

AGENDA ITEM

REPORT TO CABINET

18 JANUARY 2024

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Access, Communities and Community Safety – Lead Cabinet Member Councillor Norma Stephenson

CONSENT STREET TRADING POLICY REVIEW 2024

SUMMARY

To inform Cabinet of the results of a public consultation, a draft consent street trading policy and the proposal to designate the whole borough a consent area for the purposes of street trading.

REASONS FOR RECOMMENDATION(S)/DECISION(S)

The current consent street trading policy is outdated. The General Licensing Committee agreed to a public consultation on a draft resolution for (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.

RECOMMENDATIONS

1. Cabinet members note the contents of this report.
2. Cabinet members comments are received.
3. Cabinet members recommend to Council, the proposed resolution 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, the regime has remained largely unchanged 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 and inefficient in responding to requests to trade 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 proposed resolution will designate the whole borough 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,
 - of established businesses to continue trading, creating a vibrant local economy.
7. Making the whole borough a consent area allows flexibility and fit with redevelopment. 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. The consent cannot be granted for more than twelve months and can be revoked at any time.
8. 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 several benefits which include:
 - Provide protection to existing 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 considered, 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 environmental credentials could be considered.
 - Permits a future proof, business friendly, demand led approach.
 - Opens areas and remains relevant to reflect redevelopment.
 - Gives better regulation on the obstruction of and repair to damage of the highway.
9. A resolution designating the whole borough means that as areas evolve during redevelopment, the resolution remains relevant and 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.
 - Recognise 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.
10. The Local Government Miscellaneous Provisions 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
11. Consultation is critical to ensure any changes to the street trading resolution are clear and transparent for businesses, members, responsible authorities and the public. The statutory consultation process was followed including an advert in the Evening Gazette dated 11 July

2023. A report containing a summary of the results of the online public consultation is attached as **Appendix 1**.

12. Alongside the online consultation in depth discussions have helped to shape the revised policy and the application / determination process. These discussions have included:

- Existing traders
- Potential Traders
- Voluntary Sector
- Charity and non-profit groups
- Parish Councillors
- Members
- Council Departments

13. A copy of the revised draft consent street trading policy 2024, which outlines how officers will manage and review the regime including the application / determination process is attached as **Appendix 2**.

14. The most significant changes following the consultation have been around:

- Non for profit and charity fundraising (detailed at pg. 3 of the draft policy document)
- DBS and convictions information (detailed at pg. 8 and Appendix 3 of the draft policy document)

15. The revised policy document has been circulated for comments to all respondents to the consultation who provided contact details and again internally with Council departments. Additional responses to the revised policy are attached as **Appendix 3**.

16. On 14 November 2023 the General Licensing Committee considered the revised policy document, no further comments were received on the policy and the Committee agreed and noted the report. Officers explained to members the draft policy would also help as a regulatory tool for nuisance pedlars at events.

Next Steps

17. Next Steps – The resolution to designate the whole borough a consent area for the purposes of street trading, the draft policy document and the summary of the consultation will be considered full Council for the final decision on 24 January 2024.

18. If the resolution is agreed the Council shall publish notice of the final resolution in a local newspaper and on the Council website advertising of the decision. (This should be no later than 28 days before the date of operation of the new scheme).

19. Taking these dates into consideration it is proposed any changes would come in to effect after 1 March 2024.

COMMUNITY IMPACT IMPLICATIONS

The administration and enforcement of the licensing regime will assist in reducing any community impact implications.

FINANCIAL IMPLICATIONS

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”.

The cost of administering the consent street trading scheme can be recovered through fees, which are set locally and reviewed annually. Fee setting is delegated to officers under the Councils

constitution. The fees will be set at a level to recover the cost of the scheme and can take into account the location, the duration of the consent, trading hours, and the articles to be sold.

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. The implementation and operation of the consent street trading policy will be done in accordance with the legislation and associated guidance.

If a person is aggrieved with the adoption of the consent street trading policy then they could challenge it by Judicial Review proceedings before the Administrative Court. A claimant must file a claim promptly, and in any event not later than three months after the grounds to make the claim first arose.

RISK ASSESSMENT

The risks associated with the consent street trading policy are mitigated by the administration and enforcement provisions of legislation and associated guidance.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

The administration and enforcement provisions within the legislation and associated guidance follow the council plan principles and priorities.

CORPORATE PARENTING IMPLICATIONS

None.

CONSULTATION INCLUDING WARD/COUNCILLORS

The Cabinet Member for Access, Communities and Community Safety has been consulted, along with all Members, Responsible Authorities, the trade and other interested parties. Statutory consultees are the public, the Police and the Highways Authority, all three have been consulted.

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Education related? No

Background Papers
Appendices

Ward(s) and Ward Councillors:
Not applicable – does not relate directly to specific wards.

Property

Not applicable.