

**REGULATORY SERVICES COMMITTEE – 8 MARCH 2022**

**POLICY AND RESOURCES COMMITTEE – 14 MARCH 2022**

**PART I**

**6. INTRODUCTION OF A STREET TRADING POLICY (LICENSING)**

**(DCES)**

**1 Summary**

- 1.1 In recent months, following a number of street trading applications, it is evident the Council requires a specific Policy to cover Street Trading and tighter internal processes which would be best achieved by implementing a new Street Trading Policy (“the Policy”).
- 1.2 The aim of the Policy is to create a street trading environment which ensures fair trading, protects the amenity of residents, ensures the safety of those trading, promotes diversity and consumer choice and provides applicants with advice and guidance on the Council’s approach to the administration for street trading consents and licences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”).
- 1.3 Currently the licensing department rely on Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) when processing applications as no street trading policy exists. That said, the department does currently have a list of prohibited and consent streets (see Appendix II of the Policy) which were passed by Council on 10 July 2007. These streets and the designation of streets as prohibited, consent or licence streets have not been reviewed at the current time. However, a review of the streets would be undertaken and reported within the next 18 months with amendments made thereafter.
- 1.4 Officers are therefore seeking member agreement in adopting the Policy following a 12 week public consultation which is due to expire on 11<sup>th</sup> March 2022.

**2 Details**

- 2.1 Street Trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. Under Schedule 4 of the Act, the Council can manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’.
- 2.2 For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street will also fall within the scope of the Policy. The definition does not include buildings themselves or commercial premises.
- 2.3 As highlighted above, the department does have a list of prohibited and consent streets which is displayed on our website. The current list of prohibited streets generally comprise of trunk roads, principle roads and specific named roads across the district. Additionally, at the Regulatory Services Committee in December 2017 it was agreed that trading be prohibited within 50m of any school boundary unless written permission is ascertained from the Head Teacher.

2.4 It should be noted that there are a number of different type of street trading activities, from static street trading (i.e. burger van), mobile street trading (i.e. ice cream traders), markets/fairs/carnivals and special events.

2.5 The Policy sets out the following in order to assist potential applicants before applying:

- criteria for choosing a trading location/pitch which is aimed to assist potential applicants
- requirements of trading vehicles i.e. emissions and encouragement of electronic vehicles
- guidance on employees of street traders
- operating hours
- guidance on ice cream van chimes
- trading near to schools
- how the application process works from submission, consultation and determination
- guidance on suitability of an applicant
- requirements for street trading during events / special events

2.6 The purpose of the Policy is therefore to:

- provide guidance to applicants and the decision makers
- to ensure fair trade occurs between mobile traders
- protect the amenity of residents
- promote diversity and consumer choice
- provides applicants with advice and guidance on the Council's approach to the administration of applications for street trading licences
- prevent obstruction of the streets in the district and to ensure the safety of persons using them

### **3 Consultation**

3.1 A public consultation initially took place for 6 weeks and expired on 26<sup>th</sup> January 2022. However, it was noted that the Parish Councils were omitted from the consultation and thus a further 6 week consultation commenced and expires on 11<sup>th</sup> March 2022.

3.2 All existing street traders, all members, Parish Councils, relevant consultees on street trading licences/consents were notified and public notices were also displayed in the Watford Observer. The consultation was also displayed on the Council's website.

3.3 One response was received from the Clerk at Watford Rural Parish Council at the time of writing the report, any further comments received will be verbally updated at Committee.

3.4 The response included the following comments:

*This could be quite an important document for us as we are relaunching our street market this year once the large redevelopment in South Oxhey is complete. However, as the closing date is 28 January, my council will not be able to comment as the next Full Council meeting is not until after this date. I know from the policy itself you list us as a consultee so can you please confirm you will allow us time to discuss the policy at Full Council and, if applicable, comment accordingly?*

*If I may please ask a few questions myself from having read it through quickly, so I can brief Cllrs:*

- *Ours is a bespoke designed, designated market area so I know traders do not need a street trading licence (as St Andrews Road was previously before the market closed for redevelopment) but this does not seem to be mentioned in the policy. Should it be?*
- *As it is a designated market area should Prestwick Road be listed as a consent street?*
- *In the future, we have discussed the possibility of holding a Christmas market event at Delta Gain/Carpender's Avenue Shops. These roads are specifically listed as prohibited. What would be the best way to seek this to be overturned please?*

3.5 The Officer responses to the above questions are set out below.

3.6 If a market or fair has acquired by virtue of a grant (including a presumed grant) or acquired or established by an enactment or order it will be exempt from street trading. If Watford Rural Parish (WRP) are able to evidence any of the above then their market will be exempt. From documentation on file it would appear that WRP were given delegated powers to hold an occasional market (one day a month) on the paved area of St Andrews precinct in South Oxhey, under the provisions of Section 50 of the Food Act 1984. As part of the agreement Watford Market appeared to have been consulted and had no objections to the market operating on a Thursday as it did not breach the charter condition that no other market was to operate within a 6.6 mile radius of the centre of Watford. It would appear that the market started sometime after March 1991 and an agreement was drawn up between WRP and a company called Innland Markets (the operator) who managed the market. This agreement started on 21 March 1991 and permitted Innland Markets to operate a market on payment of the licence fee for a 6 month period.

3.7 In February 2020 it was agreed by Council:

*That on or before the 20 March 2020 the Council revokes the powers delegated to Watford Rural Parish Council in 1990 to hold a market at St Andrews Road, South Oxhey and that the Chief Executive be authorised to formally revoke that delegation and to take all necessary steps in connection with the revocation.*

*That the Council using Section 101 of the Local Government Act 1972 agrees to delegate its powers under Section 50 of the Food Act 1984 to Watford Rural Parish Council to hold a market in Prestwick Road South Oxhey on the basis that the Parish Council will seek and obtain all necessary permissions licences and consents to operate a market at Prestwick Road at its own cost.*

*That the Chief Executive (in consultation with the Leader of the Council and Ward Councillors) be authorised to agree and approve:-*

- *all the specific details around the delegation including, but not limited to, the date the delegated powers can be exercised from, the actual location of the market in Prestwick Road and any decisions on the Operator of the market.*
- *the Business Plan to be produced by Watford Rural Parish Council.*

3.8 At the time of writing, Officers are of the view that WRP will require a street trading licence covering the market but will review any information supplied by WRP. The Policy sets out that for non-established markets the Council may issue one street trading consent/licence to the person organising the event.

3.9 Prestwick Road is currently a consent street meaning an application would be required if any street trader wished to trade on the road. The application would need to satisfy the criteria specified within the Policy.

3.10 With regards to future events within Delta Gain/Carpenders Avenue, the list of Prohibited and Consent streets is to be reviewed and is not subject to any change as a result of introducing this Policy.

3.11 Following the previous committee, comments by Members were noted and Officers have duly considered the discussion which occurred. As a result, it was agreed that only mobile street traders should not be permitted to trade within a 50 metre radius of any other street trader removing reference to shops which trade in similar goods/articles.

#### **4 Options and Reasons for Recommendations**

4.1 There are 3 options available for Members:

- **Option 1:** That Members agree the Policy subject to any new response(s) received within the consultation period.

Any response(s) to be circulated to all members of the committee with an officer response.

Following receipt of any further responses the Head of Regulatory Services will determine whether the Policy (attached to this report) can be presented to the Policy and Resources Committee for determination on formal adoption or returned to a future Regulatory Services Committee.

- **Option 2:** Authorise Officers to make further changes on the Policy before going out to a further public consultation (if required). Following the expiry of the consultation for the Policy (if required) to agree the amended Policy and request that Policy & Resources Committee adopt the Policy.

- **Option 3:** Decide not to adopt the Policy.

#### **5 Policy/Budget Reference and Implications**

5.1 The recommendations in this report are within the Council's agreed budgets. Costs associated with the press notice have been subsumed within existing licensing budgets.

5.2 There are no performance indicators impacted.

## **6 Staffing, Environmental, Community Safety & Public Health Implications**

6.1 None specific.

## **7 Financial Implications**

6.1 The introduction of the Policy may deter applicants from applying which could have an impact on income.

## **8 Legal Implications**

8.1 The adoption of the Policy will assist Officers and ensure the Council has a robust procedure in place when dealing with street trading within the district including in the determination of street trading applications.

## **9 Equal Opportunities Implications**

9.1 Relevance Test

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	N/A

## **9.2 Impact Assessment**

9.2.1 There is no detrimental impact likely towards any protected group from introducing the Policy.

## **10 Customer Services Centre Implications**

10.1 CSC staff will be made aware of the Policy once it comes into force.

## **11 Communications and Website Implications**

11.1 If agreed the Policy will be displayed on the TRDC website and will be published via TRDC social media platforms. Officers will also inform all those consulted that the Policy has come into force.

## **12 Risk and Health & Safety Implications**

12.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

12.2 The subject of this report is covered by the Regulatory Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(tolerate, treat, terminate, transfer)</i>	<b>Risk Rating</b> <i>(combination of likelihood and impact)</i>
<b>Option 1:</b>	Prevents delays from having a consistent approach when dealing with street trading and ensuring guidance is readily available to applicants	Members to agree to recommendation provided to ensure it can be adopted in the early part of 2022	Treat.	<b>Low 2.</b>
<b>Option 2:</b>	Delays the department from having a consistent approach when dealing with street trading and preventing guidance being readily available to applicants	Officers to make the necessary changes and bring back to the relevant Committee at their earliest opportunity (if such changes require further consultation)	Treat.	<b>Low 2.</b>
<b>Option 3:</b>	Prevents consistency to decision making and fails to ensure that suitable guidance is available to applicants	Officers to advise against this approach to ensure that there is greater consistency to street trading	Treat.	<b>Low 2.</b>

12.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> ----- <b>Likelihood</b> ----- ▼ <b>Remote</b>	<b>Low</b> <b>4</b>	<b>High</b> <b>8</b>	<b>Very High</b> <b>12</b>	<b>Very High</b> <b>16</b>
	<b>Low</b> <b>3</b>	<b>Medium</b> <b>6</b>	<b>High</b> <b>9</b>	<b>Very High</b> <b>12</b>
	<b>Low</b> <b>2</b>	<b>Low</b> <b>4</b>	<b>Medium</b> <b>6</b>	<b>High</b> <b>8</b>
	<b>Low</b> <b>1</b>	<b>Low</b> <b>2</b>	<b>Low</b> <b>3</b>	<b>Low</b> <b>4</b>
<b>Impact</b> Low -----► Unacceptable				

**Impact Score**

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

**Likelihood Score**

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

12.4 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**13 Recommendation**

13.1 That the Members of the Committee:

1). Recommend to agree the Policy subject to any new response(s) received. Any response(s) received within the consultation period are to be circulated to all Members of the committee with an officer response.

Following receipt of any further responses the Head of Regulatory Services will determine whether the Policy (attached to this report) can be presented to the Policy and Resources Committee for determination on formal adoption or returned to a future Regulatory Services Committee.

Report prepared by: (Lorna Fryer, Lead Licensing Officer)

**Data Quality**

Data sources:

Data checked by: Matthew Roberts, Team Leader, Development Management

Data rating:

<b>1</b>	<b>Poor</b>	
<b>2</b>	<b>Sufficient</b>	
<b>3</b>	<b>High</b>	<b>X</b>

**Background Papers: None.**

**APPENDIX:**

**Appendix A:** Draft Street Trading Policy 2021