

<b>Report To:</b>	<b>LICENSING COMMITTEE</b>
<b>Date:</b>	<b>19<sup>TH</sup> JUNE 2024</b>
<b>Heading:</b>	<b>REVIEW OF STREET TRADING POLICY</b>
<b>Executive Lead Member:</b>	<b>DEPUTY LEADER – STRATEGIC HOUSING AND CLIMATE CHANGE</b>
<b>Ward/s:</b>	<b>ALL</b>
<b>Key Decision:</b>	<b>YES</b>
<b>Subject to Call-In:</b>	<b>NO</b>

### **Purpose of Report**

To Review the current Street Trading Policy to determine whether the current Policy should be readopted without any changes needing to be made to it.

### **Recommendation(s)**

The Licensing Committee is recommended to:

- a) Consider whether the current Street Trading Policy as detailed within this report requires any amendments;
- b) Consider any valid responses received during the consultation period;
- c) Recommend any amendments to the Policy by authorising the Licensing Manager to make any necessary amendments; and
- d) to readopt the Policy.

### **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.

On 25<sup>th</sup> July 2019 the Council adopted a new Street Trading Policy, which has "opened" up the District for more applicants and businesses to trade from the highway, creating a more vibrant local economy. This Policy is to be reviewed every 5 years, and the time to review it has now arrived.

### **Alternative Options Considered**

**Amend the current Policy:** not recommended for a number of reasons.

The current Policy has been very successful in attracting new businesses to trade from the highway, creating a more vibrant local economy.

Sufficient provisions are embedded in the current Policy to prevent traders from being a nuisance to communities, a rival to existing established businesses, and from locating themselves in areas deemed inappropriate or unsafe; and to ensure that any Street Trading has been vetted by all relevant Regulatory Teams within the Council prior to any application being granted.

## **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).

The current 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 current Policy also supports the Council’s commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.

This current Policy promotes 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.

Prior to the current Policy being adopted, there were 15 Street Trading locations, however, at the time of adopting the Policy only 5 locations were active (due to the other locations being not best suited for highway trading due to a lack of customer footfall).

The current Policy has enabled the Council to grant consent for Street Trading at 28 locations of which, at present, 16 are active. Those that are not active relate to Portland Square, Sutton in Ashfield which is undergoing redevelopment, and sites which were found to have trading taking place without the seller having either first obtained a Street Trading Consent and consent has now been granted, or sites that have proven not ideal locations for trading.

The current Policy has also enabled the Council to regulate mobile traders who frequent numerous locations within the District i.e. ice cream vans – and there are currently 3 mobile traders permitted to trade at multiple locations across the District.

The current Policy has enabled the Council to attract new traders, and be able to work with them to ensure that the goods being sold are of an approved standard, and that the persons running these businesses have been vetted to sell to the public.

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

The current 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 available within the 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 are local residents, businesses and stakeholders 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 new locations are subject to a 28 day consultation period.

The consultation seeks 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 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 are delegated to be determined at a Hearing chaired by the Executive Director: Place.

## **Consultation on the renewing the Street Trading Policy**

A consultation was carried out from 26<sup>th</sup> April 2024 to 24<sup>th</sup> May 2024, seeking the views of stakeholders and current Consent holders. The consultation was also published on the Council website in order for residents and businesses to be aware of the need for the Policy to be renewed.

No comments were received during the consultation period that suggested the Policy required amending.

## **Readoption of the Street Trading Policy**

Should the Committee believe that no amendments are required to the current Policy, then the Policy will need to be readopted by this Committee.

## **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:**

There are no legal implications contained within this report.

### **Finance:**

There are no financial implications contained within this report.

This report is effective from 19<sup>th</sup> June 2024 and has the following financial implications.

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk:**

<b>Risk</b>	<b>Mitigation</b>
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. (KH: 21.05.2024)

### **Environmental/Sustainability:**

There are no environmental or sustainability implications contained within this report.

### **Equalities:**

There no diversity or equality implications contained within this report.

### **Other Implications:**

Not applicable

### **Reason(s) for Urgency**

Not applicable

## **Reason(s) for Exemption**

Not applicable

## **Background Papers**

**Appendix One:** Current Street Trading Policy

**Appendix Two:** Consultation Letter

## **Report Author and Contact Officer**

**Julian Alison**

**Licensing Manager**

**[julian.alison@ashfield.gov.uk](mailto:julian.alison@ashfield.gov.uk)**

**01623 457364**

## **Sponsoring Executive Director**

**John Bennett**

**EXECUTIVE DIRECTOR - PLACE**

**[john.bennett@ashfield.gov.uk](mailto:john.bennett@ashfield.gov.uk)**

**01623 457230**