

Committee(s): Licensing Committee	Date: 20 December 2022
Subject: Street Trading	Wards Affected: All
Report of: Paul Adams – Licensing Manager	Public
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Summary

Brentwood Borough Council has a street Trading Licence Scheme that covers the High Street, Brentwood, and an associated Policy. This report introduces a revised policy for consideration before consultation, which looks to extend the scheme to include the whole borough with a combination of street trading licence and street trading consent schemes.

Recommendation(s)

Members are asked to:

- R1. Agree to begin the statutory consultation for the proposal to extend the street trading provisions across the whole borough of Brentwood, and**
- R2. Agrees for the revised Street Trading Policy as attached at Appendix B to go out for public consultation.**
- R.3 For the results of both consultations to be reported back to this committee for consideration.**

Main Report

1. Introduction and Background.

- 1.1. Brentwood Borough Council in 2012 has adopted powers in under the Local Government (Miscellaneous Provisions) Act 1982 so that any person selling articles in the 'street' must obtain a street trading licence from the Council.
- 1.2. In the legislation 'street' is defined as any road, footway or other area to which the public have access without having to pay an entrance fee
- 1.3. Under the legislation the Council must make a resolution designating which areas in the district street trading consent applies to. Brentwood Borough Council's current resolution relates to the High Street, Brentwood, between Wilson's Corner and the junction with Kings Road/Weald Road, including all

forecourts, roads, footways or other areas adjacent to the roads listed for 10 metres to which the public have access by fact and without payment. No other parts of the Borough of Brentwood are included in the scheme.

- 1.4. Brentwood Borough Council has a Street Trading and Markets Policy which explains the Council's approach for managing street trading and the process for applications and making decisions. This policy was published in September 2012 and is attached as **Appendix A**.

2. Issue, Options and Analysis of Options

- 2.1. There are several street traders that are operating across the borough from both static locations and by mobile operators (such as ice cream vans) that are not able to be regulated by the street trading. While most of the static traders have been there for several years, they are not subject to any controls or require permission to trade from those locations. Currently any new traders can set up and trade without any regulation or permission.
- 2.2. We have seen recently a few new traders, particularly mobile traders, turn up across the borough and cause complaint or other issues from their trading locations, such as at King Johns playing fields. Without the street trading provisions being applied to the whole borough there are limitations on the measures that can be taken to ensure that they are regulated and that the locations are suitable and safe to do so.
- 2.3. A revised Street Trading policy has been developed which makes provision for the street trading scheme to be extended across the whole borough. This will see the existing Brentwood High Street remain as a Licensed Street, which allows for the better regulation of the Market. It is proposed that the rest of the borough would become a Consent Street, which would allow for any street trading activity to be regulated and controlled. The revised policy can be seen at **Appendix B**.
- 2.4. To extend the street trading provision across the whole borough, the statutory requirements contained in the Local Government (Miscellaneous Provisions) Act 1982 must be complied with, which provides:
 - (1) A district council may by resolution designate any street in their district
 - (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
 - (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

- (3) A council shall not pass such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;
 - (b) they have served a copy of the notice—
 - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
 - (ii) on any highway authority responsible for that street; and
 - (c) where sub-paragraph (4) below applies, they have obtained the necessary consent.
- (4) This sub-paragraph applies—
- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
 - (b) where the resolution designates as a licence street any street maintained by a highway authority;
- and in sub-paragraph (3) above “necessary consent” means—
- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
 - (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

3. Reasons for Recommendation

- 3.1. The extension of the street trading scheme requires a new resolution to be passed, which will require the statutory requirements to be met as in 2.4.
- 3.2. The revised policy requires consultation, and the results of both consultations will be reported to and considered by this committee.

4. Consultation

- 4.1. Consultation will be carried out in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2. In addition to the statutory requirements, the revised policy will be consulted on with all current licence holders, the market operator, known traders currently in the borough that may likely be impacted by the extension of the scheme.

5. References to Corporate Plan

5.1. None.

Implications

Financial Implications

Name/Title: Tim Willis, Interim Director of Resources

Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

There are no direct financial implications for Brentwood Council arising from this report.

Legal Implications

Name & Title: Andrew Hunkin, Interim Director of People & Governance and Monitoring Officer

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The Local Government (Miscellaneous Provisions) Act 1982 prescribes the procedure for the adoption or amendment of street trading provisions. The report details the procedure that must be followed.

Economic Implications

Name/Title: Phil Drane, Director of Place

Tel/Email: 01277 312610/phil.drane@brentwood.rochford.gov.uk

There are no direct financial implications for Brentwood Borough Council arising from this report.

Equality and Diversity Implications

Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager

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The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

Health & Wellbeing Implications

Name/Title: Jo Cory, Corporate Health & Wellbeing Officer

Tel/Email: 01277 312500/jo.corey@brentwood.gov.uk

There are no direct Health or Wellbeing implications arising from this report.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None.

Background Papers

None.

Appendices to this report

Appendix A – Existing Street Trading Policy – September 2012.

Appendix B – Reviewed Policy