

Licensing Committee Report
Report of the Licensing Team Leader
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Street Trading Policy

Executive Summary

The Council is the Licensing Authority for Street Trading under the Local Government (Miscellaneous Provisions) Act 1982.

Following the Licensing Committee resolution on 17 January 2018 to designate all streets within the Borough as 'consent' streets in order to improve control over street trading, this report seeks approval from the Licensing Committee on an updated Street Trading Policy for the Guildford Borough following public consultation.

Recommendation to Licensing Committee

That the Committee adopts the new Street Trading Policy 2018 -2023 with effect from 27 March 2018.

Reasons for Recommendation:

To improve control of Street trading in the Borough by recommending the adoption of an updated Policy covering street trading.

1. Purpose of Report

- 1.1 The report informs the Committee of the results of the public consultation to the proposed changes to the Council's Policy concerning Street Trading in the Borough.
- 1.2 It asks the Committee to approve the new Street Trading Policy in Appendix I.

2. Strategic Framework

- 2.1 The Street Trading Policy balances the right of an applicant to make an application under the Local Government (Miscellaneous Provisions) Act 1982 to

trade in the Borough, and to have the application considered on its merits; against the right of any person to live in the Borough without being disturbed by the trading activity, and the rights of established businesses to continue trading creating a vibrant local economy.

- 2.2 An appropriate balance will help businesses to develop successfully whilst providing assurance to the public and existing traders.
- 2.3 The Policy will assist applicants to identify suitable trading locations, and provide guidance to enable the Council to make consistent decisions when determining applications.
- 2.4 As such, updating the Street Trading Policy will contribute to our fundamental themes and priorities as follows:

Our Borough – ensuring that proportional and managed growth for future generations meets our community and economic needs

Our Economy – supporting business, growth and employment

Our Environment – improving sustainability and protecting our countryside, balancing this with the needs of the rural and wider economy

3. Background

- 3.1 Street Trading is defined as the selling (or exposing or offering for sale) of any article in a street or other area where the public have access without payment.
- 3.2 Under the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, (the Act) a Local Authority may designate streets within its district as “consent” streets or “prohibited” streets in order to control street trading.
- 3.3 The Council’s [current street trading policy](#) was approved in November 2008 and is due for review, as it does not offer comprehensive guidance on the application process, the criteria used to determine applications, or the assessment of suitable street trading sites. Similarly, the current conditions are replicative and out of date.
- 3.5 Additionally, on the 17 January 2018 the Licensing Committee resolved to designate all streets within the Borough as ‘consent’ streets in order to improve control of street trading. A policy update is therefore required to reflect this change.

4. Proposed Changes

- 4.1 On the 27 September 2017, Licensing Committee considered a report and agreed the draft Street Trading Policy for public consultation.

- 4.2 The report detailed that the proposed changes to the policy would improve the consultation process for any new application where representations, including from the public, existing business groups, and members will be taken into account, ensuring any new application meets local needs.
- 4.3 The changes would also provide protection to existing retail traders and security to consent holders, as any new trader will have to apply to the Council for permission to trade; thus ensuring that traders will be regulated to protect the public across the Borough, with appropriate quality street trading concessions in the right location enhancing the local environment.
- 4.4 In dealing with a street trading application, there is no appeal mechanism for a refused application. However, the draft updated Policy details that any contentious application could be referred to the Council's Licensing Regulatory Sub-committee, who will consider the application on its merits.
- 4.5 The draft policy recognises that any trading may fall within the scope of requiring regulation, including trading at events held in the Borough. The draft policy recognises the difference in size and type of event, and recommends that incidental trading at community/charitable events will be subject to an administrative charge only to authorise trading activities.

5. Consultation

- 5.1 Consultation is critical to ensure any changes to the Street Trading Policy are clear and transparent for businesses, responsible authorities and the public.
- 5.2 On 27 September 2017, the Committee approved consultation on the draft Policy, with the proposed changes subject to a 12-week consultation period, which ran from 27 October 2017.
- 5.3 Officers carried out the consultation, ensuring we consulted with all interested consultees by:
- Writing to the responsible authorities listed in the draft Policy
 - Writing to the occupier of railway land
 - Writing to people representing the interests of persons carrying on businesses in Guildford
 - Writing to persons who are current street trading consent holders
 - Publicising the consultation on the Council's website
 - Using social media to inform the public of the consultation and direct them to the website.
- 5.4 An online questionnaire was set up to collate responses, although had any written responses received then these would have been considered.
- 5.5 A total of ten (10) consultation responses were received, with the anonymised results presented in Appendix II to this report.

- 5.6 Out of the ten (10) responses, five (50%) described themselves as members of the public; two (20%) described themselves as a 'responsible authority' with one identifying themselves as Environmental Health although the other did not identify themselves; one (10%) described themselves as a current street trading consent holder; one (10%) described themselves as an established business in Guildford; and one described themselves as 'other', identifying themselves as Worplesdon Parish Council.
- 5.7 The first question on the online questionnaire asked respondents if they considered whether the criteria listed in the draft policy (section 2.4 on page 5) used to determine applications were relevant and necessary. Of the ten responses, nine agreed that they were. The one respondent who disagreed offered no further explanation as to their answer.
- 5.8 The next questions concerned the list of consultees for street trading applications in the draft policy (section 2.2 on page 5) and asked if respondents agreed with the list of consultees and whether any should not be included, or any other consultees should be included. Nine out of 10 respondents agreed with the list of consultees. The one respondent who disagreed offered no further explanation as to their answer. With regard to other consultees, which should be included, the following two suggestions were made:
1. "Street trading consent Holders located nearby" (A current street trading consent holder)
 2. "In some parts of the town there are Community Groups" (Responsible Authority, Environmental Health)

In response to these suggestions, Officers would advise as follows:

1. The draft policy details that part of the criteria used to determine an application will be the character of the area, including the presence of similar outlets, and general needs of the area. Each application should be considered on its merits.
 2. The draft policy details that the appropriate ward councillor and parish council would be consulted on an application; and it is anticipated that this should ensure that any local views are accounted for.
- 5.9 The consultation asked respondents for views around street trading at events, particularly community focussed events which was a concern arising during the consultation on the new street trading resolution.

Respondents were asked whether they felt it justified to adopt a 'light touch' policy of regulating street trading at events of a community/charitable nature. Out of the ten (10) responses, eight (80%) agreed, and two did not.

- 5.10 The respondents were asked what they felt a reasonable fee would be to authorise street trading at a community/charity event. The relevant answers received were as follows:

£Administrative costs

£5

£10 – or charges to cover administrative costs to the Council

£20
£25
£70
£100

Whilst Street Trading Fee setting is not a decision for the Licensing Committee, fees and charges for 2018/19 were set by Budget Council on 7 February. A fee of £25 to cover the cost of administering street trading at community/charitable events has been proposed for 2018/19, which was based upon the fee for a Temporary Event Notice under the Licensing Act. In future years, officers can use time recording data to set fees.

5.11 Respondents were asked if they had any other comments relating to trading at events. The following additional comments were received:

1. Any charge made for a charitable/not-for-profit event should be enough to cover the administrative costs by the Council but not to make a profit. (A member of the public)
2. The Parish Council should be consulted prior to the Borough Council making any decisions about trading licenses within the Parish without exception. (A Parish Council)

In response to these suggestions, Officers would advise as follows:

1. It is well established in law when setting a licence fee that the Council cannot make a profit and must only cover its costs.
2. The relevant ward councillor and parish council are listed as consultees in the Policy.

5.12 The last set of questions concerned the conditions in the draft policy (Appendix I on page 10) and asked if respondents agreed with the list of proposed conditions. Out of the ten (10) responses, eight (80%) agreed, and one did not and one respondent did not answer. Of the one respondent who did not agree with the list of conditions (an unidentified 'responsible authority'), no further comments were received in order to explain their answer.

Respondents had the opportunity to comment on the draft conditions, and propose additional conditions. Two further sets of comments were received:

1. "To consult with existing street traders in the Borough"; and "for Street traders to have a distance limit between trading if they intend to sell the same items". (A current street trading consent holder)
2. "I do think it seems unfair to prevent street traders from participating on days when there are other town events. They should also be invited to participate on such days" and "That traders selected do not just end up replicating each other with their products". (Member of the public)

In response to these suggestions, Officers would advise as follows:

1. Whilst not conditions, the respondent believes that existing street traders should be consulted on applications, and that there should be a distance between traders with the same offering, presumably to prevent competition. The draft policy identifies the decision making criteria and consultees for applications.

The aim of the policy is to promote safety and local business, not to monopolise trading, but at the same time create a balance between the needs of an area and a person's desire to trade. Officers believe that the proposed criteria used to determine applications in section 2.4 of the policy, and that each application will be treated on its merits should be sufficient.

2. There is a proposed draft condition that traders would not be permitted to trade on days where an event is taking place in the town centre. The reasoning behind this proposal is to ensure that any event to the wider benefit of the community would not be disrupted by trading, for example, where a street trading consent on the high street would prevent access for an event.

- 5.13 The final question allowed respondents to make any further comments. One additional comment was received from a member of the public, who commented that:

“Attention should be given to resolving unauthorised street trading such as the kebab vans on Egerton Road Guildford”

This concern has already been overcome by the decision to adopt all streets as consent streets from 1 April 2018.

- 5.14 To summarise, the consultation indicated strong agreement with the criteria used to determine applications in the draft policy, and strong agreement with the list of consultees. The consultation indicated strong agreement with taking a light touch approach towards trading at community/charity events, which would fall within the scope of street trading. The consultation indicated strong agreement with the list of draft conditions.
- 5.15 Officers therefore recommend that the Council should proceed with the adoption of the draft Street Trading Policy, with no amendments to the version consulted upon.

6. Financial Implications

- 6.1 The financial implications associated with the recommendation to approve the draft Street Trading Policy can be financed from the Licensing budget.
- 6.2 The cost of administering the scheme can be recovered through street trading fees, which are reviewed annually. The fees must be set at a level to recover the cost of the scheme and cannot be used to raise income.

7. Legal Implications

- 7.1 There is no requirement to have a Street Trading Policy; however, it is good practice for the Council, as a licensing authority, to have a policy, which provides the framework for consistent decision-making.

8. Human Resource Implications

- 8.1 The human resource implications associated with adopting a new Street Trading Policy can be managed within the current licensing resource.

9. Conclusion

- 9.1 Updating the Street Trading Policy will allow the Council to improve control of Street Trading in the Borough.
- 9.2 Following consultation, the Officers recommend that the Licensing Committee adopt the revised Policy at Appendix 1.

10. Summary of Options

- 10.1 After considering the results of the public consultation, the Licensing Committee may either:
1. Adopt the updated Street Trading Policy for the Guildford Borough at Appendix 1; or
 2. Adopt the Street Trading Policy at Appendix 1 with amendments; or
 3. Continue with the current Street Trading Policy.

11. Background Papers

[Guildford Borough Council Street Trading Policy and list of consent and prohibited streets, adopted 2008.](#)

[Local Government \(Miscellaneous Provisions\) Act 1982, Schedule 4 – Street Trading](#)

[Minutes of Licensing Committee 17 January 2018](#)

12. Appendices

Appendix I: Street Trading Policy
Appendix II: Consultation Responses Received