

PAPER NO.5

REPORT TO THE EXECUTIVE MEETING OF 4th JULY 2011

Status: Decision
Title: Review of Street Trading controls
Originator: Ruth Hollingsworth (Business Compliance Manager)
Where from: Scrutiny Panel (Places)
Where to next: Council

1 Purpose of the Report

- 1.1 To obtain approval of the amended policy covering controls on Street Trading within Harborough District, to enable implementation of the proposed scheme and to recover the cost of operating the scheme.

2 Recommendations:

- 2.1 **It is recommended that Council approve and adopt the Street Trading Policy and the proposed scheme of designation of areas of control as set out in Appendix 4 and;**
- 2.2 **Council approve the setting of the annual fee for a street trading consent at £1000 and the daily fee at £50. This fee to be implemented during the financial year 2011-12 and to be reviewed annually along with all other fees and charges.**

3 Summary of Reasons for the Recommendations

- 3.1 Harborough District Council passed a resolution on 9th October 1996 under Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt the powers relating to street trading .Once a district council has adopted the provisions of the Act, they may choose to designate any street within its area as a prohibited, licence or consent street.
- 3.2.1 As a result of the resolution controls were put in place in the town centre areas of Market Harborough and Lutterworth to restrict trading. It was agreed that the rest of the district be reviewed at a later date and that trading be allowed to continue without regulation in these areas.
- 3.3 In the last 18 months a small number of traders have caused concern to residents due to trading activities. The number of roadside traders has increased, partly due to the neighbouring authorities of Oadby and Wigston Borough Council and Leicester City Council reviewing their street trading

policies and implementing tighter controls. There has never been a transparent written policy for street trading.

- 3.4 It is clear that the existing street trading regime should be amended to ensure that the system is equally applied to all traders, whilst allowing rural communities to benefit from transient trading. It is permissible to charge for the issuing of street trading consents and to cover the cost of administering such a scheme, which is now proposed.

4 Impact on Communities

- 4.1 Street trading can cause disturbance and nuisance to residents when it occurs close to residential areas. Implementing restrictions on trading in sensitive locations will protect the interests of residents.
- 4.2 The proposals do not have any implications for street traders who provide a vital service for rural communities such as mobile shops, as this is recognised as an important and welcome service.
- 4.3 Implementing controls on traders who are regularly located in lay bys goes some way to levelling the playing field amongst these businesses and those located in permanent premises. Street traders do not currently incur any costs for business rates or rent but benefit from well maintained, accessible locations with ample parking.

5 Key Facts

- 5.1.1 Reports have been taken to Scrutiny Places panels seeking that members consider the approach that the Council should take to control street trading. Members agreed that some degree of control over street trading should continue and that the current scheme could be expanded.
- 5.2 Members requested that certain issues be expanded upon in order for them to make recommendations. These included:
- A detailed analysis of any proposed fees to be charged when issuing street trading consents, to be considered alongside benchmarking of fees applied to street trading to ensure consistency with other local authorities, (appendices 1 and 2)
 - Consultation with ward members and parish councils on the proposed scheme, and their representations be incorporated into the scheme.
 - Consultation with existing traders who are likely to be affected by the proposed changes
 - A comprehensive list of lay-bys affected be attached to the policy, and these lay-bys should be identified by grid reference. (Appendix 3)
 - A written street trading policy be developed (Appendix 4)
- 5.3.1 The changes that are proposed mean that most lay bys adjoining the highway become classified as Consent areas. This means that in order to trade from these locations, consent must be gained from Harborough District Council on an annual basis. Where consent is granted a fee is payable to the council and

certain condition are attached to the consent, specifying a trading location and trading times. The existing consent areas in the town centres of Market Harborough and Lutterworth will be retained along with the current prohibited trading areas in both towns and all lay bys on the A47. The current annual fee for a street trading consent is £915 or £37, for a daily fee for those attending one off events such as late night shopping, but it is proposed to change this as outlined in the report. One lay by on the A6 near Kibworth Beauchamp will become a prohibited area, so that no trading is allowed following response from the local parish council.

5.4 If the decision is taken to vary the existing street trading regime, there is a process of implementation that is required to be followed:

- The Council must publish notice of intention to pass a resolution in a local newspaper
- A copy of the notice must be served on the local Chief Constable.
- A copy must be served on Leicestershire County Council Highway's Authority for any street which they maintain.
- The notice referred to above must contain a draft of the resolution and shall state that representation relating to it may be made in writing to the Council within such specified period, not less than 28 days after publication of the notice, as may be specified in the notice.
- Once the period specified in the notice has expired the Council must consider representations as soon as practical.
- Once representations have been considered the Council may pass a resolution in relation to the streets mentioned
- The Council shall publish notice that they have passed a resolution in two consecutive weeks in a local newspaper; the first publication shall not be later than 28 days before the date specified in the resolution for the coming into force of the designation
- Should the Council wish to rescind a designation or re-designate a street, the same procedure must be followed.

5.5 As stated the council is able to charge a reasonable fee for the issuing of street trading consents. There are currently 7 traders who may be required to pay for a street trading consent under the new scheme. The scheme currently costs £4000 per annum to administer. It is likely that some traders may leave the district if a fee is introduced and the increased work involved in issuing more consents will increase the cost of running the service. The council has the opportunity to recover their costs for this activity. Whilst Scrutiny Panel recommended that the current fee of £915 for an annual consent be retained, a fee of £1000 for an annual consent and £50 for a daily consent is proposed. This will allow the council to continue to recover the cost of operating the scheme should up to half the existing traders choose to leave the district. The current costs across Leicestershire are shown in appendices 1 and 2.

6 Legal Issues

6.1 The council has previously adopted the provisions of Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 which allows the implementation of street trading controls.

7 Resource Issues

- 7.1 Making the recommended changes to the existing street trading controls will allow the council to cover its costs incurred in regulating street trading assuming that some traders remain in their current trading locations.

8 Equality Impact Assessment Implications/Outcomes

- 8.1 Initial equality impact assessment is attached as appendix 5

9 Impact on the Organisation

- 9.1 The proposed amendments to the street trading policy will result in a transparent, equitable trading environment.

10 Community Safety Implications

- 10.1 There are none

11. Carbon Management Implications

- 11.1 There are none

12. Risk Management Implications

- 12.1 There are none

13 Consultation

- 13.1 Consultation has been carried out with existing street traders, parish councils and all ward members as requested by the Scrutiny Panel. One parish council submitted a request to have one lay by designated as a prohibited area which has been incorporated into the policy.

14 Options Considered

- 14.1 An alternative option would be to designate all streets in the district as either consent or prohibited streets. This will result in a system which is very time consuming and costly to administer and may deter trading in rural areas due to the cost which would be incurred by every trader. It is considered beneficial to allow some unregulated trading in rural areas as this offers a welcome service to these communities.

15 Background Papers

- 15.1 None

Previous report(s):

Report for the Scrutiny Panel for Places 8th October 2009
Report for the Scrutiny Panel for Places 7th October 2010
Report for the Scrutiny Panel for Places 17th March 2011

Information Issued Under Sensitive Issue Procedure: Y/N

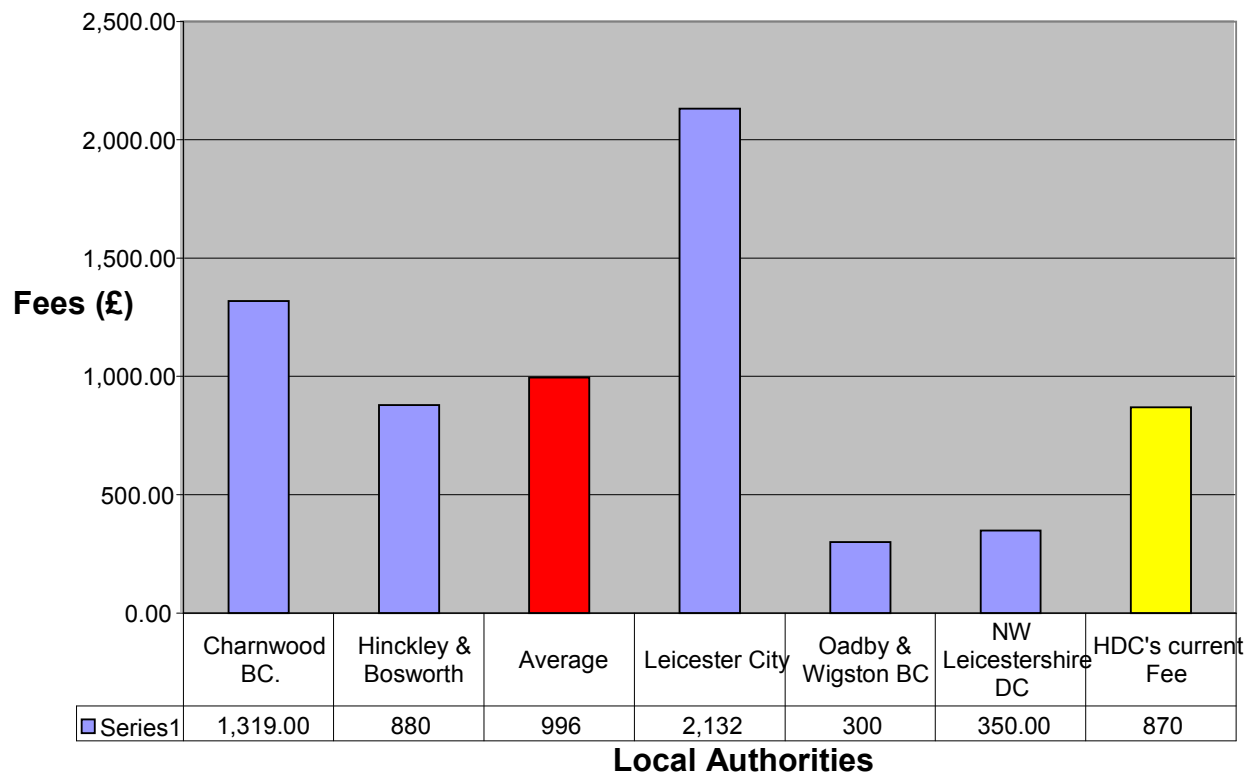
Ward Members Notified: Y/N

Appendices: *list any appendices here including title and filename in brackets (e.g. Performance Data 2010 (perfdata.doc)).*

- 1. Comparison of current street trading fees across Leicestershire**
- 2. Breakdown of activities associated with street trading**
- 3. List of current and proposed street trading control locations**
- 4. Street trading policy**
- 5. Equalities impact assessment.**

Appendix 1

A Comparison of Annual Street Trading Fees



Appendix 2

Determination of fee

In order to calculate the true cost involved in processing street trading consent applications a break down of the activities involved has been carried out. The Council already charges a fee for issuing street trading consents, currently set at £915 for an annual consent, however it should be remembered that all consent area are prime town centre locations. The task has been broken down and time apportioned to each element associated with it. This is shown below:

Breakdown of street trading consent process

	Time Taken
1. Enquiry received	30 minutes
2. Application sent out	30 minutes
3. Application returned with fee and checked for completeness	30 minutes
4. Consultation carried out with relevant parties, by letter or email	One hour
5. Consultation responses received and considered	One hour
6. Inspection of vehicle if for food sales. May require letter to be sent, requires travelling and mileage	3 hours
7. Consent document issued if no objections received	30 minutes
8. If objections received arrange and hold hearing, requiring members to be present	5 hours
9. Enforcement action may be required if conditions are breached	3 hours
	Total: 15 hours

The current cost of administering the scheme is approximately £4000 per year.

There are currently around 7 vehicles that may become eligible for licensing (this has been as high as 10 in the last year). To recover the cost of the scheme it would be necessary to charge £571 per consent based on 7 vehicles.

It is clear that this level of fee will not cover the cost of providing the service should the number of traders reduce. It is not known how many of the existing traders will

remain after the amended scheme is introduced. As a contingency to ensure that costs are covered should up to half the existing traders leave it is proposed to set an annual fee of £1000 and a fee of £50. This would ensure that costs are still covered.

Appendix 3

Areas proposed to be designated as consent and prohibited streets.

All laybys within Harborough District are to be designated as consent areas, with the exception of those listed below which are classified as PROHIBITED where trading will not be allowed.

LAYBYS WITHIN HARBOROUGH DISTRICT (PROHIBITED FOR TRADING)

Layby on the A6

Grid reference SP 686940

Layby on the south west side of the A6, Harborough Road, Kibworth Beauchamp approximately 400 metres north west of the A6 junction with New Road

Laybys on the A47

- 1 Grid reference SK 667039
Layby on the north side of the A47 Uppingham Road, Bushby, opposite Cotswold Lodge.
- 1A Grid reference SK 670039
Layby on the north side of the A47 Uppingham Road, Bushby, adjacent to Homelands and the access to the sewage treatment works.
- 1B Grid reference SK 667039
Layby on the south side of the A47 Uppingham Road fronting Cotswold Lodge.
- 2 Grid reference SK 687036
Layby on the south side of the A47 Uppingham Road Houghton on the Hill approximately 150 metres east of the A47 junction with Gaulby Lane.
- 3 Grid Reference SK 734028
Layby on the south side of the A47 Uppingham Road Billesdon approximately 400 metres east of the A47 junction with the B6047 to Market Harborough.
- 4 Grid reference SK 736028

Layby on the north side of the A47 Uppingham Road Billesdon approximately 550 metres east of the A47 junction with the B6047 to Tilton on the Hill.

- 5 Grid reference SK 765007
Layby on the south side of the A47 Uppingham Road Tugby, approximately 500 metres east of the A47 junction with Main Street Tugby.
- 6 Grid Reference SK 778004
Layby on the north side of the A47, Uppingham Road, East Norton approximately 100 metres west of the A47 junction with Uppingham Road.
- 7 Grid Reference SK 792002
Layby on the south side of the A47, Uppingham Road, East Norton, approximately 150 metres west of Hall Farm.
- 8 Grid Reference SK800003
Layby on the south side of the A47, Leicester Road, Allexton approximately 500 metres west of The Old Rutland Inn

Existing consent and prohibited streets (to be retained)

Prohibited Streets- Market Harborough

Bowden Lane
Coventry Road (between junctions with Fairfield road and School Lane)
Doddridge Road
Fairfield Road (south of junction with Abbey Street)
Kings Head Place
Kings Road (south of junction with Doddridge Road)
Martin's Yard
Mill Hill Road
Northampton Road (south of Harborough market site to junction with Springfield Street)
Roman Way
School Lane

Consent Streets- Market Harborough

Abbey Street
Adam and Eve Street
Church Square
Church Street
Coventry Road (all points east of junction with School Lane)
Factory Lane
High Street (all points south of road narrowing adjacent to Bowden Lane)
Manor Walk
Northampton Road (north of Harborough market site and car park and including bus terminus)
St Mary's Road (east of junction with Kettering Road)
The Square

Prohibited Streets- Lutterworth

Baker Street
Bank Street
Bitteswell Road (all points south of junction with Guthlaxton Avenue)
Chapel Street
Churchill close
Churchgate
Church Street
Coventry Road (all points east of junction with Churchill Close)
George Street
Gilmorton Road (all points south of west of junction with Gladstone Street)
High Street (all points north of junction with The Hollow)
Lower Leicester Road (all points south of junction with Gilmorton Road)
Regent Street
Station Street (east of junction with Bell Street)
Walker Manor Court
Woodbine Crescent

Consent Streets- Lutterworth

Bell Street
Market Street
Station Road (west of junction with Bell Street)

Appendix 4

Draft Street Trading Policy

Foreword

Street Traders provide a valuable service to consumers across the district of Harborough and are a group of businesses that we want to support. This policy is designed to ensure that all street traders are operating on a level playing field. By knowing where traders are, it will enable officers from Environmental Health to ensure compliance with the law, protect consumers from unsafe practices and insist on environmental standards being maintained. The scheme only requires traders to obtain consent in those areas of the district where it is deemed necessary to control street trading and therefore the policy will benefit residents, consumers and traders alike.

Introduction

Harborough District Council passed a resolution on 9th October 1996 under Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt the powers relating to street trading. Once a district council has adopted the provisions of the Act; they may choose to designate any street within its area as a prohibited, licence or consent street.

Definitions

Within the terms of Harborough District Council's Street Trading Policy Scheme the following definitions apply:

The Council means Harborough District Council

Street Includes:

(a) Any road, footway, beach or other area to which the public have access without payment.

(b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

Street Trading - means the selling or exposing or offering for sale of any article (including a living thing) in any street.

Consent: - A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Consent Holder: - The person or company to whom the consent to trade has been granted by the Council.

Consent Street: - Means a street in which street trading is prohibited without the consent of the Council.

'District': means the area within the boundaries of Harborough District Council.

'Markets': The legislation specifically provides that anything done in a Market or Fair which is held by virtue of a Charter, a presumed grant of a charter or a statutory provision is not street trading for the purposes of the legislation.

Special events may fall within the scope of this policy e.g. Art Fresco, but only where those events occur on consent streets.

Where those events are of a 'charitable purpose' they will be dealt with under the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 (street collections or sales).

A scheme of concessionary consents operates to support special events where traders fall outside the Police, Factories etc Act and require a street trading consent.

Exempted Street Trading Activities

The following street trading activities are legally exempt from the requirement to obtain a prior consent from the Council:

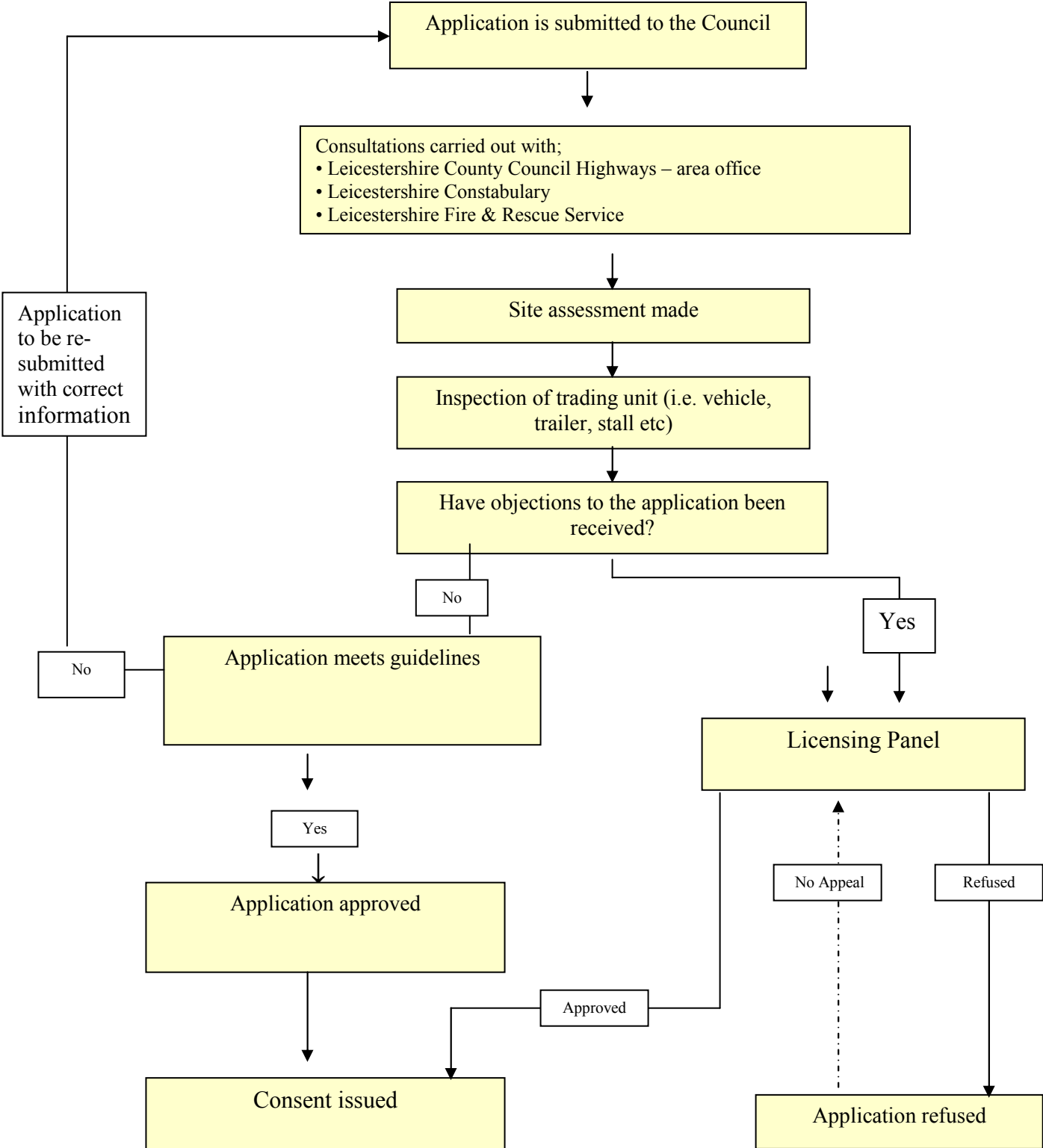
- (a) Trading by a person acting as a peddler under the authority of a peddler's certificate granted under the Peddlers Act 1871.
- (b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order.
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) Trading as a news vendor.
- (e) Trading which:
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business or shop.
- (f) Selling things, or offering or exposing them for sale, as a rounds man.
- (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
- (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (i) The doing of anything authorised by regulations made under section 5 of the police, Factories etc (Miscellaneous Provisions) Act 1916.

Objectives of the Policy

- To protect public health through the control of street trading within the district of Harborough.
- To improve standards of food safety, health and safety and environmental management and enhance the image of the district.
- To ensure that traders operate within the law and act fairly in their dealings with the public.
- To prevent and detect statutory nuisance, unsafe practices and anti social behaviour.

This Policy will be applied to street trading activities in Harborough District to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Procedure for Determining Street Trading Consent Application



Submission of an Application

An application for Street Trading Consent must be made to Harborough District Council in writing. The application form and a Notice of Application are included in these guidance notes. If you need any help in completing the application form please contact the Council's Health and Enforcement Service department on 01858 82 82 82.

Application process

- An application for a street trading consent must be made in writing on the Councils' approved application form. Application forms and information packs are available from the authority (electronically or by post) or downloadable from the website. The appropriate fee and the necessary supporting documentation must accompany the application form.
- On receipt of the application form an acknowledgment will be sent to the applicant. An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises which the applicant intends to trade from.
- The application will be determined within 28 days of receipt.
- Until the application has been determined it is an offence to trade in the controlled areas requiring consent to trade.
- In considering an application for consent in any of the controlled areas, the Council will have regard to the number, nature and type of traders already present in a particular area.
- The application will either be;
 - Granted and a trading consent will be issued with conditions attached, or
 - Refused and the fee will be refunded as appropriate to the applicant.
- There is no right of appeal against a variation of a condition, or refusal to grant or renew a trading consent. The reasons for any variation or refusal will be communicated to the applicant.
- Additional visits may be made to holders of trading consents throughout the consent period to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.
- Trading consents are granted to individuals. The person who is the consent holder is required to be present at the vehicle, barrow, cart, van, portable stall or other vehicle or premises which are traded from during trading hours. The consent holder may nominate an assistant to cover in their absence. Advice on this can be sought from the Council's Environmental Health department.

Consultations on Applications Made

Before a Street Trading Consent is granted, renewed or rejected, the Council will carry out a consultation process with various stakeholders. In particular, the following organisations or persons may be consulted where relevant;

- Leicestershire County Council Highways – area office
- Leicestershire Constabulary
- Leicestershire Fire & Rescue Service
- Local Parish Councils

For new applications, in addition to the above, further consultations could be carried out with property owners within 100 metres of the proposed site. This consultation will be by the Council sending copies of the Application Form to the relevant property owners. Written observations from the above organisations and occupiers of properties will be sought and taken into consideration when determining an application.

Site Assessment

Street Trading Consent from static locations will not normally be granted where:

1. A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or;
2. Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or;
3. There would be a significant loss of amenity caused by traffic, noise, odour or fumes, or;
4. There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or;
5. There is a conflict with Traffic Orders such as waiting restrictions, or;
6. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or;
7. The trading unit obstructs the safe passage of users of the footway or carriageway, or;
8. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or;
9. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or;
10. The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

Inspection of the Trading Unit to be used for the Sale of Food Items (if not previously registered with home authority)

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consent, where this is reasonably practicable. The unit to be used for the street trading activity shall comply in all respects with legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with the following legislation:

- Food Safety Act 1990
- Food Hygiene (England) Regulations 2006
- Health and Safety at Work etc. Act 1974, and any Regulations made there under
- Health Act 2006, and any Regulations made there under
- Environmental Protection Act 1990

Further advice on any of the above requirements can be obtained by telephoning Harborough District Council's Environmental Health on 01858 82 82 82

Determination of Application

The delegated officers will use the criteria listed below in the determination of Street Trading Consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

1) Public Safety

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term "public" refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site assessment criteria.

2) Public Order

The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Leicestershire Constabulary will be taken into consideration under this heading.

3) Avoidance of Nuisance

The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council Officers shall be taken into consideration under this heading.

4) Needs of the Area

The sufficiency of other trading outlets will be taken into consideration in relation to:
(a) The presence of like outlets already existing in the immediate locality of the proposed street-trading site.

5) Compliance with Legal Requirements

The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations from Council Officers on the compliance with the requirements of Food Safety/Hygiene, Health & Safety and Environmental Protection legislation shall be taken into consideration.

6) Outcome of Consultation

In relation to points 1 – 4 above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

7) Permitted Trading Hours

The Council generally will only permit street trading between 07:00hours and 23:00hours on any one day. Any trading outside these hours will have to be approved by the Council. Street Trading outside the guideline hours will be assessed in terms of the public order, public nuisance, and avoidance of nuisance and the needs of the area criteria detailed above.

The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances require it.

Fees

A fee will be charged for the grant of street trading consent and will be reviewed annually. The current fee is published in the Council's scale of charges

Should the consent holder wish to vary the consent at any time during the life of the Consent an administration fee will be charged.

Where a trading consent is surrendered during the life of the consent the Council will refund the fee paid on a pro rata basis as determined appropriate.

Approval of Application

The council may approve applications meeting the criteria contained within these guidelines. On approving the application the Council will issue Street Trading Consent to which conditions will be attached. Applications will be determined within 28 days, unless the objections are raised when the determination will be made as soon as possible. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. Additional conditions may be attached to the Standard Conditions if special circumstances apply to the Consent being granted by the Council.

The conditions attached to the Consent form an integral part of the approval to carry out street trading in the District of Harborough. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed.

Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

Grant/Issue of Street Trading Consent

Street Trading Consents will be issued for a maximum period of 12 months. Annual Consents issued will be renewable on the date specified in the Consent. Shorter term Consents may be issued on no less than a monthly basis. These particular Consents will expire, unless renewed, on the date specified in the Consent.

In all cases when Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.

Payment of Fees

Cheques should be made payable to “Harborough District Council”.

Please note, the Consent will not be issued until payment has been received by the Council. If a cheque is returned unpaid by the bank, then the Street Trading Consent will be revoked with immediate effect unless full payment of the outstanding fees plus an administration charge is made within 5 working days. The administration charge is £30. The Consent will not be issued until the cheque has cleared or full payment including the administration charge where applicable or payment in cash or by debit card has been made.

Credit Card payments are accepted but a transaction fee of 1.69% is charged. The transaction fee is non-refundable.

Street Trading Consents will be issued only at the Council Offices, Adam & Eve Street, Harborough during normal office hours. This also applies for replacement documentation.

Renewal of Trading Consents

An application to renew a trading consent must be received by the Council at least 28 days before the expiry of an existing consent and must be accompanied by the appropriate fee and relevant documentation.

Conditions

When granting or renewing a trading consent the Council may attach such conditions as considered necessary to the individual application. The Council retains the right to vary the conditions of a street trading consent at any time. The conditions may specify the exact location trading may take place from and the times of trading. The Council will normally grant a street trading consent unless, in its opinion:-

- A significant effect on road safety would arise either from the location of the trading activity itself, or from customers visiting or leaving the site, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

Revocation of a Trading Consent

If an authorised officer of the Council is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought.

The officer will present a report to the relevant decision making forum for consideration. Comments from the consent holder would be invited to accompany the report.

There is no right of appeal against the decision to revoke a trading consent.

Where a trading consent is revoked by the authority an appropriate refund of the fee will be made.

When considering contravention of a condition officers will have regard to the Council's enforcement policy.

Amendments/Variations to Trading Consents

In certain circumstances, the Council may wish to add, alter or amend the conditions on a trading consent. If this is the case then the authorised officer will notify the consent holder of their intention and the consent holder will be given the chance to

make representations against this variation of the trading consent. The authorised officer will present a report to the relevant decision making forum for consideration which will also take into account any representations made.

Any amendments or variations to consents or conditions that are requested by consent holders must be made in writing. Officers from Health and Enforcement Services shall be allowed to make representations regarding the requested amendments, and they shall have 14 days to do so. An administration fee may be charged to the consent holder for any amendments or variations made.

There is no right of appeal against the council's decision to refuse, amend or vary consent.

Offences

Under the Local Government (Miscellaneous Provisions) Act 1982, a person who;

- Engages in street trading in a consent street without being authorised to do so;
- Being authorised by a street trading consent to trade in a consent street, trades in that street –

(i) from a stationary van, cart, barrow or other vehicle; or

(ii) from a portable stall,

Without first having been granted permission to do so; or

- Contravenes a condition imposed in agreeing to permit street trading, shall be guilty of an offence.

The only conditions imposed in relation to trading from a vehicle or stall that would lead to the commission of an offence relate to the location of the trader and hours of trading.

It shall be a defence for a person charged with any of the offences above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to be false, in any material respect, or which he does not believe to be true, shall be guilty of an offence

Any action taken by the authority with regard to the above offences will have regard to the authority's enforcement policy.

A person found guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Appendix 5

Equality Impact Assessment

Title of the policy	Street Trading Controls
Date	1 st June 2011
Lead Officer	Ruth Hollingsworth
Who else is involved in undertaking this assessment?	Norman Proudfoot

Step 1 – Overview of policy/function being assessed

A. Outline: What is the purpose of this policy? (specify aims and objectives)
To regulate street trading by imposing controls in certain identified locations.
B. What specific groups is the policy designed to affect/impact?
Residents and communities likely to be affected by street trading. Street traders
C. Which groups have been consulted as part of the creation or review of the policy?
Existing street traders Parish councils Ward members

Step 2 – What we already know and where there are gaps

A. List any existing information/data you have/monitor about different diverse groups in relation to this policy? Such as in relation to ethnicity, religion, sexual orientation, disability, age, gender, transgender etc.
Data/information such as:
☒ Consultation
☒ Previous Equality Impact Assessments
☒ Demographic information
☒ Anecdotal and other evidence

Information gained during inspections of existing street traders regarding ethnicity of food business operators

B. What does this information / data tell you about diverse group? If you do not hold or have access to any data/information on diverse groups, what do you need to begin collating / monitoring? (please list)

This information suggests that street traders can be of any ethnicity.

Step 3 – Do we need to seek the views of others? If so, who?

A. In light of the answers you have given in step 2, do you need to consult with specific groups to identify needs / issues? If not please explain why.

No. The choice to set up a street trading business is not influenced by any of the equality factors.

Step 4 – Assessing the impacts

	In light of any data/consultation/information and your own knowledge and awareness, please identify whether the policy has a positive or negative impact on the groups specified and provide an explanation for your decision. (please refer to the general duties on the front page)
A. Age	The policy does not have an impact upon different age groups, as food business operators can be of any age
B. Disability (physical, visual, hearing, learning disabilities, mental health)	Disability may make it more difficult to operate a food business due to the physical nature of the work but this policy does not have an impact
C. Gender / Sex	No impact
D. Religious Belief	No impact
E. Racial Group	No impact
F. Sexual Orientation	No impact

G. Transgender	No impact
H. Other protected groups (pregnancy & maternity, marriage & civil partnership)	No impact
I. Other socially excluded groups (low literacy, priority neighbourhoods, socio-economic, etc)	No impact
J. All	

Step 5 – Action Plan

Please include any identified concerns/actions/issues in this action plan: <i>The issues identified should inform your Service Plan and, if appropriate, your Consultation Plan</i>			
Question Number (Ref)	Action	Responsible Officer	Target Date

Step 6 – Who needs to know about the outcomes of this assessment and how will they be informed

	Who needs to know (Please tick)	How they will be informed (we have a legal duty to publish EIA's)
Employees	√	This will be published on the councils website
Service users	√	
Partners and stakeholders		
Others		
To ensure ease of access, what other communication		

needs/concerns are there?		
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Step 7 – Conclusion (to be completed and signed by the Service head)

Please delete as appropriate
I agree / disagree with this assessment / action plan
If <i>disagree</i>, state action/s required, reasons and details of who is to carry them out with timescales:
Signed (Service Head):
Date:

Please send completed & signed assessment to the Equality and Diversity officer.