

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

Executive Summary

The Council is the Licensing Authority for Street Trading under the Local Government (Miscellaneous Provisions) Act 1982. In November 2008 the Licensing Committee adopted a Street Trading Policy and designated a list of streets in the Borough as “consent” or “prohibited” streets in order to control Street Trading.

This report seeks approval from the Licensing Committee to designate all streets in the Borough as “consent” streets in order to improve control of Street Trading and to rescind the existing designation.

The designation process is prescribed in law, and following consultation, a further report will be presented to the Licensing Committee on 17 January 2018 to consider any objections received and to pass the necessary resolution.

Recommendation to Licensing Committee

That the Committee approves the draft Street Trading resolution for consultation, and instructs officers to carry out the statutory consultation process.

Reasons for Recommendation:

To follow the statutory process necessary to change the Council’s Street Trading resolution, and to allow for any representations to the proposed resolution to be made and subsequently considered.

1. Purpose of Report

- 1.1 The report informs the Committee of the proposed changes to the Council’s Street Trading resolution.

- 1.2 It asks the Committee to approve a public consultation exercise on the proposed draft Street Trading resolution in Appendix I.

2. Strategic Framework

- 2.1 Street Trading 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 An updated resolution will enable the Council to manage street trading across the Borough in areas where currently no control exists.
- 2.4 As such, updating the Street Trading resolution 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 existing street trading resolution was passed on 29 July 1987 and designates a number of streets, predominantly in the town centre, as either consent or prohibited streets. The [current street trading policy](#) was approved in November 2008
- 3.4 Whilst street trading is relatively well controlled in the town centre, the Council has no control in other areas where it has not designated a street as either a consent or prohibited street. This can result in the Council being unable to effectively respond to complaints associated with trading in areas where no provisions exist.

4. Proposed Changes

- 4.1 It is proposed to extend the street trading consent scheme to designate all streets in the Borough as “consent” streets. This means that no trading in any area of the Borough would be permitted without the consent of the Council. This is a common approach in other Local Authorities.
- 4.2 The extension of the Street Trading Scheme is achieved through the Council passing a resolution, and publishing a notice. An updated Policy covering Street Trading is the subject of a separate report to the Committee.
- 4.3 Extending the scheme and updating the Policy will allow the Council to have control over all street trading in the Borough. Whilst there will be a small additional increase in administration and cost to a business wishing to trade on the street in an area previously not covered, the scheme will provide a number of benefits which outweigh this:
- This policy will 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.
 - There will be a consultation process for any new application where local representations, including from the public, existing business groups, and members will be taken into account, ensuring any new application meets local needs.
 - Traders will be regulated to protect the public across the Borough.
 - High quality street trading concessions in the right location will enhance the local environment.
 - A resolution designating all streets means that as streets evolve during redevelopment, the Council retains control without having to revisit the list of consent streets.
- 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 would consider the application on its merits.
- 4.5 In updating the resolution, it is recognised that any trading would 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 may be subject to an administrative charge only to authorise trading activities.

5. Consultation

- 5.1 The Act specifies the process for designating consent streets. In order to designate all streets in Guildford Borough as consent streets, the Council must publish in a local paper a notice stating its intention to pass a resolution to do so. A copy of the resolution must be served on the police and highways authority. A period of at least 28 days must be given for representations to be made. The Council must consider any representations before passing the resolution. Once the resolution has been passed the Council must publish notice that the resolution has been passed in two consecutive weeks in a local paper. The first publication must be not less than 28 days before the date specified in the resolution for the designation to come into force.
- 5.2 Consultation is critical to ensure any changes to the Street Trading resolution are clear and transparent for businesses, responsible authorities and the public.
- 5.3 If the Committee approves the draft resolution, we will follow the consultation requirements as set out in the Act. In addition, we also intend to consult with all interested persons by:
- Writing to or emailing the responsible authorities listed in the draft Policy
 - Writing to or emailing those people representing the interests of persons carrying on businesses in Guildford, or persons who may be affected such as current consent holders
 - Publicising the draft resolution on the Council's website
 - Using social media to inform the public of the consultation and direct them to the website.
- 5.4 Following the end of the consultation period, a further report detailing any representations received will be brought to Licensing Committee on 17 January 2018.

6. Financial Implications

- 6.1 The financial implications associated with the designation of all streets in the Borough as consent streets can be financed from the Licensing budget.
- 6.2 The cost of administering the street trading 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 The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 sets out the process for designating consent streets and rescinding the existing street trading resolution. The process is set out in paragraph 5.1 above and must be followed.

- 7.2 A further report will be brought to the Licensing Committee following the publication of the notice of intention to pass the resolution, so that the Committee can consider any representations and pass the resolution if considered appropriate.

8. Human Resource Implications

- 8.1 There will not be any additional human resource implications associated with the consultation exercise.

9. Conclusion

- 9.1 Extending the current Street Trading scheme across the Borough, and updating the Street Trading Policy would allow the Council to improve control of the Street Trading offering in the Borough.
- 9.2 The necessary designation process to amend the list of consent streets will be followed.

10. Background Papers

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

11. Appendices

Appendix I: Draft Street Trading Resolution