

## **APPENDIX A**

### **EAST HERTS COUNCIL**

#### **DELEGATED DECISION – HEAD OF HOUSING AND HEALTH**

#### **PUBLIC CONSULTATION – STREET TRADING CONSENTS POLICY**

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##### **Purpose/Summary of Report**

- To seek approval from the Head of Housing and Health to start public consultation on the proposed Street Trading Consent Policy;
- To seek approval from the Head of Housing and Health to start public consultation on the proposed new fee structure for Street Trading Consents;

<b><u>RECOMMENDATION FOR DECISION:</u> That:</b>	
<b>(A)</b>	<b>The Head of Housing and Health approves public consultation on the proposed Street Trading Consent Policy detailed in Essential Reference Paper 'B', and</b>
<b>(B)</b>	<b>The Head of Housing and Health approves public consultation on the proposed new fee structure for Street Trading Consents as detailed in Essential Reference Paper 'B'.</b>

##### **1.0 Basis of Delegated Decision**

- 1.1 The current version of the Council's Constitution (June 2019) gives the Head of Housing and Health delegated authority to approve this report under Part 3C (Officers' Responsibilities), Paragraph 16.28, which states:

"To exercise powers and duties and enforce enactments arising from the legislation referred to in Appendix A..."

- 1.2 For the purposes of this report, the Local Government (Miscellaneous Provisions) Act 1982 is listed under Appendix A of the Council's Constitution.

## **2.0 Background**

2.1 The Local Government (Miscellaneous Provisions) Act 1982 allows for the Council to adopt 'streets' as consent streets to control street trading within its area.

2.2 On the 30<sup>th</sup> May 1984, members agreed to adopt a selected number of streets within East Herts which had the general effect to render it an offence for any person to engage in street trading in a consent street, unless they have first been authorised to trade in that street by the, Council. The streets adopted were:

- All streets within the designated urban areas of Sawbridgeworth, Ware, Hertford and Bishop's Stortford
- A10 Trunk Road - Broxbourne Council boundary, south of Rush Green to North Hertfordshire District Council boundary, north of Buckland
- A119 - Plough roundabout in Hertford to A1170 in Ware
- A120 - Junction with A10 at Puckeridge to Essex boundary near Bishop's Stortford
- A414 - Essex boundary at Harlow to District boundary at Hollwell
- A507 - Junction with A10 at Buntingford to District boundary near Cottered
- A602 - Junction with A414 Hertford to District boundary near Stevenage
- A1059 - South Road, South Street, Dane Street, Station Road, Bishop's Stortford
- A1060 - Hallingbury Road, Bishop's Stortford
- A1170 - Broxbourne Council boundary near Hoddesdon to A10 junction north of Ware
- A1184 - Essex boundary near Harlow to Hockerill Street, Bishop's Stortford
- A1250 - Hadham Road and Dunmow Road, Bishop's Stortford

2.3 The proposed new Street Trading Consent policy extends the number of consent streets, makes a number of changes to fit with other priorities for the Council, such as air quality, and incorporates best practice and is based on transparency, to improve the guidance and support offered to local traders

### **3.0 What is street trading?**

- 3.1 For the purposes of this policy, street trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. The policy in Essential Reference Paper 'B' expands this further and also details the activities which would not be classed as street trading.
- 3.2 For the purposes of this policy and administering street trading consents within East Hertfordshire:
- a) static street traders are those who trade from a fixed location such as a layby or area of land and would include stalls or food vans
  - b) peripatetic street traders are those who remain in location for a limited duration, usually to carry out a transaction, before moving on to another location and would include ice-cream vans

### **4.0 Key Changes**

- 4.1 There are a number of differences between the 1984 policy and the proposed new policy. Most of these are there to reflect the outcome of case law or best practice and will not have a material effect on the street traders which currently operate within East Herts; the new policy just brings these points together in one easy to follow policy.
- 4.2 The following however are considered to be key differences between the 1984 Street Trading Consent policy and the proposed Street Trading Consent policy:
- a) Extend the consent streets from those listed in paragraph 2.2 above to all streets within East Hertfordshire.
  - b) Introduce a right to appeal a decision where the applicant feels they have been treated unfairly.
  - c) Introduce clear guidelines on what can be considered when reviewing a street trading consent application.
  - d) Introduce acceptable standards of appearance for any street trading vehicle or stall.
  - e) Restrict street trading in our Air Quality Management Areas for those traders who require their vehicle engines to be running or the use of a petrol or diesel generator.
  - f) Adopt national standards on what is deemed to be an acceptable size of a layby to allow street trading.

- g) Restrict selling of food and confectionary near educational establishments.
- h) Introduce acceptable standards of behaviour for street traders
- i) 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.
- j) Setting clear guidance on the level of refund if the consent is surrendered part-way through the term of the consent.
- k) Establishing a public register of street traders.
- l) Increase the number of consultees to include the Town and Parish Councils together with the District Council Ward Member.

## **5.0 Fees and Charges**

5.1 Under the Local Government (Miscellaneous Provisions) Act 1982, the Council has powers to:

- i. Charge fees as they consider 'reasonable' for grant or renewal of a street trading licence or a street trading consent
- ii. Determine different fees for different types of licence/consent according to:
  - Duration of licence/consent
  - The street in which it authorises trading
  - Description of articles in which the holder is authorised to trade

5.2 It is considered reasonable when setting a fee to consider charging for the cost recovery of the consent, including any further costs around enforcement and officer training costs.

5.3 Based on time recording undertaken by the team, the charges, as set out in Appendix 2 of Essential Reference Paper 'B', have been amended to ensure they are set on a fully cost recovery basis.

5.4 The fees will be reviewed annually as part of the Council's fee setting process.

## 6.0 Impacts to Current Street Traders

- 6.1 The Environmental Health team currently consents three static and nine peripatetic street traders, with three new applications currently being processed. In addition, on the 23<sup>rd</sup> October 2018 the Executive agreed to use street trading consents to manage the markets in Hertford and Ware (<https://tinyurl.com/y2yphq2g>).
- 6.2 The table below summarises the current consents issued to the street traders by Environmental Health:

REFERENCE	TRADING DETAILS	FHRS SCORE
19/0691/STCM	Peripatetic trader in Ware & Hertford	5
18/1396/STCM	Peripatetic trader in Bishops Stortford, Sawbridgeworth and Buntingford	5
18/0938/STCM	Peripatetic trader in Bishops Stortford and Sawbridgeworth	4
19/1518/STCM	Peripatetic trader in Bishops Stortford	5
19/1315/STCM	Peripatetic trader in Bishops Stortford	5
19/1184/STCM	Peripatetic trader in Ware	TBC
19/1005/STCM	Peripatetic trader in Hertford, Ware, Bishops Stortford, Sawbridgeworth & Buntingford	TBC
19/1294/STCM	Peripatetic trader in Sawbridgeworth	4
19/1122/STCM	Peripatetic trader in Bishops Stortford	2
18/1780/STCS	Static trader on the A10	3

REFERENCE	TRADING DETAILS	FHRS SCORE
18/1427/STCS	Static trader on an industrial park, Bishops Stortford	TBC
18/1246/STCS	Static trader on an industrial park, Hertford	5
19/1518/STCM	New peripatetic trader	TBC
19/1424/STCM	New peripatetic trader	TBC
19/1403/STCM	New static trader	TBC

6.3 Of the key changes listed in paragraph 4.2 above, the following are likely to have a notable impact on current street traders:

- a) Adopt national standards on what is deemed to be an acceptable size of a layby to allow street trading.
  - Currently the trader on the A10 layby near Hertford would not be allowed to trade any longer when their licence expires on 9<sup>th</sup> November 2020.
- b) 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.
  - Currently one trader does not meet the minimum requirement of a Food Hygiene Rating of 3 or above.

6.4 Of the key changes listed in paragraph 4.2 above, the following are likely to have a notable impact on current traders who do not hold a consent issued by the Council:

- a) Extend the consent streets from those listed in paragraph 2.2 above to all streets within East Hertfordshire.
- b) Restrict street trading in our Air Quality Management Areas for those traders who require their vehicle engines to be running or the use of a petrol or diesel generator.

## **7.0 Implications/Consultations**

- 7.1 Information on any corporate issues and consultation associated with this report can be found within Essential Reference Paper 'A'.
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### **Background Papers**

- None

Report Author: Paul Thomas-Jones  
Service Manager – Environmental Health  
[paul.thomas-jones@eastherts.gov.uk](mailto:paul.thomas-jones@eastherts.gov.uk)

### Implications / Consultations

Consultation:	This paper is seeking to permission to consult with members of the public and current street traders before taking the final report to Executive for their approval.
Legal:	Street trading would need to cease in one location for a current street trader following information from the Police on the national guidance on layby standards.
Financial:	Initially there will be little impact on the revenue base budgets, however overtime there is likely to be an increase in income as traders which have currently operated without a consent are then consented.
Human Resource:	None, enforcement and administration will take place within current resources.
Risk Management:	Street trading would need to cease in one location for a current street trader following information from the Police on the national guidance on layby standards.
Health and wellbeing – issues and impacts:	By introducing minimum food hygiene standards, prohibiting trading locations near educational establishments and restricting trading in known air pollution hot spots, there are positive health benefits of introducing this new policy.

## OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

### OFFICER DECISION WRITTEN RECORD

Service reference:	
Business name:	
Ward:	All
Subject matter:	
Date of Decision:	
Exempt / Confidential information (Yes / No):	No
If Exempt / Confidential – reason why:	N/A
Authorising Officer:	
Decision:	
Reason(s) for Decision:	The reasons for making the decision are:
Details of alternative options, if any, considered and rejected:	N/A
Name of any member(s) who has declared a conflict of interest in relation to the decision that is being taken under specific express authorisation:	None.