

Subject : Street Trading within the Borough of Rossendale. **Status:** For Publication.

Report to: Licensing Committee Policy Overview and Scrutiny Committee Council	Date: 5 th August 2009 6 th October 2009 7 th October 2009
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Report of: Director of Business

Portfolio Holder: Environmental Services

Key Decision: Yes

1. PURPOSE OF REPORT

- 1.1 To request Policy Overview and Scrutiny Committee formally recommend that Council adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to undertake the control of street trading in the Borough of Rossendale and to agree the fees, conditions and locations.
- 1.2 This report was submitted to the Licensing Committee on the 5th August 2009, who resolved:
- That Council be recommended to adopt Schedule 4.
 - That the proposed fee structure, locations of traders and licence conditions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 be taken to the Policy Overview and Scrutiny Committee and adopted by full Council.
 - That the prohibited areas be extended to include Stubbins, from Bolton Road North Railway Bridge to Chatterton Road River Bridge. (This report has been amended accordingly.)

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objectives.
- Delivering Quality Services to Customers
 - Keeping our Borough Clean, Green and Safe

- Providing Value for Money Services

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982 makes provisions for the regulation of street trading. This allows a Local Authority to designate particular streets as prohibited, consent or licensed streets. These are defined as follows: a 'Prohibited Street' means a street where trading is prohibited; a 'Consent Street' is where street trading is prohibited without the consent of the Council and a 'Licensed Street' is where street trading is prohibited without a licence granted by the Council.

4.2 Surrounding local authorities have all adopted the powers and there is a potential vulnerability to Rossendale, particularly when the redevelopment of Rawtenstall Town Centre moves forward, without the ability to control street trading on busy thoroughfares.

4.3 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as "the selling or offering for sale any article (including a living thing) in a street". The only parties not affected by the street trading regime will be those contained in Section (1)(2) of the schedule, as reproduced below.

- A pedlar holding a current Pedlar's Certificate and acting as a pedlar, under the authority of the Pedlars Act 1871.
- A trader as part of an authorised market or fair.
- A trader at a petrol station.
- A trader in association with an adjoining shop premises.
- A roundsman.
- Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
- Trading as a news vendor where, the only articles sold or offered for sale are newspapers and periodicals.

4.4 The interpretation of a "street" is extended to include any "other area to which the public have access without payment".

4.5 It should be highlighted that the exemption for the holder of a pedlar's certificate is quite significant. A person of good standing may apply to his local police station for a certificate, which lasts for 12 months and costs £12.50p. The holder of the certificate can then travel anywhere in the country and sell his goods quite legally and, in practical terms, providing he does not remain static on one street corner for too long (say half an hour maximum) street trading conditions will not apply.

4.6 On a similar note, sellers of the 'Big Issue' are also exempted.

4.7 It is recommended that the whole of the Borough would comprise of “Consent Streets” with the exceptions of streets and roads to be determined as prohibited streets as follows:

- **Rawtenstall,**

Bank Street - from its junction at St Mary’s Way to the junction at Newchurch Road, encompassing Rawtenstall Market

Kay Street – whole length

Lord Street – whole length

Bacup Road from junction at St Mary’s Way to the junction at Bochholt Way

Bury Road from the junction at New Hall Hey Road to the junction at Lomas Lane

- **Edenfield**

Burnley Road from the junction at Blackburn Road to the junction at Exchange Street

- **Stubbins**

Bolton Road North from the railway bridge at the junction of Stubbins Lane and Stubbins Street to the end of the river bridge junction at Chatterton Road

- **Haslingden**

Manchester Road from the junction at Warner Street to the junction at John Street

Higher Deardengate from its junction with Blackburn Road to the junction at Regent Street

Lower Deardengate from the junction at Grange Road to the junction at Blackburn Road

- **Bacup**

Union Street – whole length

Burnley Road from the junction at Market Street to the junction at Rosebank Street

St James Street – whole length

St James Square

Irwell Terrace – whole length

Kay Street – whole length

- **Whitworth**

Market Street from the junction at Tong Lane to the junction at Hall Street

- **Waterfoot**

Bacup Road from the junction at Church Road to the junction at Cowpe Road

Burnley Road East from the junction at Bacup Road to the junction at Gaghills Road

4.8 The streets classified as Prohibited Streets are to “protect” the main shopping areas and markets within the Borough. It may be that when the re-development of the Rawtenstall town centre is achieved, a number of commercial pitches are allowed which may add to the attractiveness of the town centre.

4.9 There will obviously be cost implications to the Council in respect of administration and enforcement.

4.10 Neighbouring authorities have in place the annual fees detailed below:

• Hyndburn	£469
• Wigan	£489
• Wyre Borough Council	£540
• Ribble Valley	£366
• Chorley	£415
• Bury	£371
• Burnley	£541

It is proposed that Rossendale Borough Council charge a fee of £75 to accompany the application for the grant of a licence. If the grant is rejected, no further fee is payable. If the licence is granted, there will be a further charge of £275 and thereafter, an annual fee of £350.

4.11 It is proposed that authorised street trading is allowed only between the hours of 9am to 10pm Monday to Sunday inclusive. The provision of hot food and drink between the hours of 11pm and 5am is a licensable activity under the Licensing Act 2003.

4.12 Proposed conditions that will be attached to consents and licences in respect of street trading are appended.

- 4.13 In October 2007, the licensing unit sent a consultation document to local Chambers of Commerce, Police, Fire and Rescue, Trading Standards, community groups, Members and various departments within the Council. A copy of the letter is appended as Appendix A.
- 4.14 Only a few responses were received. The Police fully support the proposal, one respondent thought that the proposed fee should be raised above the minimum fee of the surrounding authorities and one respondent would like to be made aware of licenses granted that would affect their particular locality. The remainder that responded had no comment to make.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 The level of charges set are intended to cover the administrative costs associated with the granting of the Licence. The overall costs of this activity on the Council Tax should be neutral.

6. MONITORING OFFICER

- 6.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

- 7.1 There are no specific human resources implications.

8. CONCLUSION

- 8.1 Whilst street trading is not a significant problem at this time, it is prudent that the ability to control street trading within the Borough is in place for the future. Planned improvements within the Borough, particularly the Rawtenstall town centre area, and a lack of street trading control could raise potential problems.

9. RECOMMENDATION(S)

- 9.1 That Council adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the proposed fees, locations and conditions.

10. CONSULTATION CARRIED OUT

- 10.1 As illustrated at Appendix A.

11. COMMUNITY IMPACT ASSESSMENT

- Is a Community Impact Assessment required Yes
- Is a Community Impact Assessment attached No

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Appendices	
Document	Appendix Number
Copy of consultation letter to all interested parties.	Appendix A
Street trading consent conditions	Appendix B
Background Documents	
Document	Location
Report of University of Durham into street trading in Great Britain.	Web site: http://www.rossendale.gov.uk/downloads/B1. App B street trading berr report.pdf
Community Impact Assessment	Democratic Services

Consultation Paper

Adoption of Street Trading in the Borough of Rossendale Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

- The Licensing Committee have resolved to adopt, in principle, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which provides for the regulation of “street trading” in the Borough of Rossendale. There is currently no regulation of street traders within the Borough and any problems associated with street trading have to be dealt with by other legislation – obstruction of highways etc.
- This document is a draft of the outline proposals for the regulation of trading and seeks your views before a final report is prepared and submitted

Definition of Street Trading:

The Local Government (Miscellaneous Provisions) Act 1982, defines street trading, as the selling or offering for sale any article (including a living thing) in a “street”. Anyone wishing to trade in a street within the Borough will be affected, with the following exceptions ;

- A pedlar holding a current Pedlar’s certificate and acting as a Pedlar under the authority of the Pedlar’s Act 1871.
- A trader as part of an authorised market or fair.
- A trader at a petrol station.
- A person trading in association with an adjoining shop premises.
- Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
- Trading as a news vendor, where the only articles sold or offered for sale are newspapers and periodicals.

Definition of Consent Street is as follows;

- Consent Street, means a street in which street trading is prohibited without the consent of the council.
- Prohibited Street, means a street which trading is prohibited.

Proposal 1

It is proposed that all streets in the Borough of Rossendale will be “Consent Streets” with the exception of the following, which will be “Prohibited Streets”

Rawtenstall

- Bank Street, from its junction with St Mary’s Way to the junction of Newchurch Road (encompassing) Rawtenstall market.
- Kay Street – whole length.
- Lord Street – whole length.
- Bacup Road from junction with St Mary’s Way to Bochholt Way .
- Bury Road from junction with New Hall Hey road to the junction of Lomas lane.
-

Edenfield

- Burnley Road from the junction with Blackburn Road to the junction of Exchange Street.

Haslingden

- Manchester Road from junction of Warner Street to the junction of John Street.
- Lower Deardengate from the junction of Grange Road to junction of Blackburn Road.
- Higher Deardengate from its junction with Blackburn Road to the junction of Regent Street.

Bacup

- Union Street –whole length.
- Burnley Road from junction of Market street to Rosebank street.
- St James Street – whole length
- St James Square.
- Irwell Terrace – whole length
- Kay Street – whole length

Waterfoot

- Bacup Road from the junction of Church Road to junction of Cowpe Road
- Bacup Road from the junction of Burnley Road East to junction of Gaghills Road

Whitworth

- Market Street from the junction of Tong Lane to the junction of Hall Street.

Proposal 2

Hours of trading.

It is proposed that street trading may take place between the hours of 9am to 10pm Monday to Sunday inclusive. The provision of “Hot Food” between the hours of 11pm and 5am is a licensable activity under the Licensing Act 2003 and therefore necessitates a premises licence under that Act.

Proposal 3

Fees

It is proposed that Rossendale Borough Council adopts fees as follows to cover the administration and enforcement costs.

Annual fee £350

Various local authorities have fees in place as detailed below.

• Hynburn	£469
• Wigan	£489
• Wyre Borough Council	£540
• Ribble Valley	£366
• Chorley	£415
• Bury	£371
• Burnley	£541

Proposal 4

Conditions

Below are details of standard conditions which are designed to regulate street trading to minimise public nuisance and ensure that trading is carried out in a fair manner.

1. Consent will not be granted if it is considered that one or more of the conditions of the consent will be breached.
2. The consent granted by the Council is personal to the consent holder and is not transferable. Where the consent holder is an employer, this consent will apply to named employees who have been previously notified to and approved by the Council. The consent may only be transferred to another vehicle, container or stall with the prior consent in writing of the Council.
3. The consent granted by the Council may be revoked at any time, should one or more of the conditions be breached.

4. Applications for a street trading consent, other than ice-cream vendors, must state the site from which they wish to trade.
5. The consent holder shall trade only on the site as specified in the consent.
6. The holder may apply for a variation in respect of the site. Such application for variation must be in writing and give details of the proposed relocation.
7. It is the applicant's responsibility to ensure that the site they are applying for is suitable and they have a legal right to trade. No responsibility will be accepted by Rossendale Borough Council for persons found to be trading from unsuitable or illegal sites.
8. Only goods specified in the consent may be sold from the vehicle, container or stall specified in the consent.
9. Nuisance or annoyance shall not be caused by the consent holder or any of his/her employees to persons using the street or otherwise.
10. No obstruction of any street or right of way or danger to the public shall be caused by the consent holder or any of his/her employee of his.
11. The consent holder shall not permit any nuisance, obstruction or annoyance to be caused by the presence of his / her trading activities to persons occupying nearby residential or commercial premises.
12. The name and address of the consent holder shall be displayed conspicuously on the vehicle, container or stall used by him/her.
13. The consent holder shall comply with all legislation relevant to the conduct of the business in which he/she is engaged and ensure that any vehicle used by him in connection therewith is in a roadworthy condition and where necessary taxed and insured.
14. The consent holder or any person employed by him/her shall not use any loudspeaker, whistle, horn, bell or their audible method to attract custom, PROVIDED that this shall not apply to the chimes of an ice cream van during permitted hours of 12 noon to 7.00 p.m.
15. The consent holder shall provide adequate receptacles for rubbish and shall after trading has ceased, remove all rubbish and litter from the site.
16. The consent holder shall comply with any reasonable requirements of the Council or any of its officers or of any police officer in relation to the siting or operation of his/her street trading business.
17. The Council may forfeit this consent if consent holders shall without good cause fail to comply with any condition herein.

18. Any consent issued will only be valid in relation to a single vehicle, container or stall.

19. The consent holder shall at the request of the Council present the vehicle, container or stall for inspection at such time and place as required by the Council.

20. Consents will not be granted to persons under the age of 17 years.

21. Consents will be granted for the period of 12 months from the date of the application. Fees will not refundable.

22. The fee which must accompany the application and can be found in the Fees & Charges table on our website.

N.B. The Law provides that any person who trades in a “consent Street” without having obtained the consent of the Council shall be guilty of an offence.

The following special conditions apply to this consent:

Summary of the Code of Practice on Noise from Ice Cream Van Chimes etc.

It is an offence to sound your chimes before 12 noon or after 7.00 p.m. It is also an offence to sound your chimes in such a way as to give reasonable cause for annoyance. A code of practice approved by the Government gives guidance on methods of minimising annoyance caused by your chimes. The main points of the code of practice are:-

Do Not Sound Chimes

1. for longer than 4 second at a time;
2. more often than once every 3 minutes;
3. when the vehicle is stationary;
4. when in sight of another vehicle which is trading;
5. when within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship);
6. more often than once every 2 hours in the same length of street;
7. louder than 80 dB(A) at 7.5 metres;
8. as loudly in quiet areas or narrow streets as elsewhere.

Remember:-

It is an offence to sound your chimes before 12 noon or after 7.00 p.m.

It is an offence to sound your chimes at any time in a way which gives reasonable cause for annoyance.

Derek Hamill
Licensing Enforcement Officer
4.10.07

Street Trading

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

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