

**AGENDA ITEM**

**REPORT TO  
GENERAL  
LICENSING  
COMMITTEE**

**24 MAY 2022**

**REPORT OF  
ASSISTANT  
DIRECTOR OF  
ADMINISTRATION,  
DEMOCRATIC &  
ELECTORAL  
SERVICES**

**CONSENT STREET TRADING POLICY REVIEW**

**SUMMARY**

To inform the General Licensing Committee of a proposal to review the current consent street trading policy designating the whole Borough as a consent area for the purposes of street trading, to enable greater regulation of standards across the whole Borough.

This model is adopted nationally and by neighbouring local authorities Hartlepool, Redcar & Cleveland and Darlington.

**RECOMMENDATIONS**

It is recommended the General Licensing Committee:

- Agree a draft resolution for public consultation (minimum 28 days) under Paragraph 2(1) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, to designate the whole Borough as a consent area for the purposes of street trading.

**BACKGROUND**

1. "Street Trading" is defined in paragraph 1 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LG(MP) Act 1982) – as "the selling or exposing or offering for sale of any article (including a living thing) in a street". For the purposes of the Act this would include private land that the public has access to without payment.
2. Under the provisions of Schedule 4 a Local Authority may designate streets within its Borough as either:
  - Prohibited Streets - in which street trading is not allowed.
  - Licence Streets - in which a licence to trade is required.
  - Consent Streets - where prior consent requirements operate.
3. In 1987, The resolution to adopt schedule 4 of the LG(MP) Act 1982 was taken, members approved a list of consent streets and prohibited streets, in 1999 the current street trading consent conditions were agreed and in 2001 the policy was amended to add Yarm Lane as a prohibited street. There have been no changes to the regime since.

4. The Council has no control in areas where it has not designated a street as either a consent or prohibited street. This has resulted in the Council being ineffective to respond to complaints associated with trading in areas where no provisions exist.
5. In addition to this the current list of prohibited and consent streets is no longer relevant in redeveloped areas and is inflexible with the developing Town Centres and Place strategies.

#### **DETAIL**

6. The proposal is to extend the consent street trading scheme, for the purposes of Schedule 4 of the LG(MP) Act 1982. The whole Borough shall be designated as a consent area for the purposes of street trading. The proposal balances the rights of:
  - an applicant to trade in the Borough, and to have the application considered on its own 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.
7. Making the whole Borough a consent area allows flexibility and fit with developing Town Centres and Place Strategy. When granting or renewing a consent, the Council may attach any reasonable conditions and can, at any time, vary the conditions attached to the consent.
8. There is no right of appeal against any Council decision made in regard of a street trading consent. The consent cannot be granted for a period of time exceeding twelve months and can be revoked at any time.
9. Whilst there will be an additional increase in administration and cost to a business wishing to trade in an area previously not covered, this is already the case nationally and in neighbouring local authorities and the scheme will provide a number of benefits which outweigh this:
  - 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.
  - Consultation process for any new application where local representations will be taken into account, ensuring any new application meets local needs.
  - Traders will be regulated to protect the public across the Borough.
  - Higher quality street trading concessions in the right location will enhance the local environment.
  - Initiatives such as prohibiting single use plastics could be considered.
  - Permits a future proof, business friendly, demand led approach.
  - Opens up areas and remains relevant to reflect redevelopment.
  - Gives more regulation on the obstruction of and repair to damage of the highway.
10. A resolution designating the whole Borough means that as areas evolve during redevelopment, the Council retains control without having to revisit the list of consent streets with the aim to:
  - Prevent obstruction of the streets.
  - Ensure the safety of persons using streets.
  - Recognising the importance of businesses to the local economy and the character of the area.

- Ensuring that the activities do not cause nuisance or annoyance to the people of the area.
11. Preliminary discussions with relevant stake holder service managers and the Corporate Management Team has already been undertaken and positive comments received on the draft proposal.
  12. Preliminary discussions with Highways have also been positive about the proposal and included discussions around the current list of prohibited streets. It is agreed the current list is no longer relevant and to allow maximum fit and flexibility with the scheme it is thought each application / location should be considered on its own merits. This can be reviewed once the scheme is in operation, and there is a wider understanding of applications / locations. National Highway Roads A19, A66 will be prohibited and outside the scope of the street trading regime.

### **Next Steps**

13. The LG(MP) Act 1982 Schedule 4 sets out the statutory process for designating a consent area and rescinding the existing street trading resolution. Statutory consultation must take place, statutory consultees are:
  - Public
  - Police
  - Highways
14. Consultation is critical to ensure any changes to the street trading resolution are clear and transparent for businesses, members, responsible authorities and the public.
15. A report containing further background information and a detailed timeline of the statutory consultation process needed to adopt the scheme is attached as **Appendix 1**.
16. Outcomes from the consultation will shape the policy and process however a draft Consent Street Trading Policy including application and determination process is attached as **Appendix 2**.
17. The LG(MP) Act 1982 Schedule 4 paragraph 9 confirms that a council “may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or street trading consent”. Fees will be established as part of the consultation process. For information fees from other Tees Valley Local Authorities are attached as **Appendix 3**.

### **Assistant Director Administration**

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The cost of administering the consent street trading scheme can be recovered through street trading fees, which are set locally and reviewed annually. The fees must be set at a level to recover the cost of the scheme and can take into account the location, the duration of the

**Environmental Implications**

Consent, trading hours, and the articles to be sold.

Through the maintenance of a strategic licensing policy there will be opportunities to further improve the environment, to the benefit of all.

**Legal Implications**

The proposal is for Stockton Borough Council to designate the whole of the Borough as a consent area. The proposed street trading policy must be in accordance with the powers granted in Section 3 and Schedule 4 of the LG(MP) Act 1982.

**Community Safety Implications**

The administration and enforcement of the licensing regime should assist in reducing crime and disorder.

**Human Rights Implications**

Consideration must be given.

**Background Papers**

Appendices.

**Ward**

All wards. Members will be consulted as part of this process.