

Review of Street Trading Policy

Licensing Committee

Date: 17 December 2018

Author: Kathryn Ashton - Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 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.
 - 1.2 On the 22 November 2018 the Licensing Committee considered the responses received following the consultation of the Policy and agreed proposed amendments to the current policy.
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2. Recommendations

That the Committee:

- 2.1 Agree to the amendments, as outlined below, being incorporated into the new Street Trading Policy to be endorsed by Full Council.
 - 2.1.1 No street trading involving food shall be permitted within 200metres of an educational establishment ;
 - 2.1.2 Removing the restriction of food stalls only permitted as ancillary to a market; (this will allow food festival and food markets within the area designated as markets only)
 - 2.1.3 There shall be a minimum of 4 stalls to constitute a market;
 - 2.1.4 The designated streets be amended such that those 'under consideration' become 'prohibited' save for markets.

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

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: KAshton@swindon.gov.uk

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- 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:
- 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 has been subject to full consultation over the last few months and is proposed that the new policy take effect in February 2019.
- 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 proposed policy will continue to prevent individual street traders within the town centre due to previous noise and odour issues of certain traders located ad hoc outside retail units. Any individual applications will be considered by Licensing Committee. The Policy does, however, continue to allow street markets specified as weekly farmers markets, themed markets and a Christmas market.
- 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.

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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

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 2018