

Report sponsor: Samantha Dennis, Director of
Public Protection & Streetpride
Report author: Angela Rawson, Team Leader,
Licensing

Draft Street Trading Consent Policy

Purpose

- 1.1 To consider re-adoption of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982.

Recommendation(s)

- 2.1 To recommend the following resolution to Council:

To readopt the provisions of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982 in relation to street trading which shall apply to Derby with effect from April 2022.
- 2.2 To approve the attached Draft Street Trading Policy for release for consultation purposes (Appendix 1).

Reason(s)

- 3.1 The re-adoption of Schedule 4 the Act and the creation of the Council's policy would ensure that traders wishing to operate within Derby would have clear instruction about which areas are consent streets and require a formal consent from the Council and which areas are prohibited and would ensure certainty in any enforcement action taken under the Act
- 3.2 It is proposed that the outcome of the consultation process and any subsequent amendments made to the Policy as a result are reported back to the Committee in the January 2022 meeting. It is anticipated that this will enable the new policy to come into force to coincide with the renewals of existing consents.

Supporting information

- 4.1 Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 contains provisions in relation to the regulation of street trading. “Street trading” under this legislation means, subject to certain prescribed exemptions, “the selling or exposing or offering for sale of any article (including a living thing) in a street.” When Schedule 4 is adopted by a Council, they then have the power to designate ‘streets’ within their area as ‘consent streets,’ ‘licence streets’ or ‘prohibited streets.’ A ‘consent street’ is a street in which street trading is prohibited without the consent of the Council; a ‘licence street’ is a street in which street trading is prohibited without a licence granted by the Council; and, as the name suggests, a ‘prohibited street’ is a street in which street trading is prohibited.
- 4.2 By virtue of a resolution which had effect from the 16 February 1984, defined areas situated within the area administered by the Council were designated as Consent Streets in accordance with the provisions of paragraph 2 of the Act. Streets within the Derby City area and the area known as Pride Park were so designated. Historic plans and subsequent amendments are not clear as to the current situation.
- 4.3 Due to some changes in the responsibility for Street Trading and the length of time since the original resolution, it is felt it appropriate to re-evaluate how and where street trading occurs within the Derby boundary and develop a policy to aid in managing the placement of street traders whilst still supporting small businesses (Appendix 1).
- 4.4 It proposed that the Draft Street Trading Policy undergoes a 12 week consultation period to enable comments to be received from the general public, stakeholders and partners.
- 4.5 There are currently 26 traders holding a street trading consent and a list of the current locations is attached at Appendix 2. Existing consent holders will be contacted directly in relation to the new proposed policy and where possible existing positions will be retained. Where this is not possible, mediation will take place to find a suitable alternative offer.
- 4.6 Responses to the consultation will be considered by the Head of Licensing and the Service Manager and referred back to the Licensing Committee early next year.
- 4.7 It is anticipated that the final revised Street policy will come into effect from 1 April 2022 which would coincide with the renewals of existing consents on 1 April 2022

Public/stakeholder engagement

- 5.1 12 week consultation with the relevant parties, including public, current consent holders, stakeholders and partners.

Other options

- 6.1 None – statutory requirement.

Financial and value for money issues

- 7.1 The fees levied for the regime are intended to include the cost of the review of the policy as well as delivering the service.

Legal implications

- 8.1 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the regulation of street trading. As set out in 4.1 above.
- 8.2 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 empowers the Council to adopt Schedule 4, which relates to street trading. Where such a resolution is passed, it will come into force on such date as is specified in the resolution itself.
- 8.3 By virtue of paragraph 20 within Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) the function of adopting the legislation is a non-executive function.

Climate implications

- 9.1 None directly arising from this report.

Other significant implications

- 10.1 None.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Lucie Keeler, Solicitor	3/9/2021
Finance		
Service Director(s)		
Report sponsor	Samantha Dennis, Service Director	31/8/2021
Other(s)	Michael Kay, Head of Service	31/8/2021

Background papers:	Local Government (Miscellaneous Provisions) Act 1982 (the Act) Schedule 4
List of appendices:	Appendix 1 – Proposed Street Trading Policy Appendix 2 – List of locations of existing consent holders