

Licensing Committee Report

Ward(s) affected: all

Report of the Head of Health and Community Care Services

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Date: 17 January 2018

Street Trading Resolution

Executive Summary

The Council is the Licensing Authority for Street Trading under the Local Government (Miscellaneous Provisions) Act 1982 ("the Act"). In 1987 the Council designated a list of streets in the Borough as "consent" or "prohibited" streets in order to control Street Trading. The Licensing Committee approved the current Street Trading policy in November 2008.

On the 27 September 2017 the Licensing Committee approved public consultation on a draft resolution 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 the Licensing Committee must consider any representations received and may pass the necessary resolution.

Recommendation to Licensing Committee

That the Committee approves the Street Trading resolution at Appendix 1.

Reasons for Recommendation:

To improve control of Street trading in the Borough by designating all streets in the Borough as consent streets.

1. Purpose of Report

- 1.1 The report informs the Committee of the results of the public consultation on the proposed Street Trading resolution.
- 1.2 It asks the Committee to approve the proposed draft Street Trading resolution set out in Appendix 1.

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, 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 respond effectively to complaints associated with trading in areas where no provisions exist.
- 3.5 Furthermore, a number of streets in the town centre are designated as prohibited streets, where no trading is permitted. As the town has evolved, these streets, such as Tunsgate, would now make potentially suitable trading locations.

4. Proposed Changes

- 4.1 On 27 September 2017, the Licensing Committee agreed to publish notice of intention to pass a draft street trading resolution 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.
- 4.2 A further separate report to the Committee on 27 September 2017 also presented a draft, updated Policy covering Street Trading on which the Committee agreed to undertake a public consultation. The draft Policy is being consulted upon until 19 January 2017, with the results of the consultation due to be presented to Licensing Committee on 26 March 2018.
- 4.3 The report explained that 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:
- The 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.
 - Appropriate 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 The report also recognised that in updating the resolution, 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 follow the necessary process to designate all streets in Guildford Borough as consent streets, following approval from the Licensing Committee on 27 September 2017, the Council published a notice in a local paper on 27 October 2017 stating its intention to pass a resolution to do so. A copy of the resolution was served on the police and highways authority as also required. The notice invited views on the proposed changes and gave a period of 28 days for representations to be made.

- 5.2 In addition to the statutory notices, officers also consulted with all interested persons 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 draft resolution on the Council's website
 - Using social media to inform the public of the consultation and direct them to the website.
- 5.3 A total of six consultation responses were received to the draft resolution. These were all received via an online questionnaire set up to collect consultation responses. The anonymised results of the consultation are included in Appendix 2 to this report.
- 5.4 Out of the six (6) responses, four (4) described themselves as members of the public, one (1) described themselves as a 'responsible authority' although this response may not be genuine as they identified themselves as "gjhkgjkhg"; and one described themselves as 'other' giving further details that they were the Chair of Guildford Pubwatch.
- 5.5 Out of the six responses, half (3) agreed with the proposal to designate all streets in the Borough as 'consent' streets. These were two members of the public, and the 'other person' who identified themselves as the Chair of Guildford Pubwatch. Half (3) disagreed with the proposals. These were the unidentified 'responsible authority', and two members of the public.
- 5.6 Four (4) sets of additional comments were received from the six (6) respondents. These comments were:

No:	From:	Agree/disagree with proposal	Comment:
1.	Member of the public	Agreed	Does this cover buskers on the high street? They add so much to the character of the town I would not want them to disappear
2.	Chair of Guildford Pubwatch	Agreed	As a control of street trading but not I am assuming that it will not lead to an increase of street trading at optimum times to the detriment of existing rate paying businesses.
3.	Member of the public	Agreed	All traders should be licensed and in a place not blocking access or preventing window shopping. Folk who sleep rough and beg should be helped to suitable accommodation not camping in doorways. Food on display needs to be covered. I've seen wasps

No:	From:	Agree/disagree with proposal	Comment:
			eating food in the Tunsgate so did not buy
4.	Member of the public	Disagreed	Many organisations eg local WI are involved in fairs and bazaars to raise funds and awareness the changes proposed would make the events sadly untenable in many cases. Too much red tape.

- 5.7 In response to the four sets of additional comments received, officers would advise as follows:
1. The changes to the street trading resolution do not affect busking on the High Street.
 2. The changes to the street trading resolution, in addition to updating the Policy would enable more effective control of street trading across the Borough. The draft policy recognises the need to create a balance between the right of a person to apply for a consent, against the current established business offering.
 3. The changes to the street trading resolution would enable more effective control across the Borough on matters such as siting of stalls or compliance with legal requirements, which would be conditioned on consents.
 4. It is recognised that any changes to the street trading resolution may have the effect of including trading at fairs within the scope of control. Some trading may fall within the exemptions in the Act therefore each case will need to be considered on its merits. The draft policy recognises the need to support trading at events of charitable or community significance. Any organisation wishing to sell goods for a charitable cause may fall within the 'street collection' licensing regime, rather than street trading regime and may apply for a permit to sell goods for a charitable purpose, without charge, under powers available to the Council under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
- 5.8 The Council must consider the representations received (detailed in Appendix 2) before deciding whether to pass the resolution. The draft resolution is at Appendix 1. The resolution must specify the date the designation will come into effect, which must not be before the expiration of one month from the date the resolution is passed.
- 5.9 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. Officers recommend that if the Committee resolves to pass the new resolution, that this is effective from 1 April 2018 which would allow sufficient time to place the necessary advertisement, and to allow the 2018/19 fees and charges to take effect.

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 section 5 above and must be followed.
- 7.2 This report details the six consultation responses received following the publication of the notice of intention to pass the resolution. The Committee must consider the representations and pass the resolution if considered appropriate.

8. Human Resource Implications

- 8.1 The human resource implications associated with passing the resolution can be managed within the current Licensing resource.

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 has been followed and the Committee must consider the consultation responses received before deciding to pass a new Street Trading Resolution.

10. Summary of Options

- 10.1 Having considered the consultation responses, the Licensing Committee can either:
 - 1. Decide not to amend the current resolution.
 - Or
 - 2. Resolve to pass the new resolution consulted upon.

11. Conclusion

- 11.1 The statutory process for updating the Council's designation has been followed.
- 11.2 Updating the list of designated streets to include all streets across the Borough as 'consent' streets would improve the Council's control of street trading.

12. Background Papers

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

[Local Government \(Miscellaneous Provisions\) Act 1982](#)

13. Appendices

Appendix 1: Street Trading Resolution

Appendix 2: Consultation Responses Received