

Somerset West and Taunton Council

Licensing Committee – 20th March 2023

Proposal to adopt a new policy in relation to the regulation of street trading

This matter is the responsibility of Executive Councillor Andrew Sully

Report Author: John Rendell

1 Executive Summary / Purpose of the Report

- 1.1 Members to consider the proposal to adopt a new street trading policy, which would remain in force beyond the 1st of April, until such time as Somerset Council adopts a policy in its place.

2 Recommendations

- 2.1 Resolve to adopt the proposed street trading policy attached as **Appendix A**, as recommended by both the report author and Street Trading policy review working group.

3 Risk Assessment

- 3.1 The contents of this report do not relate to any of the risks identified in the Corporate Risk Register.

4 Background and Full details of the Report

- 4.1 [Schedule 4 of the Local Government \(Miscellaneous Provisions\) Act 1982](#) gives local authorities the power to allow or prohibit street trading within their administrative areas; across the whole of it or just in certain parts.
- 4.2 Section 2 of the proposed policy (**Appendix A**) sets out the definition of street trading and exemptions, as per the Act of 1982. Both of Somerset West and Taunton's (SWT) predecessor councils historically adopted the Act and controlled street trading by way of granting consents.
- 4.3 Unlike the legislation governing the regimes for gambling and alcohol and entertainment, there is no statutory requirement for Councils to adopt a statement of licensing policy for street trading, or similar. It would, however, be seen as good practice, particularly because the 1982 Act gives Councils a great deal of discretion. West Somerset Council adopted a street trading policy in August 2012 and Taunton Deane Borough Council, in

December 2012 which was then revised in 2017.

4.4 Since the two Councils began sharing services and later, the formation of SWT, the Licensing Department's understanding of the 1982 Act has grown and the approach taken has naturally evolved. Improvements in the way that applications are processed and determined have been identified and some elements need to be harmonised. A new policy is viewed by Officers as being much needed. Changes in the proposed policy include:

- (a) Introduction of a 'test' to help define what the Council considers to be areas '...to which the public have access without payment'. This is not further defined in the 1982 Act and often becomes the subject of debate when investigating complaints.
- (b) Introduction of several new 'local' exemptions, such as trading from working farms and residential properties.
- (c) Greater clarity over the way markets and events can be authorised, reducing the bureaucratic burden.
- (d) Clearer guidelines on the plans required to accompany consent applications, to cut down on the number of applications rejected and ensure meaningful consultation.
- (e) Shorter consultation periods for consents lasting less than one year, enabling ad hoc events to be processed quicker.
- (f) Clearer criteria against which applications are judged.
- (g) Require notices to be displayed at proposed trading location/pitch when an application is made, as is a requirement with the gambling and alcohol and entertainment licensing regimes.
- (h) Allow members of the public to make representations against applications, alongside certain designated consultees.
- (i) Explain the Council's approach to varying consent conditions, should it be requested by the consent holder, or the Council considers it necessary.
- (j) Explain the Council's approach to enforcement.
- (k) Fit for purpose standard conditions.

4.5 On the 20th of June 2022, the Licensing Committee resolved to form a working group, to:

- Consider, discuss and prepare a street trading policy for consultation.
- Carry out a consultation.
- Make recommendations to the Licensing Committee in relation to the adoption of the policy.

- 4.6 A consultation on a draft of the proposed policy was carried out between the 11th of January and 7th of March 2023. The draft proposed policy was sent by email to all existing consent holders and those bodies which are consulted as part of the consent application process i.e. Police, Planning Authority, Environmental Health, Minehead BID, Highways Authority, town and parish councils and elected ward members. The consultation was public and promoted across the Council's Facebook and Twitter accounts.
- 4.7 Responses to the consultation are attached as **Appendix B**.
- 4.8 At the time of writing this report, the working group had not yet met for the third and final time (meeting scheduled for the 10th of March). The purpose of this final meeting would be to consider and discuss any responses to the consultation, agree a final draft of the policy and recommend it to the Licensing Committee for adoption. The Licensing Manager will ensure that, if there are revisions to the policy attached at Appendix A, as a result of the final meeting of the working group, the Appendix is re-published prior to the meeting of the Licensing Committee. The Licensing Manager will also provide a verbal update to the Committee on the business of the meeting.

5 Links to Corporate Strategy

- 5.1 Within the 'Our environment and economy' theme of the corporate strategy is the objective 'Support the town centres throughout the district to meet the challenge of changing shopping habits'.
- 5.2 The Licensing Manager believes that, with effective decision making and control, street trading can have a positive effect on town centres, rather than a negative one and this is captured within the policy as part of its purpose: 'Ultimately, create a street trading environment which is sensitive to the needs of the public, provides quality consumer choice, complements premises-based businesses and seeks to enhance the character and ambience of the Somerset West and Taunton (SWT) area, whilst ensuring public safety and preventing crime, disorder and nuisance.'

6 Finance / Resource Implications

- 6.1 There are no finance or resource implications.

Unitary Council Financial Implications and S24 Direction Implications

- 6.2 There are no financial or resource implications beyond vesting day for the new Somerset Council.

7 Legal Implications

- 7.1 There are no legal implications.

8 Climate, Ecology and Sustainability Implications

- 8.1 No direct carbon/environmental impacts arising from the recommendations.

9 Safeguarding and/or Community Safety Implications

9.1 No safeguarding or community safety implications.

9.2 Equality and Diversity Implications

9.3 No equality and diversity implications.

10 Social Value Implications

10.1 The recommendation in this report does not involve the procurement of services, therefore there are no social value implications.

11 Partnership Implications

11.1 The recommendation in this report does not involve joint working or funding, therefore there are no partnership implications.

12 Health and Wellbeing Implications

12.1 There are no health and wellbeing implications.

13 Asset Management Implications

13.1 There are no asset management implications.

14 Data Protection Implications

14.1 No data protection implications were identified.

15 Consultation Implications

15.1 As explained at paragraph 4.6, there was a public consultation.

16 Scrutiny/Executive Comments / Recommendation(s)

16.1 There are no scrutiny comments or recommendations as these matters are the responsibility of the Licensing Committee.

Democratic Path:

- **Scrutiny / Audit and Governance Committee – No**
- **Executive – No**
- **Full Council – No**
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Reporting Frequency: Once only

List of Appendices (background papers to the report)

Appendix A	Proposed street trading licensing policy
Appendix B	Responses to consultation

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