

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**COUNCIL – 24 FEBRUARY 2015**

Title of report	<b>STREET TRADING POLICY</b>
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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 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; public; current consent holders; Parish Councils; Leicestershire Fire & Rescue; NW Leicestershire Chamber of Commerce; Ashby de la Zouch Town Council British Hospitality and Restaurant Association; NWLDC Licensing Committee Members
Background papers	<a href="#">North West Leicestershire District Council Street Trading Policy Issue 2 April 2014</a> <a href="#">Minutes - Licensing Committee 26 November 2014</a> (Member consultation responses)
Recommendations	<ol style="list-style-type: none"> <li><b>1. THAT COUNCIL CONSIDERS AND APPROVES THE DRAFT STREET TRADING POLICY AT APPENDIX 1</b></li> <li><b>2. THAT THE HEAD OF SERVICE IN CONSULTATION WITH THE PORTFOLIO HOLDER BE DELEGATED AUTHORITY TO AMEND THE LIST OF MANDATORY CONDITIONS WITHIN THE STREET TRADING POLICY</b></li> <li><b>3. THAT THE HEAD OF SERVICE IN CONSULTATION WITH THE PORTFOLIO HOLDER BE DELEGATED AUTHORITY TO APPROVE CHANGES TO THE STREET TRADING POLICY</b></li> </ol>

## 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.

1.4 The impact of the above changes has been monitored closely. The following minor changes were initially proposed to further improve the impact of the policy.

## **2.0 INITIAL PROPOSALS FOR CHANGE**

1. To consult Highways at Leicestershire County Council on the suitability of a proposed new trading location before accepting and determining an application;
2. To add the local Town or Parish Council to the list of consultees;
3. To consider the referral of all applications where a relevant objection is made to a hearing of a Licensing Sub-Committee for determination;
4. To provide further assistance to consultees by introducing a list of reasons for objecting to or refusing an application;
5. 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 CONSULTATION PROCESS**

- 3.1 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).
- 3.2 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.
- 3.3 The proposals for amending the policy detailed at paragraph 3 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 consultation process commenced on 31 October 2014 and closed on 12 December 2014.
- 3.4 All of the following people/bodies have been consulted: Leicestershire County Council (Highways, Trading Standards and Public Health); Leicestershire Police; current consent holders; Parish Councils; Leicestershire Fire & Rescue; NWL Leicestershire Chamber of Commerce; Ashby de la Zouch Town Council and the British Hospitality and Restaurant Association;
- 3.5 A report was taken to Licensing Committee on 26 November 2014. Committee members were asked to comment on the five proposals for change listed at 2.0

## **4.0 CONSULTATION FINDINGS**

- 4.1 The Council received comments from five consultees in addition to members of the Licensing Committee.

4.2 The following table details a summary of consultee views:

Question	Yes	No
Do you agree with the proposal to add Leicestershire County Council Highways Authority to the list of consultees?	5	0
Do you agree with the proposal to add the relevant Town/Parish Council to the list of consultees?	5	0
Do you agree with the proposal to refer all applications where a relevant objection is made to a hearing of Licensing Sub-Committee for determination?	3	2
Do you agree with the proposal to assist consultees by introducing a list of possible reasons for objecting to or refusing an application?	5	0

4.3 Comments received from members of Licensing Committee can be found as a background paper to this report. The following provides a summary:

1. To consult Highways at Leicestershire County Council on the suitability of a proposed new trading location sited on the public highway.  
This proposal was supported by Licensing Committee
2. To add the local Town or Parish Council to the list of consultees  
This proposal was supported by Licensing Committee. In addition Licensing Committee recommend that all District Ward Members are consulted on applications
3. To consider the referral of all applications where a relevant objection is made to a hearing of a Licensing Sub-Committee for determination  
This proposal was not supported by Licensing Committee.
4. To provide further assistance to consultees by introducing a list of reasons for objecting to or refusing an application  
This proposal was supported by Licensing Committee.
5. 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  
This proposal was supported by Licensing Committee.

4.4 A final draft policy taking into account all comments made by consultees is at Appendix 1.

## 5.0 SUMMARY OF KEY CHANGES PROPOSED

5.1 Assessing the suitability of a proposed new trading location.

The change made in April 2014 making 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 (public highway) 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.

## 5.2 Amend the list of Consultees

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

Proposal – To add all District Ward Members to the list of consultees

## 5.3 Objecting to or refusing an Application

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

Proposal - 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.

## 5.4 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 - 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.

## **6.0 IMPLEMENTATION PROCESS**

6.1 The appointed day for the revised street trading policy will be 25 February 2015.

## **7.0 FUTURE AMENDMENTS TO STREET TRADING POLICY**

7.1 The Council has adopted a resolution hereby designating the whole area within the District as “consent streets” for the purposes of street trading. Any change to this resolution will require the approval of Council.

7.2 The street trading policy is a document detailing the objectives, application and determination processes. This policy will require further amendment from time to time and therefore it is appropriate that their approval be delegated to the Head of Service, in conjunction with the Portfolio Holder, to remove the need to keep referring back to Council.