

## EAST HERTS COUNCIL

### OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014 OFFICER DECISION WRITTEN RECORD

Subject matter:	Approval to commencement of consultation on the council's revised Street Trading Consents Policy
Date of Decision:	5 <sup>th</sup> September 2019
Exempt /Confidential information (Yes / No):	No
If Exempt/Confidential – reason why:	n/a
Authorising Officer:	<p>Jonathan Geall Head of Housing and Health</p> <p>acting under the following authority delegated in the council's Constitution:</p> <p>Part 3c, paragraph 16.28, <i>"to exercise powers and duties and enforce enactments arising from the legislation referred to in Appendix A...[which includes]... the Local Government (Miscellaneous Provisions) Act 1982 [which covers local authorities' powers regarding street trading]"</i></p> <p><b>Consultees</b></p> <p>Cllr Eric Buckmaster, Lead Member for Wellbeing. Cllr Buckmaster has had sight of the draft policy and supports commencement of consultation.</p>

	<p>The Legal team has confirmed that it is for Council, not the Executive, to determine any future proposal to introduce a revised policy. This does not conflict with officer approval of the commencement of consultation recorded here.</p>
Decision:	Commencement of public consultation on the council's draft revised Street Trading Consents Policy
Reason(s) for Decision:	<p>Part 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') affords the council the power to adopt 'streets' as 'consent streets' to control street trading within its area.</p> <p>The council adopted a Street Trading Consents Policy on 30<sup>th</sup> May 1984. This included the designation of certain streets on which the council's consent is required to trade.</p> <p>The council has not reviewed its Policy since that time. In the intervening years, however, many issues relevant to street trading have changed including, inter alia:</p> <ul style="list-style-type: none"> <li>the council's prioritisation of tackling air pollution (to which street trading vehicles in certain locations can contribute) as exemplified by, for example, the Executive Member for Environment and Public Space's report on 'Air Quality and Health and Wellbeing' to the Health and Wellbeing Scrutiny Committee on 14<sup>th</sup> March 2017</li> <li>the council's prioritisation of improving</li> </ul>

	<p>the health and wellbeing of local residents. This is one of the council's three priorities in its Corporate Strategic Plan 2016-2020</p> <ul style="list-style-type: none"> <li>• best practice established by other authorities.</li> </ul> <p>Schedule 4 of the Act details the statutory notice and consultation required prior to the designation of streets.</p> <p><b>Appendix A</b> to this report gives greater detail on the background to this decision. Of note, the draft consultation policy amends the existing policy by proposing that the council wishes to:</p> <ul style="list-style-type: none"> <li>• extend the consent streets from those listed in the current policy to all streets within East Hertfordshire District</li> <li>• introduce a right to appeal a decision where the applicant feels they have been treated unfairly</li> <li>• introduce clear guidelines on what can be considered when reviewing a street trading consent application</li> <li>• introduce acceptable standards of appearance for any street trading vehicle or stall</li> <li>• place restrictions on street trading in our Air Quality Management Areas</li> <li>• adopt within the district national standards on what is deemed to be an acceptable size of a layby to allow street trading</li> </ul>
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- restrict selling of food and confectionary near educational establishments
- introduce a code of acceptable standards of behaviour for street traders
- specify the level of food hygiene training for street traders together with requiring a minimum rating of three under the national Food Hygiene Rating Scheme
- set clear guidance on the level of refund if the consent is surrendered part-way through the term of the consent
- establishing a public register of street traders
- increase the number of consultees to include the Town and Parish Councils together with the District Council Ward Member.

It should be noted that the decision recorded here is ***the commencement of consultation to inform whether to propose and, if so the content of a future proposal, to Council*** to adopt a revised policy. The Act requires that the determination of street trading designations is a matter reserved for Council; it is not an Executive decision. Should the outcome of this consultation exercise indicate that a revised policy should be considered, the formal notification and consultation arrangements relating to the finalised policy, as required by the Act, will be adhered to so that Council can make a lawful decision.

<p>Details of alternative options, if any, considered and rejected:</p>	<p><b>Alternative options considered</b></p> <p><b>(a) Move straight to statutory notification of and consultation on a revised street designations within a revised Street Trading Consents Policy: REJECTED.</b> The council's approach to street trading has not been reviewed in any detail for over 35 years and officers are now proposing some quite fundamental changes to the council's approach, rather than just minor amendments. Thus, officers feel it is prudent to conduct a round of informal consultation to explore all views at an early stage.</p> <p><b>(b) Do nothing; retain the current policy unchanged: REJECTED.</b> Officers are currently working to a policy approved by members in 1984. It is reasonable to review and amend such an aged policy. Of note, the current policy offers limited guidance to those wishing to trade on the district's street and does not include provisions to restrict / influence the type and nature of street trading in particularly 'sensitive' areas such as the council's three air quality management areas, which were introduced following the inception of the current policy, and around education establishments.</p>
<p>Name(s) of any Member who has declared a conflict of</p>	<p>No members have a conflict of interest.</p>

interest in relation to the decision that is being taken under specific express authorisation:	
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