



Councillor Spencer Drury

17 Heatherbank
Eltham
London SE9 1NN

07507 859 184
spencer.drury@greenwich.gov.uk

www.greenwich.gov.uk

From Cllr Spencer Drury

14th August 2013

Dear Cllr O'Mara,

RE: Introduction of Street Trading Policy (or 'Pavement Tax')

I write with reference to your recent reply to Cllr Brighty at the July Council meeting (Question 6) regarding the introduction of a Street Trading Policy/forecourt trading licence scheme. I am concerned that the Street Trading Policy has been introduced in an undemocratic manner which leaves it open to legal challenge. As a result I call upon you withdraw the policy.

I consider that the policy has been introduced without the proper democratic oversight because your claim that the policy was decided upon by the Cabinet at its January meeting is simply incorrect. In order to avoid any suggestion that I have misinterpreted your statement at Council I want to be clear that this claim has been repeated by Officers in an email to Cllr Brighty in which it is stated:

"The introduction of the Policy was agreed by Cabinet on 23rd January and the rollout commenced in the first week of May following detailed preparation."

However, it is simply not true to state that the Street Trading Policy was agreed by Cabinet in January. None of the decisions required for the Cabinet meeting in January relate to the introduction of a Street Trading Policy. There is a decision to agree new savings proposals, but this is not the same as deciding to consult on and introduce a new Street Trading Policy.

The relevant information is in Appendix A of the Cabinet report, DCSE 1 aims to raise £20,000 through the introduction of Forecourt Trading Licences as shown on the page which I have attached at the end of this letter (page 5 of Appendix A of the Cabinet's Budget proposals). I note that in the proposal DCSE 1 under Director's Comments it states:

"The detailed fee rates will be incorporated in a report to introduce a Street Trading Policy for the Royal Borough. This will ensure the regulation of trading from outdoor tables and chairs is self-financing and may realise £20K income."

This section makes absolutely clear that the Street Trading Policy will be introduced via a report which will include the detailed fee rates. However, having checked with Committee Services, I can find no evidence of any report relating to the introduction of a Street Trading Policy. It has certainly not been done via a decision from you or

in Cabinet, which could be called in by backbench Councillors should we deem it necessary. After some waiting, Officers have finally confirmed for me that no report has in fact been introduced. Indeed, they tried to justify this in the following way:

“There was no subsequent report as the Council had already formally adopted the provisions of the London Local Authorities Act (as amended) 1990, which entitles local authorities to adopt such reasonable measures as may be necessary for the effective management of street trading within the borough.”

I am afraid I view this justification as nonsense. The Cabinet agreed that a report would be produced – this should have happened, but it did not.

So in summary:-

- What the Cabinet actually agreed (and sent to Overview and Scrutiny to consider) was a decision to raise £20,000 through the introduction of a Forecourt Licence Trading scheme.
- It was agreed that this scheme would be introduced through a report setting up a Street Trading Policy for the Royal Borough, but no report has ever been introduced or indeed written.
- So when you set up the Street Trading Policy it was done outside of the democratic system as it specifically avoided the ‘call-in’ procedure laid out in the Council’s Constitution.
- In my opinion, this leaves the whole policy open to judicial review and I would expect any legal challenge or complaint to the Local Government Ombudsman to succeed.

As a result, I would request that for the good of the Council you withdraw the whole Forecourt Licence Trading scheme. While I disagree with introducing this charge for businesses, I think the specific problem here lies in the fact you are attempting to introduce the charge in an undemocratic way and your claims that the Cabinet agreed to introduce the Street Trading Policy without further detail are demonstrably false. There should have been a report which all Councillors could consider, but it was never written. This is not democratic and you need to go back to the drawing board, refunding all of the fees currently collected under this illegal system.

I do hope that you will response positively to this letter and I look forward to hearing from you in the near future.

Yours sincerely,



Spencer Drury
Cllr for Eltham North
Leader of the Opposition

Relevant section of Cabinet Report.

I. GENERAL INFORMATION	
Service Area	Street Trading
Ref No	DCSE I
Department	Community Safety & Environment
Description	Forecourt Trading Licence
Equalities Impact Assessment	N

2. DETAILED PROPOSAL		
<p>Proposed to introduce trading licences for outdoor tables and chairs and forecourt trading from April 2013. The detailed fee rates are being finalised but it is considered that an income target of £20k should be achieved.</p>		

Budget		
Finance Code	Description	Total Budget 000s
F405050/8253F	Markets – Street Trading	(7)

Director's Comments and Service Impact
<p>The detailed fee rates will be incorporated in a report to introduce a Street Trading Policy for the Royal Borough. This will ensure the regulation of trading from outdoor tables and chairs is self-financing and may realise £20K income.</p>

Staffing Impact :
None

3. EFFECT OF SAVINGS (£000) MEDIUM TERM STRATEGY		
Financial Year	Additional Annual Savings Effect	Incremental Effect upon Base Budget
2013/14	20	20
2014/15	0	20