

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.

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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