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Please ask for:
Democratic Services

15 February 2024

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING COMMITTEE to be held on Monday 26 February 2024 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, AL8 6AE

**A G E N D A
P A R T 1**

1. SUBSTITUTION OF MEMBERS

To note any substitution of Committee Members in accordance with Council Procedure Rules 19 -22.

2. APOLOGIES

To receive apologies for absence, if any.

3. MINUTES

To confirm as a correct record the Minutes of the meeting held on 08 01 2024 (previously circulated).

4. NOTIFICATION OF URGENT BUSINESS TO BE CONSIDERED UNDER ITEM 8

5. DECLARATIONS OF INTERESTS BY MEMBERS

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

6. STREET TRADING POLICY (Pages 3 - 38)

REPORT OF THE EXECUTIVE DIRECTOR (Resident Services and Climate Change)

7. STATEMENT OF LICENSING POLICY - REVIEW (Pages 39 - 44)

REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE CHANGE)

8. SUCH OTHER BUSINESS AS, IN THE OPINION OF THE CHAIRMAN, IS OF SUFFICIENT URGENCY TO WARRANT IMMEDIATE CONSIDERATION

9. EXCLUSION OF THE PRESS AND PUBLIC

The Committee is asked to resolve:

That under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public be now excluded from the meeting for item 10 (if any) on the grounds that it involves the likely disclosure of confidential or exempt information as defined in Section 100A(3) and Part 1 of Schedule 12A of the said Act (as amended).

In resolving to exclude the public in respect of the exempt information, it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PART II

10. REVOCAION OF PRIVATE HIRE DRIVER LICENCE UNDER DELEGATED AUTHORITY (Pages 45 - 52)

Report of the Executive Director (Resident Services and Climate Change)

11. ANY OTHER BUSINESS OF A CONFIDENTIAL OR EXEMPT NATURE AT THE DISCRETION OF THE CHAIRMAN

<u>Circulation:</u>	Councillors	P.Smith	H.Goldwater (Vice-Chairman)
		J.Cragg	C.Watson
		D.Jones	J.Weston (Chairman)
		S.McNamara	

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Senior Leadership Team
Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Democratic Services, Governance Services on or email – democracy@welhat.gov.uk

art I

Item No: 0

Main author: Kate Payne

Executive Member: Cllr James Broach

All wards

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 26 FEBRUARY 2024
REPORT OF THE SERVICE DIRECTOR (RESIDENT AND NEIGHBOURHOOD)

STREET TRADING POLICY - REVIEW

1 Executive Summary

- 1.1 The Street Trading Policy was last approved in 2018 and is due for review.
- 1.2 The current Policy has been reviewed and there are only minor amendments (as listed in paragraph 3.8). As there are no significant changes, and in accordance with section 7.2 of the Policy, a public consultation on the changes is not required.
- 1.3 This report provides members with a review of the street trading policy detailing our current practices and areas of responsibility. The report recommends that the street trading policy in Appendix 1 and Appendices A-H are approved for the next five years. If any changes are needed to the street trading policy within the next five years, it will be reviewed and presented to the Licensing Committee.

2 Recommendation(s)

- 2.1 That members consider the attached revised policy in Appendix 1 (including Appendices A-G) and recommend to full council that it is approved for the next five years.

3 Explanation

- 3.1 The Council has previously resolved to designate five streets as consent streets in accordance with the Local Government (Miscellaneous) Provisions Act 1982. The council is responsible for the provision of consents for street trading. Currently there are five “pitches” in the borough made available for street trading while all other areas are designated “prohibited streets” where street trading is not permitted to take place. These five consent pitches have been renewed annually by the same traders for many years.
- 3.2 The Council does not issue street trading consents to traders who have made arrangements with owners of private land such as business car parks provided that they are not on the Highway and have the owner’s permission. However, these traders still have to register with Environmental Health if they are providing food.
- 3.3 The council street trading policy addresses issues relating to street trading in its widest sense beyond the controls given to the council in the Local Government (Miscellaneous) Provisions Act 1982 and the policy at Appendix 1 cites the areas of concern and the available control mechanisms for enforcement.

- 3.4 To create a diverse, fair, lawful and vibrant street trading culture which supports local businesses but does not compete with existing traders it is possible to have additional town centre street trading. Members have previously agreed an area in Hatfield suitable for this purpose but currently the process to implement these pitches has not begun. There have been no enquiries or interest expressed in this to date. If we receive enquiries or interest in this, the council would need to follow the process in the legislation to approve a resolution to enable this to take place.
- 3.5 In cases where a pitch becomes available a notice inviting applications for the pitch will be carried by one or more of the following: Council website, Council Offices' notice board, and social media; it may also be carried by other local publications or a notice at the site.
- 3.6 The Policy also details the arrangements for street collections, political party stalls, buskers, and commercial promoters/sellers.
- 3.7 Enforcement of the street trading and other activities on the street will remain with the current areas responsible (see Appendix E) although it will be noted that some areas of enforcement responsibility are not vested in Welwyn Hatfield Council and some activities are lawfully exempt from "street trading" controls.
- 3.8 The amendments to the current street trading policy are minor (shown as track changes in Appendix 1) and are as follows:
- Paragraph inserted at 1.4.1 regarding the regime for pavement (tables and chairs) licences introduced during the Covid-19 Pandemic
 - Removal of paragraph 1.4.5 as the Estates team no longer issue permissions to Direct Debit collectors
 - Removal of the reference to a waiting list for street trading consent (at paragraph at 3.1.2) as there is no longer a waiting list due to the process for determining new street trading consents previously introduced
 - Changes to job titles and minor grammatical amendments

Implications

4 Legal Implication(s)

- 4.1 District Councils are responsible for the administration and enforcement of street trading provisions under the Local Government (Miscellaneous Provisions) Act 1982. The purpose of the legislation is to ensure that street trading does not pose a risk of nuisance or to public safety and helps promote the local economy.
- 4.2 Councils can resolve to designate streets as 'consent streets' where street trading is permitted can attach conditions to any street trading consents that are issued. Welwyn Hatfield Borough Council have previously resolved to designate five streets as 'consent streets' for street trading purposes.
- 4.3 The attached policy forms the basis of decision-making regarding street trading provisions in the borough of Welwyn Hatfield. Whilst there is not a specific requirement for a street trading policy, it is good practice to have one.

5 Financial Implication(s)

- 5.1 Administration of the street trading policy and street trading consents are met from within the existing budget and staff resources in the Licensing Team.
- 5.2 The arrangements for buskers, Town Centre consents etc are met from within the existing budget and staff resources in the Estates Team.

6 Risk Management Implications

The risks related to this proposal are:

- 6.1 The council would be at risk of potential legal challenge if it does not abide by the legislation and follow reasonable practice. The approval of and adherence to a street trading policy (Appendix 1) on how applications are determined for street trading will help mitigate this risk.

7 Security & Terrorism Implication(s)

- 7.1 The Council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism and to consider security and measures to counteract terrorism in public places.
- 7.2 With regards to the potential threat of terrorist attacks from vehicles in relation to tables and chairs on pavements, our application form asks the applicant what barriers and other measures they will use if there are any concerns around hostile vehicles.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

- 9.1 The proposal has slight climate change implications as some traders may require the use of fossil fuel generators to power their stalls. Whilst this is not ideal, it is believed they would produce minimal emissions due to the infrequency they are used year-round. The proposal appears to result in no increase in the use of water or other materials. All documentation and agreements are sent electronically unless specifically requested.
- 9.2 As mentioned in 1.4 regarding leaflet distribution; if leaflets are causing defacement to the street, WHBC can exercise powers under the Environmental Health Protection Act 1990 and will ensure leaflets get sent to the recycling centre rather than landfill.

10 Link to Corporate Priorities

- 10.1 The subject of this report is linked to the Council's Corporate Priority "*enable an economy that delivers for everyone*" as it supports trade through the issuing of street trading consents.

11 Equality and Diversity

11.1 An Equality Impact Assessment (EIA) has been completed and no negative impact was identified on any of the protected groups under Equalities legislation.

Name of author Kate Payne 01707 357206
Title Licensing Team Leader
Date January 2024

Background papers to be listed

None

Appendices

Appendix 1 – Welwyn Hatfield Councils draft street trading policy
Appendix A – Street Trading application form
Appendix B – Multi user application form
Appendix C – List of Consent streets
Appendix D- Standard Conditions for Street Trading Consents
Appendix E – Roles and responsibilities for Street Trading
Appendix F - Street collections Regulations
Appendix G – House to house collections Regulations

Application for [Grant] [Renewal] of Street Trading [Licence] [Consent]

Ref:

To the

Council

I ⁽¹⁾

of ⁽²⁾

HEREBY MAKE APPLICATION for the [grant] [renewal] of a street trading [Licence] [Consent] in accordance with section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. [My present [Licence] [Consent] was granted on _____ and expires on _____.]

The street in which I wish to trade is

and I wish to operate between the hours of _____ and _____ on ⁽³⁾

The articles in which I wish to trade are ⁽⁴⁾

The stall or container which I wish to use is ⁽⁵⁾

⁽⁶⁾

I declare that I am not under the age of 17 years.
[Two photographs of myself accompany this application]

The sum of £ _____ accompanies this application in respect of the [full fee required by the Council] [deposit required by the Council to be paid on application, being part of the full fee of £ _____].

Dated _____ Signed _____

Address of Council to which this form should be sent:

NOTE: Making deliberately a false statement in connection with any application is an offence punishable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

Delete any words in square brackets which do not apply
1. Insert full name 2. Insert address 3. Insert days 4. Insert description
5. Insert description, including dimensions 6. Insert any further particulars required by the Council.

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Welwyn Hatfield Borough Council

Street Trading Policy 2024-2029

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1.0 INTRODUCTION

1.1 The Policy

1.1.1 This document states Welwyn Hatfield Borough Council's, (to be referred to subsequently as WHBC) policy on Street Trading as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and schedule 4).

1.2 The Objectives of this Policy

1.2.1 This Policy has been adopted with view to securing the following objectives:

- (i) to enhance the town centres of Welwyn Garden City and Hatfield;
- (ii) to protect public health through the control of street trading within the District of Welwyn Hatfield;
- (iii) to ensure that traders operate within the law and act fairly in their dealings with the public; and
- (iv) to prevent nuisance, unsafe practices and anti-social behaviour.

1.3 The Law

1.3.1 The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. The legislative framework, however, is not an automatic entitlement and councils must formally adopt the legislation if they wish to regulate street trading in their areas.

Other relevant legislation includes Food Safety Act 1990, Antisocial Behaviour, Crime and Policing Act 2014, Health and Safety at Work etc. Act 1974 and associated regulations, Environmental Protection Act 1990, Trading Standards legislation, and this Street Trading Policy

1.3.2 WHBC has resolved to make all streets within Welwyn Hatfield prohibited streets, with the exception of any streets designated as consent streets. This came into effect on 1st April 1993. These streets are listed in Appendix C.

1.3.3 Street trading is defined as *“the selling or exposing or offering for sale of any article, including a living thing, in a street.”*

1.3.4 Streets are further defined as *“any road, footway, beach, or other area to which the public have access without payment or any service area as defined by section 329 of the Highways Act 1990.”*

1.3.5 WHBC does not issue street consents to traders who have made arrangements with owners of private land such as business car parks providing they are not on the Highway and have the land owner's permission. However these traders still have to register with Environmental Health if they are providing food. WHBC will not be liable for any agreements/disputes between the landowner and the trader.

- 1.3.6 The main purpose of this legislation is to establish an appropriate licensing regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local authorities with the power (but not duty) to designate specific areas within their administrative boundaries as either:
- (i) **Prohibited Streets:** those which are not open to street traders;
 - (ii) **Consent Streets:** where street trading is prohibited unless it has been given local authority consent;
 - (iii) **Licence Streets:** where trading is prohibited without a local authority licence.
- 1.3.7 Local authorities can place conditions on any Consent or Licence. The Act also creates offences associated with trading in Consent or Licence Streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine not exceeding Level 3 on the standard scale. WHBC has not adopted street trading licences only street trading consents.
- Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- 1.3.8 There are a number of exemptions provided in the Act that are not to be considered street trading:
- (i) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
 - (ii) a market trader operating at a Charter or licensed market venue;
 - (iii) trading at a Charter Fair;
 - (iv) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
 - (v) trading as a news vendor selling only newspapers and /or periodicals;
 - (vi) trading at a petrol filling station or as part of a the business of a shop adjoining a petrol station;
 - (vii) trading carried on in a street linked to an adjoining shop where the street trading is an extension of the shop's ordinary business;
 - (viii) trading as a roundsman;
 - (ix) where permission has been granted from the Highway Authority pursuant to Section 115 of the Highways Act 1980 to trade from an object or structure placed in, on, or over the highway;
 - (x) charitable street collections authorised by the Police, Factories, etc Miscellaneous Provisions) Act 1916.

1.4 Additional matters relating to street activity

1.4.1 Pavement Licences

In response to the Coronavirus pandemic, the Business and Planning Act 2020 made a temporary provision for a quicker and cheaper process to allow businesses in England selling food or drink to obtain authorisation from the Local Authority to place furniture such as tables and chairs on the highway adjacent to their premises – commonly called a Fast Track Pavement Licence. The [Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2023](#) has come into force extending pavement licence renewal dates to 30th September 2024. Permanent street café licences are administered and enforced by Hertfordshire County Council (see 1.4.2 below).

- 1.4.2 Tables and chairs and ‘A’ boards. The granting of permanent permissions for the placing of tables and chairs outside of a business providing refreshment, or the placing of advertising boards outside of any business, is provided for by section 115 of the Highways Act 1980.
- 1.4.3 The licensing powers provided by section 115 of the Highways Act 1980 is designed to ensure that highways are kept free of obstructions and nuisance, Hertfordshire Highways, acting as the Highway Authority on behalf of Hertfordshire County Council, administers this function; although planning permission may be required from WHBC’s planning department.
- 1.4.4 Leaflet distributors may get permission to distribute free literature on WHBC land or highways by contacting our Estates team. If leaflets are seen to cause defacement to the street we can exercise our powers as a principal litter authority to control such distribution under the Environmental Health Protection Act 1990 by way of enforcement and designating streets for consent
- 1.4.6 Buskers do not require a licence but should approach the estates team for permission to perform and arrange a suitable location dependant on other activities taking place on any day.
- 1.4.8. Markets consist of 5 stalls or more [Local Government (Miscellaneous Provisions) Act 1982 Part XII section 37 (6)] and further information can be obtained by contacting our Corporate Property/Estates department.
- 1.4.9. Fairs – Charter fairs are allowed but any complaints will be directed to the police or estates team.
- 1.4.10 Street collections can collect cash or sell articles for the benefit of charitable or other purposes if a street collection permit is issued. There is no cost for the issuing of the permit but there are rules to be followed in applying. These regulations can be found at Appendix F.
- 1.4.11 House to house collections, a permit can be granted for any period up to one year. Collections generally take place from door to door or from one public house to another. The Regulations covering these collections can be found at Appendix G.

1.4.12 Roundsman a person who makes rounds selling, offering or exposing for sale his product is exempt from street trading. This includes ice cream/sandwich vans as they can claim exemption as a roundsman if they are moving from place to place. Stationary vehicles would need to either be on private land with the owner's permission or be trading under a street trading permit.

112 Commercial promoters are classed as street traders on the basis that a contract is formed for the sale of goods. The estates team or the BID team may give permission under their town centre permit. (Once adopted).

1.4.14 Fetes, carnivals or similar community based events will not be charged for street trading provided the land owner has given permission and an Event Notification Form (ENF) has been submitted to the licensing team. All other legal requirements such as road closures, alcohol or music licences are the responsibility of the organiser to make applications for licences/consents.

1.5 Policy Duration

1.5.1 This Policy will take effect fromfor a maximum period of five years.

1.5.2 During this period and before the end of the five year period, if significant changes are to be made a consultation will be undertaken with a view to publishing a new Policy to take effect no later than

1.5.3 The Policy will be kept under constant review to ensure that it meets the policy objectives. Additionally, it will be amended as and when necessary to reflect changes in best practice, legislation and case law.

2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING

2.1 Consent Streets

2.1.1 It has been decided to regulate the opportunity for street trading within the two towns and, therefore, there are currently only five consent streets designated within Welwyn Hatfield Borough Council. These consents are contained in Appendix C

2.2 Prohibited Streets

2.2.1 All other streets, with reference to the wide statutory definition in paragraph 1.3.6 above, within the borough of Welwyn Hatfield have been collectively determined to be prohibited streets for the purpose of the Local Government (Miscellaneous Provisions) Act 1982. Some areas of private land which are not a highway have private arrangements with the land owner.

2.2.2 WHBC will monitor the impact of street trading on its consent streets with a view to promoting the objectives of this policy.

2.2.3 Before a new Street Trading Consent street is created WHBC will carry out the process as defined in the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 section 2.

2.2.4 WHBC will take the following matters into account when deciding on whether a new street trading consent should be created.

- (i) a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- (ii) where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- (iii) there would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes; or
- (iv) there is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes; or
- (v) there is a conflict with Traffic Orders such as waiting restrictions; or
- (vi) the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- (vii) the trading unit obstructs the safe passage of users of the footway or carriageway; or
- (viii) the pitch interferes with sight lines for any road users, for example at road junctions, or pedestrian crossing facilities; or
- (ix) the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- (x) the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

2.2.5 Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent. There will be no refunded fee where there has been a breach of the conditions of the consent and the licence is revoked.

2.3 Undesignated Streets

2.3.1 All streets are designated either prohibited or consent streets. New streets will become prohibited streets unless expressly designated as consent streets.

3.0 APPLICATIONS FOR A STREET TRADING CONSENT

3.1 How new applications will be decided

3.1.1 Due to the very limited number of consent street pitches it is rare for a street trading pitch to become available. Therefore once an existing pitch becomes

available or a new pitch is proposed the details will be available on the WHBC's website for six weeks. Once all declarations of interest have been received the licensing subcommittee will meet to determine which application is the most suitable for the proposed pitch. Reserve applicants will also be chosen where appropriate in the event that the first applicant is no longer able to proceed.

3.1.2 WHBC can also provide advice in relation to other requirements of a new licence holder, for example, food safety, planning permission or building control approval.

3.2 Applications

3.2.1 All applications must be made on WHBC's prescribed application forms at Appendix A

3.2.2 The following will also be required to be submitted with the application:

- (i) A description and photograph of the container from which the proposed trading will take place. The description to include, size, colour, signage, method of transport, number of staff and products to be sold.
- (ii) Confirmation that adequate levels (at least 5 million pounds) of third party and public liability insurance is, or will be, in place during street trading activity.
- (iii) Where food is being sold, the applicant must also be a registered food business
- (iv) Any trader selling food must achieve a minimum Food Hygiene Rating Score of [3] in order to be eligible for a consent. The consent would be revoked where the trader falls below this minimum rating of [3.]
- (v) Where a street trading consent or licence has previously been revoked, either by WHBC, or any other authority, WHBC may refuse an application for consent.

3.3 Processing of an Application

3.3.1 Once all applications have been received and judged relevant (correct documentation and site applied for) a licensing subcommittee will be arranged.

3.3.2 An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises which the applicant intends to trade from.

3.3.3 The applications will be:

- (i) considered by the licensing subcommittee and the most appropriate applicant will be granted a trading consent with conditions attached once the appropriate fee has been received; or
- (ii) if the appropriate fee is not received within two weeks the consent will be offered to the second choice applicant and so forth
- (iii) Once a consent has been granted all other applicants for that particular pitch will have their application refused.

3.3.4 WHBC may have regard to the number, nature and type of traders already trading within a consent area when determining an application.

3.3.5 A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time

3.3.6 There is no right of appeal against a variation of a condition, or refusal to grant or renew a Street Trading Consent.

3.4 Consents

3.4.1 Consents may be issued for a period of up to twelve consecutive months, or quarterly if paid for in that manner.

3.4.2 All Consents that have not been renewed by their expiry date will automatically cease to exist and trading must cease until such time as a new Consent has been granted.

3.4.3 Once a Consent has lapsed for four weeks the pitch will be advertised as an available pitch open to applications from interested parties.

3.4.4 WHBC acknowledges that overly burdensome regulation and cost will discourage town centre community and cultural activity, particularly the requirement for each individual trader to obtain their own Consent. In order to encourage town centre activity. Therefore WHBC have developed multiple user Consents that will simplify this process (see sections 3.5, and 3.6).

Town Centre Consents

3.5.1 WHBC may administer on behalf of our estates team consents that cover areas of land in our town centres that are suitable for street trading use. Each Town Centre Consent will be accompanied by a plan clearly identifying those areas covered by the consent. This will remove the need for each individual trader to obtain a consent as they can apply directly to the estates team for permission to trade and this should encourage town centre activity.

3.5.2 The consents can be issued for a maximum period of twelve months and will be to a named individual from the estates team at WHBC.

3.5.3 Town centre consent areas are decided by the council before the adoption procedure can be carried out for a consent street. This process is defined in

the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 section 2.

- 3.5.4 Traders wishing to use the town centre consent will need to complete the multi user application form at Appendix B and submit it to the estates team and must be age 17 or over.
- 3.5.5 The consent holder will be responsible for ensuring compliance with the conditions attached to the consent at all times whilst the consent is being used to facilitate street trading.
- 3.5.6 The consent holder, will be able to allow his/her consent to be used by commercial or not-for-profit organisations, however, no charge can be made for the use of the consent by not-for-profit organisations.
- 3.5.7 The consent holder will be required to keep records of all traders that use the Town Centre Consent including: date, trading location, name and company name (where appropriate), address, vehicle registration and contact telephone number.
- 3.5.8 Applicants wishing to use the town centre consent will need to provide the following with their application.
- (i) A description and photograph of the container from which the proposed trading will take place. The description to include, size, colour, signage, method of transport, number of staff and products to be sold.
 - (ii) Confirmation that adequate levels (a minimum of 5 million pounds) of third party and public liability insurance is, or will be, in place during street trading activity.
 - (iii) Where food is being sold, the applicant must also be a registered food business.
 - (iv) Any trader selling food must achieve a minimum Food Hygiene Rating Score of [3] in order to be eligible for a consent. The consent would be revoked where the trader falls below this minimum rating of [3.]
 - (v) Where a street trading consent or licence has previously been revoked, either by WHBC, or any other authority, WHBC may refuse an application for consent.
 - (vi) There is no right of appeal against a variation of a condition, or refusal to grant or renew a Street Trading Consent.
- 3.5.9 The consent holder will be required to keep records of all traders that are refused use of the Town Centre Consent including, date, name and company name (where appropriate), address, contact number and reason for refusal. Town Centre Consents provide exclusive control over trading in the designated area by WHBC estates team.

3.6 Special Events / Markets / Temporary markets

3.6.1 If there are five or more stalls at any one time this constitutes a market and is therefore exempt from this policy. See 1.4.8

3.7 Annual Consents with Quarterly Payments

3.7.1 WHBC acknowledge that the cost of an annual consent can sometimes prove prohibitive to new and small street trading businesses.

3.7.2 To assist such commercial activity WHBC will offer the grant of a twelve month Street Trading Consent, subject to quarterly fee payments in advance.

3.7.3 Each consent will be issued for a three calendar month period upon the payment of the quarterly fee. Provided that the subsequent quarterly fees are paid prior to the expiry of each quarterly consent, a further consent for three calendar months will be issued until such time as the total consent period has reached twelve consecutive calendar months.

3.7.4 Once a consent period of twelve consecutive calendar months has been reached, a renewal application will be required which will be subject to the normal process of submitting a renewal application.

3.7.5 If the requirements of section 3.7.3 above are not complied with, the annual consent will automatically cease to have effect, save for exceptional circumstances at WHBC's written discretion, and no further trading in connection with that consent will be permitted until such time as a new Consent has been granted.

3.7.6 Once a consent has lapsed for four weeks the pitch will be advertised as an available pitch open to applications from interested parties.

4.0 CONSENT CONDITIONS

4.1 Any Street Trading Consent issued by WHBC from the adoption of this policy will be subject to the standard conditions detailed in **Appendix D** of this Policy.

4.2 In response to changing circumstances, WHBC may wish to add, alter or amend the conditions on a trading Consent. Any amendments or variations to consents or conditions that are requested by consent holders must be made in writing. An administration fee will be charged to the consent holder for any amendments or variations made. There is no right of appeal against the WHBC's decision to refuse to grant, amend or vary a consent.

4.3 In the event of a breach of any of the conditions attached to a Consent, the Licensing Manager may revoke the consent forthwith. In the event of a revocation, WHBC will not be liable to pay any compensation arising from the revocation nor will the Consent Holder be entitled to a refund of any of the Consent fee.

5.0 ENFORCEMENT

- 5.1 It is recognised that well-directed enforcement activity by WHBC benefits not only the public but also responsible members of the trade.
- 5.2 In pursuing its objectives detailed in this Policy, WHBC will operate a proportionate enforcement regime in accordance with WHBC's Enforcement Policy.
- 5.3 The responsibility for the overall supervision of street trading lies with the Licensing Manager.

6.0 DEPARTURE FROM POLICY

- 6.1 In exercising its discretion in carrying out its regulatory functions, WHBC will have regard to this Policy document and the principles set out therein.
- 6.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits based on the licensing principles detailed in this Policy.
- 6.3 Where it is necessary for WHBC to depart substantially from this Policy, clear and compelling reasons for doing so will be given in writing. The Executive Director may authorise a departure from the Policy in accordance with this section if he/she considers it necessary in the specific circumstances and will advise Councillors via the Executive Member for Licensing and Chair of the Licensing Committee.

7.0 AMENDMENTS TO THIS POLICY

- 7.1 Any significant amendment to this Policy will only be implemented after consultation with existing consent holders, relevant stakeholders and the public. All such amendments to this Policy will be undertaken in accordance with the WHBC's Constitution. For the purpose of this section, any significant amendment is defined as one that is likely to have:
 - (i) a significant financial effect on licence holders; or
 - (ii) a significant procedural effect on licence holders; or
 - (iii) a significant effect on the community.
- 7.2 Any minor amendments to this Policy may be authorised by the Executive Director and undertaken in accordance with the WHBC's Constitution. For the purpose of this section, any minor amendment is defined as one that does not fall within the scope of a significant amendment defined in paragraph 7.1.

8.0 FEES AND CHARGES

- 8.1 The fees charged by this WHBC for Street Trading Consents should cover the reasonable cost of administering and enforcing the service.
- 8.2 The fees will be reviewed and approved on an annual basis and published on the WHBC's website.

- 8.3 Should the consent holder wish to vary the Consent at any time during the life of the Consent, an administration fee will be charged.
- 8.4 Where a trading consent is surrendered during the life of the Consent no refund will be made by WHBC.
- 8.5 At its absolute discretion WHBC may charge different fees for consents or products sold that are for different durations or locations, such as town centre consents. Not-for-profit organisations will be exempt from application fees.

9.0 DEFINITIONS

TERM	DEFINITION
Authorised Officer	an officer of WHBC authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	a consent to trade on a street granted by WHBC, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	the person or company to whom the consent to trade has been granted by WHBC.
Consent Street	a street that is not prohibited from street trading with the consent of WHBC.
Executive Director	the current post holder overseeing the Licensing Service or any nominated Deputy authorised by the WHBC's Scheme of Delegation
Executive Member (Portfolio Holder)	for the Elected Member responsible for Licensing (or the appropriate Environmental Health Service Area following any subsequent restructure), who is a member of Cabinet.
Street	includes: any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Street Trading	the selling or exposing or offering for sale of any article (including a living thing) in a street.
WHBC	Welwyn Hatfield Borough Council

Decision records

30th March 2000 – Review of street trading policy – 6 pitches to remain

15th September 2014- Consent site removed junction of Peartree Lane and Bridge Road East

12th September 2016 – Multi user consent Hatfield Town Centre agreed.

20th July 2017 – Additional condition added to consents that they are not transferable

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Local Government (Miscellaneous Provisions) Act 1982

Application for the use of a multi user street trading consent

To the Welwyn Hatfield Council

I

Of

Hereby make application for the use of the town centre street trading consent for Hatfield in accordance with section 3 and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982.

The area of the consent I wish to trade in is

And I wish to operate between the hours of and on (date(s))

The article I wish to trade are

The stall or container I wish to use is;-

Please add a description and photograph including size/colour/ signage/method of transport/ number of staff.

Please attach documentation showing third party and public liability insurance.

Food hygiene rating if selling food.

I declare that I am not under the age of 17 years.

(Two photographs of myself accompany this application)

The sum of £25 accompanies this application in respect of the full fee required by the council per day of trading.

Dated

Signed

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Appendix C: Consent Streets

Burrowfield, Welwyn Garden City	Monday to Friday 07.00-14.30	Hot and Cold food and drink
Marford Road, Lemsford- South side of road west of junction with Green Lanes	Monday to Thursday 07.00- 14.30 Friday 07.00-13.00	Hot and Cold food and drink
Travellers Close, Welham Green	Monday to Friday 07.00-15.00	Hot and Cold food and drink
Layby on Eastbound carriageway of A414 Hertford Road between Mill Green and Holwell Lane roundabout	Monday to Friday 06.30-16.00	Hot and Cold food and drink
Stonehills WGC	Sunday to Wednesday 18.00- 00.00 Thursday 18.00-02.00 Friday and Saturday 18.00- 02.30	Hot and Cold food and drink

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APPENDIX D

STANDARD CONDITIONS APPLICABLE TO STREET TRADING CONSENTS

General

These Standard Conditions will apply to all consent unless disapplied or varied by the Licensing Manager in writing.

Standard Conditions

1. The Consent granted by the Council is personal to the Consent Holder. Multi user Town centre consents are managed by the consent holder who may permit multiple approved users.
2. The Consent is non-transferable and is applicable to the consent holder only and it will relate to a specific stationary van, cart, barrow or other vehicle or moveable stall which has been approved by the Council in writing. Town centre consents will be used for multiple traders approved by the Councils estate team.
3. The consent holder shall not assign, underlet or part with his/her interest under this consent.
4. Any van, vehicle, barrow, cart or stall must be maintained in a neat, tidy and safe condition and comply with all relevant legislation (vehicle tax/MOT/insurance etc).
5. The Consent Holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only at the specified location during the permitted hours and days.
6. Only those goods or services specified on the consent may be sold or offered or exposed for sale on the street trading consent pitch.
7. Unless specified otherwise in the Consent, the van, vehicle, barrow, cart or stall, including any permitted temporary furniture and advertising, shall be removed from the Consent site at the end of each day's trading without causing any damage.
8. Any temporary furniture (for example, tables and chairs at food vending vans) or temporary advertising material (such as 'A' boards or other signage) will only be permitted at, or in the vicinity of, the van, vehicle, barrow, cart or stall if specified on the Consent with prior written approval by the relevant authority.
9. The Consent Holder shall ensure that no advertisements relating to the activities permitted by the Consent are placed or affixed to any structures on the highway or highway land unless permission is granted by Hertfordshire County Council Highways Authority (including street furniture, road signs and grass verges). Any advertisement on private land must have prior written permission from the landowner, and planning permission where applicable, proof of which must be provided to the Council in writing prior to the advertising being positioned.
10. The Consent Holder shall not cause any obstruction of the street or cause danger to any persons using it and shall not do anything, or permit anything to be done, which, in the opinion of an Authorised Officer of the Council, may be deemed a nuisance or annoyance or danger to any member of the public.
11. Traders shall not allow any obstruction to fire hydrants, manholes or other street furniture etc, resulting from their business.
12. The trader must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area and will be responsible for making good any such damage or payment for works in default. The Council reserves its right to recover any costs associated with remedying any breach of these terms and conditions.

13. The Consent Holder shall not directly or indirectly hawk, tout or solicit custom for or advertise by way of handbill, public address system or otherwise seek to attract attention or custom by shouting. Neither shall the consent holder make undue noise by permitting the playing of music, music re-producing or sound amplification apparatus or any musical instruments, radio or television sets whilst trading under this Consent, other than as specified in the Consent.

14. The Consent Holder shall maintain the area in the vicinity of any van, vehicle, barrow, cart or stall specified within the Consent in a clean and tidy condition at all times.

15. The Environmental Protection Act 1990 places a duty of care on individuals and businesses to dispose of waste originating from their trade in a certain manner. The Consent Holder shall ensure that refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of each day's trading. No water or waste material shall be discharged on to the highway or any adjacent property.

16. The Council may remove and store or dispose of any furniture, equipment, advertisement or other structure placed on the street by the Consent Holder, or any person acting on behalf of the Consent Holder, that is not authorised by the Consent or has not been authorised in writing by the Council. The Council shall not be responsible to the Consent Holder for the safe keeping of any furniture, equipment, advertisement or other structure and may levy reasonable charges for the removal, storage and/or disposal thereof. If property comes into the possession of the Council after being found on buildings or premises owned or managed by the Council then section 41 of the Local Government (miscellaneous provisions) Act 1982 will apply

17. A copy of the Consent must be carried by the Consent Holder, or any person acting on behalf of the Consent Holder, at all times whilst trading and must be produced on demand when required by a Police Officer or an Authorised Officer of the Council.

18. Traders/trader assistants must report the loss of a consent notice to the Councils licensing team within 72hrs of losing it.

19. The Consent Holder shall display a suitable sign stating his or her name and trade. The sign must be approved in writing by an Authorised Officer of the Council.

20. The Consent Holder and his/her employees or assistants shall wear suitable clothes appertaining to the trading undertaken and maintain a professional appearance at all times.

21. Traders/trading assistants must not trade under the influence of any illegal or intoxicating substance. Any traders found with illegal substances on their pitch or on their stall, barrow, cart etc. will have their consent revoked.

22. The Consent Holder shall notify the Head of Public Health and Protection in writing at Council Offices, Campus East, The Campus, WGC AL8 6AE of any criminal convictions or other legal proceedings arising out of the use or enjoyment of the Consent within 72 hrs.

23. The Consent Holder shall carry public liability insurance of not less than £5 million pounds, evidence of which shall be supplied to the Council prior to the grant of the Consent.

24. Traders selling food products, shall comply with all current food safety legislation including the provisions of the Food Safety Act 1990 and all subsequent act or amendments.

25. All staff must have attended as a minimum 'level'1 Food Hygiene training within the past five years. Evidence of food hygiene training must be available for examination by an Authorised Officer of the Council at any time the unit is trading.
26. In the case of food vending vans, vehicles, barrows, carts, or stalls, at least one person involved in the preparation and sale of food must hold a current Level 2 food safety certificate accredited by the Chartered Institute of Environmental Health, or an equivalent qualification, and must be present at the site during all trading hours.
27. The Consent Holder must take adequate precautions to prevent the risk of fire at the van, vehicle, barrow, cart or stall. All hot food vendors are required to comply with current fire safety legislation. Where gas cylinders are used, an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment.
28. A serviceable fire blanket and foam fire extinguisher shall be provided at all vans, vehicles, barrows, carts or stalls using any form of power.
29. Fabrics or other sheet materials used in the construction of the stalls, roof coverings, drapes or awnings shall be rendered flame retardant and maintained in that condition.
29. No heat producing equipment shall be used without the prior written express permission of the Council.
30. Liquefied petroleum gas shall not be used without the express permission of the Council and any installations must be in accordance with the current code of practise.
31. No generators shall be used without the prior written express permission of the Council and will be placed in a position where they do not present a danger or nuisance.
32. A suitably qualified person must install all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
33. No fuel may be stored in the vicinity of a generator and generators must not be filled up during the trading time.
34. All hot food vans, vehicles, barrows, carts or stalls are required to carry a basic first aid kit. The Consent Holder and hot food vendors should know how to give first aid to treat victims of cuts and burns. All hot food vans, vehicles, barrows, carts or stalls should have access to a minimum of one mobile telephone that must be serviceable at all times whilst trading.
36. With the exception of Town Centre Consents, Special Events and Market Consents, the Consent Holder must be the principal trader and have day to day control of the van, vehicle, barrow, cart or stall. The Consent Holder may employ any other person to assist in operating the van, vehicle, barrow, cart or stall and shall notify the Council of the name and address of such persons.
37. The Consent Holder shall permit the Council, or any other statutory body, to have access to the area designated within a Consent at any time without notice for any purpose whatsoever including, but not limited to, carrying out works to the highway or private land, or inspecting the same, or otherwise.
38. The Council may revoke the Consent at any time.
39. The Consent Holder will return the Consent to the Council immediately upon revocation or surrender.
40. In the event of the Consent being surrendered or revoked before the expiry date, any refund will be at the discretion of the Council as considered appropriate and proportionate.

41. The Council may at any time vary these Conditions without notice.
42. If the trader wishes any of the terms of the consent to be varied application must be made in writing to the council in accordance with the statutory requirements.
43. Failure to comply with any conditions attached to the Street Trading Consent may result in the revocation of such consent. If the consent is revoked the person issued with the consent shall have no claim against the council.
44. The Council may revoke this consent at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
45. Revocation will be authorised by the Head of Public Health and Protection documenting the reason for the revocation but there is no appeal process.
46. Once revoked the consent is no longer valid so any further street trading would be illegal and subject to enforcement proceedings.

Additional Conditions for Static Pitches

1. Any van, vehicle, barrow, cart or stall shall only be positioned within the designated area as outlined on the plan attached to the Consent.
2. Nothing contained herein shall be construed as the grant or purported grant by the Council of any tenancy protected by the Landlord and Tenant Act 1954, or any permission under the Town and Country Planning Act 1990, or any statutory modification or re-enactment thereof for the time being in force.

Additional Conditions for Multi user Town Centre Consents

1. The Consent Holder will be responsible for ensuring compliance with all consent conditions at all times when the consent is in use.
2. The Consent Holder may make the charges outlined in Appendix B payable to licensing at Welwyn Hatfield Council for the administration of the consent until such time as the threshold is reached. (Appendix B). Once the threshold is reached any additional fees will remain with the Estates Team to facilitate future events.
3. The Consent Holder may not make any charge for the use of a Town Centre Consent by organisations or individuals using the Consent for registered charitable or not-for-profit purposes. In these cases there is no requirement to pay the licensing fee.
4. The Consent Holder must keep records of each stallholder that uses the Town Centre Consent, to include:
 - date of use;
 - location of stall and/or pitch number;
 - name and company/organisation name;
 - trader's home address;
 - trader's vehicle registration; and
 - trader's contact telephone number
 - Date of birth (17 and over only)
5. The multi-use consent holder must keep records of each stallholder that is refused use of the Town Centre Consent, to include:
 - date of proposed use;
 - location of proposed stall;
 - name and company/organisation name;

- trader's home address;
- trader's contact telephone number; and
- reason for refusal

6. In determining whether or not to allow an individual or organisation the use of a Town Centre Consent, the Consent Holder must make his/her determination in accordance with the principles contained within paragraph 3.5 of the Street Trading Policy.

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APPENDIX E

ROLES AND RESPONSIBILITIES FOR STREET TRADING

Roles	Responsibilities
Environmental Health and Licensing	Food Safety/ Health and Safety Street trading consents Pavement Licences
Estates Team	Buskers Leaflet distributors Town centre street traders where a consent is in place.
Corporate property	Markets
Councillors	New proposed street trading consents. Changes to standard conditions. Policy development
Planning	Change of use/regeneration/planning permissions
Police	Peddlers
Highways	Permission for permanent Table and chairs and A boards placed on the street/highway
Environmental services	Litter enforcement

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Street Collection Regulations

Regulations made by Welwyn & Hatfield Council with regard to street collections.

In pursuance of Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916, as amended by Section 251 and Schedule 29 to the Local Government Act 1972, the Council hereby make the following Regulations with respect to the places where the conditions under which persons may be permitted in any street or public place within the District of Welwyn Hatfield (except in that part within the Metropolitan Police District) to collect money or sell articles for the benefit of charitable or other purposes.

1. In these Regulations, unless the context otherwise requires:
 - a) "collection" refers to a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly;
 - b) "promoter" refers to a person who causes others to act as collectors;
 - c) "the Council" refers to Welwyn & Hatfield Council
 - d) "permit" refers to a permit for a collection;
 - e) "contributor" refers to a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 - f) "collecting box" refers to a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the District of Welwyn Hatfield (except in that part within the Metropolitan Police District) unless a promoter shall have obtained a permit from the Council.
3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection.
Provided that the Council may reduce the period of one month if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6.
 - a) No person may assist or take part in any collection without the written authority of a promoter.
 - b) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Council or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such a person.
10. While collecting:
 - a) A collector shall remain stationary; and
 - b) A collector or two collectors together shall not be nearer to another collector than 25 metres.Provided that the Council may, if it thinks fit, waive the requirements of this regulation in respect of a collection which has been authorised to be held in connection with a procession.
11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.

12.
 - a) Every collector shall carry a collecting box.
 - b) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
 - c) All money received by a collector from contributors shall immediately be placed in a collecting box.
 - d) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.

13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit not any collecting box which is not duly numbered.

14.
 - a) Subject to paragraph (2) below a collecting box shall be opened in the presence of a promoter and another responsible person.
 - b) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
 - c) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.

15.
 - a) No payment shall be made to any collector
 - b) No payment shall be made out of the proceeds of a collection, either directly or indirectly to any person connected with the promotion or conduct of such a collection for, or in respect of, services connected therewith except such payments as may have been approved by this Council.

16. Within one month after the date of any collection the person whom a permit has been granted shall forward to this Council
 - a) A statement of account in the form set out in the Schedule to the Regulations, or in the form to the like effect, showing the amount received and the expenses and the payments incurred in connection with such a collection, and certified by that person and either a qualified accountant or an independent responsible person acceptable to this Council.
 - b) A List of Collectors
 - c) A list of the amounts contained in each collecting box; and shall, if required by this Council, satisfy it as to the proper application of the proceeds of the collection.

The said person shall also, within the same period, at the expense of that person and after the certificate under paragraph 16(1)(a) above, has been given, publish in such newspaper or newspapers as this Council may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such a collection.

- a) This Council may if satisfied that there are special reasons for so doing, extend the period on one month referred to in paragraph 16(1) above.
- b) For the purposes of this Regulation 'a qualified accountant' means a member of one or more of the following bodies:-
 - The Institute of Chartered Accountants in England and Wales
 - The Institute of Chartered Accountants of Scotland
 - The Association of Certified Accountants
 - The Institute of Chartered Accountants in Ireland.

HOUSE TO HOUSE COLLECTIONS ACT 1939

House to House Collections Regulations 1947 (as amended)

The above Act and the Regulations made there under contain important provisions for **THE REGULATION OF HOUSE TO HOUSE COLLECTIONS FOR CHARITABLE PURPOSES**, and prescribe **FINES AND/OR IMPRISONMENT** for offences against the Act or the Regulations.

1. Except in the cases specified in Paragraphs 3 and 4:-
No collection in any locality for a charitable purpose may be made unless the promoter is licensed by the Licensing Authority for the area comprising that locality, and the collectors are authorised by the promoter.
2. Application for a licence must be made in the prescribed manner. The Licensing Authority cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the Act.
There is a right of Appeal to the Secretary of State against the refusal or the revocation of a licence, within fourteen days from the date on which notice is given of the refusal or the revocation.
3. Where the Secretary of State is satisfied that **a person pursues a charitable purpose throughout the whole, or a substantial part, of England and Wales, and is desirous of promoting collections for that purpose**, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain licences from the Licensing Authority, as respects all collections for that purpose in such localities as may be described in the Order.
4. **If the Chief Constable** for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be, made **is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period**, he may **grant** to the person who appears to him to be principally concerned in the promotion of the collection a **Certificate** in the prescribed form; and where a Certificate is so granted, a Licence from the Licensing Authority is not required, and the provisions of the Regulations (as to which see Paragraph 5 below) shall not apply to a collection made in conformity with such Certificate.
5. Regulations have been made by the Secretary of State under the Act. The Regulations include the following, amongst other provisions –
 - a. Every promoter of a collection must exercise all due diligence to secure that persons authorised to act as collectors are fit and proper persons and to secure compliance by collectors with the Regulations.
 - b. **No promoter of a collection shall permit any person to act as a collector unless he has issued to that person –**
 - (i) **A prescribed Certificate of Authority;**

- (ii) **A prescribed Badge;**
- (iii) If money is to be collected, a **Collecting Box** marked, or a **Receipt Book** (with receipts and counterfoils or duplicates consecutively numbered) marked on every receipt, with a general indication of the purpose of the collection, and a distinguishing number.
- c. In the case of a collection in respect of which a Licence had been granted, **every prescribed Certificate of Authority shall be given on a form obtained from H.M Stationary Office, and every prescribed Badge shall be so obtained.**
- d. No person **under the age of 16 years**, shall act or be authorised to act as a collector of money.
- e. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by the occupant thereof.
- f. The promoter of a collection must, within one month of the expiry of the licence, furnish an account of the collection in the form prescribed to the licensing authority or the Secretary of State, as the case may be.

DEFINITIONS

6. **“Charitable Purposes”** means charitable, benevolent, or philanthropic purpose.

“Collection” means an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property; and **“Collector”** means a person who makes the appeal in the course of such a visit.

“House” includes a place of business

“Proceeds” means, in relation to a collection, all money and all other property given, whether for consideration or not, in response to the appeal.

“Promoter” means a person who causes others to act as collectors for the purposes of the collection.

Agenda Item 7

art I

Item No: 0

Main author: Kate Payne

Executive Member: Cllr James Broach

All wards

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 26 FEBRUARY 2024
REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE
CHANGE)

STATEMENT OF LICENSING POLICY - REVIEW

1 Executive Summary

- 1.1 The statement of Licensing Policy under the Licensing Act 2003 has been produced in accordance with the Licensing Act 2003 and with regard to the Home Office guidance (issued under section 182 of the Licensing Act), which was last updated in December 2023.
- 1.2 The purpose of the Statement of Licensing Policy is to set out the policies of Welwyn Hatfield Borough Council for the carrying out its functions and responsibilities as the licensing authority under the Licensing Act 2003.
- 1.3 The Statement of Licensing Policy was last approved by full Council on 7 January 2020. The Policy is due for review and approval by full council before the end of the 5 year period.
- 1.4 The current Policy has been reviewed, and regards had to the revised guidance under section 182 of the Act, and the amendments are summarised as follows:
 - Entitlement to work in the UK for personal licence holders. Criminal record checks and means of checking the right to work via a weblink.
 - Persons operating an alcohol delivery service should check with the Licensing Authority that this form of alcohol sale is permitted.
 - New paragraphs 4.82-4.84 clarifying the circumstances when a closure notice may be served and when an application can be made to court to close the premises.
 - Clarification that Home Office Immigration Enforcement is not a responsible authority in relation to Club Premises Certificates.
 - Increase in the limits for Temporary Event Notices (TENS)
 - Clarification that there is no right of appeal if a late TEN receives an objection from the police or Environmental Health.
 - Full variations should not be used to vary substantially the premises to which a licence relates. A new application should be submitted instead.
 - Clarification that conditions should be interpreted in accordance with the applicant's intentions and be proportionate and appropriate.
 - Addition of paragraph 14.66 to bring licensing more in line with planning and refers to the agent of change.
 - Removal of Annexe A - documents demonstrating the entitlement to work have been replaced with embedded web links.

- 1.5 The Licensing Act 2003 requires us to consult on our policy (before approval) with the consultees listed in Appendix B of the Policy. It proposed that the public consultation take place between 11 March and 3 June 2024 (12 weeks).

2 Recommendation(s)

- 2.1 That the Licensing Committee consider the attached draft revised Licensing Policy in Appendix 1 and suggest any changes.
- 2.2 That the Licensing Committee approve the public consultation to take place.

3 Explanation

- 3.1 The council, in its capacity as licensing authority for the purposes of the Licensing Act 2003, is obliged by law to have a statement of licensing policy. Originally such a statement had to be reviewed every 3 years, but along with a number of other changes to the Licensing Act 2003 and the statutory guidance, this frequency has been increased to 5 years.
- 3.2 During the five year period the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance when changes have been made by Government or in the light of feedback from the local community on whether the statutory licensing objectives are being met.
- 3.3 The statement of licensing policy under the Licensing Act 2003 should also be developed according to the licensing act guidance issued by the Home Office which was last updated in December 2023.
- 3.4 The Statement of Licensing Policy was last approved by full Council on 7 January 2020. The Policy is due for review and approval by full council before the end of the 5 year period.
- 3.5 The Licensing Act 2003 requires us to consult on our policy (before approval) with the consultees listed in Appendix B of the draft revised Policy (at Appendix 1). It proposed that the public consultation take place between 13 May and 2 August 2024 (12 weeks).
- 3.6 The current Policy has been reviewed, and regards had to the revised guidance under section 182 of the Act, and the amendments are summarised as follows:
- Entitlement to work in the UK for personal licence holders, Criminal record checks and means of checking the right to work information inserted via a weblink.
 - Removal of Annexe A - documents demonstrating the entitlement to work have been replaced with embedded web links.
 - Persons operating an alcohol delivery service should check with the Licensing Authority that this form of alcohol sale is permitted.
 - New paragraphs 4.82-4.84 clarifying the circumstances when a closure notice may be served and when an application can be made to court to close a premises.

- Clarification that Home Office Immigration Enforcement is not a responsible authority in relation to Club Premises Certificates.
- Increase in the limits for Temporary Event Notices (TENS)
- Clarification that there is no right of appeal if a late TEN receives an objection from the Police or Environmental Health.
- Full variations should not be used to vary substantially the premises to which a licence relates. A new application should be submitted instead.
- Clarification that conditions should be interpreted in accordance with the applicant's intentions and be proportionate and appropriate.
- Addition of paragraph 14.66 to bring licensing more in line with planning and refers to the agent of change.

Implications

4 Legal Implication(s)

- 4.1 The Council, as a Licensing Authority, has a duty under Section 4 of the Licensing Act 2003 to carry out its licensing functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:
- a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance and
 - d) the protection of children from harm
- 4.2 The Council, as a Licensing Authority, also has a duty under Section 5 of the Licensing Act 2003 to determine its policy in relation to the exercise of its licensing functions (known as a Statement of Licensing Policy) in respect of every five year period, and review and publish the policy before the beginning of the next five year period.
- 4.3 Under Section 4 of the Licensing Act 2003, the Council as a Licensing Authority carrying out its licensing functions, must also have regard to its statement of licensing Policy and any guidance issued by the Secretary of State under section 182 of the Act.
- 4.4 Before the Council approves its policy for a five year period, the licensing authority must consult:
- a) the chief officer of police for the licensing authority's area,
 - b) fire and rescue authority for that area,
 - c) the Local Health Board for an area any part of which is in the licensing authority's area
 - d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
 - e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
 - f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority
 - g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

- h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

5 Financial Implication(s)

- 5.1 Preparation and consultation on the Statement of Licensing Policy, and administration of the Licensing functions, are met from within the existing budget and staff resources in the Licensing Team. The purpose of the licensing fees charged for applications under the Act are to cover the costs of the Licensing functions.

6 Risk Management Implications

- 6.1 The council is at risk of legal challenge if it does not have a statement of licensing policy in place, has failed to review or consult on its licensing policy, or if its policy does not take account of the Secretary of State's guidance issued under the Licensing Act. The approval of and adherence to the Statement of Licensing Policy (Appendix 1) on how licensing functions are exercised will help mitigate this risk.

7 Security & Terrorism Implication(s)

- 7.1 The Council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism and to consider security and measures to counteract terrorism in public places.
- 7.2 The guidance issued under section 182 of the Act provides advice and information about counter terrorism in section 2 and the annex.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

- 9.1 The proposal appears to result in no increase in the use of water or other materials. All documentation and agreements are sent electronically unless specifically requested.

10 Link to Corporate Priorities

- 10.1 The subject of this report is linked to the Council's Corporate Priority "*enable an economy that delivers for everyone*" as it supports trade through the issuing of licenses, certificates and temporary event notices. It is also linked to the Council's Corporate Priority '*Together, create opportunities for our communities*' - *to help us feel safer where we live*.

11 Equality and Diversity

- 11.1 An Equality Impact Assessment (EIA) has been previously been completed and no negative impact was identified on any of the protected groups under Equalities legislation.

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Date	January 2024

Background papers to be listed

None

Appendices

Appendix 1 – Draft revised Statement of Licensing Policy

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By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

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