee, John Moxham from the Chamber of Trade and Amanda Del Masso and formulated the policy attached at appendix 1. The Policy is based upon the recommendations submitted by Cllr Davies at the meeting on the 19<sup>th</sup> January 2010.
3. The existing Street Trading Policy consists of 3 schedules – Schedule A states the prohibited streets with the Borough, Schedule B lists the areas where the Chief Executive may approve consent and Schedule C is St Annes Square and Lytham Piazza. As such, the recently re-designated areas are being referred to as schedule D and upon approval by the Committee, the application form will be updated accordingly.
4. The Committee is therefore requested to consider the report and approve the Policy for determining applications in these additional areas.

IMPLICATIONS	
Finance	There are no implications arising directly from this report.
Legal	There are no implications arising directly from this report.
Community Safety	There are no implications arising directly from this report.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There are no implications arising directly from this report.



Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	15 <sup>th</sup> March 2010	

List of Background Papers		
Name of document		Where available for inspection
Street Trading File		Licensing Office, Town Hall

Attached:

Appendix 1 – Schedule D of Street Trading Policy

## **Schedule D**

Following a decision of the Public Protection Committee on 19<sup>th</sup> January 2010, the following additional areas have been designated as consent streets for the purposes of street trading.

Ashton Gardens

Wood Street

Wood Street Car Park

Lowther gardens and car park

Inner promenade between Ansdell Road South and St. Pauls Ave

East Beach, Central Beach and West Beach Lytham

Applicants should note that all applications for street trading consent within Schedule D will be considered by the Public Protection Committee. The Committee meets on an ad hoc basis and it is strongly advised that applications are submitted at least 2 months prior to an event to allow full consideration of that application.

Applications for consent in schedule D will be considered in accordance with the following guidelines:

- i) Consents will only be issued for specific events which have a tangible and measurable benefit to the Fylde, its residents and businesses.
- ii) Applications for consents shall not be for the financial benefit of individuals at the expense of local residents or businesses. Priority shall be given to local traders.
- iii) No consent shall be granted for a type of trading which the Committee consider will detract from the Borough's "classic resort" status.

Applicants should note that all granted applications will be subject to monitoring by Officers of the Authority. Non compliance with licence conditions or trading which causes nuisance or annoyance during an event may lead to a recommendation to the Public Protection Committee that future applications from an applicant are refused.

**It is an offence under S10 of Part III of the Local Government (Miscellaneous Provisions) Act 1982 for a person to engage in street trading in a prohibited street or to engage in street trading in a consent street without authorisation, the maximum penalty on conviction being a fine of up to £1000.**

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	29 <sup>TH</sup> MARCH 2010	7

## HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - DB

### Public

This item is for consideration in the public part of the meeting.

### Summary

DB is a currently licensed Hackney Carriage and Private Hire driver the licence due to expire on the 14<sup>th</sup> August 2010.

He has recently been disqualified from driving for a period of 6 months under the totting up procedure. The period of disqualification will finish prior to the expiration of the Drivers Licence and the matter had been referred to the Public Protection Committee for consideration as to whether the driver is fit and proper to hold a licence.

### Recommendation/s

1. That the Committee considers the report and determines the application.

### Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Community and Social Wellbeing:

Councillor Cheryl Little

## Report

1. DB is an existing licensed driver, benefiting from a combined Hackney Carriage and Private Hire drivers licence issued by Fylde Borough Council which is due to expire on the 14<sup>th</sup> August 2010.
2. He has recently notified the Licensing Team of penalty points which have resulted in being disqualified from driving under the DVLA Totting Up procedure. That disqualification is due to expire on the 11<sup>th</sup> August 2010.
3. The Hackney Carriage and Private Hire Licensing Policy comments at Appendix L, 2.2 when considering Disqualification from driving following the totting up procedure that, *"As the driver ceases to have a valid DVLA driving licence, his taxi drivers licence must be revoked. An application for a new licence may be made once the DVLA licence is restored and this will be treated in accordance with the appropriate guidelines for new application."*
3. Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states, "a district council may suspend or revoke or ... refuse to renew the licence of a driver of a Hackney Carriage or a Private Hire vehicle on any of the following grounds:-
  - a) that he has since the grant of the licence:-
    - i) been convicted of an offence involving dishonesty, indecency or violence
    - ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act; or
  - b) any other reasonable cause."
8. BD has been invited to the Meeting and the Committee is therefore requested to consider the report and determine whether to:
  - a) note the report,
  - b) issue a warning letter,
  - c) suspend the licences
  - d) revoke the licences

IMPLICATIONS			
Finance	None arising directly from the report.		
Legal	The Committee should have regard to the requirements of fairness and proportionality and to the European Convention on Human Rights in reaching its decision.		
Community Safety	None arising directly from the report.		
Human Rights and	None arising directly from the report.		

Equalities	
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	15 <sup>th</sup> March 2010	

List of Background Papers		
Name of document	Date	Where available for inspection
Hackney Carriage and Private Hire Licensing Policy	September 2006	<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a> or Town Hall

#### **Attached documents**

## Public Protection Committee



Date	19 January 2010
Venue	Town Hall, St Annes
Committee members	Angela Jacques (Chairman) Dawn Prestwich (Vice-Chairman) Christine Akeroyd, Keith Beckett, Elizabeth Clarkson, John Davies, Barbara Douglas, David Eaves, Ken Hopwood, Barbara Pagett
Other Councillors	Kath Harper
Officers	Ian Curtis, Clare Holmes, Chris Hambly, Michael Duck, Mike Walker, Annie Womack,
Others	Mr M Bond FICS; members of the public

### 1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

### 2. Confirmation of minutes

RESOLVED: To approve the minutes of the Public Protection Committee held on 13 October 2009 as a correct record for signature by the chairman.

### 3. Substitute members

None

### 4. Bank Lane Caravan Park, Warton

Michael Duck (Environmental Health Officer) presented a report on Bank Lane Caravan Park, Warton to enable Members to consider an application to vary and remove the following conditions of the existing licence 1a) - relating to the increase of the total number of caravans from 200 to 230; and removal of condition 2b) to allow full time holiday occupancy of touring caravans during the season.

Mr Duck advised officers of the necessary maximum density and minimum spacing for static and touring caravans. He advised that the area designated for touring caravans on the site could accommodate 230.

His opinion was that if members were minded to allow the variation to the license, then he would recommend that at the appropriate place on site there should be an extra means of raising an alarm for emergencies.

During the subsequent debate it became clear that in fact the number of caravans on the site had already been increased.

Concerns were expressed that if full time holiday occupancy were to be permitted there would be the potential for people to occupy touring caravans all year. The consequence could be an extra strain on local services. Mr Duck agreed that this was so, but reminded the committee that tourers were not connected to the water mains or drains and provided poor thermal comfort, and it was therefore not likely that people would want to occupy them as a home for the whole of the season.

Mr Michael Bond, who was representing the site owner, was invited by the Chairman to comment.

He argued that imposing conditions such as a limit on the length of stay of a touring caravan was not within the remit either of licensing or planning, and would restrict the applicant's ability to trade. He also argued that planning consent did not set a limit on numbers, save that 10% of the site should be reserved for touring caravans. He advised that the site had more than enough space to accommodate 230 tourers.

He stated that the site owner would accept an additional condition which would require him to prepare a register of the permanent addresses of the site users.

The committee debated the matter and after a recorded vote RESOLVED:

- 1 To defer the matter until
  - (a) legal advice could be sought
  - (b) a site visit for members could be arranged

*Votes for the recommendation (10): Councillors Angela Jacques, Dawn Prestwich, Christine Akeroyd, Elizabeth Clarkson, David Eaves, John Davies, Keith Beckett, Ken Hopwood, Barbara Pagett, Barbara Douglas.*

*Votes against the recommendation (0):*

*Abstentions (0):*

## 5. Designated Public Place Orders (DPPO's)

Chris Hambly (Licensing Officer) introduced a report to advise the members of the principles of Designated Public Place Orders (DPPO) and sought the authority of the Committee to commence consultation with a view to introducing a DPPO for an area of Lytham as indicated in the plan.

He explained that the Council's Community Safety department had requested that consideration was given to introducing a DPPO for the area between the old Land Registry Buildings to Fairhaven Lake, between East, West and Central Beach and the estuary including Lytham Green and Triangle, as there is concern that alcohol related annoyance or nuisance occurs in the area.

Mr Hambly explained to the committee that a DPPO is an enforcement tool to allow police to have some control, and was not intended to obstruct peaceful activities.

The committee considered the matter and RESOLVED:

1. To note the report.
2. To authorise Officers to commence a consultation process and report back to committee in due course.

The Chairman advised that she felt that the decision to commence consultation was not controversial, the committee agreed and the resolution was carried by a show of hands.

## 6. Street Trading

Chris Hambly (Licensing Officer) presented a report on Street Trading. The report advised members of the outcome of the consultation process in respect of the proposal to re-designate stated streets within the Borough as consent streets for the purpose of street trading.

These streets were:

- Inner Promenade between Ansdell Road South and St Pauls Ave
- Lowther Gardens and Car Park
- East Beach, Central Beach and West Beach Lytham
- Wood St and Wood Street Car Park, St Annes
- Ashton Gardens, St Annes

Representations that had been received from Access Employment Law Ltd (representing Lytham Enterprise Group, St Annes Chamber of Commerce, Defend Lytham, Civic Society and Residents) and from the St Anne's on the Sea Town Council were attached for the committee's consideration.

Mr Hambly explained that changing the designation of the named streets did not give itinerant traders unfettered license to trade; neither did it mean that traders would be at those sites permanently. Anyone wishing to trade in a designated street on a particular date or dates would first have to obtain permission. Designating streets as trading streets would allow the imposition of terms and conditions on traders.

Members raised several issues. Concerns were expressed regarding the impact on established businesses, and the ability of the council to enforce conditions. Questions were also raised about whether this would encourage peddlers, and whether it would have the opposite effect of the intended one, which was to enhance and promote tourism in the Fylde.

Councillor J Davies proposed a number of conditions that should be met before permissions were to be granted. These were:

*Any licence granted MUST:*

- *Be for specific events which have a tangible and measurable benefit to the Fylde, its residents and businesses*
- *Not be granted for longer periods than the duration of the event*
- *Not be for the financial benefit of individuals at the expense of local residents or businesses*
- *Not detract from our 'Classic Resort' status*
- *Be monitored and enforced adequately*
- *Be approved by members, through this committee, and not just by officers*

*Moreover, these conditions must be included in any change of designation in a legally binding way and not just rely on a vague 'declaration of intent'.*

It was agreed that this was a good way forward, and that officers should draw up a policy based on the principles of the listed conditions; and that in the meantime, until the policy



was approved by the committee, no permissions to trade on the designated streets should be granted.

After a full debate and a recorded vote the committee RESOLVED:

- 1 To approve the re-designation of all the named streets in the report to consent streets, and that the resolution should come into effect from 1 March 2010;  
and that a policy should be prepared by officers to give effect to the conditions as proposed by Cllr Davies, to be brought back to committee for approval, and that until such time as the policy was approved, no permissions to trade on the designated street should be granted.

*Votes for the recommendation (7): Councillors Angela Jacques, Dawn Prestwich, Christine Akeroyd, Elizabeth Clarkson, David Eaves, Barbara Douglas, John Davies.*

*Votes against the recommendation (2): Ken Hopwood, Barbara Pagett,*

*Abstentions (1): Keith Beckett*

A vote was earlier taken on an alternative proposal, but was lost. The proposal was made by Councillor Beckett and seconded by Councillor Pagett and was to wholly reject the re-designation of the stated streets as consent streets:

*Votes for the proposal (4): John Davies, Keith Beckett, Ken Hopwood, Barbara Pagett,*

*Votes against the proposal (6): Councillors Angela Jacques, Dawn Prestwich, Christine Akeroyd, Elizabeth Clarkson, David Eaves, Barbara Douglas.*

*Abstentions (0):*

## 7. Private Hire Driver Application - NB

Chris Hambly (Licensing Officer) reported that an application had been received for the grant of a Private Hire Drivers Licence by NB.

However, the applicant was not present when the agenda item came to be considered and so the committee RESOLVED:

To defer the matter

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