

General Licensing Committee



Report of Head of Communities

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To: General Licensing Committee

DATE: 30 September 2024

Review of Joint Street Trading Policy

Recommendation

(a) The committee authorises the Head of Communities to carry out a consultation on the proposed joint street trading policy at Appendix A.

Implications (further detail within the report)	Financial	Legal	Climate and Ecological	Equality and diversity
	No	No	No	No
Signing off officer	James Ticehurst	Sarah Commins	Heather Saunders	Ruth Lewin-Leigh

Purpose of Report

1. To consider a draft of the proposed Joint Street Trading Policy in advance of a consultation with relevant persons and groups.

Strategic Objectives

2. The relevant strategic objectives are 'Working in an open and inclusive way' and 'Building Healthy Communities'. The policy will also ensure the council is meeting its statutory responsibilities.

Background

3. The council's current street trading policy came into effect in October 2014. Since that date, the only changes made are to update reference to changes to the Head of

Service and office address, minor typographical corrections, and updates to other legislation referred to within the document.

4. The council currently has 20 issued street trading consents. Of these, 9 consents cover multiple sites, five cover a fixed single site, and six are mobile traders (ice cream vans).

Proposed policy

5. The proposed new policy is attached at **Appendix A**.
6. The changes made to the previous policy are summarised in a document which can be found at **Appendix B**.
7. The council has been approached to consider a model of host sites with consents and registered pop-up traders, which has been investigated as part of this policy review. Having sought our own legal advice, officers would suggest this model is not suitable for authorised street trading as according to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 it is the trader who holds the street trading consent rather than it being held by a third party. As the council already issues consents which cover multiple sites, and has done so for a number of years, a new section has been added to the policy to better explain how multiple-site traders can apply to the council. In effect, this means that once a consultation has been carried out for suitability of a site to host street trading, new traders can apply for the same site without the need for another consultation unless there are changes to the trading days/hours.
8. As a number of members have been involved in enquiries about the council's street trading policy over the course of the last 18 months, it was felt appropriate to bring a draft of the policy to the committee prior to the consultation.

Consultation

9. The consultation will run for a period of approximately six weeks. It will be a public consultation, and will also be sent to all councillors, including Town and Parish Councils, responsible authorities, all existing street trading consent holders, plus any new applicants with applications in process at the time the consultation begins.
10. A report on the results of the consultation will be brought to a future meeting of this Committee for review along with a final draft version of the policy for consideration of adoption.

Implementation

11. The new policy will be published on the council's website and will have a clear commencement date.

Financial Implications

12. There are no anticipated financial implications arising from the adoption of the proposed policy. The council has a set fee for street trading consents which seeks to recover the costs of processing an application.

Legal Implications

13. The council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, ("The Act") for the whole of its area. The council has previously resolved to designate all streets in the council area as 'Consent Streets' The powers set out in Paragraph 7 of Schedule 4 of the Act provides for the council to have a broad discretion as to whether to grant a consent and if so on what terms.
14. The draft policy has been written to reflect current legislative requirements. Schedule 4 of the Act sets out the powers available to the council including the designation of streets as prohibited, consent, or licence, exemptions, setting of fees, applying conditions and offences and all consents have to be made and determined in accordance with the council's street trading policy. The council should have an up-to-date policy that informs the decision making process and gives clarity to applicants, consultees, and decisionmakers.
15. While there is no statutory requirement to consult upon and or adopt a street trading policy it is considered best practice to adopt such a policy and where the council consults on such matters it must do so properly in accordance with the principles in the case of R v London Borough of Brent ex parte Gunning [1985] LGR 168. The principles are a) consultation must be carried out when proposals are in a formative stage, b) sufficient information is provided for intelligent consideration, c) adequate time must be given for a response and d) the product of the consultation must be conscientiously taken into account in making the decision.

Climate and ecological impact implications

16. When granting street trading consents, we will take into account measures taken by the trader to minimise the impact of the proposed operation on the local and global environment including packaging, waste minimisation, recycling and waste disposal, adopting sustainable sourcing approaches to food and drink and considering how their customers' rubbish is dealt with.

Equalities implications

17. An Equality Impact Assessment has been completed and there are no implications identified.

Risks

18. Failure to properly consider the policy could result in the councils not complying with the legislation or statutory guidance. Having a clear policy helps to ensure that licensing decisions are fair, consistent and comply with the legislation.

Other Implications

19. None

Conclusion

20. The committee is recommended to authorise the Head of Communities to carry out a consultation on the proposed joint street trading policy at Appendix A.

Background Papers

- Appendix A – Proposed Joint Street Trading Policy
- Appendix B – Summary of changes made to previous policy