

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – POST IMPLEMENTATION REVIEW OF STREET TRADING POLICY 2016

COMMITTEE: LICENSING COMMITTEE

DATE: 11 APRIL 2018

AUTHOR: SENIOR LICENSING OFFICER

[S282]

1.0 ISSUE

1.1 To review and approve minor amendments to the Council's 2016 Street Trading Policy.

2.0 RECOMMENDATION(S)

2.1 That Members take note of the report and approve the minor amendments contained in paragraphs 4.10 (i) to (v) for immediate implementation.

3.0 BACKGROUND

3.1 The Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") allows local authorities to control street trading activities within their areas by designating streets as either consent streets, licence streets or prohibited streets. Where streets have been designated as consent or licence streets, a person wishing to trade in those streets can apply to the local authority for the necessary consent or licence (as appropriate). The local authority can place conditions on the grant of a licence or consent. Where a street has been designated as a prohibited street, then no street trading is permitted at any time.

3.2 In 2015 Members approved a resolution to re-designate all streets in the district as Consent Streets with the exception of the high speed A10, A11 and A14 trunk roads which were designated as Prohibited Streets. At the same time Members also approved a Street Trading policy to guide all parties on how to apply, manage and enforce the new scheme. These changes all came into effect on 1 April 2016.

4.0 SUMMARY

4.1 It has now been two years since the new designations and policy came into effect. The purpose of this report is to feedback to Members on how the new scheme has been working, and to ask Members to approve a few minor amendments to the policy to reflect changes which have occurred in the district in the past two years, and to modify a couple of points to help make the application process run smoother.

4.2 When the old system was in place Officers only authorised three street traders to trade in the district per annum, and the income from issuing these three street trading consents did not cover the costs of providing the service.

- 4.3 In addition to the above, Officers hadn't received a new application for a number of years, as the old scheme did not look to promote this area of licensing.
- 4.4 The following table illustrates the number of applications received in the year prior to adopting the new policy and the two years since the new scheme commenced:

Year	2014/2015	2016/2017	2017/2018
Annual Consent	3	10	12
Event Consents	0	19	9
Income	£2,220	£5875	£6230

- 4.5 The above table shows that the new scheme has been a success, with a significant increase in applications being received for annual static and mobile traders, as well as for one off street trading events.
- 4.6 Although the number of event consents has dropped in the present year when compared to the 2016/2017 period, the number of annual consents has increased. Event consents are very susceptible to variations much in the same way as the number of Temporary Event Notices under the Licensing Act 2003 fluctuates year on year, and is not something which is concerning Officers at this point in time.
- 4.7 The income now covers the cost of the service, and as a result the fees have not needed to be increased since they were established in 2016.
- 4.8 Although by and large the new scheme has been a resounding success, working with the new policy over the past two years has identified a couple of minor points which have made the application process more difficult than it needs to be, or suggest an inconsistency in practice. These are listed below:

- (i) The existing policy states applicants for annual consents must:
- Provide a Passport style photo endorsed as a true likeness by a person of professional standing.

This requirement has caused a lot of enquiries and delays. All applicants are required to submit ID documents to check that they have a right to work in the UK, Officers believe this requirement negates the need to have their photo endorsed.

- (ii) The existing policy fails to specifically mention the need to provide right to work documents even though the website and application forms do.
- (iii) The existing policy is not very clear on how consultations are carried out.
- (iv) The existing policy refers specifically to the Licensing Committee to be the determining Committee when objections are received. In all other licensing regimes the Licensing Sub-Committee is the determining committee.

4.9 In addition to the items mentioned in paragraph 4.8 above, in the period since the policy came into effect on 1 April 2016 occasions have arisen where Street Traders have made enquiries on applications for a static Street Trading licence without first seeking the consent of the landowner. For the avoidance of doubt, any Street Trader wishing to trade from a static pitch on an area of land, no matter where that area of land is situated, will need the written consent of the landowner as the granting of a consent does not constitute a consent to occupy the land.

For clarification and in order to avoid situations where licences are granted without the landowners knowledge or consent it is recommended that this policy clearly highlights the requirement for landowner consent to be sought, in writing, prior to the submission of an application for a static Street Trading licence.

4.10 As a result of the points raised in paragraph 4.8 and 4.9 above it is recommended that the following amendments are made to the existing policy:

(i) A new paragraph to be inserted under section 2.8 stating:

“The granting of consent to trade does not provide a right to occupy any land where consent to trade is obtained. The landowner retains the right to control the use of any land in their ownership”

(ii) A new paragraph to be inserted under section 4.1 stating:

“Street Traders wishing to trade from a static location in the East Cambridgeshire district area must obtain written permission from the landowner of where they are proposing to trade prior to submitting a street trading application.”

(iii) A new bullet point to be inserted under paragraph 4.8 stating:

“Where the proposed street trading is from a static position, written permission from the land owner of the proposed trading location.”

(iv) A new bullet point to be inserted under paragraph 4.8 and 4.29 stating:

“Proof of right to work in the UK.”

(v) All references to requiring a Passport photo to be endorsed shall be removed.

(vi) Paragraph 4.11 to be amended to the following to make it clear that different applications will be subject to differing levels of consultation:

“Before a Street Trading Consent is granted the Council will carry out a consultation process with various persons and groups. The scale of the consultation will be dependent upon the nature of the application, but may include the following organisations or persons:

(vii) All references to the Licensing Committee being the determining committee to be replaced with the words relevant Committee.

4.11 Point (iv) above will enable either the Licensing Committee or the Licensing Sub-Committee to determine applications with objections as is the case with all other application types, subject to compliance with the Council's constitution.

5.0 CONCLUSION

5.1 The decision to re-designate the streets in the district, and create a new policy has been very successful. It has enabled officers to control street trading whilst at the same time enabling more legitimate traders to commence trading. The budget deficit for this area of licensing has been resolved and when called upon Members have been able to use the policy to guide their decision making process.

5.2 All policies are live documents, and the minor amendments suggested are simply the result of working with the policy in the real world. The small number of suggested amendments and the nature of the suggested amendments illustrates how effective the initial document has been.

6.0 FINANCIAL IMPLICATIONS

6.1 The proposed changes in this document will not cause a detrimental impact on any consent holder, and so no consultation is considered necessary. Due to this there are no financial implications other than Member and Officer time which is already budgeted for.

6.2 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community if Members follow the Officer recommendations.

7.0 APPENDICES

7.1 Appendix 1 Draft amended Street Trading Policy 2018

7.2 Appendix 2 Equality Impact Assessment (EIA)

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Local Government (Miscellaneous Provisions) Act 1982	Room SF208 The Grange, Ely	Stewart Broome Senior Licensing Officer (01353) 616477