

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – TUESDAY, 20 MARCH 2018

Title of report	REVIEW OF STREET TRADING POLICY
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Purpose of report	To outline the policy proposed to control street trading in North West Leicestershire, for consideration and approval
Council Priorities	Business and Jobs Homes and Communities
Implications:	
Financial/Staff	No additional financial or staffing implications
Link to relevant CAT	Business CAT
Risk Management	There is a risk that the Council's Street Trading Policy is challenged. Legal advice has been sought in its preparation to mitigate the risk of challenge. The current street trading policy has not been challenged
Equalities Impact Screening	Equality Impact Screening already undertaken, issues identified have been actioned
Human Rights	Article 1 of Protocol 1 provides that everyone is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided by the law
Transformational Government	This relates to the new ways in which council's are being asked to deliver their services
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	NWLDC Elected Members, NWLDC (Environmental Health, Licensing, Community Safety, Waste, Environmental Protection Teams), Leicestershire County Council Highways, Leicestershire Police, current consent holders, Parish Councils, Ashby de la Zouch Town Council, Leicestershire Fire & Rescue Service, NWL Chamber of Commerce, Federation of Small Businesses, secondary schools
Background papers	NWLDC Street Trading Policy – Issue 3 Local Government (Miscellaneous Provisions) Act 1982 http://www.legislation.gov.uk/ukpga/1982/30 Review of Street Trading Policy – Licensing Committee 21 February 2018 (Minutes – Member consultation responses)
Recommendations	<p>1. THAT COUNCIL CONSIDERS AND APPROVES THE DRAFT STREET TRADING POLICY AT APPENDIX 1</p> <p>2. THAT THE HEAD OF SERVICE IN CONSULTATION WITH THE PORTFOLIO HOLDER BE DELEGATED TO APPROVE CHANGES TO THE STREET TRADING POLICY</p>

1.0 BACKGROUND

- 1.1 The Council's first street trading policy was introduced in 2009 to create a street environment which compliments premises-based trading, to provide diversity and consumer choice and to enhance the character and safety of the local environment. The policy has previously been subject to review and amendment in 2014 and 2015.
- 1.2 The current policy was approved by Council on 24 February 2015 and came into force on 25 February 2015.
- 1.3 The main purpose of this review is to simplify processes and to reduce unnecessary beauocracy on compliant businesses.

2.0 CONSULTATION PROCESS

- 2.1 The procedure for implementing a new street trading scheme (by passing a resolution) is set down by legislation which requires a specific period for representations before the scheme can be implemented (Statutory consultation).

- 2.2 On 21 January 2014 the Council adopted a resolution “designating the whole area within the District as “consent street” for the purposes of street trading”. It is not proposed to amend this resolution.
- 2.3 The proposals for amending the policy detailed at paragraph 4 do not require a change to this resolution, consequently the consultation process does not have to follow the structure required by the statute. That said a comprehensive non statutory consultation process commenced on 12 October 2017 and closed on 8 December 2017.
- 2.4 All of the following people/bodies have been consulted:
- NWLDC Elected Members, NWLDC (Environmental Health, Licensing, Community Safety, Waste, Environmental Protection Teams), Leicestershire County Council Highways, Leicestershire Police, current consent holders, Parish Councils, Ashby de la Zouch Town Council, Leicestershire Fire & Rescue Service, NWL Chamber of Commerce, Federation of Small Businesses, secondary schools.
- 2.5 A first draft policy was presented to and considered by Licensing Committee on 4 October 2017. Comments made by Licensing Committee on 4 October were acted upon and influenced the content of the draft policy published for wider consultation.
- 2.6 A further draft policy was presented to and considered by Licensing Committee on 21 February 2018.

3.0 CONSULTATION FINDINGS

- 3.1 The Council received comments from 12 consultees during the targeted non-statutory consultation.
- 3.2 Consultees generally supported each of the proposals. A summary of the analysis of all consultee comments is provided at Appendix 1.
- 3.3 Amendments were made to the draft policy as a result of consultee feedback. The revised draft was presented to Licensing Committee on 21 February 2018 for further comment.
- 3.4 Comments received from members of Licensing Committee can be found as a background paper to this report.

4.0 SUMMARY OF KEY CHANGES PROPOSED

- 4.1 A final draft policy taking into account all comments made by consultees is at Appendix 2.
- 4.2 The key policy changes are:
- The introduction of definitions for consent holder and nominated person; This amendment makes it clearer where a consent holder has given responsibility to someone else to operate the business on a day to day basis.
 - The removal of the requirement for a concessionary consent;

- An amendment to the consultation process. The amendments create a more efficient, proportionate process where a business has a history of legal compliance.

Removal of the mandatory requirement to consult on renewal applications where no issues have been reported during the previous 12 months of trading;

Removal of the current formal mandatory process of consultation with all consultees on new applications. The proposed process involves consulting consultees in group 1 on all new applications. The council may choose to seek the views of those in group 2 before determining the application;

The addition of Leicestershire police and Leicestershire Fire and Rescue Service to the list of consultees;

- Minor changes to the wording of the policy objectives/criteria for determining applications;
- Simplification of the process of determining applications where objections are received by removing the requirement for an officer panel;
- A trader is able to trade from more than one trading location on a single consent;
- An application for a consent from a person that has previously had a consent revoked will not normally be considered for a period of up to 3 years;
- Minor changes to the consent variation process and the introduction of a variation fee.

5.0 IMPLEMENTATION PROCESS

5.1 The appointed day for the revised street trading policy will be 1 April 2018.

6.0 FUTURE AMENDMENTS TO STREET TRADING POLICY

6.1 On 21 January 2014 the Council adopted a resolution hereby designating the whole area within the District as “consent streets” for the purposes of street trading (the scheme). Any change to this resolution (scheme) will require the approval of Council.

6.2 The street trading policy is a document detailing the criteria for determining applications, application and determination processes. This policy may require further amendment from time to time and therefore it is appropriate that their approval of minor procedural changes be delegated to the Head of Service, in conjunction with the Portfolio Holder, to remove the need to keep referring back to Council.