

Telford & Wrekin Council

Licensing Committee – 24 March 2015

Street Trading Consent Policy & Conditions.

Report of the Service Delivery Manager – Public Protection

1. Purpose

- 1.1 To inform Members of the proposal to amend the current Policy & Conditions in respect of Street Trading Consents and to approve an eight week consultation with affected bodies.

2. Recommendations

- 2.1.1 That Members approve an eight week consultation to amend the current Policy & Conditions in relation to Street Trading Consents.
- 2.1.2 That Members of the Licensing Committee allow for 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.

3. Previous Minutes

- 3.1 LC13 Licensing Committee 14th January 2014.

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. 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 to control street trading.

4.1.5 In addition to the conditions, there are Guidance Notes issued to applicants to assist with the application process.

4.1.6 The current Policy & Conditions applicable to street trading was reviewed in January 2014. This review resulted in the Licensing Service introducing street trading *day* consents. This change was approved as the previous Policy did not allow for day consents, and if any businesses wanted to undertake trading for a day or weekend (e.g. Carnivals), then the only available opportunity would be for that business to apply for a full year's consent.

4.1.7 The Licensing Service was receiving a growing number of requests to provide Day Street Trading consents. In addition, the Licensing Service had 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 were keen to provide a number of possible street trading sites within the parks.

4.1.8 It was evident that the failure to provide day street trading consents was seen as 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.

4.1.9 At the time of preparing this report, the Licensing Service currently issues:-

30 Street Trading Consents for static sites.

25 Street Trading Consents for mobile units.

In addition, since the introduction of the new Policy in April 2014, the Licensing Service has approved and issued 8 street trading day consents.

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

4.1.11 Telford & Wrekin Council issue mobile consents for units such as ice cream vans and jiffy vans who are only stationary whilst conducting a sale.

4.1.12 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 (Members will note that revised fees are under consideration as part of the Review of Licence Fees Report)

4.1.13 Street trading day consents are issued for a period of up to 7 days at a cost of £60 for the first day and £18 for each additional day (Again Members will note that this fee is under consideration as part of the Review of Licence Fees Report).

4.1.14 However, since the implementation of the day consents, the Licensing Service has received concerns from organisers of events in the Borough. The concerns relate to the cost of the day consent, and the fact that each commercial trader is required to apply for the consent.

4.1.15 As a result, the Licensing Service has been exploring the benefits of introducing an 'umbrella' consent to cover a number of commercial traders at one event. A number of meetings have taken place with various organisers of large and popular events within the Borough, and

there is general consensus of a move towards the 'umbrella consent' consisting of a day consent for **up to 5 commercial traders limited to one specific event**.

4.1.16 Members should note that the Licensing Service would like to maintain the day consent for individual commercial traders. There is (and will continue to be) demand from traders to have a day consent in their own right.

4.1.17 In addition amendments are proposed to the existing conditions together with the addition of new conditions. A copy of the revised conditions to be consulted upon is attached as **Appendix A**, and amendments are highlighted in red.

4.1.18 After consultation with colleagues in Environmental Health, it is considered beneficial to look at introducing and amending some conditions for all our street trading consents. In particular, the Licensing Service would like to amend *Condition (O)* to state:-

'The Consent does not permit the sale or display for sale goods within 250 metres of any school, college or child nursery'.

4.1.19 Similarly, the Licensing Service would like to amend *Condition (h)* to state:-

- ***'The Applicant must comply with all relevant Food Safety Legislation and have in place a documented food safety management system to include a basic Food Hygiene (Level 2) Certificate. In addition, the applicant should have completed a Safer Food Better Business (SFBB) pack where applicable.***

4.1.20 As well as the above amendments, the Licensing Service would like to add the following conditions:-

- ***Trailers/Food Stalls must have suitable wash hand facilities, (such as running hot & cold water, bowls, soap and provision of paper towels) where applicable.***
- ***Trailers/Food Stalls must have a temperature probe to ensure the correct temperatures are maintained where applicable.***

4.1.21 Members should be aware that the above amendments and additional conditions have only been requested due to consultation with Environmental Health. The inclusion of these conditions is an important

element to ensure that the Licensing Service's key aim, that of public safety, is maintained.

4.1.22 Guidance Notes used to assist applicants have been modified and are attached as **Appendix B**, and again, amendments are highlighted in red.

4.1.23 The Licensing Service will consult with all current Telford & Wrekin licensed street traders. **Appendix C** lists other bodies that will be asked for their comments and views to the new Policy & Conditions for street trading.

4.1.24 All comments received from the consultation will be collated and viewed by the Licensing Service. It is proposed that the Chair of the Licensing Committee and the Principal Licensing Officer 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. Significant comments being those which would propose a change to the definition of, or removal of, the proposed policy and/or condition(s).

4.1.25 It should be noted that this report makes no reference to the fee structure proposed for issuing the new umbrella day consent. If approved this will be included in the 'Review of Licence Fees' Report and considered by the Licensing Committee. Members should note that amendments to street trading fees require a statutory 28 day consultation with members of the public.

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 D**.

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 has already been addressed in the 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 consultation period. All representations will be considered and any significant representations made will be referred to the Licensing Committee. The Licensing Committee will consider all the evidence before it to make a reasoned decision.
- 5.4.4 The decision that the Licensing Committee are being asked to make today must include the following in order to ensure fair, transparent decision making:-
- All members of the Licensing Committee taking part in this decision must read this report in its entirety including the recommendations and the appendices.
 - If any member of the Licensing Committee believes that any aspect of the report or document is ambiguous or requires further explanation then questions should be raised with those officers presenting the report before any decision is made.

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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 There are no financial implications as regards to this report.

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 1976.

7.1.3 Telford & Wrekin Council's Street Trading Policy

7.1.4 Telford & Wrekin Council's Street Trading Conditions.

7.1.5 EU Regulations 852/2004.

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