

Report To:	LICENSING COMMITTEE	Date:	14TH MARCH 2019
Heading:	DRAFT STREET TRADING POLICY		
Portfolio Holder:	DEPUTY LEADER – OUTWARD FOCUS		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To agree a Draft Street Trading Policy for public consultation.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider the Draft Street Trading Policy as detailed within this report;**
- b) Recommend any changes or additions to the Draft Policy;**
- c) Authorise the Licensing Team Leader to carry out the consultation programme as laid out within the report.**

Reasons for Recommendation(s)

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

Currently no Policy has been adopted in relation to Street Trading, rather a Resolution was made in 2002 that adopted 15 specific locations as Consent Streets where such trading is permitted, with trading prohibited from taking place anywhere else within the Council's area.

The present state of play limits the opportunities to Street Traders, and as such hinders the transformation of the local area in relation to creating a more vibrant local economy.

Alternative Options Considered (With Reasons Why Not Adopted)

Do nothing: not recommended for a number of reasons.

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime, disorder and nuisance within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Detailed Information

Introduction

Street Trading is defined as “the selling or exposing or offering for sale any article (including a living thing) in a street – subject to a number of exceptions”.

The Council currently issues Street Trading Consents in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act).

The Act states that a "street" is defined as: any road, footway, beach or other area to which the general public have access without payment.

The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

Ashfield District Council is committed to improving the support provided to small businesses, ensuring that there are no unnecessary burdens placed on them, and that they are provided with sufficient guidance and advice to enable them to operate safely and successfully (and this draft Policy provides this guidance and advice).

This Draft Policy sets out the criteria the Council will use when considering applications for Street Trading Consents. It sets out the grounds upon which decisions are made about Street Trading applications, and any enforcement actions if required.

This Draft Policy also supports the Council's commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.

This Draft Policy intends to promote a flexible approach in relation to applicants seeking to operate new Street Trading businesses, whilst also endeavouring to promote a well-regulated Street Trading function by ensuring that such Trading does not become a source of nuisance or annoyance to those who live in, work in and visit the District.

What does not fall within the scope of Street Trading?

The following activities do not fall within the scope of the Street Trading licensing regime:

- **Trading as a Pedlar under the authority of a Pedlar's Certificate granted under the Pedlars Act 1871.**
- **Any trade in a Market or Fair, the right to hold which having been obtained by a grant, enactment or order (this is covered in the Council's Market Policy).**
- **Trading in a trunk picnic road area provided by the Secretary of State under Section 112 of the Highways Act 1980.**
- **Trading as a News Vendor (subject to S.3. of the Act).**

- **Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.**
- **Offering or selling things as a Roundsman (i.e. a milkman).**
- **The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway.**
- **The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.**
- **The doing of anything authorised by regulations made under Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 for charitable purposes.**

How will the Council ensure that Street Trading does not take place in locations that may be deemed inappropriate?

The Draft Policy states that applications for a Street Trading Consent will be refused for locations deemed to be:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

What type of Street Trading Consents are proposed within the Draft Policy?

For the purposes of this Policy and to assist applicants, Ashfield District Council issues 4 types of Street Trading Consents, each specific in its nature:

- **Street Trading Consent:** Trading from a stall / unit / vehicle from a single designated location on a regular basis.
- **Mobile Trading Consent:** Trading from a vehicle at various locations across the Ashfield District, but for no more than 20 minutes at a time, and no location to be revisited within a 4 hour period.
- **Community & Charity Trading Consent:** Trading at non-profit making events (within the Ashfield District) held by a registered charity or community association, whether for a single day or for the duration of the entire event subject to there being no more than 4 traders (more than 4 traders will fall within the Markets Policy of the Council).

- **Special Events Trading Consent:** Trading at events (within the Ashfield District) where the organiser intends to make commercial gain, whether for a single day or for the duration of the entire event subject to there being no more than 4 traders (more than 4 traders will fall within the Markets Policy of the Council).

How will local residents, businesses and stakeholders be made aware of Street Trading applications that may affect them?

All Street Trading Consent applications (except from Mobile Traders, Community & Charity Traders, and Special Events Traders) for locations not already adopted by the Council will be subject to a 28 day consultation period.

The consultation will seek the views of local residents and businesses (by way of a yellow A4 notice placed at the proposed trading site) that may be directly affected, and statutory agencies whose responsibilities may be impacted by the proposed business (by way of a consultation email).

Consideration will be given to all valid written representations that are not deemed to be irrelevant, frivolous, vexatious, or repetitive. Representations will be vetted by Officers of the Licensing Team for validity.

Applications subject to valid representations will be determined at a Hearing chaired by the Service Director: Place & Wellbeing, who is delegated authority by the Licensing Committee to determine such applications.

How will Street Trading be regulated?

Sections 4.18, 6, 7.5, 8.6 and Appendix One and Appendix Two provide clear details as to what will constitute a valid application, and the conditions that will be attached to all Street Trading and Mobile Trading Consents.

These conditions will allow the Council to promote the highest of standards in relation to food hygiene, the maintenance of vehicles / units / stalls, cooking equipment, and the overall appearance of the vehicles / unit / stalls so as to complement the transformation of the area.

Consultation on the Draft Street Trading Policy

The draft Policy requires approval from the Committee prior to commencing formal consultation.

The proposed consultation timetable is as follows:

- 14th March 2019: Licensing Committee to agree that the draft Street Trading Policy be put out to consultation.
- Consultation between 1st April 2019 and 12th May 2019 to “Stakeholders” (Police, Fire Service, Highways, Trading Standards, Planning, Environmental Protection, Children’s Safeguarding Board, Health & Safety, etc), representatives of current Street Trading Consent holders, and the local Primary Health Care. The general public will have access to the consultation via the Council’s website, reception area and local libraries.
- **July 2019:** the results of the consultation will be put to the Licensing Committee for consideration, and to make any relevant changes to the Policy to finalise accordingly, and to make a recommendation to Council to adopt the final Policy.
- **July 2019:** Council to adopt the Policy.

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

The relevant legislation is set out in the body of the report. The purpose of the proposed Street Trading Policy is to regularise the way in which the Council deals with the Street Trading.

Finance:

Information Only

There are no financial implications contained within this report.

This report is effective from 14th March 2019 and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no direct HR implications contained within this report

Equalities *(to be completed by the author):*

Information Only.

There no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency (if applicable):

Not applicable

Background Papers

Appendix One: Draft Street Trading Policy

Report Author and Contact Officer

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