

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**MUNICIPAL YEAR – 2010 - 2011****LICENSING COMMITTEE****Part 1 Item 4****3rd May 2011****Extension of Street Trading Provisions****REPORT OF:
Service Director
Public Health & Protection****1. PURPOSE OF THE REPORT**

The purpose of the report is to gain in principal Members approval on the adoption of further provisions to facilitate the control of street trading.

2. RECOMMENDATION

It is recommended that:

1. Members accept the proposals to extend current street trading provisions in Pontypridd town centre to introduce prohibition zones for the control of street trading within a 500m radius of Porth County Community School, Cemetery Road, Porth and Treorchy Comprehensive School, Station Road, Treorchy incorporating the streets detailed in this report;
2. That the Service Director Public Health & Protection, in consultation with the Service Director of Street Care and the Service Director of Education, be authorised to prepare and publish the required draft resolution, formally designating streets within the County Borough to which the provisions will apply ;
3. The Service Director Public Health & Protection consult with relevant traders bodies and Schools on the basis of the draft resolution. The results of such consultation, together with any representations arising from the statutory public consultation be reported back to a future meeting of this Committee for consideration.

3. **BACKGROUND**

Members will be aware of the adoption of the provisions of the Local Government (Miscellaneous Provisions) Act 1982, with a view to controlling street trading in several key areas in the County Borough.

Copies of the previous reports relevant to this matter are reproduced for information as follows:-

Report Date	Detail	Appendix
N/A	Overview of Legislation regarding street trading	1A
Report of 5/6/07	Initial Draft Resolution	1B
Report of 4/9/07	Explanation of impediment to progress	1C
25/02/2009	Adoption of Street Trading Provisions	1D

Since the schemes implementation in December 2009 the problems of itinerant Food Traders which caused concerns both in respect of public safety from food products/ preparation and disruption to established businesses from associated activity have ceased.

(i) Revised proposals

Following on from this scheme and the recognition of street trading controls as an effective enforcement tool, it is proposed that further provisions be adopted at particular "hot spot areas" which are the subject of regular substantiated complaints regarding activity from street traders (via, for example, PACT, Environmental Health Officers, Police, Education and residents). Currently Porth Community School and Treorchy Comprehensive School meet this criterion.

Police and the Head Teachers have raised road safety concerns in that street traders are obstructing pavements, causing traffic hazards and encouraging children on to the highway.

The presence of these traders offering high fat, low nutritional value foods immediately outside schools undermines the Authority's efforts to improve the diets of our young people by offering healthy menu options through the healthy schools initiatives.

Environmental Health Officers receive regular complaints about unregistered traders, food hygiene complaints, litter and odour nuisance complaints in these areas.

The proposal is to prohibit street trading on the adopted highways within 500m of the boundary of each school. This will include the following **highways**, (subject to confirmation of adopted status from the Service Director of Streetcare) "Prohibited street" means a street in which street trading is prohibited;

Porth County Community School

ABERRHONDDA ROAD
 ALDERGROVE COURT
 ALDERGROVE ROAD
 APPLETREE AVENUE
 APPLETREE ROAD
 ASHFIELD CLOSE
 BRITHWEUNYDD ROAD
 BRONHEULWEN
 BRYNGWYN STREET
 CAEMAWR GARDENS
 CAEMAWR ROAD
 CEMETERY ROAD
 CHEVRON STREET
 CYMMER ROAD
 DAVIES STREET
 DINAS ROAD
 DOL AFON
 GRAWEN STREET
 GWENT TERRACE
 ISLWYN TERRACE
 JESTYN STREET
 MOUNT PLEASANT ROAD
 PACKERS ROAD
 PARK CRESCENT
 PARK STREET
 PENMAIN STREET
 PLEASANT HEIGHTS
 RAILWAY SIDE
 RHEOLA INDUSTRIAL ESTATE
 RHEOLA ROAD
 THE RISE
 TROEDYRHIW ROAD
 TURBERVILLE ROAD
 TYNEWYDD SQUARE
 UPTON STREET
 VAYNOR STREET
 VICARAGE ROAD
 VICTORY AVENUE
 WAYNE STREET
 WOODFIELD TERRACE
 UNAMED LANE LEADING TO FFERM LLETHR DDU
 UNAMED LANE LEADING TO RIVERSIDE VILLAS
 UNAMED LANE LEADING TO HONITON COTTAGES
 UNAMED LANES - LAYBYS, BACK LANES ETC. WITHIN THE 500M RADIUS

Treorchy Comprehensive School

ABERGORKI INDUSTRIAL ESTATE
BROOK STREET
BUTE STREET
CADWGAN ROAD
CARDIFF PLACE
CARDIFF STREET
CASTLE STREET
CEMETERY ROAD
CHAPEL STREET
CHEPSTOW ROAD
CLARE ROAD
CLARK STREET
CLIFTON STREET
COLUMN STREET
CONWAY ROAD
CRICHTON STREET
CROSSWOOD STREET
DRUIDS CLOSE
DUMFRIES STREET
DUNRAVEN TERRACE
DYFODWG STREET
GETHIN ROAD
GLAN-YR-AFON
GLYNCOLI ROAD
GLYNRHONDDA STREET
HEOL ORCHWY
HERBERT STREET
HIGH STREET
HOLBROOK CLOSE
HOREB STREET
HOWARD STREET
ILLTYD STREET
LOWER TERRACE
LUTON STREET
NEW CHAPEL STREET
NINIAN STREET
OAKTREE COURT
PARK CRESCENT
PARK ROAD
PENCAI TERRACE
PRINCES TERRACE / STREET
PROSPECT PLACE
RAMAH STREET
REGENT STREET
RIVER TERRACE
SENGHENYDD STREET
STATION ROAD
STUART STREET
SUNNYBANK TERRACE
TAFF TERRACE
TALLIS STREET
TAN Y FRON
THE MATTIE COLLINS WAY
TREASURE STREET
TREMLE COURT
TREVOR STREET

TYLACOCK PLACE
 TYNBYEDW STREET
 TYNBYEDW TERRACE
 WINDSOR STREET
 WOODLAND VALE
 YNYSWEN ROAD
 UNAMED LANE LEADING TO TY-DAFYDD, GELLIAUR & PENGELLI HOUSE
 UNAMED LANES - LAYBYS, BACK LANES ETC. WITHIN THE 500M RADIUS

Maps of the designated respective areas are reproduced for information as Appendix 1E(Porth) & 1F(Treorchy).

For the purpose of the legislation the definition of 'street' includes

"Any road, footway, beach or other area to which the public have access without payment; and

*A service area as defined in S.239 Highways Act 1980"
 (Schedule 4 1(1)(a) & (b) refers)*

Consequently it is considered that such areas can be legitimately included within the provisions in order to facilitate comprehensive control, (subject to confirmation of their status from the Service Director of Streetcare)

(ii) Implementation

The decision for the adoption of the legislative provisions was duly made 12/3/07 (Min 60/07 refers), where it was resolved

"That Members approve the adoption of the legislative provisions of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4. relevant to Street Trading;

That delegated authority was granted to the Head of Environmental Health & Trading Standards, in consultation with the Service Director of Street Care, to prepare the required draft resolution, formally designating streets within the County Borough to which the provisions will apply – with such draft resolution being the basis of a future report to this Committee.

To accept the proposals of the Head of Environmental Health & Trading Standards for the schedule of fees, for the issue & administration of Street Trading permissions".

Consequently, there is authority to proceed, provided Members are satisfied with the amended proposals for the draft resolution.

Having formally agreed to the adoption of the legislation, the second stage of the process is to publish the draft resolution.

This will then be the subject of a statutory 28-day public consultation process. It is also proposed to undertake a targeted consultation with known street traders in the designated areas to raise awareness of the proposals and to invite them to express their views. Any representations arising from consultation will be placed before Members of this Committee at a subsequent meeting for consideration.

At the conclusion of this process the legislation becomes effective.

The resource implications for the implementation remain unchanged i.e. administered by the Licensing Team, supported by officers from Environmental Health and Highways/Streetcare acting in an advisory and/or enforcement capacity. We currently only have 'consent streets' in operation. As this proposal would introduce prohibited streets, there will be no applications to consider as there is no facility to allow any trading.

(iii) Recommendation

It is recommended that:

1. Members accept the proposals to extend current street trading provisions in Pontypridd town centre to introduce prohibition zones for the control of street trading within a 500m radius of Porth County Community School, Cemetery Road, Porth and Treorchy Comprehensive School, Station Road, Treorchy incorporating the streets detailed in this report;
2. That the Service Director Public Health & Protection, in consultation with the Service Director of Street Care, be authorised to prepare and publish the required draft resolution, formally designating streets within the County Borough to which the provisions will apply ;
3. The Service Director Public Health & Protection consult with relevant traders bodies and Schools on the basis of the draft resolution. The results of such consultation, together with any representations arising from the statutory public consultation be reported back to a future meeting of this Committee for consideration.

PJ Mee
Service Director Public Health & Protection

Appendix 1A

1. OVERVIEW OF LEGISLATION REGARDING STREET TRADING

1.1 It is proposed that a coordinated County Borough wide policy for the control of mobile vendors is introduced. This will involve a number of services working together to enforce existing legislative provisions, but to bring into force more specific legislation for mobile traders in the form of Street Trading Permissions.

1.2 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982, allows a Council to adopt Schedule 4 of the Act. This states that;

A district Council may by resolution designate any street in their district as-

- *a prohibited street*
- *a licence street*
- *a consent street*

1.3 This means that:-

in a “Prohibited Street”, **all street trading** is prohibited.

In a “Licence Street”, street trading is prohibited without a licence granted by the district council. The council may attach conditions to any such licence.

In a “Consent Street”, street trading is prohibited without the consent of the district council.

Street trading includes the selling or exposing or offering for sale of any article in a street. (There are some exemptions e.g. news vendors and milk rounds men).

2. PROCESS

2.1 The Council is required to undertake a two stage process which includes the formal adoption of the legislation and the publication of a resolution, designating streets within the Borough affected by the provisions.

2.2 Authority is vested in this Committee to authorise the adoption of the relevant legislation and approve the draft resolution.

2.3 The draft resolution, once approved by Members is then subject to public consultation and should representations be received in response, be placed before the Committee for consideration.

2.4 Having completed the adoption/ formal consultation process within the statutory time periods, the legislation becomes effective.

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Appendix 1B

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR – 2006 - 2007: REPORT NO.

LICENSING COMMITTEE
5th June 2007

REPORT OF:

**Head of Environmental Health
and Trading Standards**

<u>Part I</u>	<u>Item No.</u>
Implementation of Street Trading Provisions	

1. PURPOSE OF THE REPORT

To consider proposals for the implementation of Street Trading permissions, in accordance with provisions afforded by the Local Government (Miscellaneous Provisions) Act 1982.

2. RECOMMENDATIONS

It is recommended that:

- (i) The Draft Resolution as prepared by the Head of Environmental Health Trading Standards be approved;
- (ii) The Draft Resolution be published in accordance with statutory requirements;
- (iii) The Head of Environmental Health & Trading Standards consult with relevant trade bodies and the results of such consultation be reported back to a future meeting of this Committee for consideration.

3. BACKGROUND

- 3.1 At the meeting held 12th March 2007, Members considered a comprehensive report, the purpose of which was to raise awareness on the problems caused by the absence of an appropriate control of street trading activity and the legislative mechanism to effect controls.

A copy of the report is reproduced for information as Appendix ____

3.2 Members resolved that :-

- (i) The adoption of the legislative provisions of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, relevant to Street Trading be approved;
- (ii) The Head of Environmental Health & Trading Standards, in consultation with the Service Director for Street Care be authorised to prepare the required draft resolution, formally designating streets within the County Borough to which the provisions will apply; with such draft resolution being the basis of a future report to this Committee;
- (iii) The proposals of the Head of Environmental Health & Trading Standards for the schedule of fees, for the issue and administration of street trading permissions be accepted.
(Min ?? refers)

4. DRAFT RESOLUTION

- 4.1** In accordance with the instruction of Members, a draft resolution has now been prepared for approval and is reproduced as Appendix ____.
- 4.2** It is recognised that the size of the County Borough could make this a very complex exercise and therefore it is proposed that a phased approach be taken to the implementation process.
- 4.3** Liaison between the relevant Heads of Service has enabled 'hotspots' to be identified where problems are most prevalent and therefore the first stage of implementation is to be targeted in the vicinity of Secondary Schools.
- 4.4** The draft resolution prepared provides for a one-mile radius surrounding all Secondary Schools in the County Borough, which will afford control of all street trading in those designated areas.
- 4.5** Maps of the relevant areas are reproduced for information as Appendix ?

5. TYPE OF PERMISSION

- 5.1** Having duly considered the options available, it is considered that the most flexible and appropriate permission is that of 'CONSENT STREETS'.

5.2 The key considerations for the use of the 'Consent' Permission is that:

- it will allow the relevant Local Authority Teams to give consideration to each application on its merit;
- there is wider discretion as to the matters that can be taken into account and no statutory limitation on power to revoke or refuse a consent;
- there is no preservation of any existing, demonstrated trading position.

5.3 Whilst there is no statutory right of appeal against a refusal to grant/renew/revoke such consent, it is good practice and indeed Human Rights compliant to make such a provision available.

Therefore as outlined in the report of 12th March 2007, aggrieved applicants will be afforded an opportunity of representation by means of this Committee.

6. EXEMPTIONS

There are several exemptions provided for within the statutory scheme. The following is a summary of activities, relevant to Traders in the County Borough which are NOT to be regarded as 'Street Trading' for the purposes of this legislation and will therefore be exempt from such controls:-

- Trading under a Pedlar's Certificate (1871)
- Trading at Market or Fair established by enactment or Order
- Trading from an existing shop (as long as the goods for sale constitute part of the business)
- News Vendor
- Petrol Filling Stations
- Roundsmen

7. CONSULTATION

7.1 As indicated previously, the draft Resolution will be the subject of a statutory public consultation for a period of 28days. In addition it is proposed to consult directly with all registered mobile traders in Rhondda Cynon Taf to raise awareness of the proposals. Copies of the Draft Resolution will also be placed at all the Council's One4All Centres for information.

7.2 The results of the consultation process will then be the subject of a future report to this Committee, to allow Members the opportunity to consider issues raised.

7.3 Members then have the option of

- approving the Draft resolution in its existing format with an appropriate implementation date;
- amending the Draft Resolution in light of representation received.

A further public notice must then be published advising of the Council's decision, together with implementation date, ***which cannot be less than one month after publication of the final decision.***

8. FUTURE DEVELOPMENTS

It is proposed that following a period of implementation, the process be reviewed to consider whether policy objectives are continuing to be met. It is possible that the resolution may need to be amended to include additional streets as operational experience requires. Any such amendments would be subject to the same procedure of publication and consultation, once approved by this Committee.

9. CONCLUSION

It is considered that the proposals will provide an effective and proportionate control to the problems identified associated with street trading, whilst also contributing to the Council's wider agenda for the promotion of health & wellbeing.

Therefore it is recommended that the Draft Resolution be approved and the statutory consultation process commence.

Paul J Mee
Head of Environmental Health and Trading Standards

Appendix 1C

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR – 2007 - 2008: REPORT NO.

LICENSING COMMITTEE
4th September 2007

REPORT OF:
Head of Environmental Health
and Trading Standards

<u>Part I</u>	<u>Item No.</u>
Consideration of Applications for Licensing and Registration	

1. **PURPOSE**

The purpose of the report is to update Members on the position in respect of the adoption of the appropriate legislation to facilitate the control of Street Trading.

2. **RECOMMENDATION**

To note the content of the report, which has been provided for information.

3. **BACKGROUND**

3.1 At the meeting of this Committee held 5th June, 2007, Members considered a 'Draft Resolution' for the adoption of provisions within the Local Government (Miscellaneous Provisions) Act intended to facilitate the control of Street Trading.

3.2 Members resolved that :

- the draft resolution be approved;
- the Head of Environmental Health & Trading Standards be authorised to publish the Draft Resolution in accordance with statutory requirements and;
- the formal consultation process to be commenced, with the results of such consultation being brought back to this Committee for further consideration. (Min. 07/10 refers).

3.3 It was anticipated that the results of the consultation process would be concluded by September, with a further report on the outcome being made to the meeting scheduled for 4th September 2007.

- 3.4 However, Members are advised that there will be a delay in respect of the implementation process.
- 3.5 Having approved the Draft Resolution, there is a statutory requirement to '*publish in a local newspaper for a period of 28 days*'. Unfortunately, the cost of publishing the Draft Resolution in its current format, where each 'designated street' needs to be individually specified proved to be prohibitive.
- 3.6 Legal advice is being sought on the way forward. Several options are currently being considered, which include
- publication in an alternative manner or
 - further consideration of the streets to be designated with a possible redrafting of the resolution.
- 3.7 The inability to satisfy the statutory requirements for the publication of the Draft Resolution has resulted in the public consultation having to be postponed, until it can run in tandem with appropriate publication..

4. CONCLUSION

- 4.1 Whilst there is a firm commitment to introduce the Street Trading provisions, it is considered prudent to do so in a manner which will afford appropriate enforcement for non-compliance and the avoidance of potential legal challenge. It is also considered necessary to balance the perceived gains of implementing the legislation against prohibitive costs.
- 4.2 Members are requested to note the content of this report, which is provided for information. A further report will be presented to a future meeting of this Committee when the issues impeding progress have been resolved.

Paul J Mee
Head of Environmental Health and Trading Standards

Appendix 1D

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR – 2008 - 2009: REPORT NO.

LICENSING COMMITTEE
25th February 2009

REPORT OF:
Service Director
Public Health & Protection

<u>Part I</u>	<u>Item No.</u>
Adoption of Street Trading Provisions	

1. **PURPOSE OF THE REPORT**

The purpose of the report is to update Members on the position in respect of the adoption of legislation to facilitate the control of street trading.

3. **RECOMMENDATION**

It is recommended that:

4. Members accept the revised proposals to introduce a pilot scheme for the control of street trading in Pontypridd Town Centre, incorporating the streets detailed in this report;
5. That the Service Director Public Health & Protection, in consultation with the Service Director of Street Care, be authorised to prepare and publish the required draft resolution, formally designating streets within the County Borough to which the provisions will apply ;
6. The Service Public Health & Protection consult with relevant trade bodies and the Town Centre Regeneration Group on the basis of the draft resolution. The results of such consultation, together with any representations arising from the statutory public consultation be reported back to a future meeting of this Committee for consideration.

3. **BACKGROUND**

Members will be aware of the proposals to adopt the provisions of the Local Government (Miscellaneous Provisions) Act 1982, with a view to controlling street trading in several key areas in the County Borough.

Copies of the previous reports relevant to this matter are reproduced for information as follows:-

Report Date	Detail	Appendix
Report of 12/3/07	Explanation of Proposals	1A
Report of 5/6/07	Initial Draft Resolution	1B
Report of 4/9/07	Explanation of impediment to progress	1C

As a result of a variety of circumstances, to date it has not been possible to progress the implementation as intended.

(i) Revised proposals

Officers have now reconsidered the position, given the current circumstances, and it is proposed that a pilot scheme be trialed in the Pontypridd Town Centre area.

The area has been identified as a particular 'hot spot', being the subject of regular complaint regarding illegal activity from legitimate traders via PACT and Town Centre Business Forum, Environmental Health Officers and Police.

This has been particularly evident over the Christmas period, where the problem of itinerant Food Traders has caused concerns both in respect of public safety from food products/ preparation and disruption to established businesses from associated activity.

The Authority's Events Team have also reported concerns re the quality of merchandise offered by some traders, (at Authority run events), which is proving difficult to control.

The Town Centre area is deemed to include the following **adopted highways**, which will be the subject of control:-

Mill Street
 High Street
 Taff Street
 Penuel lane
 Fraternal Parade
 Temperence Place
 Parkside Lane
 Crossbrook Street
 Sardis Road
 Broadway

Bridge Street
 Gelliwasted Road
 Market Street
 Church Street

Whilst the current proposal includes Market Street and Church Street it is recognised that these particular streets are the location for the Pontypridd Street Market, which takes place on Wednesdays and Saturdays.

The legislation provides an exemption in respect of certain types of market in that it **is not to be regarded as street trading, namely:**

*“Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order”
 (Schedule 4 Para 1(2)(b) refers)*

It is considered that an exemption will be afforded to bona fide market traders who operate under the authority of the Market Company. Conversely, persons operating outside this regime (primarily itinerant traders) will be subject to the control afforded by the street trading provisions during times when the Market is active.

It will also enable control to be exercised over these particular streets at days and times when the Pontypridd Market is not taking place and therefore provide a further protection for legitimate traders.

The proposals will be the subject of consultation with both legitimate market traders and resident businesses in the streets affected to ensure that there is no position of detriment to the long established Market.

A map of the designated area is reproduced for information as Appendix 1D.

Members will also note that there are two areas of land designated as ‘Un-adopted Roads’, known locally as x & y. For the purpose of the legislation the definition of ‘street’ includes

“Any road, footway, beach or other area to which the public have access without payment; and

*A service area as defined in S.239 Highways Act 1980”
 (Schedule 4 1(1)(a) & (b) refers)*

Consequently it is considered that both areas can be legitimately included within the provisions in order to facilitate comprehensive control, it being recognised that both areas are the source of frequent complaint.

(iv) Implementation

The decision for the adoption of the legislative provisions was duly made 12/3/07 (Min 60/07 refers), where it was resolved

“That Members approve the adoption of the legislative provisions of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4. relevant to Street Trading;

That delegated authority was granted to the Head of Environmental Health & Trading Standards, in consultation with the Service Director of Street Care, to prepare the required draft resolution, formally designating streets within the County Borough to which the provisions will apply – with such draft resolution being the basis of a future report to this Committee.

To accept the proposals of the Head of Environmental Health & Trading Standards for the schedule of fees, for the issue & administration of Street Trading permissions”.

Consequently, there is authority to proceed, provided Members are satisfied with the amended proposals for the draft resolution.

Having formally agreed to the adoption of the legislation, the second stage of the process is to publish the draft resolution.

This will then be the subject of a statutory 28day public consultation process. It is also proposed to undertake a separate consultation with local traders in Pontypridd to raise awareness of the proposals. Any representations arising from consultation will be placed before Members of this Committee at a subsequent meeting for consideration.

At the conclusion of this process the legislation becomes effective.

The resource implications for the implementation remain unchanged i.e. administered by the Licensing Team, supported by officers from Commercial Team and Highways/Streetcare acting in an advisory and/or enforcement capacity.

As indicated in previous reports, applications which are the subject of refusal will be brought before this Committee as a mechanism for review of the decision.

(v) Recommendation

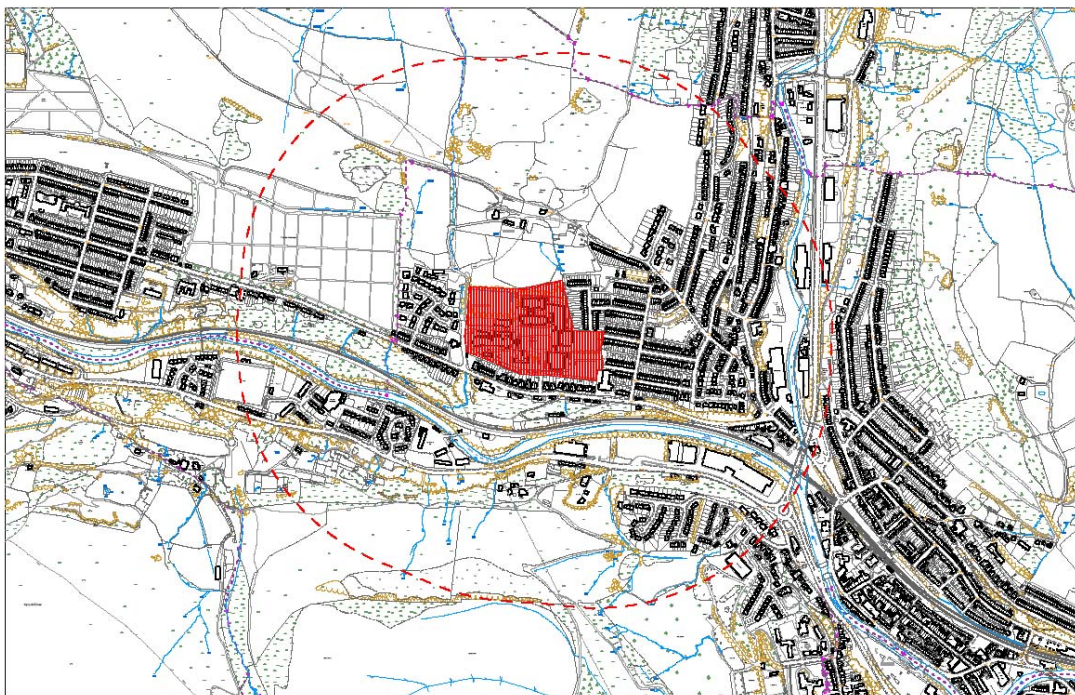
It is recommended that:

4. Members accept the revised proposals to introduce a pilot scheme for the control of street trading in Pontypridd Town Centre, incorporating the streets detailed in this report;
5. That the Service Director Public Health & Protection, in consultation with the Service Director of Street Care, be authorised to prepare and publish the required draft resolution, formally designating streets within the County Borough to which the provisions will apply ;
6. The Service Public Health & Protection consult with relevant trade bodies and the Town Centre Regeneration Group on the basis of the draft resolution. The results of such consultation, together with any representations arising from the statutory public consultation be reported back to a future meeting of this Committee for consideration.

PJ Mee
Service Director Public Health & Protection

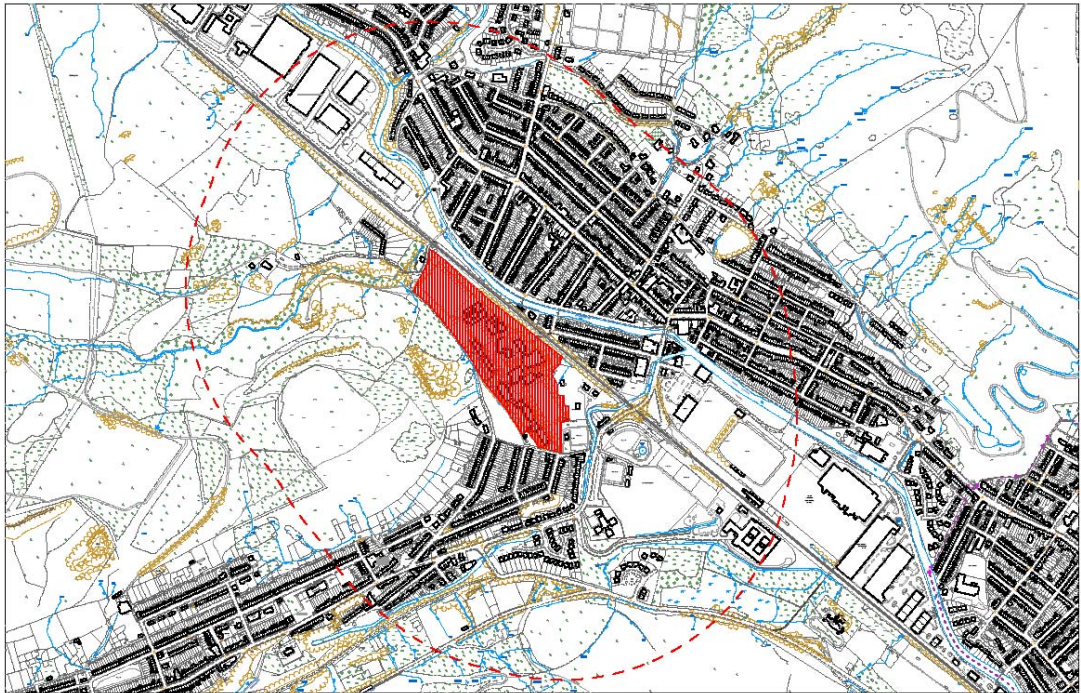
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Appendix 1E



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Appendix 1F



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