

Portfolio Brief - Street Trading Policy

A proposed street trading policy was presented to Licensing committee on 17th July 2023 with recommendations for the policy to be considered for public consultation and determination of relevant consent areas/streets. Licensing committee did not consider the recommendations in the report accompanying the policy and advised that:

The Policy be referred back to the Officers to find out where the initial instruction came from and speak to the current relevant Portfolio Holder about whether the Policy is still relevant.

If it is decided that a policy is still relevant that this is supported by some statistical evidence.

Legislation:

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Constitution states:

ANNEX 3 ENVIRONMENTAL HEALTH COMMUNITY SAFETY, LICENSING AND REGISTRATION FUNCTIONS

The powers and duties of the Council contained in the following Acts of Parliament are delegated to the Assistant Directors, Growth & Regeneration/Partnerships/Assets/Operations & Leisure/Head of Environmental Health as appropriate to area of responsibility and to the extent set out in the right hand column.

Street trading consent (except the fixing of fees for consents and the designation of consent or prohibited streets) (Local Government (Miscellaneous Provisions) Act 1982) Whole Act

Previous resolutions

It is important to stress that the introduction of a street trading policy is **not new**. Street trading has been regulated by the authority in some form since 2001. The below records confirm this.

Policy Board held 19th February 2001 Report of the Director of Leisure and Amenities
INTRODUCTION OF LICENSED STREET TRADING TO TAMWORTH TOWN CENTRE

To seek Members endorsement of the proposal to introduce Licensed Street Trading to Tamworth Town Centre.

MINUTES OF A MEETING OF THE POLICY BOARD Held on 19th February 2001

The report of the Director of Leisure and Amenities seeking endorsement of the proposal to introduce Licensed Street Trading to Tamworth Town Centre was considered.

RESOLVED:

- (1) That the principle of introducing Licensed Street Trading to Tamworth Town Centre be endorsed.
- (2) That the Director of Leisure and Amenities be authorised to consult further with the public; and

(3) That a detailed report and draft resolution be submitted to the Board in March 2001.

27th March 2001 POLICY AND RESOURCES COMMITTEE Report of the Director of Leisure and Amenities MARKET REGULATIONS AND CONDITIONS OF LICENCE Purpose To consider and consequently recommend the adoption of the revised Market Regulations and Conditions of Licence to be effective from 1st April, 2001

4th March, 2002 Director of Leisure & Amenities Briefing Note for Town Centre Partnership "LICENSED STREET TRADING" The decision to introduce Licensed Street Trading revolved effectively from two sources.

Streets designated for Licensed Street Trading have been restricted to the following:

Market Street, George Street, Colehill, St. Editha's Square, Corporation Street, Gungate Precinct and Lower Gungate.

There appears to have been a resolution passed designating certain streets as 'licensed' streets.

Implementation of Street Trading

Street trading since 2001 has been regulated by a number of departments/teams. Initially it was administered by a team managed by Assistant Director - Partnerships.

During this time an application form and conditions were designed. There is however an issue with this as the application form refers to a licence and the conditions refer to a consent.

Pitches were designated and planning permission refers to these pitches, however these pitches are now out of date and some no longer exist.

There are roughly 5 historical street traders that are trading without any permissions or checks however we appear to still be invoicing them on a reoccurring invoice basis. Street Traders that are selling food items will still be inspected for food hygiene.

Around 2019 the administration of Street Trading moved to the Regeneration Team within the assistant director – Growth & Regeneration's directorate. It then appears this team were unaware that some streets had been designated 'licensed' streets. During the pandemic the Regeneration Team confirmed that no applications, no checks or inspections were made. Any enquiries were dealt with by sending this email:-

"Thank you for submitting your enquiry. Tamworth Borough Council are reviewing their approach to street trading and currently a licence or consent to trade in Tamworth is not required from the Council. However, street traders must always seek permission to use the land from the land owner, and have appropriate and adequate insurance in place.

Any premises used for a food business (including vans and fast food mobile vehicles) must be registered by law, for further information please see link below:

[Register a food business | Tamworth Borough Council](#)

The Food Standards Agency also provide information that you may find useful [Start-up checklist for new food businesses | Food Standards Agency](#)"

All the existing traders are historical pitches from when the original policy was implemented in 2001 and pay a fee of around £25 per day. This has been confirmed by Environmental Management four traders have been invoiced this year for £25 a day trading and pay for annual permission.

Between August 2013 – September 2021 there were 27 records on M3 relating to Street Trading (ST6). Not all these are in relation to applications. The Regeneration team have confirmed they dealt with a number of enquiries but there is no record as to the exact amount of enquiries. It should be stressed though that officers who have been contacted by traders have found they fully expected to pay for consent/permission to trade.

2021/2022 Officers within the Regeneration team began work on the draft Street Trading policy that was up to date and relevant for the town now.

As part of the Budget process in February 2023 a policy change was approved for a Senior licensing officer post being made permanent on the basis that it being funded by street trading fee income, with the budgetary expectation that street trading income would be received as a consequence of the policy being introduced within the 23/24 budget.

April 2023 Senior Licensing Officer made the appropriate amendments to the policy and presented it to licensing committee on 17th July 2023.

Why a Street Trading regime is required

Tamworth Borough Council recognises the valuable contribution that street trading can make to communities, culture and the local economy, and the service that street traders provide to residents of Tamworth and visitors. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

Tamworth Borough Council is committed to improving the support provided to small businesses, ensuring they are provided with sufficient guidance and advice to enable them to operate safely and successfully.

Tamworth Borough Council recognises that problems may arise in situations where individuals do not pay proper regard to their location, and street trading can create undesirable and unnecessary situations, such as obstruction in the street, which may compromise the safety of pedestrians. Uncontrolled street trading can also result in unnecessary littering, unreasonable disturbance, nuisance to persons visiting, living or working in the vicinity.

The responsibility for the policy falls under the service area of the Assistant Director for Growth and Regeneration. The lead member is the Portfolio Holder for Environmental Health and Community Partnerships.

The aim of the Street Trading Policy is to ensure that Tamworth Borough Council deals with street trading applications, granting of consents in a consistent, fair and proportionate way and that each application is considered on its own merits.

Benefits and objectives of street trading consent are considered to be:

- To help protect public health and safety.
- To help safeguard public places that may be adversely affected by undesirable or uncontrolled street trading activities.

- To ensure that traders operate within the law and act fairly in their dealings with the public; and to prevent, nuisance, unsafe practices and anti-social behaviour.
- To promote a flexible approach in relation to applicants seeking to operate new street trading businesses in Tamworth.
- To provide applicants and Consent Holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.
- To enable the Council to deal with street trading applications and consents in a consistent, transparent, fair and proportionate way.
- Provide assurance to the public
- Tamworth maintains its reputation as a safe place to visit.
- Enforcement powers can be used to eradicate unsafe practice.
- A clear record of all street trading in Tamworth to understand business needs and prevent illegal trading and 'hawking'
- To prevent obstruction of the streets of Tamworth and ensure the safety of persons using them
- To ensure that the all promotional and street activities does not cause nuisance or annoyance to the people in the town
- A defined structure and policy is consistent and proportionate
- To encourage new businesses
- To allow officers to regulate street trading with a view to ensuring that there is no undue detriment to permanent businesses in the area
- The Council can show that safeguarding and modern slavery duties are considered.

At present it is important to stress there are no checks made on the applicants who currently have consent to trade either of their character or of their pitch and stall set up. Any new traders are also advised they can trade within the borough with no consent and therefore are currently unregulated.

Fees

Current fees and charges for existing street traders had not been reviewed for 10 years. The current system is out of date, lacks clarity, requires the raising of invoices and is difficult to monitor. Current fees are £25 per day but it appears only a few historical traders pay a fee and is therefore administered inconsistently.

A new street trading fee structure was presented and adopted at full council in March 2023 as part of the budget.

£1,881 for an annual. This equates to roughly £5 per day. Roaming traders who only work for a proportion of the year could be charged £156 per month. It should be noted this is significantly less than what current historical traders are being charged.

£43 per day for an occasional,

£21 for a special event.

Benchmarking was carried out to ensure the proposed fees were in line with neighbouring authorities. It can be seen from the below that TBC's fees are on a par with Lichfield DC and cheaper than all other benchmarked authorities. The proposed fees have been calculated on an administrative cost recovery basis.

Cannock		Lichfield	
Town Centre	£2,400.00 P.A	Annual consent	£1,881 P.A
Trunk Road	£2,400.00 P.A	Daily rate	£43 for the first day and then £22 for each additional day
Town Centre	£31.50 per day	Special Event - Food, drink & consumables stall	£21 for first day and then £13.50 for each additional day
Vendors sited on Private Land	£325.50 P.A	Special Event - Non-food stall	£13.50 for first day then £7.50 for each additional day
Vendors travelling the District	£325.50 P.A		
Highway Land (Lay-bys)	£325.50 P.A		
Stafford		Staffordshire Moorlands	
A500 road sites annual fee per site	£6,376.00 P.A	Street Trading Consent	£3162.00 P.A
Other sites per day of permitted trading	£25 Per Day	Street Trading Consent - Weekends Only	£1632.00 P.A
		Daily Street Trading consent	£41.00 per day
North Warwickshire			
Food sales	£1,792.00 P.A		
Non food sales	£887.00 P.A		

Conclusion

Street Trading legislation and powers have already been adopted by the authority. The principle of street trading regulation has been administered by the authority in some form since 2001. There are some traders who are paying a fee but others are trading without paying, this is therefore inconsistent and unfair. There are no checks of traders or their stalls with the authority providing no safeguards to the public regarding traders in their borough. Proposed fees are in line with neighbouring authorities and less than what is currently being charged to historical traders. There is an expectation from prospective traders that the authority will charge for trading consent and it should be stressed that mobile traders do not have the expense/outgoings of business rates etc as fixed businesses do.

It is therefore considered necessary and proportionate that the proposed Street Trading Policy be implemented.

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