

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Democratic Services  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

16 September 2022

To: MEMBERS OF THE LICENSING AND APPEALS COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 27th September, 2022 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

1. Guidance on the Conduct of Meetings 5 - 6

### PART 1 - PUBLIC

2. Apologies for Absence

3. Declarations of Interest 7 - 8
- Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting*

4. Minutes 9 - 10
- To confirm as a correct record the Minutes of the meeting of Licensing and Appeals Committee held on 14 June 2022

5. Minutes of Panel 11 - 22
- To receive the Minutes of the following meetings of the Licensing and Appeals Committee sitting as a Panel:

27 June 2022 (x2)  
6 July 2022 (x3)  
27 July 2022

#### **Decisions to be taken under Delegated Powers**

6. Street Trading - Results of Consultation 23 - 38
- The report invites Members to consider the responses received to the consultation on the Council's Street Trading Policy.

#### **Matters submitted for Information**

7. Verbal update on Air Quality Plan for Taxi Fleet
8. Urgent Items 39 - 40
- Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

#### **Matters for consideration in Private**

9. Exclusion of Press and Public 41 - 42
- The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

#### **PART 2 - PRIVATE**

10. Urgent Items 43 - 44
- Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr C Brown (Chair)  
Cllr Mrs F A Kemp (Vice-Chair)

Cllr Mrs J A Anderson  
Cllr Mrs P A Bates  
Cllr A E Clark  
Cllr M A Coffin  
Cllr D W King  
Cllr Mrs R F Lettington  
Cllr Mrs A S Oakley

Cllr H S Rogers  
Cllr R V Roud  
Cllr M Taylor  
Cllr D Thornewell  
Cllr F G Tombolis  
Cllr C J Williams

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## **GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED**

- (1) All meetings of the Borough Council will be livestreamed to YouTube here, unless there is exempt or confidential business be discussed:  
  
<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>
- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) in the first instance.

### **Attendance:**

- Members of the Committee/Advisory Board are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chairman, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee/Advisory Board are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.
- Members of the public addressing an Area Planning Committee can participate in person or online. Please contact [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

### **Ground Rules:**

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

### **Voting:**

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### LICENSING AND APPEALS COMMITTEE

#### MINUTES

Tuesday, 14th June, 2022

**Present:** Cllr Mrs F A Kemp (Vice-Chair, in the Chair), Cllr A E Clark, Cllr M A Coffin, Cllr M Taylor and Cllr F G Tombolis

(Note: As Councillors Mrs P Bates, Mrs A Oakley and H Rogers were unable to attend in person and participated via MS Teams, they were unable to vote on any matters)

Councillor D Keers participated via MS Teams and joined the discussion when invited to do so by the Chair in accordance with Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors C Brown (Chair), Mrs J A Anderson, D W King, R V Roud and C J Williams

#### PART 1 - PUBLIC

##### **LA 22/16 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **LA 22/17 MINUTES**

**RESOLVED:** That the Minutes of the meetings of the Licensing and Appeals Committee held on 8 March and 29 March 2022 be approved as correct records and signed by the Chairman.

##### **LA 22/18 MINUTES OF PANEL**

**RESOLVED:** That the Minutes of the meetings of the Licensing and Appeals Committee sitting as a Panel held on 21 March, 23 March and 4 May 2022 be received and noted.

#### MATTERS FOR RECOMMENDATION TO THE COUNCIL

##### **LA 22/19 UPDATED STREET TRADING POLICY**

Further to Minute No LA 22/9 of the meeting held on 8 March, the report of the Director of Central Services and Deputy Chief Executive provided an update on the proposed re-designation of the Borough as Consent Streets and sought approval of the draft policy for consultation purposes.

**RESOLVED:** That the Draft Street Trading Policy, as attached at Annex 3 to the report, be approved for consultation purposes.

**LA 22/20 EXCLUSION OF PRESS AND PUBLIC**

The Chair moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**LA 22/21 URGENT ITEMS**

The Chair advised that she had accepted the following item as urgent due to current fluctuation in fuel prices.

**LA 22/22 HACKNEY CARRIAGE FARES**

(Reasons: LGA 1972 Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

The Head of Licensing provided details of discussions held with key members of the taxi trade regarding the current fluctuation in fuel prices and advised that the situation was being monitored and, if necessary, a report would be submitted to the meeting of the Committee to be held on 27 September 2022.

The meeting ended at 7.51 pm

## TONBRIDGE AND MALLING BOROUGH COUNCIL

### LICENSING AND APPEALS PANEL

Monday, 27th June, 2022

**Present:** Cllr Mrs F A Kemp (Chair), Cllr D W King and Cllr R V Roud.

An apology for absence was received from Councillor M A Coffin.

#### PART 1 - PUBLIC

##### **LAP 22/13 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **LAP 22/14 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

#### PART 2 - PRIVATE

#### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

##### **LAP 22/15 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE (DUAL) DRIVER'S LICENCE - CASE NO. 004/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether a Private Hire and Hackney Carriage licence holder had failed to comply with any provision of Part II of the Local Government (Miscellaneous Provisions) Act 1976 or if there was any other reasonable cause why they should suspend or revoke their Private Hire and Hackney Carriage licence following a complaint received from a member of the public stating that the driver refused to take a passenger and their assistance dog.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive and the Council's Taxi and Licensing Enforcement Policy.

In its deliberations the Panel took into account all the information given to them and having listened to the driver's explanation, the Panel continued to believe that the driver knowingly refused to carry a passenger with an assistance dog and additionally, drove away without explanation. Furthermore, the Panel felt that the driver showed no

remorse for their actions.

For these reasons, the Panel

**RESOLVED:** That in respect of Case Number 004/2022, the driver's Hackney Carriage and Private Hire (Dual) Driver's Licence be suspended for a period of one week; and that three penalty points be imposed onto the Hackney Carriage and Private Hire drivers' licence for a period of two years.

The meeting ended at 11.13 am  
having commenced at 10.24am

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Monday, 27th June, 2022**

**Present:** Cllr Mrs F A Kemp (Chair), Cllr D W King and Cllr R V Roud.

An apology for absence was received from Councillor M A Coffin.

**PART 1 - PUBLIC**

**LAP 22/16 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LAP 22/17 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LAP 22/18 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO. 005/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether a Private Hire licence holder had failed to comply with any provision of Part II of the Local Government (Miscellaneous Provisions) Act 1976 or if there was any other reasonable cause why they should suspend or revoke their Private Hire licence following a complaint received from a member of the public stating that the driver charged a passenger more for a journey as they were travelling with their assistance dog.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive and the Council's Taxi and Licensing Enforcement Policy.

In its deliberations the Panel took into account all the information given to them and having listened to the driver's explanation, were concerned an incident had occurred whereby an assistance dog had been charged

for and there had been a misunderstanding about the policy of the operator.

For these reasons, the Panel

**RESOLVED:** That in respect of Case Number 005/2022, three penalty points be imposed onto the Private Hire driver's licence for a period of two years; and that the driver be required to undertake the following training as soon as possible, and within a maximum period of three months:

- Online Child Sexual Exploitation and Safeguarding Training Course
- Online Disability equality Training Course

The meeting ended at 12.15 pm  
having commenced at 11.31am

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**MINUTES**

**Wednesday, 6th July, 2022**

**Present:** Cllr Mrs F A Kemp (Chair), Cllr Mrs P A Bates and Cllr R V Roud  
Together with representatives of the Licensing Authority.

**PART 1 - PUBLIC**

**LAP 22/19 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LAP 22/20 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TO BE TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LAP 22/21 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE (DUAL) DRIVER'S LICENCE - CASE NO. 006/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether any action was appropriate in respect of a Dual Licence holder following a complaint received from a member of the public on the 14 May 2022.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive, the full statement of complaint, confirmation of the badge number, the full account from the licence holder, Code of Conduct for licensed drivers, confirmation that the vehicle was waiting repair and the garage report.

The Panel took into account all the evidence both written and verbal as well as the driver's unblemished long service and were concerned that the driver might have driven across a red light without due care and

attention. The Panel understood that the circumstances may have been difficult and therefore limited their recommendation.

For these reasons, the Panel

**RESOLVED:** That in respect of Case Number 006/2022, the holder of the Hackney Carriage and Private Hire (Dual) Driver's licence be issued with a written warning.

The meeting ended at 10.53 am  
having commenced at 10.00 am



**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Wednesday, 6th July, 2022**

**Present:** Cllr Mrs F A Kemp (Chair), Cllr Mrs P A Bates and Cllr R V Roud.

Together with representatives of the Licensing Authority.

**PART 1 - PUBLIC**

**LAP 22/22 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LAP 22/23 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LAP 22/24 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO. 007/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether any action was appropriate in respect of a Private Hire licence holder after the individual was arrested by Kent Police for domestic related offences.

Having taken into account all the evidence provided, the Hearing was adjourned, pending the receipt of further information. The Panel requested sight of the prosecution summary, updated DBS certificate and available medical evidence. In the meantime, the licence would remain suspended for a further three months pending receipt of the requested information.

In the circumstances, the Panel

**RESOLVED:** That in respect of Case Number 007/2022

- (1) the hearing be adjourned, pending the receipt of further information; and
- (2) the Private Hire Driver's licence remain suspended for a further three months pending receipt of the requested information.

The meeting ended at 12.45pm  
having commenced at 11.30am

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Wednesday, 6th July, 2022**

**Present:** Cllr Mrs F A Kemp (Chair), Cllr Mrs P A Bates and Cllr R V Roud.

Together with representatives of the Licensing Authority.

**PART 1 - PUBLIC**

**LAP 22/25 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LAP 22/26 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LAP 22/27 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE (DUAL) DRIVER'S LICENCE - CASE NO. 008/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether a Hackney Carriage and Private Hire (Dual) licence holder had failed to comply with any provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 or if there was any other reasonable cause why they should suspend or revoke the Hackney Carriage and Private Hire (Dual) licence following a complaint regarding a driver's alleged aggressive behaviour towards a customer on two separate occasions.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive and the Council's Taxi and Licensing Enforcement Policy.

Having taken into account all the evidence, both written and verbal, the Panel found that at this time there was no need to take any further action.

For these reasons, the Panel

**RESOLVED:** That in respect of Case Number 008/2022, the driver be recommended to report any future incidents of unpaid fares or damage to their vehicle to either the Police or the Licensing Team.

The meeting ended at 2.00pm

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**MINUTES**

**Wednesday, 27th July, 2022**

**Present:** Cllr Mrs P A Bates, Cllr H S Rogers and Cllr R V Roud (Chair)

Together with representatives of the Licensing Authority.

**PART 1 - PUBLIC**

**LAP 22/28 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LAP 22/29 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LAP 22/30 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE – CASE NO. 009/2022**

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether a new application for a Private Hire Driver's Licence should be granted under Section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976, or refused under Section 51 (1) (b) of the Act following the receipt of information from the Disclosure and Barring Service (DBS) showing a number of convictions during the period 2013-14.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive, the Council's Taxi and Licensing Enforcement Policy and the Institute of Licensing's Guidance on Determining the Suitability of Applicants for Hackney Carriage and Private Hire Licences.

In its deliberations the Panel took into account the oral evidence and were satisfied that the applicant was a fit and proper person to hold a Private Hire Driver's Licence with Tonbridge and Malling Borough Council.

For this reason, the Panel

**RESOLVED:** That in respect of Case Number 009/2022, the application for a Private Hire Driver's licence be granted.

The meeting ended at 11.00 am  
Having commenced at 10.01am

## TONBRIDGE & MALLING BOROUGH COUNCIL

### LICENSING & APPEALS COMMITTEE

27 September 2022

#### Report of the Director of Central Services and Deputy Chief Executive

#### Part 1 - Public

#### Delegated

### 1 STREET TRADING – RESULTS OF CONSULTATION

#### 1.1 Introduction

1.1.1 Following meetings of the Licensing & Appeals committee on 8<sup>th</sup> March and 24<sup>th</sup> June 2022, Tonbridge & Malling licensing department have recently completed a consultation on proposed changes to the Councils Street Trading policy and re-designations of the Borough.

1.1.2 The purpose of the consultation was to give various groups a chance to have their say on the proposed re-designation and draft policy.

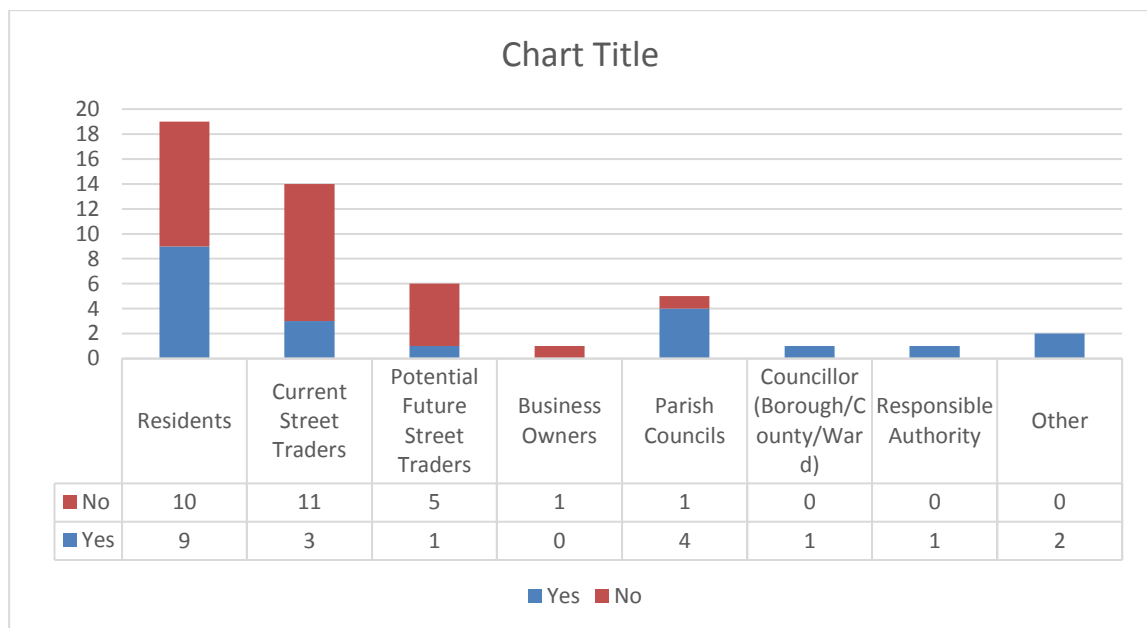
1.1.3 These groups included:

- Kent Police
- Kent Fire & Rescue
- British Transport Police
- Trading Standards
- Environmental Health
- Planning
- Kent County Council
- Highways
- Liberty (Kings Hill)
- Environmental Protection
- TMBC Members
- KCC Members
- Parish Councils
- Current Street Traders
- Potential Future Traders
- Residents (via social media)
- Businesses within TMBC

1.1.4 The consultation ran from 20 June 2022 until 29 August 2022. It was available on the council's website and was emailed to approximately 1000 email addresses. Social media messages were posted to raise awareness with residents.

1.1.5 50 responses were received in total and of those responses, 21 (42%) were in favour of the re-designation and draft policy and 29 (58%) were against.

1.1.6 A breakdown of the responses can be seen below.



1.1.7 A redacted copy of the responses and comments can be seen at **Annex 1** of this report.

## 1.2 Legal Implications

1.2.1 Without the re-designation of the street trading consents, businesses can continue to trade in areas of the Borough if they -

- have gained landowners' permission
- are not causing a nuisance
- are legally parked
- are food businesses based in the Borough and registered with the Council (non-food-based traders will not require food registrations).

1.2.2 They cannot trade in the areas prohibited under the current street trading policy –

- Bluebell Hill Village Area
- Hadlow Village Centre
- Tonbridge Town Centre

1.2.3 A copy of the current policy can be seen at **Annex 2** for reference.

## 1.3 Financial and Value for Money Considerations



1.3.1 By continuing with the planned re-designation and the introduction of the amended policy for street trading, the council will have greater scope to collect consent fees for those seeking to trade within the Borough.

1.3.2 The current fees (2022/23 are set out in the table below).

	<b>Part A Fee</b>	<b>Part B Fee</b>	<b>Total Fee</b>
Fixed pitch – annual consent	£778	£477	£1255
Fixed pitch – occasional consent	£200	£125	£325
Other – annual consent	£715	£435	£1150
Other – occasional consent	£38	£22	£60

1.3.3 The introduction of the new expanded street trading policy will have a financial impact on new and existing businesses wishing to trade within the Borough at what is considered to be an already difficult time financially.

## **1.4 Risk Assessment**

1.4.1 Continuing with the proposed re-designation may generate additional fee income but may also result in dissatisfaction from the trade, whether existing or prospective businesses.

## **1.5 Equality Impact Assessment**

1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact to end users.

## **1.6 Policy Considerations**

1.6.1 None at the present time.

## **1.7 Recommendations**

1.7.1 Members are asked to consider and AGREE one of the following options

- a) Continue with the re-designation and introduction of the new policy with the previous agreed timelines shown for reference at **Annex 3**;
- b) Postpone the re-designation until an agreed date in the future; OR
- c) Make no changes to the existing street trading policy at **Annex 2**

contact: Katie Shipman  
01732 876027

Adrian Stanfield  
Director of Central Services and Deputy Chief Executive

ID	Do you agree with the re-designation of the Borough to Consent Streets? Please share your thoughts on this proposal	Please indicate which group you are from
1 Yes	This re-designation and new policy will give the council greater control over the businesses trading in the borough. This will have a positive impact on other businesses within the Borough as well as give residents more peace of mind when it comes to using these businesses to needing to complain about them.	Other
2 Yes	The whole borough needs to be included, and it's a good ideal to know who is trading where	Responsible Authority (Police, Fire and Rescue, Trading Standards etc. )
3 No	<p>Until this consultation, I had no idea that Hadlow was treated differently to most of the rest of the Borough. This seems extremely unfair. And extending it to the rest of the Borough appears to be merely a money-raising exercise.</p> <p>I am particularly concerned about what the policy means for events such as village fetes or Christmas Fairs. These are often attended by stalls who sell goods for profit, but make a donation to the organising charity or school etc and help add to the overall atmosphere of the event. These are often people who sell items they have made, eg jewellery or pictures or Christmas decorations, Yet the policy would maintain that these would constitute 'street traders' and they would therefore have to apply for consent and pay the fee. This level of bureaucracy and cost would mean that our Christmas Fair would be unlikely to take place.</p>	Resident
4 Yes		Resident
5 No	The new rules are too vague for certain situations such as a mixed Xmas Fair. Why is Hadlow specified.e.g Xmas Lights. Are we on the naughty step? Lone traders will be discouraged from community events by having to apply for a licence for a few hours.	Resident

6 No	On first sight it appears to be a draconian measure to fix a foreseeable problem that does not yet exist. It will potentially eliminate many small scale community initiatives that tend to be part commercial part charitable with participants making their own arrangements with the organizers.	Parish Council
7 Yes	I wonder if you need to consider counter terrorism in the policy (e.g. make mention of it - perhaps if someone has a conviction linked to this?) Would you also consider where the street trader is going to be based (in case of any suspicions around why they might want to trade here?) Also, we do occasionally get reports of anti-social behaviour caused by street traders - would this be covered in those who could have their licence removed?	Other
8 Yes	There is no good reason for street traders to escape the control and regulation of the traders with permanent premises.	Resident
9 Yes	I feel it is essential to have control	Councillor (Borough Council/ County Councillor/ Ward Member)
10 Yes	Farmers Markets should remain exempt. Christmas Lights should not be exempt as there are several street traders that can pay towards the cost of the street trading permit.	Resident
11 Yes	Tighter control needed on who can or cannot trade	Resident
12 Yes		Resident
13 Yes	I presume it means cafes, pubs etc can have tables and chairs on the pavement, if that's the proposal I agree with it	Resident
14 No	Your definition of streets is so all encompassing that it could include recreation fields and other areas where a wide range of village fetes, fun days, jubilee celebrations, etc are held. As any trader taking any proportion of money taken for themselves, such as ice-cream vans, cards, photographs, or gift sellers, would not be exempt from these events. As there is an extremely complicated application process, they would then be entirely unable to participate in such community events, which will have a chilling effect on a wide range of these events. A large number of community events would be required to apply for exemption for which no criteria have been set.	Resident
15 Yes		Current Trader in the Borough
16 Yes	Fetes. Fairs and stalls food vendors at these fund raising events held on council property	Resident

	borough, with no legislation to monitor their activities. They weren't inspected by EHOs either. A need to regulate all street food trading is appropriate to ensure poorly run businesses are not allowed to trade unregulated. It has been a very hard time for street food companies over the last 2 years, with significant loss of earnings, and no real support from either central or local government. Many have gone in to liquidation, and those that have survived have done so through supporting themselves and their families through other means. With the current significant increase in costs for street food businesses from the war in Ukraine affecting costs, food prices rocketing, oil & fuel prices rocketing, and the general cost of living crisis impacting on trade, further cost increases that will come from the implementation of this policy will have further impact on our ability to survive. Any costs associated with the implementation of this policy should be minimal, and should be specific to the individual application. Some applications will be for 5 days all day trading in a specific location, where as others will be for just 1 day, and a few hours. There is clearly a huge difference in revenue for these two examples, yet if costs associated with the application are the same, then the policy is not correct.	Current Trader in the Borough
17	Yes	
18	No	we want less bureaucracy
19	No	
20	No	Not needed
21	No	Is there a problem with the traders that are not 'approved' by the council? I assume that food safety standards ensure that people are not selling food without the relevant accreditation and Trading Standards officers control the sale of unsafe goods. What is the problem that this regulation extension is intended to solve?
22	No	Totally unnecessary bureaucracy. The council should stick to delivering core services and not make life more complicated than things are already
23	Yes	As long as any licensing can be dealt with at reasonable speed for traders.
24	No	

duplicate what we do now (i.e. informing Environmental Health, Planning as to our existence. FMs are regularly checked by Environmental Health.) We are also concerned that this could be used as a method for charging additional fees.

Following our conversation, I now understand that members of the Kent Farmers Market Association are exempt from this policy. (Note the Association defines markets as Farmers, Community or Village Markets depending on the proportion of non food stalls so customers realise what they sell)

One of the key objectives of Kent Farmers Market Association is to help improve overall standards (see <https://www.kfma.org.uk/ManagingAFarmersMarket> and <https://www.kfma.org.uk/SellingAtAFarmersMarket> ) and we are keen to work with Environmental Health Departments throughout the County

I now understand that our members (see [www.kfma.org.uk](http://www.kfma.org.uk)) and any new ones in the Borough would be exempt from this policy. They are:

- Aylesford Farmers Market,
- Hadlow Rural Community School (to open in August)
- Hildenborough Farmers Market
- Shipbourne Farmers Market
- Reuthes Farmers and Craft Market
- Tonbridge Farmers Market
- Wateringbury Community Market

25	Yes		Current Trader in the Borough
26	Yes	All traders should be licensed and therefore regulated	Resident
27	No		Current Trader in the Borough
28	No		Current Trader in the Borough
29	No	If you want to encourage enterprise and creativity then you should be offering support for market stall holders not charging them increased fees - this is how many successful businesses start out	Current Trader in the Borough

30 No	The implementation of a licence will have to be passed onto traders. Times are tough enough !!	Current Trader in the Borough
31 No	As a producer and seller at west malling farmers market i strongly disagree with the idea as at the present time it is harder enough to make a living and this would simply make it impossible to do so.	Potential future trader in the Borough
32 No		
33 No	I understand this would involve a fee. I already pay insurance, pitch fee and the cost of receiving bank card payments. I make and sell hand made soap and skincare which my customers who have skin conditions find very helpful, but it is a hobby for me and I only just about break even, or make a small loss over the year. If another fee becomes payable I would have to cease trading.	Current Trader in the Borough Potential future trader in the Borough
34 No		Potential future trader in the Borough
35 Yes		Potential future trader in the Borough
36 No		Current Trader in the Borough
37 No		Potential future trader in the Borough
38 No	It's an extra burden on small businesses at an already difficult time with rising costs etc., In other areas where street trading consent is in operation there is always a lot of confusion when street trading consent is required at a location	Current Trader in the Borough
39 No	Implementing licence fees for traders would kill businesses and discourage them from attending markets. These markets are a great place for the town and the residents and a great way for them to shop local.	Current Trader in the Borough
40 Yes	The policy is outdated and needs to be reviewed in line with current legislations	Parish Council
41 Yes		Parish Council
42 No	I'm a baker and currently trading at the Farmers market. It is not feasible to pay another fees after paying for market stall and insurance. We all trying trying to be sustainable as much as possible and using locally sourced products but this will only push us away from this.	Potential future trader in the Borough

	<p>This would just damage small business. Many small business' would not be able to afford this added cost.</p>	
43 No	In a time where we have a cost of living crisis, a fuel crisis and people can barely afford to feed themselves this proposal is unthinkable.	Business owner
44 No		Current Trader in the Borough
45 No		Potential future trader in the Borough
46 No	<p>your only doing this to make more money. In this economic climate people are trying to make money where they can and you imposing a licence that is just another bill is unfair.</p>	Resident
47 No		Current Trader in the Borough
48 No	I am very aware of the fact that the council needs to be able to control street trading and I understand that all the markets and events I'm involved in should be exempt. But I have also been told about other councils that have started off like this and things have changed over the years, with some small markets having to close due to charges being levied, with no standard policy.	Current Trader in the Borough
49 Yes	West Malling Parish Council is in general agreement with the proposals however would ask TMBC to consider if the changes would have any impact on the likes of the Big Issue seller that frequents West Malling High Street - the Council would not wish her to be disadvantaged.	Parish Council
50 Yes	Overall a thorough document however the process of acquiring exemption should be transparent and simple - it is not clear from the document why the events listed as exempt do and it is not clear how to apply for this status. We would like to include local/community charity raising events that we hold annually - Plaxtol Duck Race.	Parish Council



TONBRIDGE AND MALLING BOROUGH COUNCIL  
GUIDANCE NOTES RELATING TO STREET TRADING

The Tonbridge and Malling Borough Council has adopted provisions contained in the Local Government (Miscellaneous Provisions) Act 1982 relating to Street Trading and as a result trading in certain streets (or parts thereof) within the Borough is either allowed, with the written consent of the Council, or prohibited.

WHAT IS STREET TRADING?

Street Trading is the selling, exposing or offering for sale of any article (including a living thing) in a street (includes any road, footway, beach or other area to which the public have access without payment). There are a number of exceptions to this when consent is not required viz: door-to-door sales by a licensed pedlar or roundsman, statutory markets/fairs, trunk roads, picnic areas, selling newspapers, trading at petrol filling stations/service areas, shops (or premises attached thereto), and charity collections.

WHERE IS TRADING ALLOWED OR PROHIBITED

The powers adopted by the Council allow it to regulate trading in specified areas/streets. The areas which are regulated to date are as follows:

Tonbridge Town Centre  
The Blue Bell Hill Area  
Hadlow Village Centre

These areas have been defined as including certain streets (or parts thereof). In some of those streets (or parts thereof) street trading is prohibited. Those streets are defined in A below. In the remaining streets (or parts thereof) trading is allowed if the Council's written consent is obtained beforehand. Those streets are defined at B below.

A - Prohibited Streets

**Tonbridge Town Centre**

Kinnings Row; Church Lane; Bank Street; Castle Street; East Street for a distance of 10 metres from its junction with High Street; Lyons Crescent for a distance of 10 metres from its junction with High Street; River Walk for a distance of 10 metres from its junction with High Street; New Wharf Road for a distance of 10 metres from its junction with High Street; Lamberts Yard; Vale Road for a distance of 30 metres from its junction with High Street; Angel Lane for a distance of 15 metres from its junction with Vale Road; Barden Road for a distance of 20 metres from its junction with High Street; Railway Approach; Waterloo Road from its junction with Quarry Hill Road to its junction with Albert Road; and Pembury Road from its junction with Quarry Hill Road to its junction with St. Stephen's Street.

**Blue Bell Hill Area**

So much of the A229 as falls within the Borough of Tonbridge and Malling, including the slip roads to the A229; Rochester Road north of Pratling Street; Old Chatham Road; and Walderslade Woods Road.

**Hadlow Village Centre**

Tonbridge Road, from the junction with Bourne Grange Lane to its junction with High Street; High Street from its junction with Tonbridge Road to The Square; The Square; Church Lane; School Lane, for a distance of 100 metres from its junction with High Street; Carpenters Lane, from its junction with High Street to its junction with Old Carpenters Lane including the stopped-up section of Carpenters Lane; Maidstone Road, from The Square to a point 100 metres north of its junction with Great Elms; Court Lane, for a distance of 200 metres from its junction with Maidstone Road; and Great Elms, for a distance of 100 metres from its junction with Maidstone Road.

B - Allowed by Consent Streets (The Council has resolved that fixed pitch trading consents will only be considered in relation to Angel Walk and Pavilion Walk)

**Tonbridge Town Centre**

High Street from its junction with Borden southwards to its junction with Railway Approach; Lansdowne Road; Medway Wharf Road; Botany; Bradford Street for a distance of 10 metres from its junction with High Street; Avebury Avenue for a distance of 10 metres from its junction with High Street; Angel Lane (except for a distance of 15 metres from its junction with Vale Road); Pavilion Walk; Angel Walk, Quarry Hill Road from its junction with Railway Approach to its junction with Pembury Road; and Priory Road for a distance of 10 metres from its junction with Quarry Hill Road.

A consent will entitle sales within all consent streets within the Tonbridge town centre area. However, sales may not be conducted from a vehicle, cart, barrow, stall, etc, without additional specific consent from the Council. The number of such consents will be limited in order to minimise obstructions and

inconvenience to the public. Such a consent will specify a fixed “pitch” and the consent will only be valid for that site.

In relation to any street or part thereof not mentioned in A or B above, street trading may for the time being be carried on without the Council’s consent except public car parks

#### RESTRICTIONS ON THE SALE OF ARTICLES

There are, notwithstanding any other legislation, no limitations as to the types of articles which can be sold, although all consents are subject to Standard Conditions (see separate leaflet). The Council can restrict the periods/times of trading if it feels that this is necessary in any particular instance where trading from a vehicle, cart, barrow, or stall is proposed.

In relation to the sale of food the Council may (under separate Food Safety Legislation) insist on certain requirements but there is a requirement under Consent Standard Conditions for litter bins to be provided and appropriate notices where trading is permitted from a vehicle, barrow, cart or stall.

Please note that the Standard Conditions include a general exclusion for the period of the Tonbridge Christmas Festival and that the Shops Act 1950 restricts the sale of certain items on a Sunday.

#### AGE LIMIT

No consent may be granted to a person under 17 years of age.

#### LENGTH OF CONSENT/IDENTIFICATION

**Consents are usually issued for 12 months but not longer. They may be issued for a shorter period if felt necessary or for specific dates if so specified in an application. The Consent must be carried at all times when trading for production if requested. *A consent may be revoked at any time.* A badge will be issued to each consent holder to identify him/her as a licensed person. The badge will bear a photograph of the consent holder and he/she will need to attend at the Council’s offices if their application is approved in order to have their photograph taken for this purpose.**

Where consent is given to trade from a vehicle, barrow, cart or stall, a plate with details of the consent is required to be exhibited. This plate will be supplied by the Council and you will be required to lodge a deposit to secure its safe return

#### EMPLOYMENT OF ASSISTANTS

A consent holder may employ any other person to assist him/her with trading without the need for any further consent unless he/she is not in a position to supervise all assistants at all times. If this is the case unsupervised assistants will need their own consents. Each supervised assistant must be named on the traders consent and they must each have a copy of that consent which they must carry with them when so employed. Copies will be supplied for this purpose.

#### COSTS OF CONSENTS

Please see website for up-to-date fee’s.

Note:- fees are not normally refundable. Cheques etc to Tonbridge and Malling Borough Council are required with an application. A “Fixed Pitch Consent” relates to any instance where goods or any display equipment etc is to be placed on the ground. “Other Consent” relates only to totally mobile means of selling i.e. nothing is being placed on the ground.

#### REFUSAL OF CONSENT

If it is proposed to refuse an application for a consent the applicant will be given the opportunity of making representations for consideration by the Council’s Licensing Sub-Committee.

#### APPLICATION FORMS

Application forms are available from the Licensing Officer, Legal Services, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or by email [licensing.services@tmbs.gov.uk](mailto:licensing.services@tmbs.gov.uk)

Unless application is made for a fixed pitch, your consent will normally be sent to you by return of post. Where a fixed pitch is involved, applications are referred to the police and other agencies for comment.

# TONBRIDGE & MALLING BOROUGH COUNCIL

## LICENSING & APPEALS COMMITTEE

14 June 2022

### Report of the Director of Central Services and Deputy Chief Executive

#### Part 1 - Public

#### Delegated

#### 1 UPDATED STREET TRADING POLICY

##### 1.1 Introduction

1.1.1 At a meeting of the Licensing & Appeal committee on 8<sup>th</sup> March 2022, members agreed to the re-designation of the borough in respect of Street Trading. A copy of this report can be seen at **ANNEX 1**.

1.1.2 At the meeting, it was agreed that we would seek to re-designate the whole borough as Consent streets. An updated Street Trading policy would be written and brought back to this committee for approval prior to the consultation beginning. The current policy can be seen at **ANNEX 2**.

1.1.3 This DRAFT policy can be seen at **ANNEX 3**.

1.1.4 Following members approval of this new policy, we look to complete the following timetable and actions on the dates outline below:

ACTION	DATE	
10-week public consultation	Start 20.06.2022* End 29.08.2022*	The DRAFT policy will be shared with – <ul style="list-style-type: none"><li>• Ward Members</li><li>• Parish &amp; Town Councils</li><li>• Kent County Council Highways;</li><li>• Environmental Health;</li><li>• Economic Development;</li><li>• Property Services</li><li>• Planning;</li><li>• Kent Police;</li><li>• Kent Fire and Rescue;</li><li>• Trading Standards;</li><li>• Current Traders (list supplied by the councils Food Safety Team)</li></ul>

Review consultation responses	W/C 05.09.2022*	The responses will be reviewed by: <ul style="list-style-type: none"> <li>• Head of Service for Licensing, Community Safety &amp; Customer Services</li> <li>• Licensing Officers</li> </ul>
Licensing & Appeals Committee	27.09.2022*	<ul style="list-style-type: none"> <li>• L&amp;A committee to approve the policy following the public consultation prior to the resolution</li> </ul>
Publish Resolution with consultation	Start 10.10.2022 * End 07.11.2022	The council must publish a notice containing the DRAFT resolution with a <b>28-day consultation period.</b>
Review resolution consultations	W/C 07.11.2022*	The responses will be reviewed by: <ul style="list-style-type: none"> <li>• Head of Service for Licensing, Community Safety &amp; Customer Services</li> <li>• Licensing Officers</li> </ul>
Licensing & Appeals Committee	29.11.2022*	<ul style="list-style-type: none"> <li>• L&amp;A committee to approve the resolution consultation responses</li> </ul>
Full Council	21.02.2023*	<ul style="list-style-type: none"> <li>• Full Council approval prior to publishing the final resolution</li> </ul>
Publish 1 <sup>st</sup> Notice	01.03.2023*	The first notice must be published no later than 28 days before the date specified in the resolution for the new designation coming into force.
Publish 2 <sup>nd</sup> Notice	08.03.2023*	The second notice must be published within one week of the first public notice.
Resolution and new policy will come into force	01.04.2023*	Subject to all other actions being approved.
*All dates are subject to approval at each stage.		

## **1.2 Legal Implications**

- 1.2.1 The statutory regime for designating streets for the purposes of street trading and the granting of street trading consents and related matters is set out in Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (see Annex I). There is no statutory requirement to have a licensing policy for street trading.
- 1.2.2 However, it is considered best practice and also a modern, effective policy document will ensure that the trade and public alike will have a document that fully explains the elements of the regulatory process. This will include the principles to be applied when considering applications for street trading, the application process itself and the grounds for objection, refusal, the hearings procedure and the grounds for appeal.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 By going out on consultation to amend the current policy for street trading, the council will have greater scope to collect licence application fees for those seeking to trade within the Borough.
- 1.3.2 The re-designation of streets requires three separate newspaper adverts to be published.

## **1.4 Risk Assessment**

- 1.4.1 The introduction of a policy should provide a transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts

## **1.5 Equality Impact Assessment**

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact to end users.

## **1.6 Policy Considerations**

- 1.6.1 None at the present time.

## **1.7 Recommendations**

- 1.7.1 Members are RECOMMENDED to approve the draft policy for consultation

contact: Katie Shipman  
6027

Adrian Stanfield  
Director of Central Services and Deputy Chief Executive

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# Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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# Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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# Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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