

LICENSING AND REGULATION COMMITTEE
14 October 2024

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: **ADOPTION OF A STREET TRADING LICENSING POLICY**

REPORT OF: **THE LICENSING AND COMMUNITY SAFETY MANAGER**

EXECUTIVE MEMBER: **HOUSING AND ENVIRONMENTAL HEALTH**

COUNCIL PRIORITIES: **PEOPLE FIRST, SUSTAINABILITY, A BRIGHTER FUTURE TOGETHER**

1. EXECUTIVE SUMMARY

The purpose of this report is to adopt a street trading policy incorporating minor amendments to the existing policy.

2. RECOMMENDATIONS

- 2.1. That the Committee be recommended to adopt the Street Trading Licensing Policy attached as Appendix A.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The current policy is working well however some minor amendments are needed to ensure it remains fit for purpose.
- 3.2 The adoption of a policy ensures that applicants, licence holders, and the public have a clear understanding of the licensing process and objectives; it also ensures a consistent and transparent approach.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 No alternative options were considered as the previous policy is working well save for the minor amendments proposed.
- 4.2 All licensing policies are subject to regular review and this policy can be reviewed at the appropriate time to ensure it remains fit for purpose.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 No consultation has been undertaken with Members, it is the committee's role to consider the appropriateness of the proposed policy.

- 5.2 No public consultation was undertaken as the proposed policy only includes minor amendments that are not required to be subject to public consultation by virtue of section 4 of the existing policy.
- 5.3 The policy includes provisions for public consultation regarding any future changes to the policy if it is determined appropriate to review standards in the future.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. The legislative framework, however, is not an automatic entitlement and councils must formally adopt the legislation if they wish to regulate street trading in their areas.
- 7.2 On 26 April 2005, the Council resolved to make all streets within the conurbations of Baldock, Hitchin, Letchworth Garden City and Royston consent streets, with the exception of any streets designated as prohibited streets. It further resolved to make arterial roads within the District of North Hertfordshire consent streets but with trading limited to lay-bys only. The resolution also stated that no street within the District shall be a licence street.
- 7.3 The main purpose of this legislation is to establish an appropriate licensing regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading.
- 7.4 Local authorities can place conditions on any Consent or Licence. The Act also creates offences associated with trading in Consent or Licence Streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.
- 7.5 In order to ensure the policy remains fit for purpose, regular reviews should be undertaken. The recent review identified some minor amendments which have been included in the proposed policy.

8. RELEVANT CONSIDERATIONS

- 8.1. In order to assist the committee, amendments in the proposed policy have been included as track changes.

Pavement licences

- 8.2 Whilst the temporary pavement licence arrangements were in place, the street trading policy made reference to them. Now that legislation has been enacted to formalise pavement licensing, the policy has been amended to reflect this.

Anti-social behaviour

- 8.3 The fourth licensing objective included in section 1.2.1 makes reference to preventing anti-social behaviour related to street trading. To ensure transparency, the community safety team has been added as a consultee.
- 8.4 An additional key consideration has been added to the reasons why an application may be refused in section 3.4.1 to highlight the consideration of anti-social behaviour.

Rights of appeal

- 8.5 Although the legislation does not provide an appeal to the courts, it is felt that best practice would allow for an internal appeal in cases where it is claimed that policy has not been correctly applied or where a decision seems unreasonable.
- 8.6 For that reason, the licensing team leader has been delegated powers to determine street trading licence applications as the officer responsible for day-to-day operational matters. An internal appeal is available to the licensing and community safety manager who can undertake an independent review of a decision having not been involved in the original decision.

Enforcement

- 8.7 To assist with fairness and transparency, Part 5 of the policy has been expanded to set out the various enforcement options available for breaches of licence condition.
- 8.8 It also sets out the circumstances when licences may be revoked and the internal appeal mechanism if a licence holder disagrees with a revocation.

9. LEGAL IMPLICATIONS

- 9.1. Section 8.2.3 states that the Licensing and Regulation Committee shall meet at least once per civic year:
 - (a) ***to consider all licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Service Director: Housing and Environmental Health***
 - (c) ***to consider and amend other non-executive licensing policies (minor amendments to be delegated to the Licensing Manager in consultation with the Chair of Committee and the relevant Executive Member).***
- 9.2 Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) lists *power to license market and street trading* as a function not to be the responsibility of an authority's executive.
- 9.3 The adoption of a street trading licensing policy is not an executive function, nor is it delegated to a licensing sub-committee or the relevant service director, therefore falls within the remit of the Licensing and Regulation Committee.

- 9.4 Whilst the proposed policy includes no significant change to the existing policy, therefore would ordinarily fall under the definition of a minor amendment for officers in consultation with the Chair and Executive Member, it is appropriate for the committee to consider this policy as part of this meeting.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications arising from the adoption of this policy as it places no additional administrative or enforcement burdens on the Council.
- 10.2 Legislation permits the Council to recover its reasonable costs of administration and enforcement of the street trading licensing regime through licence fees.
- 10.3 Licence fees are set annually in accordance with the Medium-Term Financial Strategy and a resolution of the Licensing and Appeals Committee held on 12 December 2013.

11. RISK IMPLICATIONS

- 11.1 The provision of a robust, transparent policy will help mitigate the risk of formal complaints.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. The policy requires applicants to ensure that there is no obstruction of the highway, and that consideration should be given to persons with disabilities. There is a standard condition 8 in appendix E of the policy that states:

The Consent Holder shall not cause any obstruction of the street or cause danger to any persons using it and shall not do anything, or permit anything to be done, which, in the opinion of an Authorised Officer of the Council, may be deemed a nuisance or annoyance or danger to any member of the public. Particular regard shall be given to persons with disabilities when ensuring no obstruction is caused.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known environmental impacts or requirements that apply to the adoption of this policy.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no human resource implications arising from the adoption of this policy as it places no additional administrative or enforcement burdens on the Council.

16. APPENDICES

16.1 Appendix A Proposed street trading licensing policy

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

18.1 None