

Telford & Wrekin Council

Licensing Committee – 14th January 2014

Review of the Council's Street Trading Policy, Conditions and Fees

Report of the Service Delivery Manager – Public Protection

1. Purpose

- 1.1 To inform Members of the proposal to amend the current Policy and Conditions in respect of Street Trading Consents and to approve a twelve week consultation with affected bodies.
- 1.2 To inform Members of proposed licence fees which are relevant to the proposed new policy.

2. Recommendations

- 2.1.1 That Members approve a twelve week consultation to amend the current Policy and Conditions in relation to Street Trading Consents.
- 2.1.2 That Members delegate authority to the Chair of the Licensing Committee and the Principal Licensing Officer to consider and determine the results of the consultation. If there are any significant comments made as a result of the consultation, then matters will be brought back to Members of the Licensing Committee for consideration.
- 2.1.3 That Members approve the proposed licence fees for implementation subject to the above consultation and a legal notice subsequently being advertised in the local newspaper.

3. Previous Minutes

- 3.1 There are no previous minutes for Members to consider.

4. Information

4.1 Background.

- 4.1.1 Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982. As a result, Telford & Wrekin Council, in

pursuant to Section 3 of the 1982 Act, has resolved to adopt Schedule 4 of the Act to control street trading within the Borough. Furthermore, the Council has resolved every street within Telford & Wrekin should be designated as a Consent street under the Act.

4.1.2 Street trading involves the sale and exposing or offering for sale, of any article in a street. Street includes any road, footway, or other area to which the public have access without payment and includes any part of a street.

4.1.3 Members should note that for the purposes of the Act, the following matters are not deemed to be street trading;-

- Trading by a person acting as a Pedlar under the authority of a Pedlars Certificate granted under the Pedlars Act 1871. A pedlar is a person who travels and trades on foot and cannot trade from a fixed location. Such certificates are issued by the Police Authority and not the local authority.
- Anything done in a market or fair, the right to hold which was acquired by virtue of a grant or acquired or established by virtue of an enactment or order.
- Trading as a news vendor.
- Selling items, or offering or exposing them for sale, as a rounds person.
- Trading which is carried on at a premises used as a petrol filling station, or is carried on at a premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.

4.1.4 Telford & Wrekin Council has approved conditions for street trading consent to control street trading. These conditions are attached as **Appendix A**.

4.1.5 In addition to the conditions there are Guidance Notes issued to applicants detailing the application process to obtain street trading consent. These are attached as **Appendix B**.

4.1.6 The Policy & Conditions applicable to street trading have not been reviewed for a considerable period of time and have been in place for over 15 years. As a result, the Licensing Service consider that it is appropriate to revisit the Policy and Conditions issued by the Council. Whilst the legislation governing street trading has not changed, the

Borough has seen a significant amount of new and re-development, which has resulted in a continuing increase in the number of street traders.

4.1.7 At the time of preparing this report, the Licensing Service currently issues two forms of street trading consent:-

30 Street Trading Consents for static sites.

25 Street Trading Consents for mobile units.

4.1.8 Telford & Wrekin Council issue static consents for units such as food catering trailers that operate from a designated fixed pitch.

4.1.9 Telford & Wrekin Council issue mobile consents for units such as ice cream vans and vans delivering sandwiches and snacks which are only stationary whilst conducting a sale.

4.1.10 All street trading consents are issued for a period up to one year and are renewed annually. Currently, Telford & Wrekin Council charge £300 for a street trading consent, and this is renewed at a cost of £280.

4.1.11 The Licensing Service receives a growing number of requests to provide day street trading consents. In addition, the Licensing Service has liaised with the Town Park Managers and Neighbourhood & Leisure Services, with an attempt to encourage the use of the Borough's open spaces. All parties are keen to provide a number of possible street trading sites within the parks.

4.1.12 It is evident that the failure to provide day street trading consents has been a barrier to a number of possible applicants, and the current fee structure approved by Members of the Licensing Committee could be considered as prohibitive. Members are asked to note that many licensing authorities do provide day consents and the Licensing Service believes that we should allow this provision.

4.1.13 The Licensing Service is fully aware that fees for street trading can only be charged on a cost recovery basis. In other words, the fees must reflect the actual cost to the licensing authority of the Officer time involved in administering the issuing of consents for street trading. As a result, the Licensing Service proposes to charge £60.00 for a day Consent (and an additional £18 per day up to one week).

4.1.14 The Licensing Service has now formulated a Policy Statement outlining the criteria applied before consent is granted and Conditions to be complied with. These are attached as **Appendix C & D** respectively.

4.1.15 To assist applicants, the Licensing Service has also provided an Information Pack for Street Traders. This is attached as **Appendix E**.

4.1.16 The Licensing Service will consult with all existing street traders. **Appendix F** lists other bodies that will be asked for their comments and views on the new Policy and Conditions for street trading.

5.2 Equal Opportunities

5.2.1 A Community Impact Assessment has been carried out on this review of Council's Policy and Conditions in respect of Street Trading and is attached at **Appendix G**.

5.3 Environmental Impact

5.3.1 The Licensing Service is fully aware that there may be an environmental impact as a result of this report. Additional Street Trading consents could possibly lead to a rise in littering. Members should note that any such impact will be addressed in the revised conditions which are attached to this report.

5.4 Legal Comment

5.4.1 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 allows councils to resolve that Schedule 4 of the Act apply to the licensing and consent regime.

5.4.2 Paragraph 8, Schedule 4 states that the council may charge such fees as considered reasonable for the grant or renewal of a street trading licence.

5.4.3 The consultation process enables consultees to make representations during the 12 week consultation period. All representations will be considered and any relevant representations made will be referred to the Licensing Committee. The Licensing Committee will consider all the evidence before it to enable them to make a reasoned decision.

5.5 Links with Corporate Priorities

5.5.1 This report has links to the following Corporate Priorities:

Protect and Create Jobs as a 'Business Supporting Winning Council'

5.6 Opportunities and Risks

5.6.1 In proposing this action the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However not all risks can be managed all of the time and some risks may not have been identified.

5.6.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.

- (i) The Financial risks to the Council in the event of a legal challenge to the change in Policy.

5.7 Financial Implications

5.7.1 Income totalling £15k was received in 2012/13 in respect of Street Trading Licenses with £12.9k received to date in 2013/14. Income generated from day licenses will be in addition to income received for annual licenses.

5.7.2 The charges for day licenses have been calculated based upon the recovery of staff costs associated with administering the licenses, including on costs, however they do not include overheads. Charges have been benchmarked against several other Local Authorities. Proposed charges are attached in the Street Traders Information pack at **Appendix E**. Benchmarking information is attached at **Appendix H**.

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6. Ward Implications

6.1.1 This report has implications for all wards in the District.

7. Background Papers

7.1.1 Equality Act 2010

7.1.2 Local Government (Miscellaneous Provisions) Act 1982.

7.1.3 T&WC Street Trading Policy

7.1.4 T&WC Street Trading Conditions.

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