

# Three Rivers District Council

REGULATORY SERVICES COMMITTEE

Review of Street Trading Policy

14 June 2023

## REGULATORY SERVICES COMMITTEE – 14 JUNE 2023

### PART I – NOT DELEGATED

#### 5. REVIEW OF STREET TRADING POLICY

##### 1 Summary

1.1 Prior to March 2022 the Licensing department did not have a specific street trading policy. In early 2022 following member concern regarding the suitability of ice cream sellers within the district, a new policy, titled Street Trading Policy 2022 (“the Policy”) was adopted. The policy generally covers:

- Static trading such as food vans and stalls in a fixed location
- Mobile trading such as ice cream vans / coffee vans
- Markets / events

1.2 Historically the Council resolved to apply Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 meaning it could manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’. The Council can, at any time, pass another resolution to not apply Schedule 4.

1.3 Since the adoption of the Policy the department has received significant criticism from community groups, Parishes, and individuals across the district. The criticism is primarily on two counts; a) the cost and time of applying for a licence and b) the requirement to obtain a licence is overly bureaucratic and unnecessary. However, the Policy has also been praised by Herts County Council in respect of the controls surrounding ice cream vans, specifically restrictions near schools.

1.4 The Policy does attempt to strike a balance between the requirement to apply for a consent and the social and economic benefits which arise from local events by offering various exemptions from applying to the department for consent. Nevertheless, officers have taken on board the concerns expressed and are proposing several changes which would, if approved, add greater exemptions from applying for street trading consents, incorporate new fees for different types of consents and remove the requirement to submit a basic disclosure. Officers have also reviewed the List of current Prohibited, Consent and Licence Streets confining ‘prohibited streets’ to solely Trunk Roads and Principal Roads, subject to future discussion.

1.5 The proposed changes were informally sent to all Parishes earlier in the year. Comments were received from Watford Rural Parish Council, and these have been considered as part of the review and largely incorporated. An acknowledgement was also received from Chorleywood Parish Council who had no objections.

1.6 Officers are therefore seeking member agreement on an amended Policy following a public consultation.

##### 2 Details

2.1 The purpose of the Policy’s adoption was to ensure that officers had procedures in place when assessing consents, guidance for applicants and to enable control over certain traders across the district. The key elements of the Policy are:

- 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;
- provide 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.

2.2 Following a review of the Policy, officers have identified areas which should be altered to provide greater exemptions to reduce the burden on community events and events across the district. In addition, an important proposed addition is the introduction of a fee range to enable greater flexibility and choice for customers. The changes are summarised below:

Proposed Exemptions:

2.3 The draft Policy at **Appendix 2** includes the following proposed exemptions meaning that no consent will be required from the Licensing department in the following circumstances:

- Activities which take place on Council (both district and parish) owned land, including;
  - i. parks and green / open public spaces such as Commons along with their associated carparks
  - ii. carparks
- Activities which take place within the boundaries of school premises
- Activities which take place within the curtilage of a residential property
- Buskers
- Non-commercial events organised by charity or community organisations where proceeds are wholly donated to charity or for use to benefit a community organisation. These include Community fetes/carnivals.

New Fees:

2.4 As part of the changes, it is proposed to include new fees relating to **occasional/seasonal consent** (lasts for 30 days at specified location) and a **'one off' trading consent**. A new fee relating to the **renewal of the existing annual fee** is also proposed.

- **'Occasional/Seasonal Street Trading Consent** – this would be issued for a period of 30 days and can be issued to an individual trader or to a market/event. These consents would cover Christmas tree sellers and seasonal stalls. A fee of £62 is currently proposed.
- **One-off Street Trading Consent (“individual one off” and “market/event one-off consent”)** – this would be issued for up to a maximum of 4 consecutive days and can be used where street trading is either taking place as part of an event, or is a one-off event of its own. This consent may also be used to support events organised by community groups where the event itself is exempt however there are one or two commercial traders. A fee of £27 is currently proposed.
- **Renewal of annual consent fee** - £222.96 is currently proposed (annual fee minus admin fee).

- 2.5 The above would complement the existing annual fee which would remain. This particular fee increased to £243.96 from 1 April 2023.

#### Review of List of consent, licence and designated streets

- 2.6 Officers have reviewed the list of current Prohibited, Consent, Licence Streets which had been in place for a significant period. Previously, the list prohibited several Trunk Roads, Principal Roads and specific roads in Abbots Langley, Bedmond, Carpenders Park, Chorleywood and The Green in Croxley Green.
- 2.7 Officers have considered that specific road named restrictions within the settlements across the district is overly restrictive and have thus been removed. The removal of specific road names now means that the Licensing department will be able consider applications for street trading on those roads.
- 2.8 Watford Rural Parish Council have previously requested whether the following named roads can be added to the list of 'prohibited roads' to safeguard their market which is to be relaunched upon the completion of phase 3 of South Oxhey Redevelopment at Market Square, Prestwick Road:
- Prestwick Road
  - Fairfield Avenue
  - St Andrews Way
  - Tom Lake Way
  - Bridlington Road
  - Station Approach
- 2.9 Officers would welcome views from members and those consulted on the above named roads, plus consideration into whether further specific named roads need to be prohibited.
- 2.10 It is important that trading is still prohibited within 50m of any school boundary, unless written permission is obtained from the Head Teacher and made available to the Licensing department. This had originally been agreed at the Regulatory Services Committee in 2017 and was further agreed in 2022.

#### Other Changes:

- 2.11 Officers have removed the requirement for a basic disclosure criminal record check and replaced with a self-declaration form for convictions. Officers have noted that requiring basic disclosure checks have taken a considerable period of time and have delayed many previous applications from obtaining consent quickly. It should be notified that as part of the consultation process for any street trading consent, the Police are notified so any concerns regarding the event / event organiser will be provided to officers.
- 2.12 It should also be noted that officers have received legal advice which confirms that Watford Rural Parish Council would not require consent for their future market at Market Square on Prestwick Road. This market obtained planning permission as part of the South Oxhey redevelopment and is also to be managed by the Parish via the powers afforded to them via Part III of the Food Act 1984.

### **3 Consultation**

- 3.1 A public consultation is required and will take place for 6 weeks if agreed. The consultation will include a press notice in the local paper as well as existing

street traders licensed with the Council, local parishes, all those that are consulted as part of the individual application process and any other consultee that is considered appropriate by Officers/Members.

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

- Option 1: Authorise Officers to consult on the amended Policy. Following the expiry of the consultation the Head of Regulatory Services will use discretion following any response(s) received to conclude whether the amended Policy attached to this report can be presented to the Policy and Resources Committee for consideration and adoption or return to a future Regulatory Services Committee.
- Option 2: Authorise Officers to make further changes on the amended Policy and for the Policy to be brought back to a future Extraordinary Regulatory Services Committee before going out to public consultation. Following the expiry of the consultation for the Policy to be brought back to a future Extraordinary Regulatory Services Committee for agreement before adoption at the relevant committee.
- Option 3: Decide not to adopt the amended Policy.

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

- 5.1 The purpose of this proposed policy is to ensure that only specific markets and events will be subject to a licence while also providing a more cost-effective service with different options available to customers so as to not stifle commercial events.
- 5.2 Due to new fee range and list of exemptions there will be an income reduction resulting from the changes. It is likely that the occasional fee (£62) and one off fee (£27) will be used by markets and events across the district where required. This would replace the current requirement to pay the annual fee of £243.96. However, there will be monthly markets and mobile traders such as ice cream vans (currently have 3 licenced) which will still potentially require the yearly fee.
- 5.3 Income from previous and current financial years:
- 2018/2019: £1,893 (9 x street trading consents issued)
- 2019/2020: £828 (5 x street trading consents issued)
- 2020/2021: £1,102 (7 x street trading consents issued)
- 2021/2022: £2,205 (10 x street trading consents issued)
- 2022/2023: £3,446 (17 x street trading consents issued)
- 2023/2024: £488 (2 x street trading consents paid for so far)
- 5.4 The existing Policy came into force in March 2022.
- 5.5 It is difficult to predict the impact the changes to the Policy will have and many events will be seasonal. It is likely that income from the financial year would be between £500 and £1k but the volumes and income reduction would not be significant.

5.6 The budget will however need to be monitored throughout the year once the policy and fees are adopted.

## **6 Equal Opportunities Implications**

6.1 None identified.

## **7 Impact Assessment**

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

## **8 Climate Change and Sustainability Implications**

8.1 A sustainability impact assessment has been undertaken resulting in a score of:

| <b>Climate and Sustainability Impact Assessment Summary</b> |            |
|---|------------|
| Homes, buildings, infrastructure, equipment and energy      | 2.50       |
| Travel  | 2.67       |
| Goods and Consumption                                       | 3          |
| Ecology   | 0          |
| Adaptation  | 0          |
| Engagement and Influence                                    | 3          |
| <b>Total Overall Average Score</b>                          | <b>1.9</b> |

8.2 The score at 1.9 indicates that there will be some possible negative impacts for sustainability and that mitigations should be found where possible. Nevertheless, it is evident that various aspects are not applicable which has an impact on the score.

8.3 There are guidance measures set out within the Policy which seek to raise awareness of sustainability.

## **9 Community Safety Implications**

9.1 None specific.

9.2 The Police would be consulted for all submitted applications for street trading consents.

## **10 Public Health implications**

10.1 None specific.

## **11 Customer Services Centre Implications**

11.1 CSC staff will be made aware of any public consultations and also if the Policy changes come into force.

## **12 Communications and Website Implications**

12.1 If agreed the Policy will be displayed on the TRDC website and will be published via TRDC social media platforms.

### 13 Risk and Health & Safety Implications

13.1 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.

13.2 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).

| Nature of Risk        | Consequence  | Suggested Control Measures   | Response<br>(tolerate, treat, terminate, transfer)        | Risk Rating<br>(combination of likelihood and impact)        |
|-----------------------|--|--|---|--|
| <b>Nature of Risk</b> | <b>Consequence</b>   | <b>Suggested Control Measures</b>  | <b>Response</b><br>(tolerate, treat, terminate, transfer) | <b>Risk Rating</b><br>(combination of likelihood and impact) |
| <b>Option 1:</b>      | Ensures that the changes to the Policy can come into effect as soon as practicably possible.<br><br>Provides greater clarity for event organisers across the district. | Members to agree to recommendation provided to ensure it can be adopted summer/Autumn 2023   | Treat.  | <b>Low 2.</b>  |
| <b>Option 2:</b>      | Delays the implementation of Policy and the department/Council likely to be subject to further complaints.<br><br>Continues the uncertainty for event organisers.      | 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 3.</b>  |

|                  |   |  |        |                  |
|------------------|---|--|--------|------------------|
| <b>Option 3:</b> | Complaints against the Council likely to be raised and greater unauthorised events likely to take place which will need to be investigated / enforced.<br><br>Council likely to be criticised by Parishes for not making changes as originally suggested. | Officers to advise against this approach to ensure changes can be brought in as soon as practicable. | Treat. | <b>Medium 6.</b> |
|------------------|---|--|--------|------------------|

13.3 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>Low</b> | <b>High</b>   | <b>Very High</b> | <b>Very High</b> |
|                         | 4          | 8             | 12               | 16               |
|                         | <b>Low</b> | <b>Medium</b> | <b>High</b>      | <b>Very High</b> |
|                         | 3          | 6             | 9                | 12               |
| <b>Likelihood</b>       | <b>Low</b> | <b>Low</b>    | <b>Medium</b>    | <b>High</b>      |
|                         | 2          | 4             | 6                | 8                |
| <b>Remote</b>           | <b>Low</b> | <b>Low</b>    | <b>Low</b>       | <b>Low</b>       |
|                         | 1          | 2             | 3                | 4                |
| <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%))

13.4 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.

**14 Recommendation**

14.1 It is recommended that Members agree to Option 1:

Agree the amended Policy subject to any new response(s) received. Any response(s) to be circulated to all members of the committee with an officer response. The Head of Regulatory Services will then use her discretion

following any response(s) received to conclude whether the amended Policy attached to this report can be presented to the P&R Committee for consideration and adoption or return 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: Tick

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

**Background Papers: None**

### **APPENDICES / ATTACHMENTS**

**Appendix A:** Current Street Trading Policy 2022

**Appendix B:** Draft Amended Street Trading Policy 2023 (track change version)

**Appendix C:** Clean version of Draft Amended Street Trading Policy 2023

