

***PART A**

Report to: Licensing Committee
Date of meeting: 26th September 2018
Report of: Head of Community and Environmental Services
Title: Continuation of the interim town centre street trading policy until 31st December 2021

1.0 Summary

1.1 In July 2014, Members agreed on an interim town centre street trading policy which ran until September 2015, in The Parade, to complement the Big Events programme. Apart from the purpose of regenerating The Parade area this was also adopted to support a few micro-businesses and small to medium enterprises to add quality and value to the events.

1.2 The policy was set up as an interim measure to gauge support and feasibility of street trading in the town centre which ties in with the Big Events programme and complements the market offer. In September 2015 Members agreed to make the policy more permanent, and, with a few amendments, it was extended until 31st December 2018. The current town centre street trading policy is shown in Appendix 1.

1.3 At the 25th June 2018 Licensing Committee Members agreed to extend the policy with some minor amendments until 31st December 2021 subject to the results of a public consultation.

1.4 Members are now being asked to consider the results of the public consultation and approve the final policy.

2.0 Risks

2.1

Nature of Risk	Consequence	Suggested Control Measures	Response (Treat, tolerate, terminate,	Risk Rating (the combination of severity and
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			transfer)	likelihood)
Not implementing the policy	The Parade would revert to a Prohibited Street and no commercial street trading would be permitted at any event	Ensure policy is properly implemented by 31 st December 2018	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the Courts	Carry out consultation in accordance with the Government's published principles of consultation	Treat	2

3.0 **Recommendations**

- 3.1 That the Committee approve the town centre street trading policy 2018-2021 as attached at Appendix 2.
- 3.2 That the Head of Community and Environmental Services be given delegated authority to make minor amendments to the policy in consultation with the Chair of the Licensing Committee.

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Report approved by: Alan Gough, Head of Community and Environmental Services

4.0 **Detailed proposal**

- 4.1 The council has powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading within the Borough. Streets may, with the agreement of the highways authority, be:

(1) prohibited streets, where no street trading activities may take place

- (2) licence streets, for formalised street markets
 - (3) consent streets, for more irregular and ad-hoc trading
 - (4) undesignated streets, where trading may take place without restriction.
- 4.2 Street trading means offering for sale or selling any goods (including living things) but not the offer or sale of services. Therefore offering or selling balloons, food, jewellery or DVDs would be within this definition, but not offering or selling television subscription or car breakdown membership subscriptions.
- 4.3 There are a number of exemptions to the street trading controls. These include:
- (1) sales of newspapers and periodicals
 - (2) sales by holders of pedlar's certificates
 - (3) sales for charitable purposes where a street collection permit has been issued
 - (4) sales at pavement cafes licensed under the Highways Act 1980 and
 - (5) sales by a roundsman
 - (6) trading as part of a charter market.
- 4.4 Generally speaking the council's current policy is that all streets outside of the town centre are designated as 'consent' streets where prior permission is needed to trade from within 10 metres of the roadway. Major roads within the Borough such as the A405, A41, A411 and part of the A412 are generally designated as prohibited streets.
- 4.5 Within the town centre, the High Street and roads leading from the High Street are designated as prohibited streets as is Albert Road South. St Mary's Square and The Parade are designated as consent streets. In the case of The Parade, this has been restricted since 1984 to non-commercial trading. In the case of St Mary's Square any commercial trading was limited to street markets organised by the council but only for a one-year trial in 2006 – 2007.
- 4.6 To avoid confusion it should be made clear that this policy does not impact or regulate operations of the charter market, which operates separately. In addition, it does not impact on non-commercial street trading activities in the Town Centre.
- 4.7 Under the current town centre street trading policy, a maximum of six street trading consents are issued at any one time to coincide with events and activities associated with the Big Events programme. The consents are granted for a day at a time and are time-limited to coincide with the operating times of the events or activities within The Parade.
- 4.8 When agreed by members in 2015 the policy included provision for this aspect of it to be extended to other events approved by the Council and organised by members of the cultural leaders group, the Town Centre Partnership and One Watford partners. No events have been held under this part of the policy.
- 4.9 The maximum of six street trading consents agreed in 2015 was an increase from the

maximum of four that was specified in the 2014 interim policy.

- 4.10 A maximum number of trading consents was specified to limit the amount of competition that traders at events such as the Big Beach would offer to existing businesses and market traders in the Town Centre.

5.0 Consultation

- 5.1 The scope of the consultation was agreed at Licensing Committee on 25th June 2018. It was carried out between 6th July 2018 and 17th August 2018. Although this was a week later than planned the length of the consultation period remained unchanged.
- 5.2 The consultees are listed in Appendix 3. Members may wish to note that 470 residents were written to, along with the 11 holders of existing commercial street trading consents issued by the council.

Details of the consultation were placed on the council website and a public notice was placed in the Watford Observer on 6th July 2018.

- 5.3 As agreed at the June committee the consultation focussed on four main issues:

- 5.3.1 Whether the policy should be amended to allow a number of commercial street trading consents to be issued to coincide with events run by other organisations such as the Business Improvement District (BID).
- 5.3.2 Whether the maximum number of 6 consents per events should be increased to give flexibility when planning events such as the Big Beach, based on previous feedback from Section Head (Culture and Play).
- 5.3.3 Whether the policy of only issuing consents for one day at a time should be reviewed.
- 5.3.4 Whether consents should only be issued to food businesses that have a food hygiene rating of four or above.

Consultation feedback

- 5.4 Fifty-six online consultation responses were received, as well as four direct submissions, broken down as follows:

Resident	27
Local business	3
Local community group or organisation	2
Council partner / stakeholder	4

5.5 The key responses that are relevant to the development of the policy are shown in Appendix 4. Analysis of the submissions in the key areas of the consultations suggests the following:

5.5.1 Whether the policy should be amended to allow a number of commercial street trading consents to be issued to coincide with events run by other organisations such as the Business Improvement District (BID).

The clear message from the responses is that commercial street trading in this area should not be limited to occasions when Big Events are happening. It is still important to retain some control over the quality frequency and duration of commercial street trading so that it does not become ad-hoc and the Town Centre become cluttered. It is therefore proposed that the policy be amended to include a mechanism for the Head of Community and Environmental Services to approve appropriate events for which the policy will apply.

New wording is therefore proposed for section 1 (3) of the policy:

No more than ten street trading consents will be granted at any one time to coincide with events and activities associated with the Big Events programme (or similar events approved by the Head of Community and Environmental Services).

5.5.2 Whether the maximum number of six consents per events should be increased to give flexibility when planning events such as the Big Beach, based on previous feedback from Section Head (Culture and Play).

Comments here indicate that on the whole consultees want the number of consents associated with an event to increase. When the initial policy was introduced in 2014 a limit of four consents was in place. It is therefore suggested that the limit be increased to 10.

It is also worth noting that the limit does not apply to events run under the Market Charter, or to non-commercial street trading.

New wording is therefore proposed for section 1 (3) of the policy:

No more than ten street trading consents will be granted at any one time to coincide with events and activities associated with the Big Events programme (or similar events approved by the Head of Community and Environmental Services).

5.5.3 Whether the policy of only issuing consents for one day at a time should be reviewed.

The consultation responses suggest that a flexible approach is needed that is dependent on the length and nature of the event. For example if the event lasts two days, an event long consent may be appropriate, but if the event is scheduled to last for 2-3 weeks then shorter consents may be appropriate. It is proposed to amend the policy to allow this.

New wording is therefore proposed for section 1 (4) of the policy:

In general consents will not be issued for more than one day at a time. However a flexible approach will be adopted depending on the duration and the nature of the event. Consents may be time-limited to coincide with the operating times of the events or activities in The Parade.

5.5.4 Whether consents should only be issued to food businesses that have a food hygiene rating of four or above.

There was clear support for this approach, however the Environmental Health response advises that a Food Hygiene Rating of 3 is deemed 'generally satisfactory' and when awarded would not generally result in a revisit or enforcement action. Therefore requiring a Food Hygiene Rating of 4 would prevent businesses rated 3 from trading, which is at odds with food safety guidance

New wording is therefore proposed for section 4 (2)(d):

Preference will be given to...food business with a Food Hygiene Rating of 5, then 4, then 3. Consents will not be issued to food businesses with a Food Hygiene Rating of 2 or less.

This will drive improvement and favour higher rated businesses.

5.6 Some other changes are needed as a result of the proposed changes outlined in section 5.5. In addition, the consultation responses also suggest some other minor amendments which officers have reviewed. Together these are summarised as:

5.6.1 As the proposed policy allows commercial street trading during events not run by the council, the application approval mechanism for these events needs to be clarified. Officers therefore propose the following revised wording for section 1(4):

For council run events, applications will be determined by the council's Licensing Officers in consultation with the Events Team. For non-council events, applications will be determined by the council's Licensing Officers in consultation with the event organisers. This will be done to ensure the proposed goods to be sold complement the event in question.

- 5.6.2 A requirement for goods to be age an audience appropriate has been added to paragraph 4(1).
- 5.6.3 The prohibition on the sale of corrosive substances has been added to paragraph 4(4)(e).
- 5.6.4 A wider litter control specification has been added to paragraph 5(9)(3).
- 5.6.5 Paragraph 1(5) clarifies that the policy does not apply to events held under the Market Charter.
- 5.6.6 Telephone numbers and job titles have been checked and amended where necessary.

5.7 Members should note that the developing Town Centre Vision and the emerging Cultural Plan may affect the types of event held in the Town Centre in the future, as well as the location that they might be held. This policy therefore needs to be kept under review so that it can support and help deliver both strategies.

6.0 **Implications**

6.1 **Financial**

6.1.1 The Shared Director of Finance comments that, whilst there is a charge for licences, the Council is limited to recovery of costs and any additional income is likely to be immaterial. The cost of licences will be reviewed as part of the Budget process for 2019/20. Any additional work will be absorbed within existing resources.

6.2 **Legal Issues** (Monitoring Officer)

6.2.1 The Head of Democracy and Governance comments that The legal implications are contained within the report.

6.3 **Equalities/Human Rights**

6.3.1 An Equalities Impact Assessment of the proposed policy was undertaken and this is attached at Appendix 5. The assessment did not identify any negative impacts associated with the policy so no amendments have been made to it.

6.4 **Staffing**

6.4.1 There are no staffing issues associated with this report

6.5 Accommodation

6.5.1 There are no accommodation issues associated with this report

6.6 Community Safety/Crime and Disorder

6.6.1 The policy itself does not impact on Community Safety, but as part of the processing function discussion will be held with applicants should any concerns arise and most town centre event also have to be considered by the Safety Advisory Group.

6.7 Sustainability

There are no sustainability issues associated with this report

Appendices

- *Appendix 1 Current Town Centre Street Trading Policy*
- *Appendix 2 Proposed Town Centre Street Trading Policy*
- *Appendix 3 Consultees*
- *Appendix 4 Key consultation responses*
- *Appendix 5 Equalities Impact Assessment*

Background Papers

No papers were used in the preparation of this report.