

REGULATORY SERVICES COMMITTEE – 6 DECEMBER 2023

Review of Street Trading Policy and changes to ‘Designation of Streets’

PART I – NOT DELEGATED

1 Summary

- 1.1 Following a review of the Street Trading Policy 2022 by Officers an amended Policy (“the Policy”) was presented to members of the Regulatory Services Committee (“the Committee”) on 14 June 2023. The changes to the Policy also sought to amend the ‘Designation of Streets’.
- 1.2 At the Committee, Members agreed to pursue the Policy but with a few amendments (see **section 2** below).
- 1.3 Upon receiving member agreement, a 6-week public consultation took place throughout July and August. A total of 5 responses were received (see **Appendix D**).
- 1.4 After the public consultation it was recognised that as the Policy is seeking changes to the ‘designation of streets’ the Council must first pass a resolution and then consult as per the requirements of Schedule 4, Section 2 of the Local Government (Miscellaneous Provisions) Act 1982¹. **Section 6** of this report explains the required consultation process if members resolve their intention to pass a resolution.
- 1.5 Initially, the agreed recommendation at the Committee was that the Policy would be ratified by Policy & Resources Committee (P&R), however, it has since been confirmed by the legal department that the Regulatory Services Committee is the correct committee for all street trading functions so there is no constitutional requirement for P&R to ratify the Policy.
- 1.6 Officers are therefore seeking members to consider and agree to:
 - a) the adoption of the Policy with implementation taking effect in January 2024 following a) the approval of the new schedule of street trading fees (to be presented at P&R in December 2023) and b) completion of the relevant consultation process*; and,
 - b) the intention to pass a resolution in respect of the changes to the designation of streets subject to the relevant consultation requirements as set out within the Act.

*It is anticipated that the report to P&R for the new fees and charges will seek to grant delegated approval to implement the street trading fees subject to the relevant consultation process.

2 Changes to the Policy

- 2.1 At the Committee members raised a number of points with Officers before resolving to agree to the Officer recommendation to consult on the Policy. Members agreed the following amendments to be made to the Policy:

¹<https://www.legislation.gov.uk/ukpga/1982/30/schedule/4/paragraph/2>

- It needs to be specified within the policy that only a section of Prestwick Road, between the junctions of Hayling Road and Oxhey Drive is prohibited.
 - The time limit under section 4.9.2, in respect of ice cream vans, should be removed from the draft policy.
 - “It is not limited to but including” should be included under section 6.3.1 before the list of items that are prohibited to be sold.
 - To include under section 9.2 that the Licensing department should be notified with 48 hours if an ID badge is lost or stolen.
- 2.2 The above amendments have been incorporated into the Policy (see **Appendices B and C**).

3 Changes to ‘Designation of Streets’

- 3.1 At the Committee members also agreed that the following named roads should be included as ‘prohibited streets’ within the Councils list of ‘Designation of Streets’ to safeguard the South Oxhey market.
- Prestwick Road (only between the junction of Hayling Road and junction with Oxhey Drive)
 - Fairfield Avenue
 - St Andrews Way
 - Tom Lake Way
 - Bridlington Road
 - Station Approach
- 3.2 The amended ‘designation of streets’ can be viewed at **Appendix E** but now must be subject to a new consultation process, see **section 5** below.

Other notable changes to the Policy from 2022 version:

- 3.3 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.
- 3.4 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.
- 3.5 The Policy includes the following proposed exemptions meaning that no consent will be required from the Licensing department in the following circumstances. These are in addition to those set out at paragraph 2.3.1 of the Policy:
- 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 and Church 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 may include community fetes/carnivals.

3.6 A new set of fees have also been introduced to enable greater choice and flexibility for customers (see **Section 5** below).

4 Public Consultation Exercise

4.1 As part of the 6-week public consultation, 5 responses were received and these are set out at **Appendix D**. Officer responses to the comments received are detailed below:

4.2 Response to Respondent No1:

4.2.1 Officers acknowledge the response from Trading Standards that the policy appears proportionate and relevant.

4.3 Response to Respondent No2:

4.3.1 Officers acknowledge positive changes to the Policy as commented on by Chorleywood Parish Council.

4.4 Response to Respondent No3:

4.4.1 Positive response noted.

4.5 Response to Respondent No4:

4.5.1 Renewal fee has been calculated based on officer time.

4.5.2 Typo in paragraph 1.6 has been rectified within amended Policy version.

4.6 Response to Respondent No5:

4.6.1 As it stands no 'licence streets' are designated by the Council meaning we would not issue any 'Street Trading Licences'. All streets within the district, other than those that are 'prohibited' are consent streets and therefore require a Street Trading Consent. The Local Government (Miscellaneous Provisions) Act 1982 defines the two as follows:

'Consent street' means a street in which street trading is prohibited without the consent of the district council.

'Licence street' means a street in which street trading is prohibited without a licence granted by the district council.

4.6.2 There are different limitations to both 'consents' and 'licences' with the latter being more rigid in the assessment process with the ability to appeal to the magistrates court for example.

- 4.6.3 Whilst there are no specific exemptions for activities within the curtilage/boundaries of churches/religious sites, officers consider that the other exemptions are likely to apply for such events.
- 4.6.4 At paragraph 2.3.2 it does refer to the fact that non-commercial events organised by charity or community organisations where proceeds are charity would be exempt.
- 4.6.5 Officers consider that the consultation exercise was acceptable and all those that were required to be notified were. Additionally, a number of press notices were placed in the local paper thorough a 6 week period, the consultation was listed on the Council's website and promoted via social media channels.

5 New Fees

- 5.1 As a result of the introduction of the new Policy, if agreed, a range of fees will apply as follows:
- **'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 such as Christmas tree sellers and seasonal stalls. A fee of **£69*** would be applied.
 - **One-off Street Trading 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 **£30*** would be applied.
 - **Annual consent fee - £269***
 - **Renewal of annual consent fee - £246***

*Fees have increased following a review of all fees and charges with inflation added.

- 5.2 It is anticipated that all the above fees will take effect once the relevant fee consultation has taken place, as required by Schedule 4, Section 9 of the Local Government (Miscellaneous Provisions) Act 1982². This sets out that the Council must consult all licence holders and publish notice of the changes in a local newspaper for a 'reasonable' period (28 days is considered reasonable).
- 5.3 If the Policy is agreed to be implemented, its adoption will commence following the expiration of the fee consultation and any relevant period for the consideration of any comments received.
- 5.4 It is recognised that some applications for street trading consents may be submitted following the December Committee date and thus would be pending consideration prior to the Policy's formal adoption. If a pending consent application would be exempt as a result of the Policy, a full refund will be applied. These applications are likely to be low in number.

6 Future Consultation

² <https://www.legislation.gov.uk/ukpga/1982/30/schedule/4/paragraph/9>

- 6.1 No further consultation will be necessary for the Policy, unless further material changes are made by members (**Option 2**).
- 6.2 As highlighted above, in respect of the new fees, a consultation process will commence for 28 days in December with any comments considered (delegated to the Head of Regulatory Services).
- 6.3 In respect of the 'designation of streets' a timetable for implementation is as follows:

Members to agree ' intention to grant resolution ' on 6 December 2023.	December 2023
↓	
Officers to consult for 28 days (i.e. 15 December to 12 January 2024) in local paper (including copy of draft resolution) and contact all existing licence/consent holders. Officers to seek authority from Chief Officer of Police and Highway Authority.	January 2024
↓	
Consider representations.	
If comments received, the Head of Regulatory Services to consider any objections in consultation with the Lead Member and seek to approve the resolution via delegated authority (or alternatively if objections cannot be set aside to return the Policy to Committee).	
No comments received, that Head of Regulatory Services approves resolution via delegated authority.	
↓	February 2024
Resolution published in local paper for 2 weeks (i.e. 26 January to 9 February 2024)	
↓	
Resolution to come into force within 28 days of the first publication date. i.e. Could take effect from Monday 19 February 2024 but no later than 8 March 2024.	

7 Summary

- Current policy had been in place for over a year and was subject to criticism.

- Officers have reviewed the policy to include changes in early 2023.
- Officers engaged with local parishes prior to going ahead with amended policy.
- Officers sought agreement from members of the Regulatory Services Committee in June 2023.
- Officers undertook a 6-week public consultation.
- Officers have reviewed the comments received.
- Officers to seek agreement to the adoption of the new policy in January 2024 following the required fee consultation.
- Officers to seek agreement from members of their intention to pass a resolution to the amended 'designation of streets' and to follow the relevant consultation process.
- Officers to seek delegated authority to pass a resolution which must be published for two consecutive weeks.
- Resolution to come into effect within 28 days from the first publication date.

8 Options and Reasons for Recommendations

8.1 In respect of the Policy:

Option 1: Authorise Officers to adopt the Policy with implementation taking effect in January 2024 following a) the approval of the new schedule of street trading fees (to be presented at P&R in December 2023) and b) completion of the relevant fee consultation process (with the Head of Regulatory Services to consider any representations received in consultation with the Lead Member).

Option 2: Authorise Officers to make further changes on the Policy. 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 Policy.

8.2 In respect of the 'Designation of Streets':

Option 1: Agreement from members to the following:

a) their intention to pass a resolution in respect of the changes to the designation of streets.

b) Officers to consult for 28 days with the Head of Regulatory Services to consider any representations received in consultation with the Lead Member. In the event no comments are received that:

i) delegated authority is given to the Head of Regulatory Services to agree the resolution; and,

ii) Officers to publish the resolution in a local paper for 2 consecutive weeks with the resolution taking effect within 28 days of the first publication date.

Or;

If objections are received and cannot be set aside, then the 'Designation of Streets' proposals are returned to Committee for further consideration.

Option 2: Authorise Officers to make further changes on designation of streets and their intention to pass a resolution on the amended 'Designation of Streets' and following the process in Option 1.

Option 3: Decide not to implement the changes to the designation of streets.

9 Policy/Budget Reference and Implications

9.1 The purpose of the Policy is to ensure that only specific markets and events will be subject to a consent while also providing a more cost-effective service with different options available to customers so as to not stifle commercial events.

9.2 Due to the new fee range and list of exemptions there will be an income reduction resulting from the changes. It is likely that the occasional fee and one-off fee 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.

9.3 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: £3,659 (15 x street trading consents paid for so far)

9.4 The existing Policy came into force in March 2022.

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

10 Equal Opportunities Implications

10.1 None identified.

11 Impact Assessment

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

12 Climate Change and Sustainability Implications

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

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

13 Community Safety Implications

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

14 Public Health implications

14.1 None Specific.

15 Customer Services Centre Implications

15.1 CSC staff will be made aware of the Policy once it comes into force and the relevant consultations.

16 Communications and Website Implications

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

16.2 The Digital Team will be made aware of the relevant consultation processes.

17 Risk and Health & Safety Implications

17.1 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.

17.2 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 (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
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Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
Street Trading Policy				
Option 1:	<p>Ensures that the changes to the Policy can come into effect as soon as practicably possible.</p> <p>Provides greater clarity for event organisers across the district.</p>	Members to agree to recommendation provided to ensure it can be adopted in line with fee schedule	Treat.	Low 2.
Option 2:	<p>Delays the implementation of Policy and the department/Council likely to be subject to further complaints.</p> <p>Continues the uncertainty for event organisers.</p>	Officers to make the necessary changes and bring back to the relevant Committee at their earliest opportunity (if such changes require further consultation)	Treat.	Low 3.
Option 3:	<p>Complaints against the Council likely to be raised and greater unauthorised events likely to take place which will need to be investigated / enforced.</p> <p>Council likely to be criticised by Parishes for not making changes as originally suggested.</p>	Officers to advise against this approach to ensure changes can be brought in as soon as practicable.	Treat.	Medium 6.
Change to 'Designation of Streets'				
Option 1:	Ensures that the changes to the list of 'Designation of Streets' can come into effect as soon as practicably possible.	Members to agree to recommendation	Treat.	Low 2.

Option 2:	Delays the implementation of the amended designation of streets. 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.	Low 3.
Option 3:	Would require Officers to use existing list of 'Designated Streets' which prevents street trading from various specific named roads across the District.	Officers to advise against this approach to ensure changes can be brought in as soon as practicable	Treat.	Low 4.

17.3 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.

Very Likely ----- Likelihood ----- ▼ Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	Impact			
	Low -----	▶		Unacceptable

Impact Score
4 (Catastrophic)
3 (Critical)

Likelihood Score
4 (Very Likely (≥80%))
3 (Likely (21-79%))

2 (Significant)	2 (Unlikely (6-20%))
1 (Marginal)	1 (Remote (≤5%))

17.4 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.

18 Recommendation

18.1 With regards to the Street Trading Policy, it is recommended that Members agree to **Option 1**:

Authorise Officers to adopt the Policy with implementation taking effect in January 2024 following:

- a) the approval of the new schedule of street trading fees (to be presented at P&R in December 2023); and,
- b) completion of the relevant fee consultation process and consideration of comments received by the Head of Regulatory Services in consultation with the Lead Member.

18.2 With regards to the changes to the 'Designation of Streets' that Members agree to **Option 1**:

Agreement from members to the following:

a) their intention to pass a resolution in respect of the changes to the designation of streets.

b) Officers to consult for 28 days with the Head of Regulatory Services to consider any representations received in consultation with the Lead Member. In the event no comments are received that:

- i) delegated authority is given to the Head of Regulatory Services to agree the resolution; and,
- ii) Officers to publish the resolution in a local paper for 2 consecutive weeks with the resolution taking effect within 28 days of the first publication date.

Or;

If objections are received and cannot be set aside, then the 'Designation of Streets' proposals are returned to Committee for further consideration.

That public access to the report be immediate.

Committee Decision on Public Access:-

- | | | |
|----|-----------------------------|---|
| 1. | Public access to report - | immediate |
| 2. | Public access to report - | denied until (date): |
| 3. | Public access to report - | Council agenda publication |
| 4. | Public access to report - | denied until issue resolved (see future agenda) |
| 5. | Public access to decision - | immediate or Council agenda publication |

Report prepared by: Lorna Fryer (Lead Licensing Officer)

Data Quality

Data sources:

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

Data rating: Tick

1	Poor	
2	Sufficient	
3	High	X

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

Appendix D: Consultation Responses

Appendix E: Amended 'Designation of Streets'

Appendix F: Notice of Intention to designate streets (for press notice purposes)

Appendix G: Draft notice of agreed resolution (for press notice purposes)