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AGENDA

Committee	PUBLIC PROTECTION COMMITTEE
Date and Time of Meeting	TUESDAY, 8 FEBRUARY 2022, 10.00 AM
Venue	REMOTE MEETING VIA MS TEAMS
Membership	Councillor Mackie (Chair) Councillors Sattar, Asghar Ali, Derbyshire, Goddard, Jacobsen, Hudson, Lancaster, Robson and Wood

1 **Apologies for Absence**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 3 - 6*)

To approve as a correct record the minutes of the meeting held on 30 November 2021.

4 **Control of Street Trading in Whitchurch** (*Pages 7 - 12*)

5 **Urgent Items (if any)**

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 2 February 2022

Contact: Graham Porter,

02920 873401, g.porter@cardiff.gov.uk

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PUBLIC PROTECTION COMMITTEE

30 NOVEMBER 2021

Present: Councillor Mackie(Chairperson)
Councillors Sattar, Derbyshire, Hudson, Lancaster, Robson and Wood

6 : APOLOGIES FOR ABSENCE

Apologies were received from Councillor Goddard and Jacobsen.

7 : DECLARATIONS OF INTEREST

No declarations of interest were received.

8 : MINUTES

The minutes of the meeting held on 2 November 2021 were approved by the Committee as a correct record.

9 : AUTHORISATION OF OFFICERS AND DELEGATIONS

The Committee received a report seeking the approval to update officer authorisation and delegations as a result of changes in post designations within Cardiff Council and Shared Regulatory Services in order to ensure that officers have the appropriate formal authorisation to act on the Council's behalf.

Members were advised that the only procedural change arising from the delegations would be to provide officers with the ability to suspend a hackney carriage and private hire driver's licence for failing to produce their medical certificate to the Licensing Authority upon request. Currently these matters have to be reported to Committee which delays what should be a routine administrative matter. Members were also asked to note that it is important that resilience remains in place for Officers to continue to exercise delegated powers, not only to assist with the day to day operation within Shared Regulatory Services but to ensure action is taken where public safety is at risk.

It was proposed to delegate the responsibility for authorising officers to administer the requirements of functions identified in Schedule 1 of the report, to the following officers:

- Assistant Director - Street Scene
- Head of Shared Regulatory Services
- Operational Manager – Neighbourhood Services

Where appropriate, any authorised officers would be approved to:

1. Issue Notices and Orders;
2. Grant and refuse consents;
3. Implement the relevant provisions in respect of offences or other

- requirements;
4. Consider applications and to issue licences;
 5. Approve or reject applications;
 6. Revoke with immediate effect hackney carriage/private hire drivers in the interest of public safety;
 7. Suspend or revoke hackney carriage vehicle, private hire vehicle and hackney carriage/private hire driver's licences for failure to comply with any approved policy or standards;
 8. Arrange for the execution of works pursuant to any of the rules, regulations and/or Orders made thereunder (or any replacement or re-enactment thereof) identified in Schedule 1.

The Chairperson welcomed Lee Ward of Unite to the meeting. Mr Ward was invited to make representations on the report. Mr Ward stated that the trade welcomes actions that ensure public safety. However, concerns were raised that the delegations could tip the balance of powers away from elected members and towards officers. Mr Ward requested clarification regarding some of the points set out in paragraph 2.3 of the report. Members were requested to take those comments into consideration.

The Chairperson opened the debate on this report. Members requested clarification on the differences between the delegations currently in place and those to be approved. The Licensing Officers stated that the delegations are unchanged, apart from point 7 which has been amended to include reference to hackney carriage/private hire driver's licences as this would allow officers to suspend a drivers licence until such time as a satisfactory medical certificate was provided. The Committee requested further clarification on this requirement. Members felt that consideration should be given to the inclusion of an additional point that explicitly addressed the medical certificate issue.

A Member considered that whilst the concerns set out by the trade representative were valid, there was little in terms of additional powers being transferred to officers.

A Member raised concerns regarding the wording of 6.2 in the report.

'6.2 Delegate authority to the Assistant Director, Street Scene and the Head of Shared Regulatory Services to appoint and authorise appropriately qualified staff to act on the Council's behalf under each of the functions listed in Schedule 1 and any relevant future enactments determined to be the responsibility of the Public Protection Committee.'

The Member was particularly concerned regarding the reference to 'any relevant future enactments determined to be the responsibility of the Public Protection Committee' in paragraph 6.2. The Licensing Officer stated that the intention was to enable officers to react in emergencies situations such as the recent response to the covid pandemic. Members accepted the point and considered that reference to the interests of public safety should be included.

Members considered that in terms of the revocation of a licence following the committal of a serious offence, it was appropriate for officers to act immediately and

not in consultation with the Chairperson of Public Protection Committee, as requested by the trade.

RESOLVED – That the Committee:

1. Authorise the Assistant Director - Street Scene, the Head of Shared Regulatory and the Operational Manager – Neighbourhood Services to act as authorised officers and undertake the roles identified in 2.3 above, subject to the following amendments:

2.3 Point 7 – To suspend or revoke hackney carriage / private hire vehicle licences for failure to comply with any approved policy or standards.

2.3 Point 8 - To suspend hackney carriage / private hire driver licences in the event that a satisfactory medical is required but not produced.'

2. Delegate authority to the Assistant Director, Street Scene and the Head of Shared Regulatory Services to appoint and authorise appropriately qualified staff to act on the Council's behalf under each of the functions listed in Schedule 1 and any relevant future enactments determined to be the responsibility of the Public Protection Committee in the interests of public safety.

10 : CONTROL OF STREET TRADING IN WHITCHURCH

The Committee received a report and Members were requested to consider designating streets around the junction of Tynewydd and College Road as prohibited streets for the purposes of street trading.

Members were advised that the Licensing Department has received requests from local residents and from colleagues in the Council's Housing Department to designate Tynewydd and College Road as prohibited streets. The site is currently being used by mobile catering vans which are causing a nuisance to residents and causing public safety concerns. A note setting out the concerns of the Housing Department was appended to the report at Appendix A.

The Chairperson invited representations from Antonia Murphy, Regeneration Officer, Housing and Communities and Gareth Jones, Section Leader, Neighbourhood Services. The officers provided a summary of the issues and the concerns leading to the request to prohibit street trading at the site. The concerns expressed related to noise nuisance, damage to open space, the use of a power cable running across a public footpath from a nearby flat and congestion and parking problems at a busy junction that is used by pupils attending a nearby school.

RESOLVED – That:

1. That the Committee indicate its intention to designate the following as prohibited streets for the purpose of street trading:

College Road, Whitchurch
College Close, Whitchurch
Tynewydd, Whitchurch

Tynant, Whitchurch

2. That the Head of Legal Services be authorised to publish legal notice of the Committee's intention and report to the Committee in due course so that it may consider passing the necessary resolution.

11 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 11.50 am

**Cardiff Council
Cyngor Caerdydd**

Agenda No.

Public Protection Committee: 8 February 2022

Report of the Head of Shared Regulatory Services

Control of Street Trading In Whitchurch

1. Background

1.1 At the meeting of [30 November 2021](#), the Public Protection Committee authorised the Head of Legal Services to publish notice of its intention to pass resolutions to change the street designations of the following streets to 'prohibited' for the purpose of street trading, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:

- College Road, Whitchurch
- College Close, Whitchurch
- Tynewydd, Whitchurch
- Tynant, Whitchurch

1.2 The intention is for the changes to have effect from 8 March 2022

2. Details.

2.1 In accordance with the statutory procedure, a Public Notice was published in the South Wales Echo on 7 December 2021 stating the Public Protection Committee's intention. Copies were also sent to South Wales Police, the Highways Department of Cardiff Council and notices were displayed in the streets affected. The notice invited representations relating to the proposed resolutions to be made in writing by 8 January 2022.

2.2 Three responses were received to the public notice, all of which support restricting street trading in the area. Redacted copies of the responses received to the Public Notice are contained in Appendix A of this report.

3. Financial Implications

3.1 The cost of advertising the designation as required by statute and the cost of enforcing the designation will be met from the current budget.

4. **Legal Implications**

- 4.1 The proposals are achievable provided the requisite statutory procedures are followed.
- 4.2 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the Body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Standing Orders and Financial Regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its tax payers; (h) be reasonable and proper in all the circumstances.

5. **Recommendations**

- 5.1 It is recommended that Members consider the representations received to the Public Notice and determine whether to designate the streets listed in paragraph 1.1 as prohibited streets pursuant to Part III of the Local Government (Miscellaneous Provisions) Act 1982, with effect from 8 March 2022.

Dave Holland
Head of Regulatory Services

12 January 2022

Background Papers

- 1. Minutes of the Public Protection Committee of 30 November 2021

Appendix A

Response 1

[REDACTED]
Whitchurch
Cardiff
Tel: [REDACTED]

Ref: AJ/507

Dear Director of Governance and Legal Services

I wish to make a supportive representation regarding the proposed resolution to designate all parts of College Road, Whitchurch, Cardiff, College Close, Whitchurch, Cardiff, Tynwydd, Whitchurch, Cardiff and Tynant, Whitchurch, Cardiff as Prohibited Streets pursuant to Part III of the Local Government (Miscellaneous Provisions) Act 1982.

I fully support the prompt and diligent manner in which the Council have followed up on concerns over a street trader on the corner of Tynwydd and College Road creating a nuisance and a potential safety hazard to pedestrians, including school children.

I am glad that the Public Protection Committee reconsidered their 2015 decision in the light of local objections. The siting of street traders is totally inappropriate in this residential area for a range of concerns, specifically:

- a) the street trader's van is too close to very busy road junction, leading to a potential traffic incident;
- b) it is located close to a pedestrian road crossing (zebra), used by school children and the careless parking arising from customers of the food van near to a crossing creates a safety risk for pedestrians;
- c) customers create road congestion on a residential road by thoughtless double parking so blocking a busy residential thoroughfare, especially given the proximity of a school with parents dropping of and collecting children;
- d) the food van creates potential noise pollution for nearby houses and passers-by through the use of its electricity generator; and
- e) potentially leads to an increased litter problem in the residential area through customers discarding food wrappings and uneaten food, as well as potential health hazard from decaying food.

To compound the issue, Cardiff Council have only just built a residential lay-by for local houses so that residents do need to park on the grass verges. This was prompted by a previous street trader who more or less destroyed a grass area adjacent to College Road by driving and parking his food van off-road.

The current food van now takes up two of the four newly- created parking spaces for residents. Thereby circumventing the very purpose of the new residential parking bays which paid for by the ratepayers of Cardiff.

I would further add that, apart from having a totally free permanent parking space, I assume that the street trader pays no business rates so is operating a business being in effect subsidised by Cardiff ratepayers. He/She is thereby potentially taking trade away from 'legitimate' cafe owners in the locality in Llandaff North and Whitchurch village.

I understand that this particular trader is awaiting a food hygiene inspection from the Council and therefore does not have, at the present time, all the required hygiene certifications.

The proposal is perfectly correct in applying the prohibition more widely to the streets designated in AJ/507 so as to prevent the trader and any future traders simply relocating to one of the nearby residential streets or parking up on one of the adjacent recreational grass areas. The attraction for the food traders arises from their proximity to a builder's merchants whose customers can easily find a similar food fare from the nearby cafe take-away shops in Llandaff North and Whitchurch. Thereby they would be supporting local cafe owners who contribute to the city's economy.

Yours sincerely

S [REDACTED] B [REDACTED]

Davina Fiore
Director of Governance & Legal Services Cardiff County Council
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Atlantic Wharf
Cardiff
CF10 4UW

Response 2

Online form submitted at:

/ENG/Home/Contact-us/Comments-complaints-and-compliments/Pages/default.aspx

Title *

Mrs

First name *

E [REDACTED]

Last name *

K [REDACTED]

Phone number (Home)

[REDACTED]

Email address

[REDACTED]@yahoo.co.uk

Address

[REDACTED]

Whitchurch

CARDIFF

[REDACTED]

If we need to contact you, how would you prefer we do it? *

Email

Contact Us Message *

Hi. I am contacting you today to complain about the constant chaos the burger van is causing on Tynewydd. Over the years burger vans who have attempted to trade from that site have all been moved. Recently you have got rid of the path/ grass and added in a parking bay this is now occupied by a burger van and the owner of the van parks her car there. I am sure the council did not spend good money to accommodate this. Today I have nearly banged my car by trying to pass through that road with the excessive parking from people going to purchase their food. Vans and cars are parking wherever they like and including blocking drive ways. This is an accident waiting to happen and also not very nice for the residents who live on this road especially with the constant smell of burgers cooking. Look forward to hearing back. Many thanks Mrs.k [REDACTED]

Response 3

-----Original Message-----

From: A [REDACTED] C [REDACTED]

Sent: 30 December 2021 11:47

To: Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)
<licensing@cardiff.gov.uk>

Subject: FAO Davina Fiore

Good morning

I am writing in regards to the burger van that has been parked and operating from the end of Tynewydd (College Road end) in Whitchurch for the past few months.

I have tried complaining via the Council website but to no avail. This is an eye sore, attracts anti social parking and also increased noise levels on what is a nice road that doesn't need or welcome a burger van. I believe Whitchurch Builders are also partly responsible here by having a sign on their site directing customers to the van.

Regards

A [REDACTED] C [REDACTED]
[REDACTED]

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