

Subject: Proposed amendments to the current Street Trading Policy

Status: For Publication

Report to: Licensing Committee

Date: 12th April 2011

Report of: Director of Business

Portfolio

Holder: Environmental Services

Key Decision: No

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To outline the issues that has arisen regarding the current street trading policy since its adoption in 2009 and to propose amendments to the Policy

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective/s.

- **A clean and green Rossendale** – creating a better environment for all.
- **A healthy and successful Rossendale** – supporting vibrant communities and a strong economy.
- **Responsive and Value for Money local services** –responding to and meeting the different needs of customers and improving the cost effectiveness of services

3. RISK ASSESSMENT IMPLICATIONS

3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Whilst the grant or otherwise of a street trading Consent is not able to be appealed, it would be open for the applicant to seek Judicial review of a decision not to grant a Consent.

4. BACKGROUND AND OPTIONS

4.1 Rossendale Borough Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 on the 7th October 2009. This gave the

Council the means to regulate street trading within the Borough. Since that time some administrative and practical issues have been highlighted that need to be considered and addressed.

In order to obtain a wide range of views, a consultation exercise was carried out between the 1st February and the 14th March 2011. The responses are appended at [Appendix C](#). All have been considered and some incorporated within the recommendations of this report.

- 4.2 The Act defines the term 'street' as "any road, footway, beach or other area to which the public have access without payment, and a service area is defined in Section 329 of the Highways Act 1980." This Authority is not able to change that definition and it is clear that the legislation enables a Council to control street trading in a fairly broad sense.
- 4.3 The adoption of the legislation enables the Council control of street trading by nominating certain streets for which no Consent to trade will be given as a 'Prohibited Street'. Every other street in the Borough is a 'Consent' street for which an application must be made to the Council. For each application, consultation is carried out with the Police and the Highway Department and, if appropriate, Whitworth Town Council.
- 4.4 The Council also adopted 'street trading conditions', which are appended at [Appendix A](#). These conditions govern the way that street traders carry out their business and a breach of any condition may lead to the revocation of the Consent
- 4.5 There have been a very small number of occasions when the Highways Department have raised objections to the application from a street trader to trade from a site on the highway and this has resulted in the Licensing Committee considering the application. Irrespective of the resultant decision of the Committee, the Highways Department could take independent action to remove the trader if they so wished, under highways legislation. It would therefore seem sensible to give delegated authority to officer level to reject an application for a Street Trading Consent when the officer considers that a valid objection has been received from the Highways Department.
- 4.6 In addition, in those cases where consent is applied for at locations that are not actually on a highway, (for example Lee Bank Quarry), or are 'mobile consents, it would also seem appropriate for the decision to be made at officer level that consultation with the Highways Department is not necessary and thus expedite the application process.
- 4.7 This Authority has granted Consents to a number of street traders. In respect of ice cream vendors, there is an assumption that those vendors will travel around the area, stopping in streets for a few minutes and then moving on. In fact, there is nothing currently to stop them from trading from one particular place and it would now be of benefit to consider an alteration in the type of Consent given.

- 4.8 It would be prudent to have two different Consents. One for 'mobile trading' at non-specific sites which would limit the amount of time that a vehicle may remain stationary at any one location to 30 minutes, and which would cater for ice cream sales. This can be accomplished by amending the current Condition 4. The second type would be for site-specific trading which would require the same considerations and consent as current practice,
- 4.9 The Conditions already in force would be sufficient to regulate both types of Consent.
- 4.10 Additionally, at present Condition 21 states "*Consents will be granted for a period of 12 months from the date of the application.*"
- 4.11 The cost of this annual Consent is £350. This condition does not consider the trader who may wish to trade for a much shorter period of time.
- 4.12 It is proposed that an applicant should be able to apply for a Consent lasting 14 days for a specific site, at a fee of £75. This would enable catering vehicles to apply for Consents at one-off events at a cost that would be viable to them to trade. It would also cater for seasonal applications.
- 4.13 There are also a number of non-profit making events which take place throughout the year run by local organisations on behalf of the community. Typically, they hold a fete or carnival. It would be helpful to the community if, at the discretion of the Unit Manager, Consent could be granted to the organisers of the event for the site. The organiser would then be able to allow traders onto the site at their discretion. Enforcement outside the boundaries would remain the responsibility of the Public Protection Unit.
- 4.14 The current conditions contain mention of the Code of Practice on noise from ice cream van chimes. Whilst these are in line with model conditions suggested by Central Government, it would be prudent to amend them to read "*more often or for longer than is reasonably necessary.*"

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 There are no specific financial implications.

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 In 2009, Rossendale Borough Council moved from a position of not regulating street trading to that of regulation, using conditions that are common across the country. Experience gained over the past 12 months has led to the need for a change to the conditions and processes to enable a better, speedier service to be provided to applicants and the public.
- 8.2. The overall aim of regulating street trading is not to stifle traders but to maintain free passage of the highways, prevent nuisance to residents and businesses and to protect shops and businesses throughout the Borough from casual or itinerant traders taking unfair advantage.

9. RECOMMENDATION(S)

9.1 That the Committee resolves to recommend to Council the following amendments:

1. Amend Condition 21 to read "*Consents will be granted for a period of either 12 months or 14 days from the date of grant.*"
2. Amend Condition 4 to read "*Applications for a street trading consent, other than ice cream vendors, must state the site from which they wish to trade. Ice cream vendors must not allow their vehicle to remain stationary in any one place for a period exceeding 30 minutes, without written consent of the Licensing Authority.*"
3. Agree that Consent may be granted for a period of fourteen days for a fee of £75.
4. Agree that delegated authority is given to the Public Protection Manager to
 - a) Refuse the application when a valid objection is deemed to have been received.
 - b) Grant an application where no objections are received.
 - c) Decide the extent of consultation for each application.
 - d) Issue Consent to the Organiser of an event which is run on a non-profit making basis to enable the Organiser in turn to allow trading on a specific site.
5. Amend the special conditions which apply to ice cream vans Code of Practice to replace "*for longer than 4 seconds at a time*" and "*more often than once every 3 minutes*" to read "*more often or for longer than is reasonably necessary.*"

9.2 That the Licensing Committee resolves to recommend that Council adopt the amendments to the street trading conditions and procedure.

9.3 That Council resolves to delegate any further amendments of the street trading conditions and procedure to the Licensing Committee.

10. CONSULTATION CARRIED OUT

10.1 The Public Protection Unit has consulted widely with all Councillors, Whitworth Town Council, Lancashire Constabulary, LCC Highways, current holders of a Consent, local businesses through the Chamber of Commerce, Trading Standards, relevant officers of the Council and BASCO. The consultation was also published on the Council website.

11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required Yes

Is a Community Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

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Appendices	
Document	Appendix Number
Current Street Trading Conditions	Appendix A
Proposed amended Policy for Street Trading including Street Trading Conditions	Appendix B
Responses to consultation document	Appendix C