

Report No.5

Report to Town Hall and Facilities Committee 4th November 2015

Land at Horsefair

1. Purpose of the report

- 1.1. To invite the committee to consider entering into a section 96 agreement with Wiltshire Council in respect of an area of land at the Horsefair.

2. Background

- 2.1. A Town Council may enter into a licence with the Wiltshire Council to take responsibility for but not ownership of land in order to improve the visible appearance of an area.
- 2.2. A small area of land exists in the Horsefair which is untidy and overgrown and owned by Wiltshire Council.

3. Proposal

- 3.1. Councillor Doody has been working with the Hobbes Society and Civic Society who have indicated to her that they would be prepared to take over the task of clearing and maintaining the land if the Town Council obtained the formal section 96 licence.
- 3.2. In addition, there is another area of land in the Horsefair which is currently being looked after by a local resident and Councillor Doody has obtained the necessary forms for her to make an application for a section 142 licence to regularise the current situation.
- 3.3. Attached to this report are the terms and conditions relevant to a section 96 application.

4. Financial implications and risks

- 4.1. There are no known financial implications at the time of preparing this report..
- 4.2. In the event that the two voluntary organisations defaulted on keeping the area clear or contravened the conditions imposed by Wiltshire Council the Town Council would become liable.

5. Recommendations

- 5.1. The committee is requested to consider if a section 96 licence should be sought for the land and make a recommendation to the Policy and Resources Committee accordingly.

J Penfold
Town Clerk
20.10.2015

Highways Act Section 96 Restrictions – this is not a Licence

- 1 *All conditions in the Licence including those set out in the 2nd Schedule must be complied with.*
- 2 *Wiltshire Council may withdraw this Licence after 30 days notice if it is necessary for them to exercise their duty as highway authority.*
- 3 *If it is necessary for Wiltshire Council to reinstate the areas of land specified in the 1st Schedule to their original condition they may recover the expenses reasonably incurred from the Licensee.*
- 4 *It is a condition of the Licence that the Licensee shall indemnify the Council against any claim in respect of injury, damage or loss, including any claim by or on behalf of statutory undertakers or other appropriate public utilities arising out of the planting or presence of trees, shrubs, plants, grass or guards in the area of land specified in the 1st Schedule. It is advisable for the Licensee to have public liability cover for not less than £5,000,000 to provide this indemnity.*
- 5 *This Licensee is subject to the right of statutory undertakers or other public utilities as appropriate to place apparatus in, under or over the said highway or to maintain remove or replace existing apparatus and shall in no way prevent the placing, maintaining, removal or replacement of such apparatus.*

1st Schedule

1. *Conditions agreed by Wiltshire Council for cultivation and maintenance by the Licensee, are as follows:*

The lighting columns should be kept clear of planting in order that access to the inspection doors is maintained at all times.

To ensure that visibility at junction areas is not compromised.

2nd Schedule

1. *The area of land specified in the 1st Schedule shall be cultivated and maintained in such manner that it shall not interfere with any apparatus of statutory undertakers or other appropriate public utilities. Prior to digging to a greater depth of 250mm, the Licensee shall contact all Statutory Undertakers in order to locate any apparatus within the land specified and will supply information on all apparatus to Wiltshire Council for approval.*
2. *The Licensee may erect guards (approved by the Divisional Highway Manager) on the area specified in the 1st Schedule, for the purpose of protection of trees, shrubs, plants or grass verge only and not to cause annoyance or interfere with the passage of persons using the highway.*
3. *In conjunction with Section 141 of the Highway, no trees shall be planted in a made-up carriageway, or within 15 feet from the centre of a made-up carriageway.*

4. *The trees, shrubs, plants, grass or guards shall be planted and maintained in such a manner as not to cause nuisance, annoyance or danger to users of the highway and in particular, you the Licensee shall comply with the following:*
 - a) *No tree, shrub, plant or grass which is of a poisonous nature (whether by reason of fruits, flowers, leaves or otherwise howsoever) or is otherwise likely to constitute a source of danger to persons or animals shall be planted on the highway under this Licence.*
 - b) *All trees, shrubs, plants, grass or guards to which the Licence relates shall be kept in a trim and tidy condition at all times and shall not be allowed to become a source of danger or interfere with the passage of persons using the highway.*
 - c) *All trees, shrubs, plants, grass or guards to which the Licence relates shall not be allowed to overhang the boundary of the Highway verge specified in the 1st Schedule.*
 - d) *The Licensee shall not remove any soil from the part of the area of land specified in the 1st Schedule or otherwise do anything to interfere with the foundation of the rest of the highway.*
 - e) *Any existing trees should only be maintained by a qualified tree surgeon to the standard laid down in BS3998: 1989.*
5. *If any of the above conditions in clauses 1 and 2 of the 2nd schedule are not complied with, Wiltshire Council may without prejudice to their power under Section 96 of the Highways Act 1980, withdraw the Licence, within 7 days notice, to the person who is for the time being the current Licensee. Wiltshire Council may recover any expenses incurred in reinstating the Highway from the Licensee.*
6. *With the prior written permission of the Divisional Highway Manager, on roads subject to a 30mph speed limit, wooden marker posts may be erected in the verge provided that:-*
 - (i) *The posts do not exceed 800mm (2ft-4ins) in height.*
 - (ii) *The posts are positioned 300mm (1ft-0ins) from the edge of the carriageway.*
 - (iii) *The posts do not exceed 150mm x 150mm (6ins x 6ins) in cross-section.*
 - (iv) *The posts are of either natural wood colour, painted white, or painted black and white in horizontal bands.*
 - (v) *The posts are vertical and firmly embedded in the ground with a suitable foundation if necessary.*
 - (vi) *The posts are located over 1.5metres (4ft-6ins) apart.*
 - (vii) *The posts do not obstruct visibility for road users.*
 - (viii) *The posts are fitted with suitable white reflective markings facing towards the on coming traffic, and with red reflectors on the reverse.*
 - (ix) *The posts shall be kept in good condition with the reflective markings kept clean and replaced as necessary.*

(x) *Excavation of foundations of posts may only be carried out by NRSWA accredited personnel. (A list of suitable contractors is available on request). No excavation for posts shall take place until all relevant information is obtained from the public utilities. The location of posts may have to be adjusted where there are underground services so that the spacing between them is increased or the distance from the carriageway edge is greater than 300mm. Attention is drawn to the potential danger of excavating in verges where public utilities equipment, including high voltage electricity cables may be present.*

f) *With the prior written permission of the Divisional Highway Manager, collapsible black and white marker posts may be erected in the verge provided that :*

(i) *The posts do not exceed 1,000mm (3ft-3ins) in height.*

(ii) *The posts are positioned 450mm (1ft-6ins) from the edge of the carriageway or as agreed.*

(iii) *The posts do not exceed 150mm (6ins) in width.*

(iv) *The posts are collapsible, or plastic or similar material, and coloured black and white in horizontal bands of 225mm to 350mm depth.*

(v) *The posts are vertical and firmly embedded in the ground with a suitable foundation if necessary.*

(vi) *The posts are located over 1.5metres (4ft-6ins) apart.*

(vii) *The posts do not obstruct visibility for road users.*

(viii) *The posts are fitted with suitable white reflective markings facing towards the oncoming traffic and with red reflectors on the reverse.*

(ix) *The posts shall be kept in good condition with the reflective markings kept clean and replaced as necessary.*

(x)

7. *Excavation of foundations of posts may only be carried out by NRSWA accredited personnel. (A list of suitable contractors is available on request). No excavation for posts shall take place until all relevant information is obtained from the public utilities. The location of posts may have to be adjusted where there are underground services*

8. *Signs should adhere to the following restrictions:*

Any signs placed on the roundabouts must be approved by the local Highway Authority and comply with the following:-

The sign face:-

1. Should not exceed 0.3 sq metres in area.
2. The sign must contain the wording "Sponsored by" or "Sponsors of"
3. Should not be made of reflective material.
4. Should not use colours that closely resemble traffic signs.
5. Should not contain open hours, telephone numbers and e-mail addresses.
6. Should not promote alcohol, tobacco, political parties or business of a sexual nature.
7. Should be discreet and respect its surroundings.

8. May be illustrated with the maximum of 2 emblems i.e. the Town Crest and the Sponsors logo.

The sign should be erected:-

9. The posts must be erected by the highway authority or an accredited contractor.
10. At low level between 300mm and 900mm above ground.
11. On a separate post from any sign.
12. Where it does not obstruct sight lines and vehicles.
13. Where it will not be so distracting or confusing that it creates a hazard for, or endangers, road users who are taking reasonable care for their own and other safety.
14. Where it will not present a hazard to pedestrians.