

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 26 NOVEMBER 2014

Title of report	REVIEW OF STREET TRADING POLICY
Contacts	<p>Portfolio Holder - Councillor Alison Smith MBE 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Lee Mansfield Environmental Health Team Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Stephen Eyre Licensing Team Leader 01530 454844 stephen.eyre@nwleicestershire.gov.uk</p>
Purpose of report	To consult with the Licensing Committee on the draft Street Trading Policy
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 Assessment 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	Leicestershire County Council (Highways, Trading Standards and Public Health); Leicestershire Police; current consent holders; Parish Councils; schools; Leicestershire Fire & Rescue; NW Leicestershire Chamber of Commerce; Ashby de la Zouch Town Council, Ashby Tourist Information, British Hospitality Association.
Background papers	North West Leicestershire District Council. Issue 2. Street Trading Policy – 1 April 2014 Local Government (Miscellaneous Provisions) Act 1982 http://www.legislation.gov.uk/ukpga/1982/30
Recommendations	THAT LICENSING COMMITTEE CONSIDERS AND COMMENTS ON THE DRAFT STREET TRADING POLICY PRIOR TO CONSIDERATION AND ADOPTION BY COUNCIL ON 24 FEBRUARY 2015 THAT LICENSING COMMITTEE SUPPORTS THE PROPOSAL FOR DELEGATION TO THE HEAD OF LEGAL AND SUPPORT SERVICES IN CONSULTATION WITH THE PORTFOLIO HOLDER TO AMEND / ADD TO THE MANDATORY CONDITIONS

1.0 BACKGROUND

- 1.1 The current policy was determined by Council on 21 January 2014 and came into force on 1 April 2014.
- 1.2 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.
- 1.3 A significant review of the content of the policy and procedures was carried out in 2013. The following changes were made:
- The definition of 'consent streets' changed from specific areas of the district to the whole district,
 - The policy objectives were refreshed,
 - A prohibition on street trading within the vicinity of secondary schools and colleges between 12 noon and 16:30 Monday to Friday during term time was removed,
 - A list of mandatory or standard conditions was introduced,
 - A provision allowing the inclusion of additional conditions if considered appropriate was introduced,

- A list of consultees was introduced,
- The consultation period was extended from 14 to 28 days.

2.0 PROPOSED CHANGES TO CURRENT POLICY

The changes listed above introduced on 1 April 2014 have proven to be successful. However it is proposed to make the following additional minor changes to the policy. The draft street trading policy is detailed at Appendix 1 of this report.

2.1 Assessing the suitability of a proposed new trading location.

The change made in April this year to make the whole district a consent area, has increased the likelihood of applications being received requesting permission to trade on sites not previously used for street trading. In this event it is considered relevant to consult with the Highways Authority at Leicestershire County Council and the land owner to determine if the location is considered a suitable street trading site.

Proposal – To add Leicestershire County Council Highways Authority to the list of consultees.

2.2 List of Consultees

Proposal - To add the local Town or Parish Council to the list of consultees

2.3 Determination Process, in the event of relevant objection received

Currently where the Council receives a relevant objection to an application, the application is determined by a Licensing Enforcement Officer.

For reasons of transparency and fairness the Council is proposing to amend the determination process by referring all applications where a relevant objection is made, to a hearing before a Licensing Sub-Committee. At the hearing the Sub-Committee will consider the application and take such steps as it considers appropriate to promote the policy objectives. These may include refusing the application either in full or in part or adding to or modifying the conditions / location proposed by the applicant. Referring such applications to a Sub-Committee for determination is clearly a more costly process. When considering this proposal the additional cost must be balanced against the increased transparency of the determination process.

Proposal – To consider the referral of all applications where a relevant objection is made to a hearing of a Licensing Sub-Committee for determination.

2.4 Reasons for Objecting to or refusing an Application

The Council will normally grant a consent unless in it's opinion, if granted the trader would undermine one of the policy objectives.

To assist consultees and for reasons of transparency it is proposed to introduce a list of reasons for objecting to or refusing an application. The list is not exhaustive, any objection will be deemed relevant if it is linked to one of the policy objectives.

1. There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.
2. There are already enough traders trading in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade.
3. The range of goods in which the applicant desires to trade is likely to have a detrimental impact on public health, given the proposed location in terms of its proximity to a local school or college.
4. There is undue concentration of traders trading in the street in which the applicant desires to trade.
5. The consent, if granted, is likely to result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent.
6. The size, nature or appearance of the proposed premises (barrow, stall, unit, vehicle, trailer or other) (and any associated equipment) is inappropriate for the proposed location in terms of amenity or public or highway safety.
7. The structure of the proposed premises (barrow, stall, unit, vehicle, trailer or other) does not comply with the food hygiene regulations.
8. The structure of the proposed premises (barrow, stall, unit, vehicle, trailer or other) presents an unacceptable public safety risk.
9. The proposed trading hours are outside the usual business hours of shops in the vicinity (except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis).
10. Any other reason (relevant to the street trading policy objectives).

2.5 Amending Consent Conditions

A list of mandatory conditions has been devised and is detailed at Appendix 1 of the policy. A pool of additional conditions to be added to a consent where appropriate will be developed by Officers and consultees over time.

From time to time the list of mandatory conditions will require review and the pool of additional conditions will be amended or added to.

Proposal - It is recommended that delegation be given to the Head of Legal and Support Services in consultation with the Portfolio Holder to review and amend the list of mandatory conditions.

3.0 NON-STATUTORY CONSULTATION PROCESS

- 3.1 The procedure for implementing the new policy is set down by legislation which requires a specific period for representations before the policy can be implemented. In addition, the Council has conducted its own non-statutory consultation to ensure all opinions and comments are taken into consideration when writing the final policy.
- 3.2 A non-statutory consultation process commenced on 31 October 2014 and will end on 12 December 2014. (6 weeks)
- 3.3 All of the following people/bodies have been consulted: Leicestershire County Council (Highways); Leicestershire County Council (Trading Standards); Leicestershire Police; current consent holders; Parish Councils; schools; Leicestershire Fire & Rescue; NW Leicestershire Chamber of Commerce; Ashby de la Zouch Town Council

3.4 Following the close of the non-statutory consultation process amendments will be made to the draft street trading policy as appropriate in response to comments made by consultees.

4.0 NEXT STEPS - STATUTORY CONSULTATION / APPROVAL PROCESS

4.1 In compliance with the legislation, a public notice will be placed in a local newspaper and formal notice given to the police and the highways authority advertising the Council's intention to pass a resolution to adopt the amended policy. The notice will allow 28 days for representations. Any such representations will be considered and reviewed against the draft policy before being formally submitted to Council for approval.

4.2 A draft policy will be taken to Council on 24 February 2015 for consideration and adoption.

4.3 Once Council approves the policy a public notice will be placed in a local newspaper advertising the Council's decision to implement the resolution noting the date for implementation. A second notice will be advertised 7 days after the first advert.

4.4 The appointed day for the resolution will be 16 March 2015.