

Request for a street trading consent within the Town Centre

Licensing Committee

Date: 27 September 2018

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Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 The Licensing Committee is asked to consider a request made by Mr Steven Hill to trade within the town centre over a five week period over the Christmas contrary to the current Street Trading Policy for Swindon Borough Council.
 - 1.2 The current Street Trading Policy is currently under review as agreed by Committee and the consultation ends on 19th October 2018. The results of this will be brought back to the Committee with the new recommended Policy for adoption.
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2. Recommendations

That the Committee:

- 2.1 Considers the application made by Mr Hill and determines whether it should deviate from its current Street Trading Policy which prevents individuals operating within the town centre unless they form part of a market. The current policy is attached as Appendix A. Should the Committee agree to Mr Hill's request the location of his trading would be identified by 'In Swindon'.

3.0 Detail

- 3.1 A request has been received by the Licensing Authority from Mr Steven Hill to trade Bratwurst and fairground rides within the town centre for 5 week period starting end of November 2018. Mr Hill has regularly traded over this period linked to the Christmas Market. However, this request is made as currently there is no certainty that a Christmas Market will go ahead.
- 3.2 There are ongoing discussions between an identified market provider and In Swindon with the aim of securing this provision and if successful Mr Hill will form part of this.

4.0 Background

- 4.1 Swindon Borough Council has resolved that Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982 applies to its area. Under this

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Schedule the Council can manage street trading by designating streets as consent streets, licence streets or prohibited streets.

- 4.2 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.
- 4.3 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:
- 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.
- 4.4 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**.
- 4.5 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. With regards to a temporary permission there is a daily fee of £37 for 'one off' traders but this 5 week period would be £100. 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

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- 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.

5. Alternative Options

- 5.1 The Licensing Committee could choose either to grant the request contrary to current policy or to refuse the request made.

6. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 6.1 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

- 6.2 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)

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

6.5 Consultees

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

6.6 Background Papers

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The Local Government (Miscellaneous Provisions) Act 1982

Current Street Trading Policy for Swindon

6.7 Appendices

Appendix A - Swindon Borough Council' Street Trading Policy 2013