

Consideration of Responses to the Review of Street Trading Policy Consultation

Licensing Committee

Date: 22 November 2018

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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

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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