

# TONBRIDGE & MALLING BOROUGH COUNCIL

## LICENSING & APPEALS COMMITTEE

08 March 2022

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

#### Part 1 - Public

#### Delegated

### 1 REVIEW THE CURRENT STREET TRADING POLICY

#### 1.1 Introduction

- 1.1.1 Tonbridge & Malling Borough Councils Street Trading policy has been in force since December 2009 circa and it is felt that it should be reviewed and updated.
- 1.1.2 The current policy only covers three areas of the Borough, Tonbridge Town Centre, Bluebell Hill Area and Hadlow Village. The rest of the Borough has not been included and therefore there are no restrictions on trading and Tonbridge & Malling Licensing Department are not able to issue consent or regulate those who are trading.
- 1.1.3 On the 19 October 2021, the Director of Central Services and Deputy Chief Executive, together with the Head of Service for Licensing, Community Safety and Customer Services, attended an Informal Cabinet meeting to discuss different revenue streams within Licensing, where, Street Trading was one stream identified as protentional revenue growth.
- 1.1.4 The guidance notes which form the current street trading policy can be seen at **ANNEX 1**. These guidance notes explain what is and is not allowed in the three areas mentioned previously (Tonbridge Town Centre, Bluebell Hill Area, Hadlow Village).
- 1.1.5 When dealing with Street Trading, Tonbridge & Malling BC can resolve to designate any street as one of the following:
- a) A prohibited street – where all trading is prohibited
  - b) A consent street – where trading is prohibited without consent of the council
  - c) A licence street - where trading is prohibited without a licence granted by the council

- 1.1.6 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.
- 1.1.7 When dealing with Licence Streets and Consent Streets, the difference falls with how the applications are granted or refused.
- 1.1.8 For consent streets, the council is under no duty to grant consent and does not need to specify any statutory grounds for refusal.
- 1.1.9 In respect of a licence streets, the council is obliged to grant a licence unless an application ought to be refused on one or more of the statutory grounds set out in the Local Government (Miscellaneous Provisions) Act 1982, schedule 4 which can be seen at **ANNEX 2**.
- 1.1.10 On a licence street, we would only be able to revoke or refuse to renew a licence on one or more of the statutory grounds, whereas with a consent street there are no such limitations. These grounds include: -
- That there are already enough traders in the street from shops or otherwise in the goods in which the applicant wishes to trade;
  - That the applicant is unsuitable e.g. because of a conviction;
  - That the applicant has previously been granted a street trading consent and has persistently refused or neglected to pay the fees due for it.
- 1.1.11 Street traders may still need to obtain further permissions before they can lawfully trade e.g. from Kent County Council as Highway Authority, from the landowner if the applicant intends to trade from privately owned land.
- 1.1.12 For changes to be made to the current street trading policy, Tonbridge & Malling BC would be required to write a new policy and then complete a minimum 28-day consultation. The designation would need to be advertised in a local newspaper and we would also be required to serve a copy on the Chief of Police, KCC as the Highways Authority and other bodies who may have an interest in land covered under the designation.
- 1.1.13 The licensing department would also include the consultation documents on the council's web pages and members of the public and local business would be encouraged to respond to the consultation. In conjunction with the councils Food Safety Team, we would also consult with those food businesses who are already trading in the Borough.

## **1.2 Legal Implications**

- 1.2.1 None at the present time.

### **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 sperate newspaper adverts to be placed throughout the consultation and re-designation period.

### **1.4 Risk Assessment**

- 1.4.1 None at the present time.

### **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 the following options with regards to street trading:
- a) Make no changes and keep the current policy as it is,
  - b) Look to change the policy and adopt the whole borough as consent streets,
  - c) Look to change the policy and adopt the whole borough as licence streets,
  - d) Look to change the policy and adopt the whole borough as prohibited streets,
  - e) Either b) or c) incorporated with the current prohibited streets in Tonbridge Town Centre, Bluebell Hill Area and Hadlow Village
  - f) As e) above but also consider other prohibited areas.

If members agree to one of the options above (b – f) then we will bring back a new policy for consideration at the next Licensing and Appeals Committee, prior to commencing the consultation.

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