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To: All Members of the Licensing
Committee

Please ask Shaun Banks (Telephone:
for: 01793 463606)
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Dear Councillor,

Licensing Committee – Thursday, 22 November 2018

I refer to the agenda for the above meeting and enclose report in relation to the following Agenda Item(s):

7. Street Trading (Pages 3 - 34)

Yours faithfully,

Shaun Banks (Telephone: 01793 463606)
for Director of Law and Democratic Services



Stephen P. Taylor M.A (Oxon), Solicitor
Director of Law and Democratic Services

Consideration of Responses to the Review of Street Trading Policy Consultation

Licensing Committee

Date: 22 November 2018

Author: Kathryn Ashton - Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 To consider the responses received on the Review of Swindon Borough Council's Street Trading Policy.
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2. Recommendations

That the Committee:

- 2.1 Consider the responses received during the 12 week consultation period of the Street Trading Policy Review; and
- 2.2 Propose any amendments to the Street Trading Policy to be recommended as the 2018 Policy prior to adoption by Full Council.

3.0 Detail

- 3.1 Swindon Borough Council has resolved that Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982 applies to its area. Under this Schedule the Council can manage street trading by designating streets as consent streets, licence streets or prohibited streets.
- 3.2 Street Trading is defined as the selling or exposing or offering for sale any article in a street subject to a number of exemptions, which include the following:
- Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871
 - Any trade in a market or fair, the right to hold such market or fair having been obtained by a grant, enactment or order
 - Trading as a news vendor
 - Trading at or adjoining a shop premises, as part of the business of the shop
 - Offering or selling things as a rounds man.
- 3.3 Schedule 4 of the Local Government (Miscellaneous) Act 1982 defines a street as any road, footway, beach or other area to which the public have access without any payment, and a service area as defined in section 329 of the Highway Act 1980. There are 3 classifications of 'street' for the purpose of street trading as follows:

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- A consent street is a street in which street trading can only take place if the consent of the local authority has been obtained
 - A prohibited street is a street in which street trading is prohibited from taking place at all
 - A licence street is a street in which street trading is prohibited without a formal licence given by the local authority.
- 3.4 The current Street Trading Policy for Swindon Borough Council, **Appendix A**, was introduced in 2013, and came into effect in 2014. The policy, which has not been reviewed since that time, designates the whole of Swindon Borough Council as 'consent' streets save for those identified as 'prohibited' streets in the town centre shown in the map within the current policy. There is also an area which is shown as 'under consideration'.
- 3.5 There are a number of individual 'full' street trading consents issued throughout the Borough with the exception of the town centre. These consents are issued for a 12 month period and then must be renewed. There is an application fee of £2400 generally paid quarterly. Any trader must have obtained the relevant planning consent prior to utilising any street trading consent.
- 3.6 The current policy prevents individual street traders within the town centre due to previous noise and odour issues of certain traders located ad hoc outside retail units. The Policy does, however, allow street markets specified as weekly farmers markets, themed markets and a Christmas market.
- 3.6 Within Swindon requests for themed markets/food festivals are becoming increasing popular and more regular and can bring benefits to the town creating a more vibrant economy. The Licensing Authority in conjunction with In Swindon aims to encourage and deliver quality markets but it is becoming apparent that the current Policy can be unnecessarily restrictive in relation to these, particularly in respect of frequency, duration and, for example, only allowing sale of hot food as subsidiary to the main business of the stall.
- 3.4 On the 17th April 2018, Members authorised the Licensing Manager to undertake a consultation in respect of the Council's Street Trading Policy. This consultation commenced on the 27th July 2018 and concluded on the 11th November 2018.
- 3.5 A list of the questions during the consultation are attached as **Appendix B** to this Report. These questions were based on the elements determined by Licensing Committee in April 2018, as areas for possible change.
- 3.6 In total, 13 responses were received, and a synopsis of these responses is attached at **Appendix C** to this Report. A full detailed report on each of the responses is available should Members require.

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4. Alternative Options

- 4.1 The Licensing Committee could choose not to agree the reviewed Street Trading Policy if it considers that there is no benefit in doing so. However, it is considered that the policy requires updating to reflect changes in trading particularly within the town centre.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial or procurement implications arising from this report, though consents for street trading do attract a fee, which is considered to be reasonable in ensuring that there is no financial burden on the Council in dealing with, and enforcing consents.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. The recommendations of this report are compatible with Convention Rights as they are fully in accord with the requirements of relevant legislation. The Council is required to comply with the statutory provisions referred to in the report, which the adoption of this policy will ensure it does. All other legal and human rights implications have been considered in the preparation of this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no staffing, sustainability or rural implications arising from this report.

Diversity Impact Assessment

- 5.4 A DIA is available.

5.5 Consultees

The Director of Law (Monitoring Officer) is consulted in respect of all reports.

5.6 Background Papers

The Local Government (Miscellaneous Provisions) Act 1982

Consideration of Responses to the Review of Street Trading Policy Consultation

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Date: 22 November 2018

Current Street Trading Policy for Swindon dated 2013

Review of the Street Trading Policy Consultation Responses

5.7 Appendices

Appendix A - Swindon Borough Council's Street Trading Policy 2013

Appendix B - Questions that formed the Consultation

Appendix C - Synopsis of responses from the Consultation

General Statement of Principles for the Regulation Of Street Trading in Swindon

INTRODUCTION

- 1.1 The regulation of street trading is concerned solely with the social, economic and environmental impact that street trading has, especially on (but not restricted to) the immediate locality. Such activities are regulated under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ('the Act').
- 1.2 Swindon Borough Council has resolved pursuant to section 3 of the Act that Schedule 4 shall apply to its district. The Council therefore has the power to designate any street within its district as a 'Prohibited Street', a 'Licence Street' or a 'Consent Street' for street trading purposes.
- 1.3 These are defined in the Act as:
 - "Prohibited Street" - a street in which street trading is prohibited.
 - "Licence Street" - a street in which street trading is prohibited without a licence granted by the district council;
 - "Consent Street" - a street in which street trading is prohibited without the consent of the district council;
- 1.4 The Council has resolved that all streets within the Borough of Swindon shall be consent streets for street trading purposes, save for those identified as prohibited streets on the plan of the town centre (Appendix A).
- 1.5 The Council has control over areas which have been adopted as Public Highway under law. Some of the streets in the town centre are not owned by the Council and therefore the landowners consent will be required for street trading activities in these streets.

PART A - STREET TRADING CONSENTS (GENERAL)

- 2.1 The core criteria of avoiding 'obstruction of the street or danger to persons using it' and 'nuisance or annoyance (whether to persons using the street or otherwise)' shall be used to determine applications. Additionally, applications shall be judged against presentation, sustainability and the achievement of a sensible retail mix, together with any other reasonable consideration.
- 2.2 The pedestrianised public highways in shopping centres are intended to provide uncluttered, open vistas between shops. Traders who seek to use portable structures to gain access to prime retail sites on a daily basis at a fraction of the outlay expected of shop-keepers shall be looked at on an individual basis.

- 2.3 In the principal retail areas of Old Town and the Town centre, street trading shall be assessed on its likely impact on the vitality, success and reputation of the area as a place to do business. Street trading consents shall only be granted to traders who demonstrate that their presence will enhance those qualities. Traders do not have a 'right' to access core areas and those with a neutral or negative impact shall be excluded.
- 2.4 Street trading legislation does not distinguish between trailers and market stalls but there is generally a substantial difference between the two types of trading. Both trading formats are subject to this policy but they will be affected in different ways (see 'Part B - Markets' below).
- 2.5 For the streets identified on the plan of the town centre as 'consent solely for markets' (Appendix A), the Council will only grant a consent to carry on street trading where the applicant is part of an organised market. No Street Markets will be allowed outside of these specified streets within Swindon's Business Improvement District area.
- 2.6 Hot food trailers and vans etc. tend to function as portable shop units, operating in isolation. Where it appears that they will be used principally to save on costs relative to competing cafes & take-aways, a street trading consent shall not normally be granted. Where the infrastructure or trading opportunities are such that a fixed retail unit could not be justified, a fast food trailer shall be considered for consent.
- 2.7 Aside from their exclusion from the Town centre, there is a presumption against the siting of fast food traders in residential areas, in the locality of fixed fast food premises, close to schools or where they may impact adversely on the amenity of the area or conflict with this policy.
- 2.8 Parish and town councils may make recommendations on whether an application to engage in street trading within their area should be granted, within 15 working days of being notified. Swindon Borough Council will administer the applications and will monitor street trading consents. The minimum legal requirements must still be met.
- 2.9 Street trading consents can be withdrawn at any time and therefore have no intrinsic value. It is entirely legitimate for a trader to sell any trailer, equipment or stock to a third party. It is unlawful however for a trader to purport to sell a 'pitch' or a consent. Where such transactions are discovered to have taken place, use of the pitch in question by any person shall be suspended immediately and the ban shall remain in effect for a period of six months. The police will be informed.
- 2.10 In the case of individual pitches, new proposals shall normally proceed by way of planning consent, sought by the business which wishes to trade there. In these cases, the proposer will have the first option on applying for a street trading consent. Planning consent is required for routine trading pitches but the existence of a planning consent provides no guarantee that a street trading consent will be issued.

- 2.11 Where established individual pitches are vacated, the street trading consent must be handed back to the Council. An outgoing trader shall not be permitted to propose an incoming trader for the pitch that they have vacated.
- 2.12 An e-mail list of potential traders is maintained by the Council. Anyone asking for their name to be added to that list will be notified if an individual trading pitch becomes vacant. Letters will not be sent out. Any pitch vacancy will be posted on the Council's web site and expressions of interest must be submitted within 30 days of the date of posting. Any street trading consent subsequently issued will be allocated on merit, according to the published criteria.
- 2.13 It is entirely a matter for individual street traders, whether or not their business is profitable and whether or not there is sufficient customer demand for their product or service. No account will be taken of either of these factors, when street trading decisions are made.
- 2.14 The overall employment consequences or the likely external economic impacts of a street trading proposal may be taken into account.
- 2.15 The regulation of street trading will not be used directly to secure compliance with the many other legislative duties which impact on street traders. Consent conditions will not say, for example that traders "must fulfil their obligations under the Health & Safety at Work Act". Failure to comply with any legal requirement will nevertheless be a material factor, should it be necessary to review a consent.
- 2.16 When carefully sited, permanent island trading units of high quality may be useful in providing accents in the street scene. They may for example link different areas of the town centre. Structures of that kind fall outside the scope of street trading and therefore of this policy. It will be expected that any proposal for a fixed structure will mirror any design criteria already laid down for shop-fronts.

PART B - MARKETS

- 3.1 Street markets have been part of the town centres in the UK for many years. In the past they tended to be very local affairs but now include Continental, German and Farmer's Markets that offer a more specialised experience. Street markets can bring benefits to a Town centre by offering an alternative shopping experience, a place for social interaction, an attraction for tourists and by contributing to the local economy. On the other hand, they may take business away from established retailers, they pay no rent and can take up prime dates when the streets could be used for alternative purposes. There is therefore a need to take a balanced approach to the issue but the Council will support street markets where they contribute to the overall social and economic wellbeing of the Town.

3.2 Objectives

In supporting street markets within Swindon Town Centre, the Council has a number of objectives:

- To support the local economy;
- To enhance the shopping experience;
- To provide an additional attraction to encourage more shoppers to the Town Centre;
- To encourage local producers and businesses; and
- To add vibrancy to the town centre.

3.3 General Principles

The following factors will be into account when considering proposals for Town Centre street markets:

- The benefit to the economy of the Town;
- The potential to connect with local businesses;
- The provision of opportunities for the sale of local produce;
- The offering of a diverse range of products;
- The impact on the environment and the of use sustainable methods in their operations; and
- Where possible, the employment of local residents.

3.4 In submitting a proposal to the Council, the Market Operator and Stall Holders shall be expected to show how their event complies with the above objectives and general principles. The Council will not normally support an application for a street market in the Town centre where the above objectives and general principles have not been appropriately addressed.

3.5 The appearance of a market must ideally enhance, but at least not be detrimental to the street scene. Precise measurements of the height, width and depth of proposed stalls shall be submitted with any application.

3.6 Markets Options

Preference will be given to Town centre markets in the following order:

- A weekly general market
- Markets offering local produce or craft items;
- Markets that show a link to existing shops and/ or local producers; and
- Markets with no local connections, such as Continental style markets.

The preferred usage for markets in the town centre is set out in the table below, although a market will be considered in any consent street.

Type	Frequency	Location	Duration	Goods	Conditions
Christmas Market	Annual	Canal Walk/Wharf Green	Maximum 21 days, to fit in with the lights switch on.	Festive related goods, this includes hot food.	Stall holders must use the chalets provided by InSwindon.
					In Swindon are responsible for the site layout of the market
					The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.
Weekly Market	Weekly	Canal Walk, Wharf Green, Havelock Square	One day per week as agreed between the Market organiser and Licensing Committee	Ideally goods that compliment that which is currently being sold in the town centre	The Stalls used must meet the design code as between the market organiser and licensing committee
				Hot food can be sold but must be subsidiary to the main business of stall.	The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.
Specialist market	Monthly	Canal Walk, Wharf Green, Havelock Square, The Parade, The Cenotaph, Theatre Square.	One day per Month as agreed between the Market organiser and Licensing Committee.	Must be in keeping and related to the theme of the specialist market	The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.

- 3.7 In submitting a Business Case proposal, the Market Operator and Stall Holders should take the following matters into account.

3.7.1 Public Safety

The market should not present a significant risk to the public in terms of road safety, obstruction or fire hazard and should not present a risk to public order. If a market stall(s) causes an obstruction to the free flow of pedestrians or access for emergency vehicles, the Council reserves the right to remove such stalls.

3.7.2 Potential Nuisance

The market should not present a substantial risk of public nuisance from noise, rubbish, fumes, vermin, vibration, smoke or dust. The Market Operator and Stall Holders shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public. Failure to do so may mean removal of the said stall(s).

3.7.3 Amplified music and other amplified sound

The Market Operator and Stall Holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television sets unless prior consent has been granted by Swindon Borough Council when granting the street trading consent. Such consent to play music or use other amplified sound may be subject to additional conditions.

3.7.4 Advertising

The Market Operator and Stall Holder shall not place on the street or affix to any equipment placed on the street (excluding the trading units) any advertising material of any description whatsoever. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street, grass or planted area or place or fix any equipment of any description in the said surfaces.

The Market Operator and Stall Holder shall not attach anything to any street furniture.

3.7.5 Equipment

The Market Operator and Stall Holder shall not place on the street any furniture or equipment other than as permitted by the Council and the Market Operator and Stall Holder shall maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.

The Market Operator and Stall Holder shall not remove any existing street furniture without the express permission of the Council.

3.7.6 Waste

The Market Operator and Stall Holder shall provide at his own cost and expense litterbins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use. Thereafter, the waste shall be deposited at an appropriate waste site.

The Market Operator and Stall Holder shall retain with any van, cart, barrow or other vehicle or stall included within his consent any water used or waste produced until the end of each daily period. Thereafter it shall be removed and disposed of at a suitable waste disposal point. In particular the Market Operator and Stall Holder shall not deposit any such waste near or into any street drain or channel or any public litter bin

3.7.7 Health and Safety

All participants/contractors must comply with the relevant Health and Safety legislation throughout the duration of the market.

The Market Operator and Stall Holders are responsible for all public health and safety aspects of the event prior to, during and subsequent to the event.

All stalls/equipment must be contained within the locations specified and laid out by the Council and must be positioned to allow free flow of pedestrians or access by emergency service vehicles. Ideally there must be a gap of 2 metres around the market to ensure swift and safe evacuation, having regard to the volume of people likely to be in the building.

The positioning of the stall must ensure that emergency vehicles can gain access to building frontages. This applies to items that cannot be quickly and easily removed. Where food is sold, the Market Operator and Stall Holder will be required to ensure that all participants comply with the relevant food safety legislation:

The Market Operator and Stall Holder shall keep their trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use. Failure to do so may mean removal of the said stall(s).

The Market Operator and Stall Holder shall remove all equipment from the street outside trading hours unless appropriate on-site security measures for their retention have been agreed in advance with the Council. (This will not apply in the case of Christmas Markets as InSwindon will provide chalets).

3.7.8 Use of electricity

The Council may make the provision for the use of electricity for the stall holders and will charge an appropriate fee for this.

3.7.9 Insurance

The Market Operator and Stall Holders shall have at least £5million public liability insurance to cover any activity arising from the trading.

3.7.10 Fire prevention

No refuse or combustible material shall accumulate in or around any pitch or be placed near to electrical fittings.

No hazardous substances or chemicals or inflammable substance shall be stored on the pitch. No gas bottles or other high-pressure container shall be left on the pitch unattended or overnight.

Any stall holder that has any form of heat, gas or electrical equipment on or around their stall shall have a fully functioning fire extinguisher.

3.7.11 Evacuation

In the event of fire, bomb threat or such potentially serious incident which requires the immediate evacuation of the area, instructions will be given by the InSwindon staff.

All traders are advised to make themselves aware of the evacuation procedure in place at the market. On being requested to evacuate by a member of the InSwindon team emergency services or police, traders shall leave the market without delay and where possible and, without danger to themselves or others, assist in directing customers away from the market area.

3.7.12 Conduct of stall holders

All traders shall fully comply with all the rules & regulations and with all terms and conditions of any permit agreement when attending the market and shall comply with all reasonable directions of the Market Operator and InSwindon. The Council's decision is final in all matters and it can remove any trader at its discretion.

All market traders, their servants, agents, employees or contractors shall conduct themselves in an orderly manner so as not to cause annoyance or inconvenience to other users of the market and to act in a responsible manner and not cause any act of neglect, wilful damage or disturbance to the peaceable enjoyment of the market.

The stallholder shall not use or permit to be used abusive, profane, offensive or insulting language. In a dispute between a trader and consumer the trader shall at all times endeavour to remain courteous and polite. Where the matter cannot be resolved amicably the Market Operator will attempt to arbitrate, if requested to do so. If in his/her opinion the consumer is found to have a justifiable complaint, the trader shall be requested, without any liability on the part of the Market Operator, to rectify the matter as recommended.

If the Market Operator is unable to offer a clear opinion or the trader is unwilling to resolve the matter then the consumer shall be advised to take the matter to the local Trading Standards Service. The trader shall be expected to comply with the written opinion of the Trading Standards Service.

- 3.7.13 The stall/pitch holder shall move to another pitch when told by the InSwindon staff at short notice. This is to ensure that complaints or other issues can be dealt with quickly.

3.8 General Conditions

- 3.8.1 Street markets within one area shall be limited to one per calendar month. (This is in addition to any planned Farmers Markets and any Christmas Market).
- 3.8.2 Street markets shall not be held in the same week as Farmer's markets.
- 3.8.3 Traders shall provide their own stalls, save for those involved in Christmas Markets, where InSwindon shall provide Chalets.
- 3.8.4 A street market shall normally consist of 10 to 50 individual stalls (this would not apply to charity markets).
- 3.8.5 A street market shall normally be permitted to last not more than 3 days, except Christmas Market which will last no more than 21 days.
- 3.8.6 Markets shall have a theme in relation to the goods being sold e.g. a continental or Christmas market.
- 3.8.7 The use of generators shall be prohibited unless absolutely necessary, in the event of generators being required they will be of a design to minimise noise and pollution.
- 3.8.8 Music shall not normally be permitted. Permission to play music may be given in exceptional circumstances where a request to do so has been included in the application and specific consent has been given by the Council when granting the street trading consent.

3.8.9 Other than Christmas markets and continental markets, hot food shall only be sold as ancillary to the stall holder's main activity.

3.8.10 The Council reserves the right to restrict or prevent any trader from participating in a market if they breach this policy.

3.9 Other Statutory Consents

The Market Operator shall ensure that the correct planning and highways consents are in place before submitting a 'street-trading' consent application on behalf of each of the stall holders. Licences are dealt with under the statutory procedures outlined in the Act.

3.10 Management Procedures

Where statutory consents are granted, the Council will expect the Market Operator and Stall Holders to comply with any conditions attached to the grant of any consents and the relevant criteria. Lack of compliance by Operators and/or stall holders may be taken into account when future proposals are considered by the Council.

PART C - GENERAL

4.1 Revocation and Renewal

In accordance with the Local Government (Miscellaneous) Provisions Act 1982, the Council may revoke any consent at any time if, in the Council's opinion, the holder of the consent is operating in an inappropriate manner contrary to the general principles and objectives set out in this policy. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder of the street trading consent, or Market Operator where appropriate, in respect of such revocation. Where consent is revoked the holder is entitled to have the fee paid remitted in whole or in part. Consents are only valid for 12 months and then must be renewed.

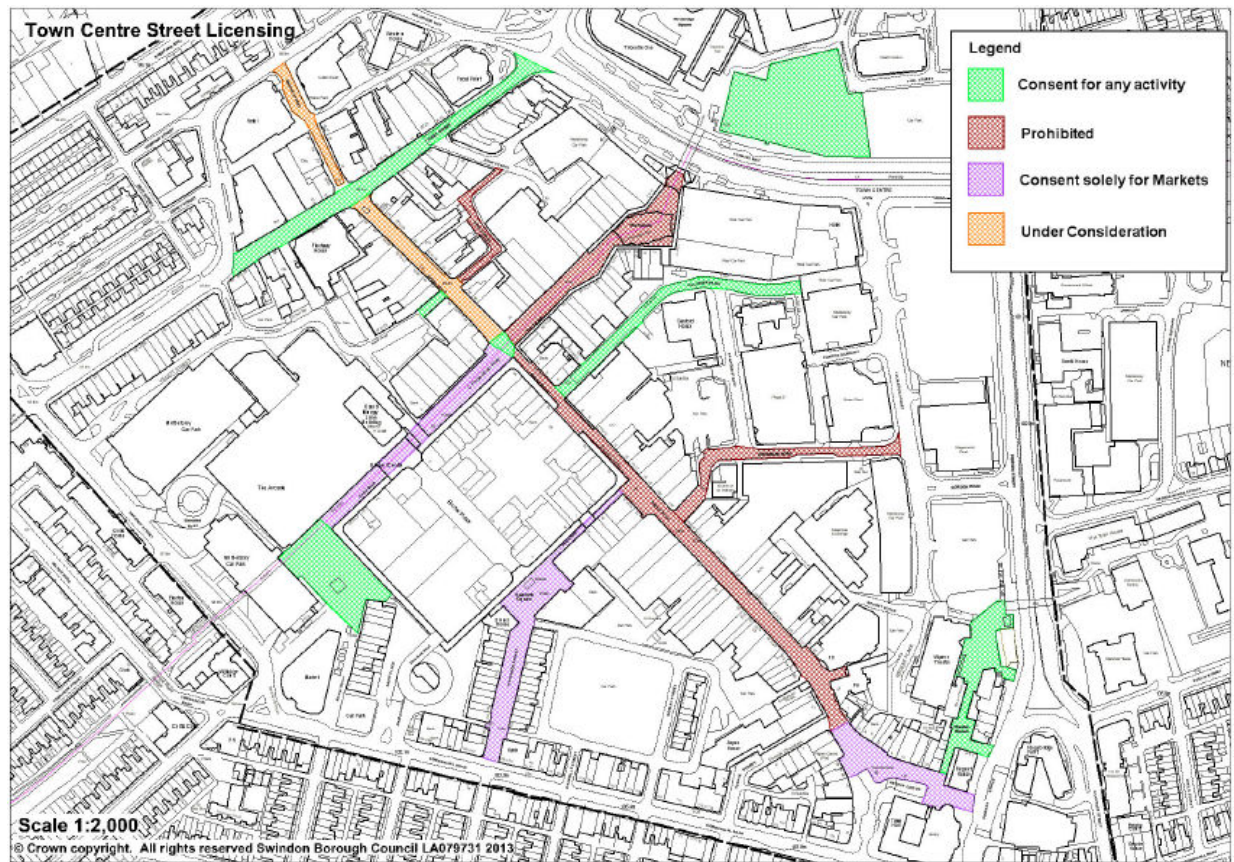
4.2 Commencement & Review

This policy shall come in to effect on 01 August 2014.

The policy may be reviewed at any time, as required, but shall be reviewed no later than 5 years from the date of commencement.

APPENDIX A

Plan of Town Centre showing designation of streets



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Swindon Borough Council - Diversity Impact Assessment for the Adoption of the Street Trading Policy 2018

1 What's it about?

Refer to equality duties

What is the proposal? What outcomes/benefits are you hoping to achieve?

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 has been adopted by Swindon Borough Council. Under this Schedule Swindon Borough Council can manage Street Trading by designating streets as Consent Streets, Licence Streets or Prohibited Streets. Street Trading is defined as the selling or exposing or offering for sale any article in a street subject to a number of exemptions. The Street Trading policy aims to ensure that Street Trading units/pitches and/or kiosks within Swindon Borough are of a high quality, make a positive contribution to the diversity, vitality and vibrancy of the local area and to protect and enhance the appearance and amenity of existing land uses and public realm.

Who's it for?

The Street Trading Policy is used to provide a context to licence applications and to enable us to develop procedures for the purposes of Street Trading. It will provide a consistency of approach towards the issuing of licences promoting parity and fairness through consistency of decision making on the impact of granting or refusing licences with consideration given to safety impact and protection of all users and those who may be affected by it. A full consultation process was carried out prior to the adoption of this Policy and the comments received have been taken into account in formulating the Policy.

How will this proposal meet the equality duties?

The proposals seek to review and introduce a standard Policy applicable to all Street Trading licence applications. Licensing Policies can address a wide range of issues associated with Street Trading activities such as: -

- Crime and Disorder;
- Public Safety;
- Public Nuisance;
- Protection of Children and Vulnerable Persons, and
- Partnership Working.

The Street Trading Policy cannot address issues beyond the scope of the relevant licensing legislation. The adoption of a clear policy removes the Council's discretion in determining licence applications obviating any possibility of applicants not being treated fairly, or of harmful impacts occurring that could be injurious to other interests including the security, health education, well being and quality of life of affected individuals.

What are the barriers to meeting this potential?

The Street Trading Policy has been the subject of a period of public consultation, where representations were invited from a range of stakeholders. The response rate was fairly low, but those that did respond had their comments considered by the decision makers and the final Policy will reflect any comments that would be considered appropriate. Once adopted, the Policy will be used in the development of procedures and inform the determination of the licence applications. It is important that equalities groups have had the opportunity to comment on this document, and are aware of its implications.

2 Who's using it?

Refer to equality groups

What data/evidence do you have about who is or could be affected (e.g. equality monitoring, customer feedback, current service use, national/regional/local trends)?

Licensing affects not only licensees but also all users of a facility, all people living or spending time nearby. Certain groups may be more sensitive to the impacts of licensed street traders, particularly in the more densely pedestrianised areas. This may typically include persons with disabilities whose mobility and access around certain areas may be affected meaning that they spend more time at home. The consultation process involved with each application will ensure that those people with sensitivities to the impacts of licensed street trading stalls are properly protected through the licensing regime. The Council has data on licence applications/holders but this data does not extend to protected characteristics. Similarly, we cannot hold this data for any other person or commercial enterprises use.

How can you involve your customers in developing the proposal?

A full consultation process took place prior to the adoption of the Street Trading Policy and any comments received have been considered and included where appropriate in the adopted Street Trading Policy.

Who is missing? Do you need to fill any gaps in your data?

There are no gaps in the data that we can collect that would have a material impact on the content of the policy for adoption.

3 Impact

Refer to dimensions of equality and equality groups

Show consideration of: age, disability, sex, transgender, marriage/civil partnership, maternity/pregnancy, race, religion/belief, sexual orientation and if appropriate: financial economic status, homelessness, political view

Using the information in parts 1 & 2:

-
- a) Does the proposal create an adverse impact which may affect some groups or individuals?
Is it clear what this is? How can this be mitigated or justified?

The proposed Street Trading Policy does not create any adverse impact on any equality group who would be affected by adopting this Policy. In particular the Policy provides for the protection from the following issues: -

TBC depending on final Policy

What can be done to change this impact?

The Policy can only address considerations that apply in relation to Street Trading but it does so with the objective of providing public protection from potentially adverse impacts of Street Trading and licensed street traders.

Does the proposal create benefit for a particular group? Is it clear what this is? Can you maximise the benefits for other groups?

The proposal creates a benefit for all users of the service and those living/working nearby, or those who could be materially affected by them, by minimising adverse impacts through appropriate control and enforcement of Street Trading.

Does further consultation need to be done? How will assumptions made in this assessment be tested?

The base of the Policy has already been consulted upon and amendments made where appropriate to do so, ensuring that the document remains in accord with the relevant legislation and where they address specific concerns that are not already covered. The robustness of the Policy will be tested with each decision made on an application for a Street Trading Licence, and in the monitoring and enforcement regime of Street Trading. This will include an assessment of any complaints or breaches of the relevant legislation and any successful prosecutions that may occur. Insight on the success of the Policy, application process and licences granted subsequent to the Policy will be monitored and used in any review of the conditions.

4 So what?

What changes have you made in the course of this DIA?

The scope and extent of the Policy is controlled by the extent of the legislation. The DIA has assisted in ensuring that we have covered all issues that are likely to affect Street Trading and the impacts that they have on all sectors of the Community, including those who may have protected characteristics. As such, the DIA has provided a useful check to the Street Trading Policy, ensuring that all potential impacts are considered in it.

What will you do now and what will be included in future planning?

The Street Trading Policy will now be considered by the Licensing Committee on behalf of Swindon Borough Council and recommended for adoption by Full Council. There are no statutory requirements for a Policy to be in place or if in place how often it is to be reviewed. The Policy will be regularly monitored to ensure that it remains fit for purpose. It is anticipated that the Policy will be reviewed within 5 years, however, if there is a requirement then an early review will be instigated.

When will this be reviewed?

The Street Trading Policy will be reviewed within 5 years or sooner if complaints are received that follow a pattern or are of a particular concern.

How will success be measured?

By the amount of complaints arising in regard to Street Trading.

For the record	
Name of person leading this DIA – Kathryn Ashton	Date completed 12 th November 2018
Names of people involved in consideration of impact – Kathryn Ashton, Alison Waine, Ashley Peachey	
Name of manager signing DIA -	Date signed -

Diversity Impact Assessment – an inclusive business planning tool

1. What's it about? refer to equality duties

- What is the proposal? What outcomes/benefits are you hoping to achieve
- Who's it for?
- How will this proposal meet the equality duties?
- What are the barriers to meeting this potential?

2. Who's using it? consider all equality groups

- What data/evidence do you have about who is or could be affected? (e.g. equality monitoring, customer feedback, current service use, national/regional/local trends)?
- How can you involve your customers in developing the proposal?
- Who is missing? Do you need to fill any gaps in your data?

3. Impact consider dimensions and equality groups

Using information in parts 1 & 2:

- a) Does the proposal create an adverse impact which may affect some groups or individuals? How can this be mitigated or justified?
> What can be done to change this impact?
 - b) Does the proposal create benefit for particular groups or individuals. Is it clear what this is? Can you maximise the benefits for other groups?
- Does further consultation need to be done? How will assumptions made in this assessment be tested?

4. So what?

- What changes have made in the course of this DIA?
- What will you do now and what will be included in future planning?
- When will this be reviewed?
- How will success be measured?

Considerations

Our equality duties

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity
3. Foster good relations

Equality groups

For the following equality groups: age, disability, sex, transgender, marriage/civil partnership, maternity/pregnancy, race, religion/belief and sexual orientation.

Extended by SBC policy to include: financial economic status, homelessness, political view.

Dimensions of equality

How will the proposal affect Human Rights and life chances of different groups? Consider how the proposal affects

1. Longevity.
2. Physical security.
3. Health.
4. Education.
5. Standard of living.
6. Productive and valued activities.
7. Individual, family and social life.
8. Participation, influence and voice.
9. Identity, expression and self-respect.
10. Legal security.

Q1 – Privacy Notice

Q2 Designation of streets

Swindon Borough Council has resolved pursuant to Section 3 of the Act that Schedule 4 shall apply to its district. The Council therefore has the power to designate any street within its district as a 'Prohibited Street' or a 'Consent Street' for street trading purposes. These are defined in the Act as:

"Prohibited Street" - a street in which street trading is prohibited.

"Consent Street" - a street in which street trading is prohibited without the consent of the district council;

In the current policy, the Council has resolved that all streets within the Borough of Swindon shall be consent streets for street trading purposes, save for those identified as prohibited streets on the plan of the town centre (see question 3).

The Council proposes to continue to designate all streets as consent streets for street trading purposes except those as identified in question 3. Do you agree with this proposal?

Yes

No

Unsure

Q3 The current Policy designates specific streets within the town centre under different consents as detailed in the plan below.

Do you agree with the area coloured green on the plan remaining a consent street for any activity?

Yes

No

Unsure

Q4 Do you agree that the area coloured pink on the map should remain as a consent street solely for markets?

Yes

No

Unsure

Q5 Do you agree that the area coloured red on the map should remain as prohibited for any Street Trading activities?

Yes

No

Unsure

Q6 If you have answered no to Question 5, which street (s) do you feel should no longer be listed as prohibited. Please select any that you feel should be considered as a consent street.

Regent Street

The Parade

College Street

King Street

Other - Further to your answers, please tell us whether you think these should be open to any activities or purely consent streets for markets.

Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Q7 Bridge Street is currently labelled as "under consideration" do you feel that this area should be:

Prohibited

Consent for any activity

Consent solely for market

Q8 Currently under section 3.6 of the Street Trading Policy, preference will be given to town centre markets in the following order:

A weekly general market

Markets offering local produce or craft items

Markets that show a link to existing shops and/or local produces

Markets with no local connection such as continental style markets.

The Council is proposing to remove these preferences and instead consider each application on its own individual merit, do you agree with this proposal?

Yes

No

Unsure

Q9 The Council is proposing amending the policy in respect of markets. The policy currently stipulates food sales are only allowed as additional to the stall holders main activity.

It is proposed that the Policy be amended to permit food sales / food festivals within any approved market in the town centre

Do you agree with this proposal?

Yes

No

Unsure

Q10 Currently individual traders are not allowed to operate within the town centre outside of markets. This is in part due to concerns around access and egress for the emergency services, deliveries and traders operating.

Following feedback from traders, the Council is including this element in the consultation. This is not intended to include individual food vans or food trailers.

Do you feel that this Policy should change in light of the above and if so, please indicate which streets they should be allowed to operate from.

No

Regent Street

Canal Walk

The Parade

Bridge Street

College Street

King Street

Havelock Square

If you feel this should be allowed, especially on those streets currently prohibited, please comment with your justifications.

Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Q11 Following on from the specifications in question 10; If you feel that individual traders should be allowed within the town centre outside of markets, should this be restricted to specified times of the year?

Please select from the following. NB you may select more than one option, for example "Restricted to Christmas" and "Easter"

Not restricted to specific times

Restricted to Easter

Restricted to Christmas

Restricted to Summer Holidays

Other (please specify)

Q12 The Council is considering the introduction of a policy that street traders are prohibited from being able to supply hot or cold food and drinks or confectionery between 07:30 and 18:00 within 200 metres of the boundary of a school or college. Do you agree with this policy?

Yes

No

Unsure

Yes but the distance should be less than 200 metres

Yes but the distance should be greater than 200 metres

Q13 Do you have any additional comments you would like to make regarding the Street Trading Policy? Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Q1 – Privacy Notice

Q2 Designation of streets

Swindon Borough Council has resolved pursuant to Section 3 of the Act that Schedule 4 shall apply to its district. The Council therefore has the power to designate any street within its district as a 'Prohibited Street' or a 'Consent Street' for street trading purposes. These are defined in the Act as:

"Prohibited Street" - a street in which street trading is prohibited.

"Consent Street" - a street in which street trading is prohibited without the consent of the district council;

In the current policy, the Council has resolved that all streets within the Borough of Swindon shall be consent streets for street trading purposes, save for those identified as prohibited streets on the plan of the town centre (see question 3).

The Council proposes to continue to designate all streets as consent streets for street trading purposes except those as identified in question 3. Do you agree with this proposal?

Yes	61.54% (8)
No	38.46% (5)
Unsure	0%

Q3 The current Policy designates specific streets within the town centre under different consents as detailed in the plan below.

Do you agree with the area coloured green on the plan remaining a consent street for any activity?

Yes	91.67% (11)
No	0% (0)
Unsure	8.33% (1)
Didn't Answer	1

Q4 Do you agree that the area coloured pink on the map should remain as a consent street solely for markets?

Yes	61.54% (8)
No	30.77% (4)
Unsure	7.69% (1)

Q5 Do you agree that the area coloured red on the map should remain as prohibited for any Street Trading activities?

Yes **23.08% (3)**

No **53.85% (7)**

Unsure **23.08% (3)**

Q6 If you have answered no to Question 5, which street (s) do you feel should no longer be listed as prohibited. Please select any that you feel should be considered as a consent street.

Regent Street **63.64% (7)**

The Parade **72.73% (8)**

College Street **36.36% (4)**

King Street **18.18% (2)**

Other - Further to your answers, please tell us whether you think these should be open to any activities or purely consent streets for markets. **90.91% (10)**

Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Additional Comments:

“The Parade and Regent Street for markets only. The part of Regent Street adjoining The Brunel should be excluded and remain prohibited, as it is too narrow and busy.”

“Food and Drink markets, plus public seating for adjacent restaurants, cafes, and coffee houses, but excluding alcohol unless served with food.”

“These streets should be open to any activities, specifically independent traders. However, it will obviously need management. Eg independent and specialist traders/not 2 or more of the same product being sold/diverse and local produce etc.”

“There are positions along these Streets which are more than suitable for Street trading. They have been previously used and more flexibility needs to be shown.”

“I think the town centre should be used for specific foods at specific times of the year. I have been bringing my swing grill in to the centre for 5 years and people know it's the start of Christmas when they see the swing grill. This brings colour in to the town centre and people stop and chat about Christmas makes a good atmosphere for the town centre.”

“Events planned to enhance the Town Centre by InSwindon BID.”

“Have the option there so that if the right proposal comes along you can accept it if it ticks all the boxes/run properly.”

Q7 Bridge Street is currently labelled as "under consideration" do you feel that this area should be:

Prohibited	7.69% (1)
Consent for any activity	38.46% (5)
Consent solely for market	53.85% (7)

Q8 Currently under section 3.6 of the Street Trading Policy, preference will be given to town centre markets in the following order:

A weekly general market

Markets offering local produce or craft items

Markets that show a link to existing shops and/or local produces

Markets with no local connection such as continental style markets.

The Council is proposing to remove these preferences and instead consider each application on its own individual merit, do you agree with this proposal?

Yes	69.23% (9)
No	30.77% (4)
Unsure	0% (0)

Q9 The Council is proposing amending the policy in respect of markets. The policy currently stipulates food sales are only allowed as additional to the stall holders main activity.

It is proposed that the Policy be amended to permit food sales / food festivals within any approved market in the town centre

Do you agree with this proposal?

Yes	100% (13)
No	0%
Unsure	0%

Q10 Currently individual traders are not allowed to operate within the town centre outside of markets. This is in part due to concerns around access and egress for the emergency services, deliveries and traders operating.

Following feedback from traders, the Council is including this element in the consultation. This is not intended to include individual food vans or food trailers.

Do you feel that this Policy should change in light of the above and if so, please indicate which streets they should be allowed to operate from:

No	23.08% (3)
Regent Street	61.54% (8)
Canal Walk	69.23% (9)
The Parade	69.23% (9)
Bridge Street	46.15% (6)
College Street	30.77% (4)
King Street	23.08% (3)
Havelock Square	61.54% (8)
Havelock Street	53.85% (7)

If you feel this should be allowed, especially on those streets currently prohibited, please comment with your justifications. **61.54% (8)**

Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Additional Comments:

“Markets should not be restricted to collectives/cooperatives acting as one business operation. Licensed sole traders should be allowed”

“The council in trying to address undesirable activity/traders have chucked the baby out with the bathwater. It has to become more flexible. An instance is where ice cream/donuts sold from a quality stall have gone down well at the Outlet shopping centre and across the country. Previous decisions have led to quality flower sellers disappearing due to lack of flexibility. Decisions need to be independent and not prejudiced.”

“I feel the street should be allowed to have markets other activity in shops closed in those streets not good for the town. If there was street trading it would help bring people back in to the town centre instead of shopping on line.”

The objective for InSwindon is to attract quality daytime, night, farmers, artisan markets to operate throughout the BID area. Current legislation and licence costs have been prohibitive in attracting the above as comparison is drawn to other Towns and Cities where Organisers operate.”

"I don't understand the question. It is referring to 'individual traders' but says this does not include 'individual food vans or food trailers' – who does it include?"

"These are wider areas where one or two small traders will not block access."

"Wherever is suitable on individual merit."

Q11 Following on from the specifications in question 10; If you feel that individual traders should be allowed within the town centre outside of markets, should this be restricted to specified times of the year?

Please select from the following. NB you may select more than one option, for example "Restricted to Christmas" and "Easter"

Not restricted to specific times	66.67% (8)
Restricted to Easter	16.67% (2)
Restricted to Christmas	8.33% (1)
Restricted to Summer Holidays	8.33% (1)
Other (please specify)	41.67% (5)
Did Not Answer	1

Additional Comments:

"Restricted to coincide with 'Themed' trading events and public holidays."

"Traders are aware when it is suitable for sale and they do not need to be limited by other ideas of suitable times."

"It should not be all year round it would go stale but keeping this to May 5 months of the year would work very well"

Q12 The Council is considering the introduction of a policy that street traders are prohibited from being able to supply hot or cold food and drinks or confectionery between 07:30 and 18:00 within 200 metres of the boundary of a school or college. Do you agree with this policy?

Yes	61.54% (8)	
No	15.38% (2)	
Unsure	15.38% (2)	
Yes but the distance should be less than 200 metres	7.69% (1)	
Yes but the distance should be greater than 200 metres	0% (0)	

Q13 Do you have any additional comments you would like to make regarding the Street Trading Policy? Please note we may summarise your answers, please ensure that only relevant information is included and do not include any personal information.

Yes 75% (9)

No 25% (3)

Additional Comments:

“There are certain times when you cannot walk down Regent Street without being accosted by somebody trying to sell you something. Nobody seems to be able to stop this, do they have a licence to do this? This and the amount of people cycling and skate boarding through these areas put a lot of people off even coming into the centre of town!”

“It is essential that the Council does all in its power to create a sense of vibrancy in the town centre to give reason to visit. It should have a team dedicated to promoting and managing themed events of all kinds.”

“In line with the Switch On to Swindon initiative and encouraging business’s and people back in the town centre – it is extremely important to ensure we are able to entice this footfall. Bristol/Reading and London have focused on small/independent traders/specialist food markets/local produce and sharing good local success. The Swindon town centre is unable to do this due to the Street Trading Policy. Even closer on our door step, Old Town specifically, welcome and encourage this type of independent and SME businesses along Wood Street, and the surrounding areas and regularly attract a busy and exciting crowd for all the events – for this reason. Thus making this area of the town a hotspot. Again, many locals flock to the Outlet Village on a Sunday to experience the local and ONLY food market in Swindon. With the rise in vegans and gluten free people this becomes another busy hotspot, thus detracting, once again, from the town centre. It would be extremely wise to look at what is going on in our neighbouring areas and town’s and understanding the trends of our society to ensure we as a town can adapt to it and are offering something other than food outlets to being in the town centre.”

“I believe Swindon has made the mistake of trying to get visual improvement and has lost out on atmosphere and variety. Change has to be introduced which does not prejudice alternative outcomes. An example is where charities have multiple ways of running stalls but are not geared to the restrictions of place. They need a scope to provide more than restricted spot for trade. A friend has told me that InSwindon use red tape to put off this things they do not want or people they do not want.”

“I’m hope this makes sense to you but every other town has something in at times of the year.”

“In Swindon BID welcomes the review of the current street trading policy and are supportive of the changes under review. The priorities should be to enhance the visitors’ experience of the Town Centre by offering unique and artisan style street trading. Thus raising the standards of traders, improving the shopping environment and experience whilst protecting the public. Whilst the BID on behalf of its members is in favour of not restricting street trading times, we would strongly request that restrictions and limitations are put in place around the types of street trading, trading duration and locations which we ask are discussed and agreed by the BID. We would further recommend that if the result of the consultation is in favour of the changes to the policy, that a full review of licence fees takes place as this also acts as a barrier to quality markets considering Swindon as an option.”

“The current policy includes areas which are not streets – eg Faringdon Park, Lidiard Park – it shouldn’t. If the event holder has the permission of the park. £37.50 for an individual licence for one event is prohibitive for small locally organised events and will kill them off. For those of us who have to buy multiple licences a year it really adds up – and the annual licence is way too much money. I’m talking for those of us who do 6 to 8 events per year. Event organisers should be able to buy an event licence which covers x traders rather than making everyone buy one individually. If you have 2 stalls at one event one licence should cover it.”

“The policy has not considered a reduction in street trading licence fees for the smallest traders who operate as part of food or cultural festivals. The current fee per trader of £37 is prohibitive for the smallest independent traders who may only attend seasonal fairs or family fun days, for example as part of the Old Town Festival. Where a large event like this is put on, it is currently possible for an entrance fee to be charged and for the enclosed ‘market’ to preclude the charging of a licence fee, but practically this is not always possible when there are multiple access points (eg on the Lawn for the Old Town Festival). This then requires even the smallest home businesses/sole traders to pay £37 for a licence for one day, which is a prohibitive cost for them. It would be very useful for the Council to consider rate reductions for sole traders or charities as part of certain types of event such as fetes and fairs.”

“Update all your paperwork so it is current when event organisers have to use your paperwork. The one day street trading application of £37 to killing of small independent traders at events when there is no admission charge. Food vendors are different – they often run it as a full time business and can pay that fee. Small independent can’t do that – changing this could really help encourage sustainable events in Swindon. Also inconsistencies between events in town – some being told they need the 1 day street trading licence, some being told they don’t.”

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