

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – 21 JANUARY 2014

Title of report	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 Assessment	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	Other Leicestershire local authorities; Leicestershire County Council (Highways); Leicestershire County Council (Trading Standards); Leicestershire Police; public; current consent holders; all known non consented street traders; Parish Councils; schools; Leicestershire Fire & Rescue; Leicestershire Chamber of Commerce; Public Health England; British Hospitality and Restaurant Association; Ashby de la Zouch Town Council
Background papers	North West Leicestershire District Council. Issue 1. Street Trading Policy Street Trading Policy, NWLDC Issue 1 Local Government (Miscellaneous Provisions) Act 1982 http://www.legislation.gov.uk/ukpga/1982/30 Minutes of Licensing Committee on 27 th November 2013 (Member responses). http://www.nwleics.gov.uk/pages/councillors_democracy_and_elections
Recommendations	THAT COUNCIL CONSIDERS AND APPROVES THE DRAFT STREET TRADING POLICY

1.0 BACKGROUND

- 1.1 The current policy was determined by Council on 26 February 2009 and came into force on 6 April 2009.
- 1.2 The Council's current street trading policy was introduced 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 By knowing who is trading in the district, through the use of consent trading and the working relationships with those traders in assisting with the reporting to the Authority of any traders in operation believed not to have consent, regulatory services such as Environmental Health have been able to ensure that legislative standards are complied with. The public can also be confident that any rogue traders will be dealt with and traders, both fixed or premises based and mobile can be confident that they are trading from a level playing field. The current policy has therefore resulted in benefits for both the public and traders.

2.0 DRIVERS RESULTING IN THE DECISION TO REVIEW THE CURRENT POLICY

- 2.1 The current street trading policy only requires a consent to trade on streets within a list of specified 'zones'. All of the zones are located either near to secondary schools or a

college, within a town centre; within an industrial estate or business park or on a major trunk road or arterial route.

- 2.2 Since 2009 there has been an increase in the number of traders trading outside of the consent streets. The review of the policy will consider whether it is appropriate to avoid the situation whereby only some street traders require consent by making the whole district a consent area.
- 2.3 In considering this proposal research has been undertaken to determine what position other Authorities take on street trading.

The following table details other Leicestershire Local Authorities with a street trading policy and whether the policy applies to the whole of a part of the area:

Name of Local Authority	Does it cover the whole area or parts of the area?
Leicester City	Whole
Charnwood Borough Council	Part
Hinckley & Bosworth Borough Council	Part
Oadby & Wigston Borough Council	Whole
Blaby District Council	Whole
Harborough District Council	Whole

- 2.4 A search of street trading policies at local authorities around the Country has been carried out.

The following table details local authorities with a policy covering the whole or a part of the area:

Local Authorities with a policy covering the whole area	Local Authorities with a policy covering a part of the area
Swale Borough Council	Mid Sussex District Council
Stroud Borough Council	Cherwell District Council
Surrey Heath Borough Council	Eden District Council
Central Bedfordshire	Wyre Council
Warwick Borough Council	Thurrock Council
Gosport Borough Council	
South Kesteven District Council	
Hart District Council	

- 2.5 Complaints received relating to street traders in areas where consent is required have remained low, however complaints have been received relating to traders located in areas where a consent is not currently required. This would suggest making the whole District a consent area would be beneficial.
- 2.6 A report was presented to Licensing Committee on 11 September 2013 providing notification of the review of the policy.

3.0 PROPOSED CHANGES TO CURRENT POLICY

The first draft of the policy sent to all consultees contained the following amendments:

- To widen the definition of consent streets from specific areas of the District to the whole District
- To refresh the policy objectives
- To remove the current prohibition on street trading within the vicinity of secondary schools and colleges between 12 noon and 16:30, Monday to Friday during term time. To replace with guidance for applicants stating that consent to trade will only be issued where an applicant can demonstrate to the Council that all policy objectives will be upheld. A consent may also be revoked if conditions are not complied with.
- To insert a paragraph detailing general principles relating to consent conditions
- To introduce a list of mandatory or standard conditions
- To allow the licensing authority to attach additional conditions to a consent if considered appropriate for the promotion of the policy objectives
- To introduce a list of consultees
- To specify a consultation period of 28 days

4.0 CONSULTATION PROCESS

- 4.1 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 (Statutory consultation). 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.

Non-statutory Consultation Process

- 4.2 A non-statutory consultation process commenced on 5 August 2013 and ended on 28 October 2013.
- 4.3 All of the following people/bodies have been consulted: Other Leicestershire local authorities; Leicestershire County Council (Highways); Leicestershire County Council (Trading Standards); Leicestershire Police; public; current consent holders; all known non consented street traders; Parish Councils; schools; Leicestershire Fire & Rescue; Leicestershire Chamber of Commerce; Public Health England; British Hospitality and Restaurant Association; Ashby de la Zouch Town Council

Consultee Comments

- 4.4 The Council received 17 representations from the following 6 consultees: Waste Services Team (NWLDC), Whitwick Parish Council, Licensing Team (NWLDC), Ashby Civic Society, Community Safety Team (NWLDC), Measham Parish Council,
- 4.5 A table detailing all consultee comments is provided at Appendix 1.
- 4.6 An amended draft of the policy was presented to Licensing Committee on 27 November for their consideration and comment. The following comments were received:
- Councillor M B Wyatt raised concerns regarding no mention of the use of street furniture within the policy. An extra condition has been added to Objective 3 of the Street Trading Consent Conditions (page 22).
 - There were several concerned comments relating to the removal of restrictions preventing street trading in the vicinity of schools. A recent example arose where a trader wanted to apply for a consent to sell fruit and vegetables from a barrow in the vicinity of a school. The application was refused as to grant it would have flown in the face of the policy although it was felt that the trader would have contributed positively to the neighbourhood. Under the new policy officers would have more control over where and what traders sell. Officers would be able to exercise their discretion when considering applications but would guard against dictating what people should be eating or reducing choice.
 - Members also discussed the question of litter and the limits of responsibility consent holders should adhere to when cleaning around their premises. There was a feeling that the 25 and 10 metre area stipulated in the draft policy was too large. In view of those comments Condition 3 of Objective 4 on page 22 has been amended to 10 metres and 5 metres

Statutory Consultation Process

- 4.7 Following Licensing Committee, in compliance with the legislation, a public notice was 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 allowed 28 days for representations.
- The police have replied that they have no comment to make.
- 4.8 No other replies have been received. A final draft policy taking into account all comments made by consultees is at Appendix 2.

5.0 SUMMARY OF KEY CHANGES PROPOSED

- 5.1 To adopt a whole district approach
The current street trading policy only requires a consent to trade on streets within a list of specified 'zones'. All of the zones are located either near to secondary schools or a college, within a town centre; within an industrial estate or business park or on a major trunk road or arterial route. Since 2009 there has been an increase in the number of

businesses trading outside of the consent streets. It is proposed to widen the definition of consent streets from specific areas of the district to the whole district.

5.2 To refresh the policy objectives

The current policy objectives are: To protect public health; to improve standards of food safety and health & safety; to ensure street traders operate within the law and act fairly and to prevent and detect statutory nuisance, unsafe practices and anti social behaviour.

5.3 The proposed policy objectives are: To protect public health; to ensure food safety and public safety; to detect and prevent public nuisance and anti social behaviour and to promote environmental improvement and regeneration.

5.4 To remove the current prohibition

There is currently 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. It is proposed to replace with guidance for applicants stating that consent to trade will only be issued where an applicant can demonstrate to the Council that all policy objectives will be upheld. A consent may also be revoked if conditions are not complied with.

5.5 In addition the following minor changes are proposed:

- To insert a paragraph detailing general principles relating to consent conditions
- To introduce a list of mandatory or standard conditions
- To allow the licensing authority to attach additional conditions to a consent if considered appropriate for the promotion of the policy objectives
- To introduce a list of consultees
- To specify a consultation period of 28 days

6.0 IMPLEMENTATION PROCESS

6.1 Once Council approve 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.

6.2 The appointed day for the resolution will be 1 April 2014.