

Review of Street Trading Policy

Licensing Committee

Date: 17 April 2018

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Wards: All

Parishes Affected: All

1. Purpose and Reasons

To seek the agreement of the Licensing Committee to consider a review of the Street Trading Policy for Swindon Borough Council.

2. Recommendations

That the Committee:

- 2.1 Agrees to a review of the current Street Trading Policy with identified stakeholders; and
- 2.2 Agrees to a 12-week consultation exercise the results of which will be brought back to Committee for consideration, including any proposed amendments, prior to being endorsed 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 which 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 roundsman.
- 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:

Review of Street Trading Policy

Licensing Committee

Date: 17 April 2018

- 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 was introduced in 2013, became effective in 2014 and has not been reviewed since that time. The Policy 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'. The current Street Trading Policy is attached as **Appendix A**.
- 3.5 There are a number of individual 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. The current policy requires: -
- a. Street trading consents only be granted when their presence will enhance the qualities of vitality, success and reputation of the area as a place to do business
 - b. Street trading consents shall not normally be granted for hot food trailers and vans where it appears they will be used principally to save costs relative to competing cafes and takeaways
 - c. A presumption against siting 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 the policy.
 - d. Street trading consents may be granted for 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 Policy is unnecessarily restrictive in respect of frequency and duration of such markets. For example, only allowing sale of hot food as subsidiary to the main business of the stall.
- 3.7 It is proposed that a consultation exercise be carried out to seek views as to whether the Street Trading Policy is 'fit for purpose' four years on with specific consultation on:

Review of Street Trading Policy

Licensing Committee

Date: 17 April 2018

- designation of streets across the Borough including those identified as 'under consideration';
- The current restrictions on markets and their locations;
- Individual traders being able to trade within the town centre outside of a market which may be during identified times of the year. This is a specific request recently received from an individual who normally has funfair rides and associated sweets sales has previously been added on to the Christmas Market.
- The supply of hot or cold food and drinks or confectionery between 07:30 and 18:00 within 100 metres of the boundary of a school or college.

3.8 Consultation will take place with stakeholders including:

- Wiltshire Police
- Dorset & Wiltshire Fire & Rescue
- SBC Highways
- SBC Planning
- All other relevant departments of SBC
- All current consent holders
- In Swindon Bid Company
- Ward Councillors
- Members of the public via newspaper and website

4. Alternative Options

4.1 The Licensing Committee could choose not to agree to a review of the current 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

Review of Street Trading Policy

Licensing Committee

Date: 17 April 2018

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 will be prepared in respect of any reviewed policy.

5.5 Consultees

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

5.6 Background Papers

The Local Government (Miscellaneous Provisions) Act 1982

Current Street Trading Policy for Swindon

5.7 Appendices

Appendix A - Swindon Borough Council' Street Trading Policy 2013