

LICENSING COMMITTEE
15 September 2022



Report sponsor: Samantha Dennis – Director of
Public Protection and Streetpride

ITEM 5

Report author: Angela Rawson, Service Manager -
Licensing

Street Trading Consent Policy

Purpose

- 1.1 To consider and approve the amended Street Trading Policy with effect from 1 April 2023

Recommendations

- 2.1 To consider the responses to the consultation contained at Appendix 2 of this report and then consider approval of the amended Street Trading Policy at Appendix 1 to become effective from 1 April 2023.
- 2.2 If approved, this Committee asked to:
 - I. Recommend to full Council that a notice of intention to pass a resolution for the designation of streets for street trading purposes, is published in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1982. A copy of the proposed notice is attached to this report at Appendix 5.
 - II. approve the delegations as appended at Appendix 3 to this report

Reason(s)

- 3.1 Following re-adoption of the provisions of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982 and consultation with partners, stakeholders and the public an amended Street Trading Policy has been developed to ensure traders wishing to operate within Derby have clear instruction on the formal application process for requesting consents issued by this Authority and that the Authority has the necessary powers to deal with enforcement of the regime.

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,' 'licensed streets or 'prohibited streets.' A 'consent street' is a street in which street trading is prohibited without the consent of the Council and, as the name suggests, a 'licensed street' is where trading is allowed using a designated site and a 'prohibited street' is a street in which street trading is not allowed.
- 4.2 In September 2021, this Committee approved a Draft Street Trading Consent Policy for the purpose of consultation which took place from 29 September 2021 for a period of 12 weeks and was available on the Council's website where 35 responses were received
- 4.3 Letters were also sent directly to the 26 existing consent holders advising them of the proposals and 2 responses have been received requesting their existing trading pitches are retained.
- 4.4 Prior to the public consultation, internal partners were contacted and responses to the draft proposals were received from the following:
Leisure & Culture – Derby City Council
Traffic & Transport – Derby City Council
Environmental Protection – Derby City Council
Business Improvement Districts.
- 4.5 On 27 January 2022, this Committee deferred final consideration of the consultation responses and amended policy for further communication to be initiated with relevant partners and stakeholders to ensure openness. Further contact has since been made with the relevant parties and comments taken into consideration when compiling the amended draft policy at Appendix 1.
- 4.6 It is proposed that the policy be applied to cover the whole of the Derby City Council boundary. Each application will be considered on its merits and Section 4 of the Policy defines the requirements of the Council in relation to submission of an application.
- 4.7 Section 5 defines the consultees who will be given notice of the application with a 28-day response period.
- 4.8 It is proposed that unopposed applications be dealt with by officers under delegated powers whilst contested applications will be put before the Licensing Sub-Committee for their consideration and determination (Appendix 3).

- 4.9 Existing consents expire on 30 September 2022 and it is proposed to issue existing consents for a further 6 months to expire on 31 March 2023. This will coincide with the intended implementation date of 1 April 2023 where existing consent holders will also be expected to comply with the new requirements when submitting their renewal application. Renewals will also follow the same application process as mentioned above.
- 4.11 The maximum length of a consent is 12 months. However, it is proposed that time limited consents are issued where requested. Application for such consents will be required to follow the same application procedure outlined in the policy.
- 4.12 By approving the policy, not only will there be a structured application process allowing consultees to input into where and how traders are sited but it will also provide the Council with the power to enforce any breaches by existing consent holders. It is proposed that any breach which cannot be mediated to a resolution through compliance, be put before the Licensing Sub-Committee for final consideration.
- 4.13 The Policy, if approved, will also afford the Council the ability to take enforcement action against any traders operating without the correct consent in place by way of prosecution.

Public/stakeholder engagement

- 5.1 Public consultation took place online from 29 September 2021 for a period of 12 weeks and was available on the Council's website where some stakeholders and partners also engaged in this process. Additional time was allowed for further direct communication to be initiated with relevant partners and stakeholders to ensure openness .

Other options

- 6.1 Not to have a policy and there would then be no framework for the administration and enforcement of street trading consents .

Financial and value for money issues

- 7.1 It is envisaged that fees will be charged on a cost recovery basis. The income will facilitate the administration and compliance of the regime. The fees will be reviewed on an annual basis to ensure cost recovery is maintained.

Legal implications

- 8.1 The Local Government (Miscellaneous Provisions) Act 1982 prescribes a statutory process to be followed in relation to the designation of consent streets for the purpose of street trading.
- 8.2 The Policy has been drafted in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. By approving the Street Trading Policy it will put in place a robust framework for consultation and consideration of applications on their own merits

Climate implications

- 9.1 None arising from this report.

Other significant implications

- 10.1 None arising from this report.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Lucie Keeler	6/9/22
Finance		
Service Director(s)		
Report sponsor	Samantha Dennis	5/9/22
Other(s)	Michael Kay – Head of Service	7/9/22

Background papers:	Local Government (Miscellaneous Provisions) Act 1982 (the Act) Schedule 4
List of appendices:	Appendix 1 – Proposed Street Trading Policy Appendix 2 – Responses to online consultation Appendix 3 – Proposed Scheme of delegations for Street Trading Appendix 4 – Copy of EIA Appendix 5 – Notice of intention to pass a resolution